

# **Exhibit 35**



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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:** : **Chapter 11**  
**T H AGRICULTURE & NUTRITION, L.L.C.,** :  
: **Case No. 08-14692 (REG)**  
**Debtor.** :  
-----X

**FIRST AMENDED PREPACKAGED  
PLAN OF REORGANIZATION OF T H AGRICULTURE  
& NUTRITION, L.L.C. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: May 11, 2009

***This Plan of Reorganization provides for an “Asbestos PI Channeling Injunction” pursuant to section 524(g) of the Bankruptcy Code. For a description of the causes of action to be enjoined and the identities of the entities that would be subject to the injunction, see Article XI of this Plan.***

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**FIRST AMENDED PREPACKAGED  
PLAN OF REORGANIZATION OF T H AGRICULTURE  
& NUTRITION, L.L.C. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

T H Agriculture & Nutrition, L.L.C., the debtor, proposes the following plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code:

**ARTICLE I**

**DEFINITIONS AND INTERPRETATIONS**

In the Plan, the definitions provided in this Article I shall apply. Unless otherwise specified, all Article, schedule or exhibit references in the Plan are to the respective Article of or schedule or exhibit to the Plan or the Plan Supplement, as the same may be amended or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular Article, subsection or clause. A term used but not defined herein shall have the meaning ascribed to that term in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof.

**1.1 ACE** means ACE American Insurance Company.

**1.2 Administrative Expense Claim** means any right to payment constituting a cost or expense of administration of the Chapter 11 Case Allowed under sections 503(b), 507(a)(1), and 507(b) of the Bankruptcy Code, including, without limitation: (a) any actual and necessary costs and expenses of preserving THAN’s Estate; (b) any actual and necessary costs and expenses of operating THAN’s business; (c) any indebtedness or obligations incurred or assumed by THAN as Debtor in Possession during the Chapter 11 Case; and (d) any compensation for Professional services rendered and reimbursement of expenses incurred, to the extent Allowed by Final Order under section 330 or 503 of the Bankruptcy Code.

**1.3 Affiliate** means, with respect to a specified Entity: (a) an Entity that directly or indirectly owns, controls or holds with power to vote twenty percent (20%) or more of the outstanding voting securities of such specified Entity; (b) an Entity, twenty percent (20%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such specified Entity, or by an Entity described in subclause (a); or (c) any other Entity that, directly or indirectly, through one or more intermediaries or otherwise, Controls or is Controlled by, or is under

common Control with the specified Entity; provided, however, that without limiting the generality of the foregoing, with respect to an Affiliate of THAN or an Entity Affiliated with THAN, the term Affiliate shall include the meaning ascribed thereto in section 101(2) of the Bankruptcy Code.

**1.4 Allowed** means, when used with respect to any Claim against THAN, including Administrative Expense Claims but excluding Asbestos PI Claims, such Claim or portion thereof: (a) as to which no objection or request for estimation has been filed, no litigation has commenced, and THAN otherwise has assented to the validity thereof (and as to which proof of such Claim has been properly and timely filed to the extent required by the Plan or any order of the Bankruptcy Court); (b) as to which any objection or request for estimation that has been filed has been settled, waived, withdrawn or denied by a Final Order; or (c) that is allowed (i) pursuant to the terms of a Final Order, (ii) pursuant to the terms of an agreement by and among the holder(s) of such Claim and THAN (or Reorganized THAN, as the case may be), or (iii) under the terms of the Plan.

**1.5 Allowed Amount** means, with respect to any Claim (excluding Asbestos PI Claims), the lesser of: (a) the dollar amount of such Claim as Allowed; (b) the estimated amount of such Claim; and (c) the dollar amount agreed to by THAN. Unless otherwise provided in the Plan or a Final Order of the Bankruptcy Court or the District Court, the Allowed Amount of an Allowed Claim, except for the Allowed Amount of the DIP Claim, shall not include interest or penalties accruing on such Allowed Claim from and after the Commencement Date. In addition, unless a Final Order of the Bankruptcy Court provides otherwise, the Allowed Amount of an Allowed Claim shall not, for any purpose under the Plan, include interest at any default rate of interest.

**1.6 Amended Certificate of Formation** means the amended and restated certificate of formation of Reorganized THAN, substantially in the form as will be set forth in a Plan Supplement.

**1.7 Amended Charter Documents** means, collectively, the Amended Certificate of Formation and the Second Amended and Restated Limited Liability Company Agreement.

**1.8 Amended and Restated Limited Liability Company Agreement** means the second amended and restated limited liability company agreement of Reorganized THAN, substantially in the form as will be set forth in a Plan Supplement.

**1.9 Asbestos Claimants Group** means the group of law firms that represent certain current asbestos personal injury claimants, as constituted from time to time.

**1.10 Asbestos Insurance Action** means any Claim, Cause of Action (pending now or commenced in the future), arbitration or right of PENAC, Reorganized THAN, or THAN against any Asbestos Insurance Entity related to any Asbestos PI Insurance Contract, any Insurance Settlement Agreement or any other settlement agreement with any Asbestos Insurance Entity, or any Claim, Cause of Action (pending now or commenced in the future), or right of any Asbestos Insurance Entity against any of PENAC, Reorganized THAN, or THAN related to any Asbestos PI Insurance Contract, any Insurance Settlement Agreement or any other settlement agreement with any Asbestos Insurance Entity, including but not limited to, (a) the Coverage Case, (b) Coverage Claims, (c) Insurer Contribution Claims, (d) any Claim or Cause of Action (pending now or commenced in the future) seeking to determine or enforce claimed coverage obligations relating to defense or indemnity obligations arising under Asbestos PI Insurance Contracts for one or more Asbestos PI Claim(s), Demand(s), and/or related issues, or (e) any Claim, Cause of Action (pending now or commenced in the future), or right arising from, under or related to: (i) any such Asbestos Insurance Entity's failure or alleged failure to provide coverage or pay amounts billed to it for Asbestos PI Claims, whether prior to or after the Commencement Date, under an Insurance Settlement Agreement; (ii) the refusal or alleged refusal of any Asbestos Insurance Entity to pay any

obligations on, or compromise and settle, any Asbestos PI Claim under or pursuant to any Asbestos PI Insurance Contract; or (iii) the interpretation or enforcement of the terms of any Asbestos PI Insurance Contract with respect to any Asbestos PI Claim.

**1.11 Asbestos Insurance Entity** means any Entity, including any insurance company, broker, or guaranty association, that has issued, or that has any actual, potential or alleged liabilities, duties or obligations under or with respect to, any Asbestos PI Insurance Contract or any other insurance policy that provides or allegedly provides coverage to PENAC or THAN for Asbestos PI Claims.

**1.12 Asbestos PI Channeling Injunction** means the injunction pursuant to section 524(g) of the Bankruptcy Code described more fully in Article 11.5 below.

**1.13 Asbestos PI Claim** means each of the following: (a) a THAN Asbestos PI Claim; (b) a Derivative Liability Asbestos PI Claim; (c) an Indirect Asbestos PI Claim; (d) a Qualified Asbestos PI Claim and (e) an Asbestos PI Trust Expense. Asbestos PI Claim shall not include an Asbestos Property Damage Claim.

**1.14 Asbestos PI Insurance Contracts** means any insurance policy or policies issued or allegedly issued by any Asbestos Insurance Entity to PENAC or THAN that provide or allegedly provide coverage to PENAC or THAN for Asbestos PI Claims, including, without limitation, any Shared Asbestos Insurance Policies, any settlement agreement or any Insurance Settlement Agreements.

**1.15 Asbestos PI Insurer Coverage Defense** means any defense at law or in equity that any Asbestos Insurance Entity may have under applicable non-bankruptcy law to providing insurance coverage for or on account of any Asbestos PI Claim that has been channeled to or has been or will be assumed or incurred by the Asbestos PI Trust pursuant to the Plan, except for any defense that has been released, waived, altered or otherwise resolved, in full or in part, in any Insurance Settlement Agreement, any other settlement agreement with such Asbestos Insurance Entity or by binding adjudication.

**1.16 Asbestos PI Trust** means the asbestos personal injury trust that is to be established pursuant to section 524(g) of the Bankruptcy Code and in accordance with the Plan, the Confirmation Order and the Asbestos PI Trust Agreement, which trust shall be treated as a “qualified settlement fund” under section 468B of the Internal Revenue Code.

**1.17 Asbestos PI Trust Advisory Committee** means the Asbestos PI Trust advisory committee established pursuant to the terms of the Plan and the Asbestos PI Trust Agreement.

**1.18 Asbestos PI Trust Agreement** means the agreement, to be dated as of the Effective Date, by and among Reorganized THAN, the Asbestos PI Trustees, the Future Claimants’ Representative and the Asbestos PI Trust Advisory Committee, governing the creation and terms of the Asbestos PI Trust, in substantially the form annexed hereto as Exhibit A and specifically including terms providing that, until the fifth anniversary of the Effective Date, except as otherwise authorized by prior written consent of each of the Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee, the Future Claimants’ Representative and PENAC, funds not immediately necessary for distribution to claimants shall be invested in money market funds that invest exclusively in U.S. treasury short term obligations. Such securities must be issued only by the U.S Treasury or should be guaranteed in writing by the U.S. Treasury and should be rated AAAM-G by Standard & Poor’s and having an additional AAA rating by either Moody’s Investor Services or Fitch Ratings. In addition no more than \$450 million shall be invested in a single fund and (ii) the investment in a fund should not exceed 10% of total size of such fund.

**1.19 Asbestos PI Trust Assets** means, collectively: (a) the PENAC Asbestos PI Trust Contribution; (b) the THAN Contribution; (c) all other assets, rights, and benefits assigned, transferred or conveyed to the Asbestos PI Trust in connection with the Plan or any Plan Documents; and (d) all proceeds of the foregoing.

**1.20 Asbestos PI Trust Bylaws** means the Asbestos PI Trust Bylaws, effective as of the Effective Date, substantially in the form annexed as Exhibit B, as such bylaws may be amended or modified from time to time in accordance with the terms of the Asbestos PI Trust Agreement.

**1.21 Asbestos PI Trust Contributions** means, collectively, the THAN Contribution and the PENAC Asbestos PI Trust Contribution, which, together, shall not exceed \$900 million as of the Effective Date; provided, however, that, should any element of the THAN Contribution or of the PENAC Asbestos PI Trust Contribution cause the Asbestos PI Trust Contributions to exceed \$900 million as of the Effective Date, the excess amounts shall be returned to PENAC in Cash.

**1.22 Asbestos PI Trust Distribution Procedures** means the trust distribution procedures for the Asbestos PI Trust, in substantially the form annexed hereto as Exhibit C, and such additional procedures as subsequently may be adopted by the Asbestos PI Trust, which provide for the liquidation and satisfaction of Asbestos PI Claims.

**1.23 Asbestos PI Trust Documents** means, collectively: (a) the Asbestos PI Trust Agreement; (b) the Asbestos PI Trust Distribution Procedures; (c) the Asbestos PI Trust Bylaws; (d) the Asbestos PI Trust Indemnification Agreement; (e) the Asbestos Records Cooperation Agreement; and (f) the other agreements, instruments and documents governing the establishment and administration of the Asbestos PI Trust, as the same may be amended or modified from time to time, in accordance with the terms thereof.

**1.24 Asbestos PI Trust Expense** means any of the liabilities, costs, or expenses incurred by the Asbestos PI Trust (other than liabilities to holders of THAN Asbestos PI Claims, Derivative Liability Asbestos PI Claims, Indirect Asbestos PI Claims and Qualified Asbestos PI Claims in respect of Asbestos PI Claims), in carrying out the terms of the Asbestos PI Trust Agreement.

**1.25 Asbestos PI Trust Indemnification Agreement** means the Indemnification Agreement entered into by and among THAN or Reorganized THAN, as the case may be, PENAC, on behalf of itself and for the benefit of the other Protected Parties (as defined therein), and the Asbestos PI Trust, substantially in the form annexed as Exhibit B to the Asbestos PI Trust Agreement.

**1.26 Asbestos PI Trustees** means the individuals set forth in a Plan Supplement and appointed pursuant to the Confirmation Order to serve as the trustees for the Asbestos PI Trust in accordance with the terms of the Plan and the Asbestos PI Trust Agreement or any successors thereof.

**1.27 Asbestos Property Damage Claim** means any Claim, Demand, or allegation against, or any debt, liability, or obligation of, THAN or any other Asbestos Protected Party, whether now existing or hereafter arising, whether in the nature of or sounding in tort, or under contract, warranty, or any other theory of law, equity, or admiralty for, arising out of, or resulting from, asbestos property damage, including the cost of inspecting, maintaining, encapsulating, repairing, decontaminating, removing, replacing or disposing of asbestos or asbestos-containing products in buildings, other structures or other property arising from the installation in, presence in or removal from buildings or other structures of asbestos or asbestos-containing products that was or were installed, manufactured, sold, supplied, produced, distributed, released or marketed by the Debtor prior to the Commencement Date, or for which the Debtor is allegedly liable, including any such Claims, remedies and liabilities for compensatory

damages (such as proximate, consequential, general and special damages) and punitive damages, and any cross-claims, contribution claims, subrogation claims, reimbursement claims, indemnity claims, and other similar derivative Claims, Demands, or allegations against THAN. Asbestos Property Damage Claims shall not include Asbestos PI Claims.

**1.28 Asbestos Protected Party** means each of the following:

- (a) any THAN Related Party;
- (b) any PENAC Related Party;
- (c) Elementis;
- (d) any Entity subject to an Indirect Asbestos PI Claim;
- (e) any Settling Asbestos Insurance Entity;
- (f) any Post-Confirmation Settling Asbestos Insurance Entity; and
- (g) any current or former Representative of any of the above.

**1.29 Asbestos Records** shall have the meaning ascribed to it in the Asbestos Records Cooperation Agreement.

**1.30 Asbestos Records Cooperation Agreement** means the cooperation agreement with respect to Asbestos Records entered into as of the Effective Date, substantially in the form as will be set forth in a Plan Supplement.

**1.31 Asbestos Records Party** means each Entity whose books and records, or any portion thereof, are Asbestos Records.

**1.32 Avoidance Action** means any avoidance or recovery action under any of sections 502(d), 542, 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code, or under related state or federal statutes and common law, whether or not litigation has been commenced with respect to such cause of action as of the Effective Date.

**1.33 Ballot** means each of the ballots and/or master ballots distributed with the Disclosure Statement to holders of Impaired Claims against or Equity Interests in THAN on which ballot such holder of a Claim or Equity Interest may, among other things, vote to accept or reject the Plan.

**1.34 Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as in effect on the Commencement Date, together with all amendments, modifications and replacements of the foregoing, as the same may exist on any relevant date to the extent applicable to the Chapter 11 Case.

**1.35 Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York or such other court as may have jurisdiction over the Chapter 11 Case.

**1.36 Bankruptcy Rules** means, collectively: (a) the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code; (b) the Federal Rules of Civil Procedure, as applicable to the Chapter 11 Case or any

proceedings therein; and (c) the local rules of the Bankruptcy Court, all as amended from time to time and applicable to the Chapter 11 Case.

**1.37 Bankruptcy Insurance Stipulation** means, that certain Stipulation and Agreed Order, entered by the Bankruptcy Court on February 10, 2009 as Docket No. 302, by and between the Debtor, PENAC, certain Asbestos Insurance Entities, Future Claimants' Representative, and the Official Committee of Unsecured Creditors, as such Stipulation and Agreed Order may subsequently be amended and modified by written agreement of the parties thereto, which is incorporated herein by reference and is annexed hereto as Exhibit K.

**1.38 Business Day** means any day except: (a) Saturday; (b) Sunday; (c) any other day on which banking institutions in New York, New York are required or authorized to be closed by law or executive order; and (d) the Friday immediately after Thanksgiving.

**1.39 Cash** means legal tender of the United States of America.

**1.40 Cause of Action** means any action, including any cause of action, liability, obligation, account, controversy, right to legal remedy, right to equitable remedy, right to payment, suit, debt, sum of money, damage, judgment, Claim or Demand whatsoever, whether known or unknown, now or in the future, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, whether asserted or assertable directly or derivatively, in law, equity or otherwise, which may be brought by or on behalf of THAN and/or the Estate, arising under any provision of the Bankruptcy Code or other applicable law or regulation or similar governmental pronouncement.

**1.41 Chapter 11 Case** means THAN's case under chapter 11 of the Bankruptcy Code, captioned *In re T H Agriculture & Nutrition, L.L.C.*, Case No. 08-14692 (REG), to be commenced in the Bankruptcy Court.

**1.42 Claim** means: (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, legal, equitable, secured, or unsecured; or (b) a right to an equitable remedy for breach of performance if such right gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

**1.43 Claims and Balloting Agent** means the claims, noticing and balloting agent in the Chapter 11 Case, Kurtzman Carson Consultants LLC.

**1.44 Claims Reviewer** means Verus Claims Services, LLC.

**1.45 Class** means a category of holders of Claims or Equity Interests described in Article IV below.

**1.46 Commencement Date** means the date on which a petition is filed by THAN pursuant to section 301 of the Bankruptcy Code to commence the Chapter 11 Case.

**1.47 Confirmation Date** means the date on which the Confirmation Order is entered by the District Court or the Bankruptcy Court, as applicable, with respect to the Chapter 11 Case.

**1.48 Confirmation Hearing** means the hearing to be held by the Bankruptcy Court and/or District Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

**1.49 Confirmation Order** means, as the context requires, the order or orders of the District Court confirming the Plan under section 1129 of the Bankruptcy Code or affirming an order of the Bankruptcy Court confirming the Plan under section 1129 of the Bankruptcy Code, which shall contain, among other things, the Asbestos PI Channeling Injunction.

**1.50 Control** means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies, or activities of an Entity, whether through ownership of voting securities, by contract, or otherwise.

**1.51 Coverage Case** means that certain declaratory judgment action initiated by THAN against certain Asbestos Insurance Entities, pending in the Circuit Court of Cook County, Illinois, captioned as *TH Agriculture & Nutrition, L.L.C. v. ACE Property and Cas. Co., et al.*, Case No. 02 CH 19037.

**1.52 Coverage Claims** means any claim, cause of action, cross-claim, contribution claim, subrogation claim, reimbursement claim, indemnity claim, and other similar claims, demands, or allegations asserted or to be asserted by any PENAC Entity or Reorganized THAN (as applicable) against any Asbestos Insurance Entity, whether in the nature of or sounding in tort, or under contract or implied by law (as defined by the applicable nonbankruptcy law of the relevant jurisdiction), warranty, guarantee, contribution, joint and several liability, subrogation, reimbursement, or indemnity, or any other theory of law, equity, or admiralty, arising out of, resulting from, or relating to, directly or indirectly, any Asbestos PI Insurance Contract, any Asbestos PI Claim, any Environmental Liability, any Agent Orange liability, or any benzene liability.

**1.53 Coverage Court** means any court or other tribunal, including the Circuit Court of Cook Country, Illinois, in which any Asbestos Insurance Action or other Coverage Claim is pending.

**1.54 Cure** means the payment of Cash by THAN, or the distribution of other property (as the parties may agree or the Bankruptcy Court may order), as necessary to: (a) cure a default by THAN under an Executory Contract; and (b) permit THAN to assume such Executory Contract under section 365 of the Bankruptcy Code.

**1.55 Cure Notice** means the pleading that the Reorganized Debtor shall file and serve within thirty (30) days after the Effective Date listing the amount of the proposed Cure for each assumed, or assumed and assigned, Executory Contract.

**1.56 Debtor** means T H Agriculture & Nutrition, L.L.C. in the Chapter 11 Case.

**1.57 Debtor in Possession** means T H Agriculture & Nutrition, L.L.C., as debtor in possession in the Chapter 11 Case pursuant to section 1101(1) of the Bankruptcy Code.

**1.58 Demand** means any demand for payment, present or future, within the meaning of section 524(g)(5) of the Bankruptcy Code, that: (a) was not a Claim during the Chapter 11 Case; (b) arises out of the same or similar conduct or events that gave rise to the Asbestos PI Claims; and (c) pursuant to the Plan, is to be paid by the Asbestos PI Trust.



**1.59 Derivative Liability Asbestos PI Claim** means any claim based upon a legal or equitable theory of liability in the nature of veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy, upon which a PENAC Related Party or Elementis is liable, or is allegedly liable, arising out of, resulting from, or relating to directly or indirectly, death, bodily injury, sickness, disease, or other personal injury, physical, emotional or otherwise, to persons, caused, or allegedly caused, directly or indirectly, by the presence of, or exposure to, asbestos or asbestos-containing products, to the extent arising, directly or indirectly, from acts, omissions, business, or operations of THAN (including the acts, omissions, business, or operations of any other Entity for whose product or operations THAN has liability, to the extent of THAN's liability for such acts, omissions, business, or operations) (including any acts or omissions that constituted or may have constituted ordinary or gross negligence or reckless, willful, or wanton misconduct of THAN or any other Entity for whose products or operations THAN has liability or is alleged to have liability, or any conduct for which THAN, or any other Entity for whose products or operations THAN has liability or is alleged to have liability, may be deemed to have strict liability under any applicable law) including all related claims, debts, obligations, or liabilities for compensatory damages (such as loss of consortium, medical monitoring, personal or bodily injury, wrongful death, survivorship, proximate, consequential, general, and special damages). For purposes of this definition, "veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy" claims shall include, but not be limited to, fraudulent transfer or fraudulent conveyance claims under applicable state or federal law, denuding the corporation claims, single business enterprise claims, claims that THAN was the predecessor, mere instrumentality, agent or alter ego of a PENAC Related Party or of Elementis, trust fund claims, claims that a PENAC Related Party or Elementis conspired with THAN, and any causes of action against a PENAC Related Party or Elementis that belong to the Debtor or Debtor in Possession, whether or not included in the foregoing list, including any such claim or cause of action against an Entity entitled to protection under section 524(g)(4)(A)(ii).

In addition to the meaning set forth above, for the avoidance of any doubt and without affecting the meaning of any definition in this Article 1, the meaning of Derivative Liability Asbestos PI Claim specifically does not include any Claim or Demand against Uniroyal, Inc., whether now existing or hereafter arising, that arises from exposure to asbestos other than asbestos for which THAN has liability or is alleged to have liability.

**1.60 Derivative Liability Claim** means any claim, other than a Derivative Liability Asbestos PI Claim, whether in existence or arising now or in the future, based upon a legal or equitable theory of liability in the nature of veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy, upon which a PENAC Related Party or Elementis is liable, or is allegedly liable, arising out of, resulting from, or relating to directly or indirectly, death, bodily injury, sickness, disease, or other personal injury, physical, emotional or otherwise, to persons, caused, or allegedly caused, directly or indirectly, by acts, omissions, business, operations, or products of THAN (including the acts, omissions, business, or operations of any other Entity for whose product or operations THAN has actual or alleged liability, to the extent of THAN's actual or alleged liability for such acts, omissions, business, or operations, and any acts or omissions that constituted or may have constituted ordinary or gross negligence or reckless, willful, or wanton misconduct of THAN or any other Entity for whose products or operations THAN has liability or is alleged to have liability, or any conduct for which THAN, or any other Entity for whose products or operations THAN has liability or is alleged to have liability, may be deemed to have strict liability under any applicable law) and all related claims, debts, obligations, or liabilities for compensatory damages (such as loss of consortium, medical monitoring, personal or bodily injury, wrongful death, survivorship, proximate, consequential, general, and special damages). For purposes of this definition, "veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy" claims shall include, but not be limited to, (a) fraudulent transfer or fraudulent conveyance claims under applicable state or federal law, (b) denuding the corporation claims, (c) continuation of business enterprise claims, (d) single business enterprise claims, (e) claims that THAN was the predecessor, (f) mere

instrumentality, agent or alter ego of a PENAC Related Party or of Elementis, (g) trust fund claims, (h) claims that a PENAC Related Party or Elementis conspired with THAN, and (i) any causes of action against a PENAC Related Party or Elementis that belong to the Debtor or Debtor in Possession, whether or not included in the foregoing list.

**1.61 DIP Agreement** means the credit agreement to be entered into after the Commencement Date by and between THAN and PENAC, as may be modified or amended by the parties or order of the Bankruptcy Court.

**1.62 DIP Claim** means any claim of PENAC or any other lender arising out of the DIP Agreement.

**1.63 Disallowed** means, when used with respect to a Claim against THAN, other than an Asbestos PI Claim, a Claim that: (a) is disallowed in whole or in part (but solely to the extent of such disallowance) by an order of the Bankruptcy Court or other court of competent jurisdiction; or (b) has been withdrawn, in whole or in part, by the holder thereof.

**1.64 Disclosure Statement** means the written disclosure statement that relates to the Plan, including the exhibits and schedules thereto, as approved by the Bankruptcy Court after the Commencement Date as containing adequate information pursuant to section 1125 of the Bankruptcy Code and Rule 3017 of the Bankruptcy Rules, as such disclosure statement may be amended, modified, or supplemented from time to time.

**1.65 Disputed Claim** means a Claim against THAN, other than an Asbestos PI Claim, or any portion thereof, that is neither Allowed nor Disallowed or is contingent, disputed or unliquidated.

**1.66 Distribution Record Date** means the record date for determining an entitlement to receive Distributions under the Plan on account of Allowed Claims, which shall be the Confirmation Date.

**1.67 Distribution** means any: (a) Cash; (b) property; or (c) interest in property to be paid or distributed hereunder to the holders of Allowed Claims or Equity Interests, not including the Asbestos PI Claims.

**1.68 District Court** means the United States District Court for the Southern District of New York.

**1.69 Effective Date** means the date that is thirty-five (35) days after the date that the Confirmation Order, containing the Asbestos PI Channeling Injunction, shall have been either entered by the Bankruptcy Court and accepted and affirmed by the District Court or issued by the District Court, on which date the PENAC Asbestos PI Trust Contribution and THAN Contribution shall be made to the Asbestos PI Trust and the Asbestos PI Trust shall begin to pay Asbestos PI Claims, including the Qualified Asbestos PI Claims.

**1.70 Elementis** means Elementis Group B.V., and its predecessors and Affiliates, as set forth on Schedule 3 attached hereto, as may be amended at any time prior to the Effective Date with the consent of Elementis, PENAC, the Asbestos Claimants Group, and the Future Claimants' Representative, with such consent not to be unreasonably withheld.

**1.71 Encumbrance** means, with respect to any property (whether real or personal, or tangible or intangible), any mortgage, Lien, pledge, charge, security interest, assignment, or encumbrance

of any kind or nature in respect of such property (including any conditional sale or other title retention agreement, any security agreement, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction) to secure payment of a debt or performance of an obligation.

**1.72 Entity** means any person or organization created by law, including, without limitation, any individual, company, corporation, limited liability company, partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, or government or any political subdivision thereof.

**1.73 Environmental Liability** means any liability of THAN or Reorganized THAN (contingent or otherwise, arising under statute or common law, at law or in equity, and including liability for response costs or natural resource damages, fines or penalties) or any investigatory, remedial, or corrective obligation arising under any applicable federal, state, local or foreign statute, or regulation or similar requirement having the force and effect of law, or judicial or administrative order or determination, or common law, concerning public health or safety, workplace health and safety, or pollution or protection of the environment (including all those pertaining to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, threatened release, control or cleanup of any hazardous materials, substances or wastes, chemical substances or mixtures, pesticides, pollutants, contaminants, toxic chemicals, petroleum products or byproducts, polychlorinated biphenyls, noise or radiation).

**1.74 Equity Interest** means any right, title and interest of PENAC or Remediation Services in THAN.

**1.75 Estate** means the estate created under section 541 of the Bankruptcy Code in the Chapter 11 Case.

**1.76 Executory Contract** means any unexpired lease or executory contract of THAN that is subject to treatment under section 365 of the Bankruptcy Code.

**1.77 Exhibit J Sites** means those sites set forth on Exhibit J to the Plan.

**1.78 Final Judgment or Final Order** means a judgment or an order, as the case may be, as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceedings for reargument or rehearing shall then be pending; provided, however, that if an appeal, writ of certiorari, reargument or rehearing thereof has been filed or sought: (a)(i) such judgment or order shall have been affirmed by the highest court to which such judgment or order was appealed; or (ii) certiorari shall have been denied or reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; or (b) such appeal, writ of certiorari, or request for reargument or rehearing shall have been dismissed with prejudice by the filing or seeking party.

**1.79 Future Claimants' Representative** means Professor Samuel Issacharoff (or any court-appointed alternative or successor), in his capacity as the court-appointed legal representative for all Future Demand Holders pursuant to section 524(g) of the Bankruptcy Code for the purpose of protecting their interests.

**1.80 Future Claimants' Representative Group** means the Future Claimants' Representative and all of his Representatives, including, but not limited to, Stutzman, Bromberg,

Esserman & Plifka, A Professional Corporation, Brune & Richard LLP, The Claro Group, LLC, Duff & Phelps LLC, and Hamilton, Rabinovitz & Associates, Inc.

**1.81 Future Demand Holder** means a holder of a Demand, whether now known or hereafter discovered.

**1.82 General Unsecured Claim** means a Claim, including an Asbestos Property Damage Claim, against THAN that is not secured by a valid and enforceable Lien against property of THAN and that is not an Administrative Expense Claim, a Priority Claim, a DIP Claim, a Priority Tax Claim, an Intercompany Claim or an Asbestos PI Claim.

**1.83 Impaired** means, when used with respect to a Claim or an Equity Interest, a Claim or Equity Interest as to which the Plan: (a) alters the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest; or (b) notwithstanding any contractual provision or applicable law that entitles the holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) does not cure any such default that occurred before or after the Commencement Date, (ii) does not reinstate the maturity of such claim or interest as such maturity existed before such default; (iii) does not compensate the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; (iv) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), does not compensate the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; or (v) otherwise alters the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

**1.84 Indirect Asbestos PI Claim** means those cross-claims, contribution claims, subrogation claims, reimbursement claims, indemnity claims, and other similar derivative or indirect Claims, Demands, or allegations against THAN or any Settling Insurer, whether or not any such Claim, Demand, debt, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, whether or not the facts of or legal bases therefore are known or unknown, and whether in the nature of or sounding in tort, or under contract or implied by law (as defined by the applicable nonbankruptcy law of the relevant jurisdiction), warranty, guarantee, contribution, joint and several liability, subrogation, reimbursement, or indemnity, or any other theory of law, equity, or admiralty for, arising out of, resulting from, or relating to directly or indirectly, death, bodily injury, sickness, disease, or other personal or emotional injuries to persons caused, or allegedly caused, directly or indirectly, by the presence of, or exposure to, asbestos – including asbestos-containing products, equipment, components, parts, improvements to real property, or materials engineered, designed, marketed, manufactured, fabricated, constructed, sold, supplied, produced, installed, maintained, serviced, specified, selected, repaired, removed, replaced, released, distributed, or in any way used by THAN or any Entity for whose products or operations THAN has liability or is alleged to have liability – to the extent arising, directly or indirectly from acts, omissions, business or operations of THAN (including the acts, omissions, business or operations of any other Entity for whose products or operations THAN has liability, to the extent of THAN's liability for such acts, omissions, business, or operations) (including any acts or omissions that constituted or may have constituted ordinary or gross negligence or reckless, willful, or wanton misconduct of THAN or any other Entity for whose products or operations THAN has liability or is alleged to have liability or any conduct for which THAN, or any other Entity for whose products or operations THAN has liability or is alleged to have liability, may be deemed to have strict liability under any applicable law) including claims, debts, obligations, or liabilities for compensatory damages, loss of consortium, medical monitoring, personal or bodily injury, wrongful death, survivorship, proximate, consequential, general, and special damages.

In addition to the meaning set forth above, for the avoidance of any doubt and without affecting the meaning of any definition in this Article 1, the meaning of Indirect Asbestos PI Claim specifically does not include any Claim or Demand against Uniroyal, Inc., whether now existing or hereafter arising, that arises from exposure to asbestos other than asbestos for which THAN has liability or is alleged to have liability.

**1.85 Insurance Settlement Agreement** means any of the agreements listed on the annexed Exhibit G, as such exhibit may be amended, supplemented, or otherwise modified by THAN from time to time prior to the Confirmation Date.

**1.86 Insurance Settlement Proceeds Trust** means the THAN/PENAC Joint Insurance Settlement Proceeds Trust established by THAN and PENAC pursuant to the Insurance Settlement Proceeds Trust Agreement.

**1.87 Insurance Settlement Proceeds Trust Agreement** means the THAN/PENAC Joint Insurance Settlement Proceeds Trust Agreement, dated as of March 7, 2008, by and among THAN, PENAC, and Citibank, N.A., as trustee, a copy of which is annexed as Exhibit H to the Plan.

**1.88 Insurance Settlement Proceeds Trust Assets** means the Cash remaining in the Insurance Settlement Proceeds Trust as of the Effective Date.

**1.89 Insurer Contribution Claim** means any claim, cause of action, cross-claim, contribution claim, subrogation claim, reimbursement claim, indemnity claim, and other similar claims, demands, or allegations asserted or to be asserted by any Non-Settling Insurer against any PENAC Entity, Reorganized THAN, or any Asbestos Protected Party, whether in the nature of or sounding in tort, or under contract, warranty, guarantee, contribution, joint and several liability, subrogation, reimbursement, or indemnity, or any other theory of law, equity, or admiralty, arising out of, resulting from, or relating to, directly or indirectly, any Asbestos PI Insurance Contract.

**1.90 Intercompany Claim** means any general unsecured Claim held by an Affiliate of THAN against THAN or by THAN against an Affiliate of THAN.

**1.91 Known Environmental Liabilities** means all Environmental Liabilities known to THAN on or before September 1, 2008 at 12:01 a.m. (prevailing Eastern time) on, at, under or migrating from the sites set forth on Exhibit I to the Plan; provided, that, Known Environmental Liabilities shall also include all Environmental Liabilities on, at, under or migrating from the sites located at (i) Plant 1 at North Raceway Road, Greenville, MS; (ii) 1585 Harbor Ave., Memphis, TN; and (iii) 4330 Geraldine Ave. St. Louis, MO.

**1.92 Lien** means any charge against or interest in property to secure payment of a debt or performance of an obligation.

**1.93 Non-Settling Insurer** means any Asbestos Insurance Entity that is not a Settling Asbestos Insurance Entity or a Post-Confirmation Settling Asbestos Insurance Entity.

**1.94 Parent Trust** means the trust to be established in accordance with the Plan, the Confirmation Order and the Parent Trust Agreement.

**1.95 Parent Trust Agreement** means the agreement, to be dated as of the Effective Date, governing the creation and terms of the Parent Trust, by and among Reorganized THAN and the Parent Trust, in substantially the form as will be set forth in a Plan Supplement.

**1.96 Parent Trust Documents** means, collectively, the Parent Trust Agreement and the other agreements, instruments and documents governing the establishment and administration of the Parent Trust, as the same may be amended or modified from time to time, in accordance with the terms thereof.

**1.97 Parent Trustee** means the individual set forth in a Plan Supplement and appointed pursuant to the Confirmation Order to serve as the trustee for the Parent Trust in accordance with the terms of the Plan and the Parent Trust Agreement or any successor thereof.

**1.98 Payment Percentage** means the percentage of the liquidated value that holders of Asbestos PI Claims will be entitled to receive from the Asbestos PI Trust pursuant to the Asbestos PI Trust Distribution Procedures.

**1.99 PENAC** means Philips Electronics North America Corporation, a Delaware corporation.

**1.100 PENAC Affiliate** means each of the Entities listed on Schedule 1 hereto, as may be amended at any time prior to the Effective Date with the consent of PENAC, the Asbestos Claimants Group, and the Future Claimants' Representative, with such consent not to be unreasonably withheld.

**1.101 PENAC Asbestos PI Trust Contribution** means, collectively, the contributions by PENAC, on behalf of itself and the other PENAC Related Parties, to the Asbestos PI Trust, including the following:

(a) the PENAC Cash;

(b) residual Cash as of the Effective Date, if any, whether (i) drawn under the DIP Agreement and not used by THAN or (ii) remaining under any pre-Commencement Date advance made to THAN by PENAC, to the extent such residual Cash will not be necessary for distributions under the Plan on account of Allowed General Unsecured Claims; and

(c) with THAN, the Insurance Settlement Proceeds Trust Assets;

provided, however, that the sum of (a) the PENAC Cash; (b) the residual Cash as of the Effective Date, if any, whether (i) drawn under the DIP Agreement and not used by THAN or (ii) remaining under any pre-Commencement Date advance made to THAN by PENAC, to the extent such residual Cash will not be necessary for distributions under the Plan on account of Allowed General Unsecured Claims; (c) the Insurance Settlement Proceeds Trust Assets; and (d) the THAN Contribution, shall not exceed \$900 million as of the Effective Date; and if the total amount of the Asbestos PI Trust Contributions is greater than \$900 million as of the Effective Date, the excess shall be returned to PENAC in Cash.

**1.102 PENAC Asset** means a certain revenue-generating real property more particularly described in Exhibit C to the Disclosure Statement that is to be contributed to Reorganized THAN on the Effective Date free and clear of all Liens, Claims and Encumbrances.

**1.103 PENAC Cash** means the contribution of Cash by PENAC to the Asbestos PI Trust on the Effective Date in an amount such that the Asbestos PI Trust Contributions shall equal \$900 million as of the Effective Date.

**1.104 PENAC Contribution** means, collectively, the PENAC Asbestos PI Trust Contribution and the PENAC Debtor Contribution.

**1.105 PENAC Debtor Contribution** means: (a) the agreement by PENAC, on behalf of itself and the other PENAC Related Parties, to assume the Known Environmental Liabilities of THAN and Reorganized THAN and the other obligations set forth in Article 9.5 of the Plan; (b) the PENAC Asset; (c) the forgiveness of any amounts THAN may have drawn and used from the DIP Agreement and release of any and all Liens, Claims, Encumbrances and any other interests of PENAC on THAN's or Reorganized THAN's assets that served as security for the DIP Agreement; (d) costs, if any, associated with providing insurance coverage for Reorganized THAN under the Unknown Environmental Liability Insurance Policy; (e) the contribution of \$1,000,000 by PENAC to THAN or Reorganized THAN on the Effective Date for the purpose of establishing a reserve of \$1,000,000 by Reorganized THAN post-Effective Date; and (f) the assumption by PENAC of any and all obligations with respect to retiree benefits owed to former employees of THAN and employees of THAN as of the Effective Date.

**1.106 PENAC Related Party** means: (a) PENAC; (b) any PENAC Affiliate; (c) any predecessor in interest to PENAC or a PENAC Affiliate; and (d) any Entity that owned or owns a financial interest in PENAC, a PENAC Affiliate or their predecessors.

**1.107 Plan** means this plan of reorganization of THAN under chapter 11 of the Bankruptcy Code, including any supplements, schedules and exhibits hereto, either in its present form or as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof.

**1.108 Plan Contributors** means, collectively, (a) PENAC, on behalf of itself and the other PENAC Related Parties, and (b) THAN.

**1.109 Plan Documents** means, collectively, (a) the Disclosure Statement, (b) the Asbestos PI Trust Agreement, (c) the Asbestos PI Trust Indemnification Agreement and the other Asbestos PI Trust Documents, (d) the Asbestos PI Trust Distribution Procedures, (e) the Parent Trust Agreement and the other Parent Trust Documents, (f) the Promissory Note, (g) the Pledge Agreement, (h) any document contained in the Plan Supplement, (i) all of the exhibits and schedules attached to any of the foregoing, and (j) any other document necessary to implement the Plan.

**1.110 Plan Supplement** means the compilation of documents or forms of documents specified in the Plan, including, but not limited to, the documents specified in Article 14.3 below and any exhibits to the Plan not included herewith, each in form and substance acceptable to THAN and PENAC, which THAN shall file with the Bankruptcy Court on or before the date that is five (5) Business Days prior to the deadline for the filing and service of objections to the Plan, all of which are incorporated herein by reference.

**1.111 Pledge Agreement** means the pledge agreement substantially in the form attached as Exhibit E to the Plan, entered into as of the Effective Date between the Parent Trust, Reorganized THAN, and the Asbestos PI Trust to memorialize and effectuate the granting of the security interest in 100% of the outstanding membership interests of Reorganized THAN to the Asbestos PI Trust.

**1.112 Post-Confirmation Settling Asbestos Insurance Entity** means any Asbestos Insurance Entity that enters into an insurance settlement agreement after the Confirmation Date that Reorganized THAN determines, in its sole and absolute discretion, in writing, is sufficiently comprehensive to warrant that such Asbestos Insurance Entity receive the protections provided under section 524(g) of the Bankruptcy Code.

**1.113 Pre-Effective Date Claims Review** means the process pursuant to which the Claims Reviewer reviewed and approved Asbestos PI Claims prior to the Effective Date.

**1.114 Preliminary Injunction Order** means an order granting an injunction pursuant to sections 105(a) and 362(a) of the Bankruptcy Code and Rule 7065 of the Bankruptcy Rules enjoining all asbestos-related Derivative Liability Asbestos PI Claims against a PENAC Related Party or Elementis.

**1.115 Priority Claim** means any Claim entitled to priority pursuant to section 507 of the Bankruptcy Code other than an Administrative Expense Claim, DIP Claim, or a Priority Tax Claim.

**1.116 Priority Tax Claim** means any Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

**1.117 Products/Completed Operations Coverage** means the provisions of an insurance policy relating to coverage with respect to the “products hazard,” the “completed operations hazard” and/or “products-completed operations liability,” as well as any other coverages that, in words or in substance, are comparable as set forth in such insurance policy and/or the underlying insurance policies to which such insurance policy either follows form or from which terms, conditions and exclusions are incorporated by such insurance policy.

**1.118 Professional** means any person retained or to be compensated pursuant to section 327, 328, 330, 503(b), 506(b), 524(g) or 1103 of the Bankruptcy Code, including the Future Claimants’ Representative and any Entity retained thereby.

**1.119 Promissory Note** means the promissory note, secured by all of Reorganized THAN’s membership interests, to be entered into as of the Effective Date between Reorganized THAN and the Asbestos PI Trust, in substantially the form annexed hereto as Exhibit D, for the payment of a principal amount of \$1,000,000, with interest, in equal quarterly installments, and the other agreements, instruments or documents relating thereto, including any such memorializing or effecting the security therefor.

**1.120 Proof of Claim** means any proof of claim or interest filed with the Bankruptcy Court or the Claims and Balloting Agent pursuant to Bankruptcy Code section 501 and Rule 3001 or 3002 of the Bankruptcy Rules that asserts a Claim against or Equity Interest in THAN.

**1.121 Qualified Asbestos PI Claim** means an Asbestos PI Claim approved by the Claims Reviewer in the Pre-Effective Date Claims Review process. Prior to the Effective Date, THAN will maintain a list of Qualified Asbestos PI Claims, and on the Effective Date shall transfer such list to the Asbestos PI Trust once such Asbestos PI Trust is established.

**1.122 Rejection Claim** means any Claim for damages under section 502(g) of the Bankruptcy Code resulting from the rejection of an executory contract or unexpired lease by THAN or Reorganized THAN.

**1.123 Released Party** means each of the following: (a) the Asbestos Claimants Group; (b) THAN; (c) Reorganized THAN; (d) the Future Claimants’ Representative Group; (e) the Asbestos Protected Parties; (f) the Official Committee of Unsecured Creditors of T H Agriculture & Nutrition, L.L.C.; (g) the designated Asbestos PI Trustees, with respect to work performed in connection with implementation of the Plan from the entry of the Confirmation Order through and including the Effective Date; and (h) any current or former Representative of the foregoing.

**1.124 Remediation Services** means Remediation Services, Inc., a holder of Equity Interests in THAN.



**1.125 Reorganized THAN** means THAN, or any successor thereto by merger, consolidation, or otherwise, on and after the Effective Date.

**1.126 Representative** means, with respect to any specified Entity, any current or former officer, director, employee, agent, attorney, accountant, financial advisor, other representative or any person who controls any of these within the meaning of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

**1.127 Schedules** means, unless such requirement is waived by the Bankruptcy Court, the schedules of assets and liabilities and the statements of financial affairs of THAN as filed with the Bankruptcy Court by THAN after commencement of the Chapter 11 Case in accordance with section 521 of the Bankruptcy Code, as such schedules and statements may be amended or supplemented from time to time.

**1.128 Secured Claim** means a Claim that is: (a) secured by a valid, duly perfected, non-avoidable security interest in the interest of THAN in property, to the extent of the value, as of the Effective Date or such other date as is established by the Bankruptcy Court, of such Claimholder's interest in THAN's interest in such property, as determined by a Final Order of the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code or as otherwise agreed in writing by THAN and the Claimholder; or (b) secured by the amount of any valid, non-avoidable rights of setoff of the holder thereof under section 553 of the Bankruptcy Code.

**1.129 Settling Asbestos Insurance Entity** means any Asbestos Insurance Entity that has entered into an Insurance Settlement Agreement prior to the Confirmation Date if: (a) such Insurance Settlement Agreement provides that (i) THAN and/or PENAC agreed to seek the protections under section 524(g) of the Bankruptcy Code for such Asbestos Insurance Entity or (ii) THAN and/or PENAC agreed to indemnify such Asbestos Insurance Entity with respect to any Asbestos PI Claim that may be channeled to the Asbestos PI Trust; (b) the proceeds of such Insurance Settlement Agreement are included in the THAN Contribution and the PENAC Asbestos PI Trust Contribution to be contributed to the Asbestos PI Trust on the Effective Date; and (c) such Insurance Settlement Agreement is sufficiently comprehensive to warrant that such Asbestos Insurance Entity receive treatment under section 524(g) of the Bankruptcy Code. THAN shall recommend to the Bankruptcy Court that any such Asbestos Insurance Entity should be entitled to treatment under section 524(g) of the Bankruptcy Code, solely with respect to the policy or policies that are the subject of the Insurance Settlement Agreement, by identifying such Asbestos Insurance Entity as a Settling Asbestos Insurance Entity and setting forth the corresponding policies on Exhibit G to the Plan, as such exhibit may be amended by THAN from time to time prior to the Confirmation Date. Nothing herein, however, shall prevent any Asbestos Insurance Entity that enters into an Insurance Settlement Agreement prior to the Confirmation Date, after first seeking THAN's recommendation prior to the Confirmation Date, from petitioning the Bankruptcy Court for treatment under section 524(g) of the Bankruptcy Code and the Plan as a Settling Asbestos Insurance Entity.

**1.130 Settling Insurer** means any Asbestos Insurance Entity that that is either a Settling Asbestos Insurance Entity or a Post-Confirmation Settling Asbestos Insurance Entity.

**1.131 Shared Asbestos Insurance Policy** means any of the general liability policies listed on Exhibit F to the Plan, as such exhibit may be amended by THAN from time to time prior to the Effective Date.

**1.132 Solicitation Procedures Order** means the portion of the Confirmation Order, which, among other things, approves the prepetition procedures employed by THAN for soliciting and tabulating the votes to accept or reject the Plan cast by holders of Impaired Claims against THAN.

**1.133 THAN** means T H Agriculture & Nutrition, L.L.C., a Delaware limited liability company, debtor and debtor in possession, and its predecessors.

**1.134 THAN Affiliate** means each of the Entities listed on Schedule 2 hereto, as may be amended from time to time prior to the Effective Date with the consent of PENAC, the Asbestos Claimants Group, and the Future Claimants' Representative, with such consent not to be unreasonably withheld.

**1.135 THAN Asbestos PI Claim** means any Claim, Demand, or allegation or portion thereof against, or any debt, liability, or obligation of, THAN or any other Asbestos Protected Party, whether now existing or hereafter arising, whether in the nature of or sounding in tort, or under contract, warranty, or any other theory of law, equity, or admiralty for, arising out of, resulting from, or relating to directly or indirectly, death, bodily injury, sickness, disease, or any other actual or alleged personal injury, physical, emotional or otherwise, to persons, caused, or allegedly caused, directly or indirectly, by the presence of, or exposure to asbestos—including, without limitation, asbestos-containing products, equipment, components, parts, improvements to real property, or materials engineered, designed, marketed, manufactured, fabricated, constructed, sold, supplied, produced, installed, maintained, serviced, specified, selected, repaired, removed, replaced, released, distributed, or in any other way used by THAN or any other Entity for whose products or operations THAN has liability or is alleged to have liability – to the extent arising, directly or indirectly, from acts, omissions, business, or operations of THAN (including the acts, omissions, business, or operations of any other Entity for whose products or operations THAN has liability, to the extent of THAN's liability for such acts, omissions, business, or operations) (including any acts or omissions that constituted or may have constituted ordinary or gross negligence or reckless, willful, or wanton misconduct of THAN or any other Entity for whose products or operations THAN has liability or is alleged to have liability, or any conduct for which THAN, or any other Entity for whose products or operations THAN has liability or is alleged to have liability, may be deemed to have strict liability under any applicable law) including all related claims, debts, obligations, or liabilities for compensatory damages (such as loss of consortium, medical monitoring, personal or bodily injury, wrongful death, survivorship, proximate, consequential, general, and special damages). Notwithstanding the foregoing, a Claim, Demand, allegation, debt, liability or obligation shall only be a THAN Asbestos PI Claim to the extent of THAN's liability for that Claim, Demand, allegation, debt, liability or obligation.

In addition to the meaning set forth above, for the avoidance of any doubt and without affecting the meaning of any definition in this Article 1, the meaning of THAN Asbestos PI Claim specifically does not include any Claim or Demand against Uniroyal, Inc., whether now existing or hereafter arising, that arises from exposure to asbestos other than asbestos for which THAN has liability or is alleged to have liability.

**1.136 THAN Cash** means the contribution of Cash by THAN to the Asbestos PI Trust on the Effective Date in an amount such that the Asbestos PI Trust Contributions shall equal \$900 million as of the Effective Date.

**1.137 THAN Contribution** means, collectively, contributions by and on behalf of THAN or Reorganized THAN, as the case may be, to the Asbestos PI Trust, on account of Asbestos PI Claims, including the following:

- (a) THAN Cash; and
- (b) with PENAC, the Insurance Settlement Proceeds Trust Assets,

all of which, together with the PENAC Asbestos PI Trust Contribution, shall not exceed \$900 million as of the Effective Date; provided, however, that, should any element hereof or of the PENAC Asbestos PI Trust Contribution cause the Asbestos PI Trust Contributions to exceed \$900 million as of the Effective Date, the excess amounts shall be returned to PENAC in Cash.

**1.138 THAN Related Party** means: (a) THAN or Reorganized THAN; (b) any THAN Affiliate; (c) any predecessor in interest to THAN, Reorganized THAN or a THAN Affiliate; and (d) any Entity that owned or owns a financial interest in THAN, Reorganized THAN, a THAN Affiliate or the predecessors in interest of each.

**1.139 Unimpaired** means a Claim or Equity Interest, or a Class of Claims or Equity Interests, as appropriate, that is not Impaired under the Plan.

**1.140 United States Trustee** means the United States Trustee appointed under section 591 of title 28 of the United States Code to serve in the Southern District of New York.

**1.141 Unknown Environmental Liabilities** means all Environmental Liabilities that are not Known Environmental Liabilities.

**1.142 Unknown Environmental Liability Insurance Policy** means the insurance policy entered into between THAN and ACE American Insurance Company dated as of September 1, 2008 covering Unknown Environmental Liabilities.

## ARTICLE II

### ADMINISTRATIVE EXPENSE, PRIORITY TAX AND DIP CLAIMS

**2.1 Allowed Administrative Expense Claims.** Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, or as otherwise provided for in the Plan, in full satisfaction, settlement and discharge of and in exchange for such Claims, THAN or Reorganized THAN shall pay each Allowed Administrative Expense Claim in full and in Cash on, or as soon thereafter as is reasonably practicable, the latest of: (a) the Effective Date; (b) the first Business Day after the date that is thirty (30) calendar days after the date the Administrative Expense Claim becomes an Allowed Administrative Expense Claim; and (c) the date the Allowed Administrative Expense Claim becomes due and payable according to its terms; provided, however, that the Allowed Administrative Expense Claims representing liabilities incurred by the Debtor in Possession in the ordinary course of business or liabilities under loans or advances to or other obligations incurred by the Debtor in Possession may be paid by THAN in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions.

Reorganized THAN, in its sole and absolute discretion, may settle Administrative Expense Claims in the ordinary course of business without further Bankruptcy Court approval. THAN or Reorganized THAN shall have the right to object to any Administrative Expense Claim by the later of: (a) 180 days after the Effective Date, subject to such extensions as may be granted from time to time by the Bankruptcy Court; and (b) 30 days after the date such Administrative Expense Claim is filed. Unless THAN or Reorganized THAN objects to an Administrative Expense Claim, such Claim shall be deemed allowed in the amount requested. In the event that THAN or Reorganized THAN timely objects to an Administrative Expense Claim, the parties may confer to try to reach a settlement and, failing that, the Bankruptcy Court shall determine whether such Administrative Expense Claim should be Allowed and, if so, in what amount.

All entities seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 330 or 503 of the Bankruptcy Code shall (a) file, on or before the deadline specified in the Confirmation Order, their respective applications for final allowance of compensation for services rendered and reimbursement of expenses incurred; and (b) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) upon the later of (A) the Effective Date and (B) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; or (ii) upon such other terms as may be mutually agreed upon by such holder and Reorganized THAN. Reorganized THAN is authorized to pay compensation for Professional services rendered and reimbursement of expenses incurred after the Effective Date in the ordinary course of business and without the need for Bankruptcy Court approval.

**2.2 Priority Tax Claims.** Except to the extent that the holder of an Allowed Priority Tax Claim has been paid by THAN prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Priority Tax Claim, if any, shall, in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, receive in full satisfaction, settlement and discharge of and in exchange for such Allowed Priority Tax Claim, either of the following, at the sole and absolute discretion of Reorganized THAN: (a) Cash in an amount equal to the unpaid portion of such Allowed Priority Tax Claim, on the latest of: (i) the Effective Date; (ii) the date such Priority Tax Claim becomes an Allowed Claim, or as soon thereafter as is practicable; and (iii) the date such Allowed Priority Tax Claim becomes due and payable under applicable non-bankruptcy law; or (b) regular installment payments in Cash (i) of a total value, as of the Effective Date, equal to the allowed amount of such Priority Tax Claim; (ii) over a period ending not later than five (5) years after the Commencement Date; and (iii) in a manner not less favorable than the most favored nonpriority General Unsecured Claim provided for by the Plan (other than cash payments made to a class of creditors under section 1122(b)).

**2.3 DIP Claim.** On the Effective Date, the DIP Agreement shall terminate, and PENAC shall forgive any amounts THAN may have drawn upon and used from the DIP Agreement. Residual Cash as of the Effective Date, if any, whether (i) drawn under the DIP Agreement and not used by THAN or (ii) remaining under any pre-Commencement Date advance made to THAN by PENAC, to the extent such residual Cash will not be necessary for distributions under the Plan on account of Allowed General Unsecured Claims, shall be contributed to the Asbestos PI Trust as part of the PENAC Asbestos PI Trust Contribution. PENAC shall also agree to release any and all Liens, Claims, Encumbrances and any other interests of PENAC on THAN's or Reorganized THAN's assets that served as security for the DIP Agreement.

**2.4 Obligations with Respect to Elementis.** The rights and obligations of Elementis, THAN and PENAC under the 1981 Asset Purchase Agreement and any related agreements will not in any way be altered by THAN's Chapter 11 Case.

## ARTICLE III

### CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of classes of Claims against and Equity Interests in THAN.

**3.1 Classification.** The categories of Claims and Equity Interests listed below, other than Administrative Expense Claims and Priority Tax Claims, are classified for all purposes, including voting, confirmation, and distribution pursuant to the Plan, as follows:

Class	Designation	Impairment	Entitled to Vote
Class 1	Priority Claims	Unimpaired	No (conclusively presumed to accept)
Class 2	Secured Claims	Unimpaired	No (conclusively presumed to accept)
Class 3	General Unsecured Claims	Unimpaired	No (conclusively presumed to accept)
Class 4	Asbestos PI Claims	Impaired	Yes
Class 5	Intercompany Claims	Impaired	Yes
Class 6	Equity Interests in THAN	Impaired	No (conclusively presumed to reject)

## ARTICLE IV

### TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

**4.1 Class 1 – Priority Claims.** Except to the extent a holder of an Allowed Priority Claim has been paid prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Priority Claim shall receive in full satisfaction, settlement and discharge of and in exchange for such Priority Claim, Cash in an amount equal to the unpaid portion of such Allowed Priority Claim on or before the later of: (a) the Effective Date; and (b) the date the Priority Claim becomes an Allowed Priority Claim, or as soon thereafter as practicable. All Allowed Priority Claims not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

Class 1 is Unimpaired under the Plan. Each holder of a Priority Claim is deemed to have accepted the Plan and is therefore not entitled to vote to accept or reject the Plan.

**4.2 Class 2 – Secured Claims.** Except to the extent a holder of a Secured Claim agrees to different treatment of that Claim, each holder of an Allowed Secured Claim shall have such Claim reinstated pursuant to section 1124(2) of the Bankruptcy Code such that the Claim is rendered Unimpaired. The failure of THAN or any other party in interest to file an objection, prior to the Effective Date, with respect to any Secured Claim that is reinstated hereunder shall be without prejudice to the rights of Reorganized THAN or any other party in interest to contest or otherwise defend against such Secured Claim in an appropriate forum when and if such Secured Claim is sought to be enforced. Any amount that THAN may be required to pay pursuant to section 1124(2) of the Bankruptcy Code on account of any such reinstated Allowed Secured Claim shall be paid in full, in Cash, on, or as soon as practicable after, the latest of (a) the Effective Date; (b) the date on which such Secured Claim becomes Allowed; (c) the date such Secured Claim becomes due and payable according to its terms; or (d) such other date as mutually may be agreed to by and among the holder of such Secured Claim and THAN or Reorganized THAN.

Class 2 is Unimpaired under the Plan. Each holder of a Secured Claim is deemed to have accepted the Plan and is therefore not entitled to vote to accept or reject the Plan.

**4.3 Class 3 – Allowed General Unsecured Claims.** Except to the extent a holder of an Allowed General Unsecured Claim agrees to different treatment of that General Unsecured Claim, each holder of an Allowed General Unsecured Claim shall have such General Unsecured Claim reinstated pursuant to section 1124(2) of the Bankruptcy Code such that the General Unsecured Claim is rendered Unimpaired. The failure of THAN or any other party in interest to file an objection, prior to the Effective

Date, with respect to any General Unsecured Claim that is reinstated hereunder shall be without prejudice to the rights of Reorganized THAN or any other party in interest to contest or otherwise defend against such General Unsecured Claim in an appropriate forum when and if such General Unsecured Claim is sought to be enforced. Any amount that THAN may be required to pay pursuant to section 1124(2) of the Bankruptcy Code on account of any such reinstated Allowed General Unsecured Claim shall be paid in full, in Cash, on, or as soon as practicable after, the latest of: (a) the Effective Date; (b) the date on which such General Unsecured Claim becomes Allowed; (c) the date such General Unsecured Claim becomes due and payable according to its terms; or (d) such other date as mutually may be agreed to by and among the holder of such General Unsecured Claim and THAN or Reorganized THAN.

Class 3 is Unimpaired under the Plan. Each holder of a General Unsecured Claim is deemed to have accepted the Plan and is therefore not entitled to vote to accept or reject the Plan.

**4.4 Class 4 – Asbestos PI Claims.** As of the Effective Date, liability for all Asbestos PI Claims shall automatically, and without further act, deed or court order, be channeled exclusively to and assumed by the Asbestos PI Trust in accordance with, and to the extent set forth in, Articles IX and XI below, the applicable Plan Documents and the Confirmation Order. Each Asbestos PI Claim shall be determined and paid in accordance with the terms, provisions and procedures of the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures. The Asbestos PI Trust shall be funded in accordance with the provisions of Article 9.4 below. The sole recourse of the holder of an Asbestos PI Claim on account of such Asbestos PI Claim shall be to the Asbestos PI Trust and each such holder shall have no right whatsoever at any time to assert its Asbestos PI Claim against any Asbestos Protected Party.

The Asbestos PI Trust shall pay Qualified Asbestos PI Claims, following receipt of an executed release by the holder of a Qualified Asbestos PI Claim in a form approved by the Asbestos PI Trustees, on the Effective Date or as soon thereafter as is practicable in accordance with the standards set forth in the Asbestos PI Trust Distribution Procedures.

Class 4 is Impaired under the Plan. Each holder of an Asbestos PI Claim shall be entitled to vote to accept or reject the Plan to the extent and in the manner provided in Article V below and in the Solicitation Procedures Order.

**4.5 Class 5 – Intercompany Claims.** In full settlement, satisfaction, release and discharge of any and all Intercompany Claims, all Intercompany Claims shall be eliminated and discharged as of the Effective Date, by either offset, distribution, cancellation, or contribution of such Intercompany Claims, or otherwise (as determined by the Debtor in its sole and absolute discretion).

Class 5 is Impaired under the Plan. Each holder of an Intercompany Claim shall be entitled to vote to accept or reject the Plan to the extent and in the manner provided in Article V below and in the Solicitation Procedures Order.

**4.6 Class 6 – Equity Interests.** All Equity Interests in THAN shall be cancelled as of the Effective Date, after the transfer of the PENAC Asbestos PI Trust Contribution to the Asbestos PI Trust, and each holder of an Equity Interest in THAN shall neither receive nor retain any property on account of such Equity Interests in THAN under the Plan. On the Effective Date, or as soon thereafter as is reasonably practicable, all membership interests in Reorganized THAN shall be issued to the Parent Trust as set forth in Article 9.3(a) below.

Class 6 is Impaired under the Plan. Each holder of an Equity Interest is deemed to have rejected the Plan and is therefore not entitled to vote to accept or reject the Plan.

## ARTICLE V

### ACCEPTANCE OR REJECTION OF PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR EQUITY INTERESTS

**5.1 Classes Entitled to Vote.** Except as set forth below, each holder of an Allowed Claim or Allowed Equity Interest, and each holder of a Claim or Equity Interest that has been temporarily allowed for voting purposes, including each holder of an Asbestos PI Claim, in each Impaired Class of Claims or Equity Interests shall be entitled to vote separately to accept or reject the Plan unless such Impaired Class shall receive no distribution under the Plan, in which case, such Impaired Class shall be deemed to reject the Plan and shall not be entitled to vote to accept or reject the Plan.

Any holder of a Claim or Equity Interest in an Unimpaired Class of Claims or Equity Interests shall not be entitled to vote to accept or reject the Plan.

**5.2 Class Acceptance Requirement.** Acceptance of the Plan by any Impaired Class of Claims or Equity Interests shall be determined in accordance with section 1126 of the Bankruptcy Code and the terms of the Solicitation Procedures Order. With respect to Class 4, acceptance of the Plan shall also be determined in accordance with section 524(g) of the Bankruptcy Code.

**5.3 Issuance of Injunction Pursuant to Section 524(g) of the Bankruptcy Code.** The Bankruptcy Court shall be asked to issue the Asbestos PI Channeling Injunction if the Plan has been accepted by at least two-thirds (2/3) in amount of those holders of Class 4 Claims actually voting on the Plan, in accordance with section 1126(c) of the Bankruptcy Code, and seventy-five percent (75%) in number of those holders of Class 4 Claims actually voting on the Plan, in accordance with section 524(g)(2)(B)(ii)(IV)(bb) of the Bankruptcy Code.

**5.4 Acceptance by Unimpaired Classes.** Class 1 (Priority Claims), Class 2 (Secured Claims) and Class 3 (General Unsecured Claims) are Unimpaired under the Plan and are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, solicitation of votes of holders of Claims in Class 1, Class 2 and Class 3 is not required.

**5.5 Rejection by Impaired Class Receiving No Distribution.** Class 6 (Equity Interests) will receive no Distribution under the Plan, and is conclusively presumed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, solicitation of votes of holders of Equity Interests in Class 6 is not required.

## ARTICLE VI

### DISTRIBUTIONS UNDER THE PLAN ON ACCOUNT OF CLAIMS OTHER THAN ASBESTOS PI CLAIMS

**6.1 Distributions.** Other than with respect to distributions to be made to Asbestos PI Claims from the Asbestos PI Trust, Reorganized THAN shall make all Distributions required to be made under the Plan as provided under this Article VI. All distributions to be made on account of Asbestos PI Claims shall be made in accordance with the terms of the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures.

**6.2 Date of Distributions.** Except as otherwise provided herein, any Distributions and deliveries to be made hereunder on account of Allowed Claims or Equity Interests (other than Asbestos PI Claims) shall be made on the Effective Date or as soon thereafter as is practicable. In the event that any

payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**6.3 Postpetition Interest on Claims.** Unless expressly provided for in the Plan, the Plan Documents and the Confirmation Order, or any contract, instrument, release, settlement or other agreement entered into in connection with the Plan, or unless required by applicable bankruptcy law (including the fair and equitable rule), interest shall not accrue on or after the Commencement Date on account of any Claim. Nothing in this Article 6.3 shall be deemed to prohibit collection of interest by the United States or any federal or state governmental agency.

**6.4 Means of Cash Payment.** At the option of the Debtor, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in any applicable agreement.

**6.5 Delivery of Distributions.** Subject to Bankruptcy Rule 9010, all Distributions to any holder of an Allowed Claim or Equity Interest shall be made at the address of such holder as set forth on the Schedules filed, as may be required, with the Bankruptcy Court, or on the books and records of THAN or its agents, or in a letter of transmittal, unless THAN has been notified in writing of a change of address.

If any holder's Distribution is returned as undeliverable, then no further Distributions to such holder shall be made unless and until Reorganized THAN is notified of such holder's then-current address, at which time all missed Distributions shall be made to such holder without interest. A Cash Distribution that is not claimed by the expiration of six (6) months from the date that such Distribution was made shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revert in Reorganized THAN, and the Claim of any holder to such Distributions shall be discharged and forever barred. Nothing contained in the Plan shall require THAN or Reorganized THAN to attempt to locate any holder of an Allowed Claim.

**6.6 Time Bar to Cash Payments.** Checks issued by Reorganized THAN in respect of Distributions on Allowed Claims shall be null and void if not presented for payment within sixty (60) days after the date of issuance thereof. Requests for reissuance of any check shall be made in writing to Reorganized THAN by the holder of the Allowed Claim to whom such check originally was issued on or before thirty (30) days after the expiration of the sixty (60) day period following the date of issuance of such check. After expiration of the thirty (30) day period, all funds held on account of such void check shall, in the discretion of Reorganized THAN, be used to satisfy the costs of administering and fully consummating the Plan or to become property of Reorganized THAN, and the Claim of any holder to such Distributions shall be discharged and forever barred.

**6.7 Record Date for Holders of Claims.** Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Rule 3001 of the Bankruptcy Rules on or prior to the Distribution Record Date shall be treated as the holders of such Claims for all purposes, notwithstanding that any period provided by Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

**6.8 Distributions after Effective Date.** Distributions made after the Effective Date shall be deemed to have been made on the Effective Date. No interest shall accrue or be payable on such Distributions.



**6.9 Fractional Cents.** Notwithstanding any other provision in the Plan to the contrary, no payment of fractional cents will be made pursuant to the Plan. Whenever any payment of a fraction of a cent under the Plan would otherwise be required, the actual Distribution made will reflect a rounding of such fraction to the nearest whole penny (up or down), with fractions of more than half a penny being rounded up and fractions of half of a penny or less being rounded down.

**6.10 Setoff.** THAN or Reorganized THAN may, but shall not be required to, set off against any Claim (for purposes of determining the Allowed Amount of such Claim on which Distribution shall be made), any claims of any nature whatsoever that THAN or Reorganized THAN may have against the holder of such Claim, and the failure to do so shall not constitute a waiver or release by THAN or Reorganized THAN of any such Claims that THAN or Reorganized THAN may have against the holder of such Claim.

## ARTICLE VII

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

**7.1 General Treatment.** THAN shall assume, as of the Effective Date, all Executory Contracts to which THAN is a party, except for: (a) the Executory Contracts specifically listed in certain Schedules to the Plan Supplement, which shall either be rejected or assumed and assigned, respectively, as described therein; and (b) the Executory Contracts specifically addressed herein or pursuant to a Final Order of the Bankruptcy Court entered on or before the Effective Date. THAN may, at any time on or before the Effective Date, amend the Schedules to the Plan Supplement to delete therefrom, or add thereto, any Executory Contract. THAN shall provide notice of any such amendment to the parties to the Executory Contract(s) affected thereby and to parties on any master service list established by the Bankruptcy Court in the Chapter 11 Case. The fact that any contract or lease is listed in the Schedules to the Plan Supplement shall not constitute or be construed to constitute an admission that such contract or lease is an executory contract or unexpired lease within the meaning of section 365 of the Bankruptcy Code or that THAN or any successor in interest to THAN (including Reorganized THAN) has any liability thereunder.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such: (a) rejections; (b) assumptions; or (c) assumptions and assignments, as the case may be, pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

**7.2 Cure of Defaults.** Except to the extent that different treatment has been agreed to by the non-Debtor party or parties to any Executory Contract to be assumed (including any Executory Contract to be assumed and assigned) pursuant to Article 7.1 above, Reorganized THAN shall, pursuant to the provisions of sections 1123(a)(5)(G) and 1123(b)(2) of the Bankruptcy Code and consistent with the requirements of section 365 of the Bankruptcy Code, within thirty (30) days after the Effective Date, file and serve a pleading with the Bankruptcy Court listing the amount of the proposed Cure for each such Executory Contract. The non-Debtor party or parties to each such Executory Contract shall have fifteen (15) days from service of the Cure Notice to object to the proposed Cure with respect to that Executory Contract. Within thirty (30) days after service of any objection to the proposed Cure for an Executory Contract, THAN shall: (a) resolve such objection, which resolution shall not require approval of the Bankruptcy Court; (b) schedule a hearing before the Bankruptcy Court to determine the proper Cure for the Executory Contract; or (c) determine to reject the Executory Contract, and provide notice thereof to the applicable non-Debtor party or parties.

**7.3 Bar to Rejection Damages.** In the event that the rejection of an Executory Contract by THAN pursuant to the Plan results in damages to the non-Debtor party or parties to such Executory

Contract, a claim for such damages shall be forever barred and shall not be enforceable against THAN, Reorganized THAN, or their respective properties or interests in property, unless a Proof of Claim with respect to such damages is filed with the Bankruptcy Court and served upon counsel for THAN on or before (a) if such Executory Contract is rejected pursuant to Articles 7.1 and 7.2 above, the later of: (i) thirty (30) days after entry of the Confirmation Order; and (ii) thirty (30) days after the non-Debtor party receives notice of the rejection of such Executory Contract pursuant to Article 7.2 above; and (b) if such Executory Contract is rejected pursuant to a Final Order of the Bankruptcy Court granting a motion filed by THAN to reject that Executory Contract, thirty (30) days after entry of such order.

## **ARTICLE VIII**

### **PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS OTHER THAN ASBESTOS PI CLAIMS**

**8.1 Disputed Claims.** All Disputed Claims against THAN shall be subject to the provisions of this Article VIII. All Asbestos PI Claims shall be determined and paid by the Asbestos PI Trust in accordance with Article 9.4 below, the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures. Only the Asbestos PI Trust will have the right to object to and/or resolve Asbestos PI Claims. All Asbestos PI Claims must be submitted solely to the Asbestos PI Trust for payment, which shall be in accordance with the Asbestos PI Trust Distribution Procedures, and only the Asbestos PI Trust will have the right to object to and/or resolve Asbestos PI Claims.

**8.2 Objection to Claims.** THAN or Reorganized THAN, as the case may be, shall be entitled to file objections to Claims that have been or properly should have been brought in the Bankruptcy Court (other than Asbestos PI Claims), on or before the first (1st) anniversary of the Effective Date (unless such day is not a Business Day, in which case such deadline shall be the next Business Day thereafter), as the same may be extended from time to time by the Bankruptcy Court, and shall be authorized to settle, compromise, withdraw or litigate to judgment such objections without further approval of the Bankruptcy Court.

**8.3 Payments and Distributions with Respect to Disputed Claims.** Notwithstanding any other provision hereof, if any portion of a Claim (other than an Asbestos PI Claim) is a Disputed Claim, no payment or Distribution provided for herein shall be made on account of such Claim, unless and until such Claim becomes an Allowed Claim.

**8.4 Preservation of Insurance.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, nothing in the Plan, the Plan Documents or the Confirmation Order, including the discharge and release of THAN and the Asbestos PI Channeling Injunction, shall diminish, impair or otherwise affect the enforceability of any Asbestos PI Insurance Contract with any Asbestos Insurance Entity that may be obligated to provide, or has settled the issue of, coverage for Claims or Demands against THAN.

**8.5 Estimation of Claims.** THAN or Reorganized THAN, as the case may be, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated or Disputed Claim (not including any Asbestos PI Claims) for any reason pursuant to section 502(c) of the Bankruptcy Code, regardless of whether THAN previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate such Claim at any time, including, without limitation, during the pendency of litigation concerning any objection to any Claim or of any appeal relating thereto. Claims may be estimated and subsequently compromised, settled, withdrawn or otherwise resolved by any mechanism approved by the Bankruptcy Court.

Nothing in this Article 8.5 shall be deemed to provide for estimation of any Claim of the United States or any federal or state governmental agency.

**8.6 Preservation of Rights to Settle Claims.** In accordance with section 1123(b) of the Bankruptcy Code, THAN and Reorganized THAN shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Claims (other than Asbestos PI Claims), rights, causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that THAN or its estate may hold against any Entity, without the necessity for Bankruptcy Court approval under Bankruptcy Rule 9019.

## ARTICLE IX

### MEANS FOR IMPLEMENTATION OF THE PLAN

**9.1 Generally.** On the Confirmation Date, THAN shall be empowered and authorized to take or cause to be taken, prior to the Effective Date, all actions necessary to enable it to implement the provisions of the Plan, including, without limitation, the creation of the Asbestos PI Trust and the creation of the Parent Trust. From and after the Effective Date, Reorganized THAN shall be governed pursuant to the Amended Charter Documents.

#### **9.2 Transactions on the Effective Date.**

(a) Immediately on the Effective Date, the following shall be deemed for all purposes to have occurred simultaneously:

(i) the making of the PENAC Asbestos PI Trust Contribution and the THAN Contribution to the Asbestos PI Trust;

(ii) the establishment of the Asbestos PI Trust;

(iii) the vesting in the Asbestos PI Trust of the Asbestos PI Trust Assets, as more fully described in Article 9.4 below; and

(iv) the making of the PENAC Debtor Contribution.

(b) Also on the Effective Date, but solely immediately after the occurrence of each of Article 9.2(a)(i) through (iv) herein, the Parent Trust shall be established.

(c) Also on the Effective Date, but solely immediately after the occurrence of Article 9.2(a) and (b) herein, the Equity Interests of PENAC and Remediation Services in THAN shall be cancelled, and 100% of the membership interests of Reorganized THAN shall be issued to, and vest in, the Parent Trust, as more fully described in Article 9.3 below.

(d) Also on the Effective Date, but solely immediately after the occurrence of each of Article 9.2(a) through (c) herein, the following events shall be deemed for all purposes to have occurred, simultaneously:

(i) the effectiveness of the Pledge Agreement;

(ii) the effectiveness of the Promissory Note;

- (iii) the effectiveness of the Amended Charter Documents of Reorganized THAN;
- (iv) any Distributions required to be made on the Effective Date (or as soon thereafter as is reasonably practicable); and
- (v) the payment of the Qualified Asbestos PI Claims by the Asbestos PI Trust (on the Effective Date or as soon thereafter as is reasonably practicable).

### **9.3 The Parent Trust.**

On the Effective Date, immediately after the establishment of the Asbestos PI Trust, the Parent Trust shall be created in accordance with the Plan Documents and the Parent Trust Documents. The Parent Trust shall hold legal title to the membership interests of Reorganized THAN and is currently intended to constitute a “qualified settlement fund” within the meaning of section 468B of the Internal Revenue Code and the regulations issued thereunder.

(a) Issuance of Equity Interests. Automatically on the Effective Date, immediately after the occurrence of each of Article 9.2(a) and (b), one-hundred percent (100%) of the membership interests of Reorganized THAN shall be issued to the Parent Trust.

(b) Appointment of Parent Trustee. The initial Trustee(s) of the Parent Trust shall be set forth in a Plan Supplement.

(c) Pledge of Equity Interest. In connection with the execution of the Promissory Note, after the issuance to and vesting in the Parent Trust of one-hundred percent (100%) of the membership interests of Reorganized THAN, the Parent Trust shall execute the Pledge Agreement granting to the Asbestos PI Trust a security interest in one-hundred percent (100%) of the outstanding membership interests of Reorganized THAN to secure payment of the Promissory Note.

### **9.4 The Asbestos PI Trust.**

(a) Creation of the Asbestos PI Trust. On the Effective Date, the Asbestos PI Trust shall be created in accordance with the Plan Documents, the Asbestos PI Trust Documents and section 524(g) of the Bankruptcy Code. The Asbestos PI Trust is intended to constitute a “qualified settlement fund” within the meaning of section 468B of the Internal Revenue Code and the regulations issued thereunder. The purpose of the Asbestos PI Trust shall be to assume, liquidate and satisfy all liabilities determined to arise from, or relate to, the Asbestos PI Claims (whether existing as of the Effective Date or arising at any time thereafter) and to use the Asbestos PI Trust Assets to pay holders of Asbestos PI Claims in accordance with the terms of the Asbestos PI Trust Agreement, the Asbestos PI Trust Distribution Procedures, the Plan and the Confirmation Order, and in such a way as to provide reasonable assurance that the Asbestos PI Trust will value, and be in a financial position to pay, present Asbestos PI Claims and future Demands that involve similar claims in substantially the same manner, and to otherwise comply in all respects with the requirements of section 524(g)(2)(B) of the Bankruptcy Code. The Asbestos PI Trust shall have no liability for any Claim other than an Asbestos PI Claim, which shall be determined and paid in accordance with the terms, provisions and procedures of the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures. On the Effective Date, all right, title and interest in and to the Asbestos PI Trust Assets, and any proceeds thereof, will be transferred to, and vested in, the Asbestos PI Trust, free and clear of all Claims, Demands, Equity Interests, Encumbrances and other interests of any Entity without any further action of the Bankruptcy Court or any Entity.

(b) Appointment of Asbestos PI Trustees. The initial Trustees of the Asbestos PI Trust shall be set forth in a Plan Supplement.

(c) Appointment of Future Claimants' Representative. Professor Samuel Issacharoff shall serve as the Future Claimants' Representative.

(d) Appointment of Asbestos PI Trust Advisory Committee Members. The initial members of the Asbestos PI Trust Advisory Committee shall be those persons designated in the Confirmation Order.

(e) Claims Review. The Claims Reviewer has been reviewing Asbestos PI Claims during the Pre-Effective Date Claims Review period using the standards set forth in the Asbestos PI Trust Distribution Procedures. Prior to the Effective Date, any alteration of these review standards must be approved by the putative Asbestos PI Trustees, with the consent of the Asbestos Claimants Group and the Future Claimants' Representative. All Asbestos PI Claims approved by the Claims Reviewer shall be designated as Qualified Asbestos PI Claims and treated in accordance with Article 4.4 of the Plan. To the extent an Asbestos PI Claim submitted during the Pre-Effective Date Claims Review period is not approved by the Claims Reviewer, such Asbestos PI Claim may be re-submitted to the Asbestos PI Trust and considered in accordance with the standards set forth in the Asbestos PI Trust Distribution Procedures. From and after the Effective Date, the Asbestos PI Trust may retain the Claims Reviewer or such other third-party claims reviewer as the Asbestos PI Trustees and the Future Claimants' Representative deem appropriate to review and liquidate all Asbestos PI Claims submitted to the Asbestos PI Trust in accordance with the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures.

(f) Contributions to the Asbestos PI Trust. On the Effective Date, Reorganized THAN and PENAC shall make the THAN Contribution and PENAC Asbestos PI Trust Contribution, respectively, to the Asbestos PI Trust; provided, however, that, prior to the Effective Date, as part of the Asbestos PI Trust Contributions, THAN or PENAC shall pay to the putative Asbestos PI Trustees an amount not to exceed \$500,000 for the preliminary expenses to be incurred by the Asbestos PI Trust. To the extent any contribution thereof causes the Asbestos PI Trust Contributions to exceed \$900 million as of the Effective Date, the excess amount shall be returned to PENAC in Cash.

(g) Promissory Note. On the Effective Date, Reorganized THAN shall execute and deliver to the Asbestos PI Trust the Promissory Note in substantially the form attached hereto as Exhibit D.

(h) Transfer of Claims and Demands to the Asbestos PI Trust. On the Effective Date, all liabilities, obligations, and responsibilities relating to all Asbestos PI Claims and Demands shall be transferred and channeled to the Asbestos PI Trust and shall be satisfied solely by the assets held by the Asbestos PI Trust. The Asbestos PI Trust shall have no liability for any Claims other than Asbestos PI Claims, and no Claims other than Asbestos PI Claims shall be transferred and channeled to the Asbestos PI Trust.

(i) Discharge of Liabilities to Holders of Asbestos PI Claims. The transfer to, vesting in, and assumption by the Asbestos PI Trust of the Asbestos PI Trust Assets, on or after the Effective Date, as contemplated by the Plan, shall, among other things, discharge all obligations and liabilities of all Asbestos Protected Parties for and in respect of all Asbestos PI Claims.

(j) Indemnification by the Asbestos PI Trust. As and to the extent provided in the Asbestos PI Trust Indemnification Agreement, the Asbestos PI Trust shall indemnify and hold harmless

each of the following Entities for any liability, or alleged liability, arising out of, or resulting from, an Asbestos PI Claim: (i) THAN and Reorganized THAN; (ii) PENAC and any PENAC Related Party; (iii) Elementis; and (iv) any current or former Representative of any of the above, in their capacities as such.

(k) Parent Trust Distributions. Holders of certain valid Claims arising from Unknown Environmental Liabilities against either THAN or Reorganized THAN (the “Environmental Beneficiaries”), the Remainder Beneficiary (as defined in the Parent Trust Agreement) and the Asbestos PI Trust (the “Excess Income Beneficiary”) shall be the beneficiaries of the Parent Trust, and any distribution therefrom shall be paid to the Environmental Beneficiaries, the Remainder Beneficiary and the Excess Income Beneficiary in accordance with the Parent Trust Documents; provided, that the Parent Trust shall make distributions only upon receipt of dividends from Reorganized THAN, and such dividends shall be paid only under applicable law and only if funds are available after meeting Reorganized THAN’s operating expenses, financing obligations, and certain reserve requirements.

(l) Books and Records. On the Effective Date, the Asbestos Records Cooperation Agreement shall become effective and the Asbestos Records shall be treated in accordance therewith.

(m) Injunction. Notwithstanding any other provision of the Plan or the Confirmation Order that might be construed to be to the contrary, the Asbestos PI Trust is hereby prohibited and permanently enjoined from seeking to recover (on its own behalf or on behalf of its beneficiaries) from any Settling Insurer any insurance coverage provided by the Settling Insurer that has been released by THAN or by PENAC pursuant to a settlement agreement, including the settlement agreements listed in Exhibit G to the Plan.

**9.5 Environmental Liabilities.** As part of the PENAC Debtor Contribution, PENAC shall assume all Known Environmental Liabilities and the other obligations set forth in Article 9.5 herein. The rights and obligations of Elementis, THAN and PENAC under the 1981 Asset Purchase Agreement and any related agreements will not in any way be altered by THAN’s Chapter 11 Case.

In addition, THAN has purchased the Unknown Environmental Liability Insurance Policy identifying THAN as a named insured and providing coverage with respect to Unknown Environmental Liabilities in order to enhance or supplement existing insurance related to Unknown Environmental Liabilities, which policy shall be a five-year policy providing coverage only for such Unknown Environmental Liabilities, in excess of a self-insured retention of \$250,000 per pollution condition, \$2,000,000 aggregate, \$100,000 maintenance, up to \$10,000,000 per claim and an aggregate limit of \$30,000,000. At the end of its initial term, the policy may be automatically extended for an equal term (with any associated costs to be borne by Reorganized THAN).

The Unknown Environmental Liability Insurance Policy shall be deemed and treated as an executory contract pursuant to the Plan and shall be automatically assumed on the Effective Date by THAN and Reorganized THAN and shall continue in full force and effect. On the Effective Date, the Unknown Environmental Liability Insurance Policy shall vest in Reorganized THAN. On the Effective Date, or, as soon as reasonably practicable thereafter, THAN or Reorganized THAN, as the case may be, shall assume such Unknown Environmental Liability Insurance Policy and Reorganized THAN shall be insured under such Unknown Environmental Liability Insurance Policy. Any and all costs of providing such insurance coverage for Reorganized THAN under such Unknown Environmental Liability Insurance Policy shall be borne by PENAC.

On the Effective Date, Reorganized THAN shall seek to have the Unknown Environmental Liability Insurance Policy amended to add the Parent Trust as an additional named

insured; provided, however, that the costs of such amendment are determined to be reasonable to both Reorganized THAN and the Future Claimants' Representative, with such costs to be borne by Reorganized THAN.

Pursuant to the Plan, PENAC has agreed to assume all Known Environmental Liabilities, and the other obligations set forth in Article 9.5 herein, and Reorganized THAN will not incur any costs or expenses in relation to those liabilities. In the event that Reorganized THAN is notified of new or additional environmental claims or conditions in connection with the sites identified on Exhibit I or Exhibit J (the "New Claims"), Reorganized THAN will seek coverage from ACE for any New Claims. To the extent ACE contends that the condition was included in the Known Environmental Liabilities and denies coverage for any site on Exhibit I or denies coverage for any reason with respect to an Exhibit J Site, PENAC will either assume the condition or, if PENAC does not agree to assume the New Claims, Reorganized THAN will in good faith take all legal and equitable action, at the sole cost of PENAC, against ACE to compel ACE to provide coverage for such New Claims ("Litigation"). Reorganized THAN shall not be required to incur any cost in connection with Litigation. At PENAC's option and at its cost, PENAC may assume responsibility for and/or direct all actions in the Litigation that otherwise could or would be taken by Reorganized THAN. In the event of a final non-appealable order by a court of competent jurisdiction upholding ACE's denial of coverage as set out above, PENAC will assume such New Claims. Nothing in this paragraph shall impact the rights and obligations provided in this Plan with respect to claims arising at any site other than sites included on Exhibits I and J to the Plan.

Notwithstanding anything to the contrary in the Plan, Confirmation Order or any other document, including the Plan Supplement, Reorganized THAN shall remain liable for all Environmental Liabilities and all Environmental Liabilities shall survive the Chapter 11 Case, shall not be discharged, impaired or adversely affected by the Plan or the Chapter 11 Case and shall be determined in the manner and by the administrative or judicial tribunals in which such rights or Claims would have been resolved or adjudicated if the Chapter 11 Case had not been commenced. Moreover, nothing in the Plan, Confirmation Order or any other document, including the Plan Supplement, shall relieve THAN of its obligations and responsibilities under 42 U.S.C. § 9607(e).

Notwithstanding any other provision of the Plan, Plan Supplement, PENAC Debtor Contribution, or THAN/PENAC Known Environmental Liabilities Assumption and Indemnification Agreement, Confirmation Order, or other Plan Documents, any governmental unit holding Claims related to Environmental Liabilities with respect to the Known Environmental Liabilities may apply to any court of competent jurisdiction for an order to require Reorganized THAN to enforce against PENAC the provisions of the THAN/PENAC Known Environmental Liabilities Assumption and Indemnification Agreement, subject to all applicable defenses, counterclaims, offsets and other rights of PENAC, provided, however, that Reorganized THAN's financial situation or ability to pay shall not be a defense to any such action.

Notwithstanding anything to the contrary in the Plan, Confirmation Order, or any other document, including the Plan Supplement, Reorganized THAN shall remain responsible for all obligations, of any nature, under any Consent Decree, Administrative Order, or any other agreement between THAN and any governmental unit under environmental laws or regulations. Any such Consent Decree, Administrative Order, or other agreement shall remain in full force and effect after the Effective Date.

**9.6 PENAC Asset.** As part of the PENAC Debtor Contribution, PENAC shall contribute a certain revenue-generating real property to Reorganized THAN on the Effective Date.

**9.7 Insurance Assignment.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, on the Effective Date, THAN shall assign its rights to receive insurance proceeds from any Asbestos PI Insurance Contract, Insurance Settlement Agreement and the Insurance Settlement Proceeds Trust to PENAC. The Asbestos PI Trust shall not be assigned any rights to or proceeds from any Shared Asbestos Insurance Policy.

**9.8 Amended Charter Documents.** The Amended Charter Documents shall contain such provisions as are necessary to satisfy the provisions of the Plan and, to the extent necessary, to prohibit the issuance of nonvoting equity securities as required by section 1123(a)(6) of the Bankruptcy Code, subject to further amendment of the Amended Charter Documents after the Effective Date as permitted by applicable law. Except as otherwise provided herein, such Amended Charter Documents shall contain indemnification provisions applicable to the officers and employees of Reorganized THAN and such other Entities as may be deemed appropriate in the discretion of the Parent Trust.

**9.9 Corporate Governance of Reorganized THAN.** On the Effective Date, the Parent Trust may appoint a membership committee for Reorganized THAN and/or a board of managers, in which event the identities of the members thereof shall be disclosed in a Plan Supplement filed with the Bankruptcy Court.

**9.10 Effectuating Documents; Further Transactions.** Any officer, member or manager of or director of THAN or Reorganized THAN, as the case may be, shall be, and hereby is, authorized to execute, deliver, file, and record such contracts, instruments, releases, indentures, certificates, and other agreements or documents, and take such other actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Secretary of THAN is hereby authorized to certify or attest to any of the foregoing, if necessary.

THAN and Reorganized THAN, and all other parties, including all holders of Claims entitled to receive Distributions under the Plan, shall execute any and all documents and instruments that must be executed under or in connection with the Plan in order to implement the terms of the Plan or to effectuate the Distributions under the Plan, provided, that such documents and instruments are reasonably acceptable to such party or parties.

## ARTICLE X

### EFFECT OF CONFIRMATION

**10.1 Vesting of Reorganized THAN's Assets.** Pursuant to section 1141(b) of the Bankruptcy Code, except as otherwise provided in the Plan, the Plan Documents or the Confirmation Order, the property of the Estate of THAN (except for the THAN Contribution and subject to Article 2.3 hereof regarding unused Cash drawn under the DIP Agreement that will not be necessary for distributions on account of Allowed General Unsecured Claims in Class 3) shall vest in Reorganized THAN on the Effective Date free and clear of any and all Liens, Claims, Encumbrances and other interests of any Entity. From and after the Effective Date, Reorganized THAN may operate its business and may use, acquire, and dispose of property free of any restrictions imposed under the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court. Without limiting the generality of the foregoing, Reorganized THAN may, without application to, or approval by, the Bankruptcy Court, pay Professional fees and expenses that Reorganized THAN incurs after the Effective Date.

**10.2 Preservation of Certain Causes of Action; Defenses.** Except as provided in Article 10.6 below, in accordance with section 1123(b) of the Bankruptcy Code, Reorganized THAN, as successor in interest to THAN and its Estate, shall retain and may enforce any and all rights, Claims, and



Causes of Action accruing to or that are property of THAN or its Estate pursuant to the Bankruptcy Code or any statute or legal theory, including any Avoidance Action, any rights to, Claims or Causes of Action for recovery under any policies of insurance issued to or on behalf of THAN, and any rights, Claims, and Causes of Action against third parties related to or arising out of Allowed Claims, and Reorganized THAN shall retain and may enforce all defenses and counterclaims to all Claims asserted against THAN or its Estate, including, but not limited to, setoff, recoupment and any rights under section 502(d) of the Bankruptcy Code. Reorganized THAN may pursue such Claims, rights, or Causes of Action, as appropriate, in accordance with its best interests, as determined by the trustee of the Parent Trust or a membership committee or board of managers appointed thereby for Reorganized THAN. Notwithstanding anything in Article 10.2 of the Plan to the contrary, neither THAN nor Reorganized THAN shall have any rights to pursue any Derivative Liability Claims against a PENAC Related Party or Elementis or any of their Representatives.

Notwithstanding anything in this Article 10.2 to the contrary, on the Effective Date all Claims, defenses, rights and Causes of Action of THAN and Reorganized THAN relating to Asbestos PI Claims, other than any rights or Causes of Action for recovery under any policies of insurance issued to or on behalf of THAN, shall be transferred and assigned to the Asbestos PI Trust. Except as otherwise provided in Article 10.2 of the Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Asbestos PI Trust shall retain and may enforce such Claims, defenses, rights and Causes of Action and shall retain and may enforce all defenses and counterclaims to all Claims or Demands asserted against the Asbestos PI Trust with respect to such Asbestos PI Claims, including, but not limited to, setoff, recoupment and any rights under section 502(d) of the Bankruptcy Code; provided, however, that no such defenses, Causes of Action, or counterclaims may be asserted against any Asbestos Protected Party. The Asbestos PI Trust shall be deemed to be the appointed representative to, and may, pursue, litigate, compromise and settle any rights, Claims, or Causes of Action transferred to it, as appropriate, in accordance with its and its beneficiaries' best interests. Nothing in this Article 10.2, however, shall be deemed to be a transfer by THAN or Reorganized THAN of any Claims, rights, Causes of Action, or defenses relating to assumed Executory Contracts or which otherwise are required by Reorganized THAN to conduct its business in the ordinary course subsequent to the Effective Date, and the preservation of all rights, Claims, Causes of Action, and defenses pursuant to this Article 10.2 shall be expressly subject to the terms and provisions of the Bankruptcy Insurance Stipulation.

**10.3 Institution and Maintenance of Legal and Other Proceedings.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, from and after the Effective Date, PENAC or Reorganized THAN shall be empowered and entitled, in its sole and absolute discretion, to pursue, compromise or settle THAN's or Reorganized THAN's interests in the Asbestos Insurance Actions. Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, the duties, obligations and liabilities of any Asbestos Insurance Entity under all insurance policies, including, but not limited to, the Asbestos PI Insurance Contracts, all Insurance Settlement Agreements, and all other settlement agreements are not enlarged or diminished, reduced or eliminated by any aspect of the Chapter 11 Case, provided, that all Asbestos PI Insurer Coverage Defenses are preserved in accordance with Article 10.4 of the Plan.

**10.4 Insurance Neutrality.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation and notwithstanding anything to the contrary in the Confirmation Order, the Plan or any of the Plan Documents, nothing in the Plan, the Plan Documents, the Confirmation Order, any finding of fact and/or conclusion of law with respect to the confirmation of the Plan, or any Final Order or opinion entered on appeal from the Confirmation Order (including any other provision that purports to be preemptory or supervening) shall in any way operate to, or have the effect of, impairing: (a) any Asbestos Insurance Entity's legal, equitable or contractual rights, if any, in any respect under any Asbestos PI Insurance Contract, or with respect to Coverage Claims; or (b) any policyholder's legal, equitable or

contractual rights, if any, in any respect under any Asbestos PI Insurance Contract, or with respect to Coverage Claims. Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, the rights and obligations of any Asbestos Insurance Entity shall be determined under the insurance policies, including, but not limited to any Asbestos PI Insurance Contracts. Notwithstanding anything in this Article 10.4 to the contrary, nothing in this Article 10.4 shall affect or limit, or be construed as affecting or limiting: (a) the binding effect of the Plan and the Confirmation Order on THAN, Reorganized THAN, the Asbestos PI Trust and the beneficiaries of such trust; or (b) the protection and rights afforded to any Asbestos Insurance Entity, PENAC or THAN, including under or with respect to the terms and provisions of the Bankruptcy Insurance Stipulation. It is the intent of this Plan that the Asbestos Insurance Entities, PENAC and THAN shall retain, and be permitted to assert, all Claims and/or defenses (including, inter alia, any Asbestos PI Insurer Coverage Defenses) relating to Asbestos PI Claims, Coverage Claims and/or Asbestos PI Insurance Contracts, notwithstanding any provision of the Plan, the Plan Documents, the Confirmation Order, any finding of fact and/or conclusion of law with respect to the confirmation of the Plan, or any Final Order or opinion entered on appeal from the Confirmation Order.

**10.5 Terms of Injunction and Automatic Stay.** All of the injunctions and/or stays in existence immediately prior to the Confirmation Date provided for in or in connection with the Chapter 11 Case, whether pursuant to section 105, 362, or any other provision of the Bankruptcy Code, the Bankruptcy Rules or other applicable law, including, but not limited to, the injunction provided for by the Preliminary Injunction Order shall remain in full force and effect until the injunctions set forth in the Plan become effective pursuant to a Final Order, and shall continue to remain in full force and effect thereafter as and to the extent provided by the Plan, the Confirmation Order, or by their own terms. In addition, on and after the Confirmation Date, Reorganized THAN may seek such further orders as it may deem necessary or appropriate to preserve the status quo during the time between the Confirmation Date and the Effective Date.

Each of the injunctions contained in the Plan or the Confirmation Order shall become effective on the Effective Date and shall continue in effect at all times thereafter unless otherwise provided by the Plan or the Confirmation Order. All actions of the type or nature of those to be enjoined by such injunctions shall be enjoined during the period between the Confirmation Date and the Effective Date.

**10.6 No Liability for Certain Released Claims.** Neither THAN, Reorganized THAN, the other Asbestos Protected Parties, nor the Asbestos PI Trust (except, as it relates to the Asbestos PI Trust, with respect to the Asbestos PI Claims) does, or shall be deemed to, assume, agree to perform, pay, or indemnify creditors for any liabilities or obligations of THAN relating to or arising out of the operations of, or assets of, THAN whether arising prior to or resulting from actions, events, or circumstances occurring or existing at any time prior to the Effective Date. Neither Reorganized THAN, nor the Asbestos PI Trust shall be liable for any Derivative Liability Claim, except that Reorganized THAN and the Asbestos PI Trust shall assume their respective obligations specified in the Plan and the Confirmation Order.

Effective automatically on the Effective Date, the Asbestos Protected Parties and their respective Representatives shall unconditionally and irrevocably be fully released from any and all Derivative Liability Asbestos PI Claims.

Nothing in the Plan or Confirmation Order releases, nullifies, precludes, or enjoins the enforcement of any liability to the United States, any State, or any enforcement or regulatory agency thereof under policy or regulatory statutes or regulations that any entity, including but not limited to any THAN Related Party, would be subject to as the owner or operator of property after the date of entry of this Order.

**10.7 Title to Asbestos PI Trust Assets.** On the Effective Date, title to all of the Asbestos PI Trust Assets shall vest in the Asbestos PI Trust free and clear of all Claims, Equity Interests, Encumbrances and other interests of any Entity. The Asbestos PI Trust shall be empowered and entitled to process and pay Asbestos PI Claims in accordance with the Asbestos PI Trust Distribution Procedures and the Asbestos PI Trust Agreement.

**10.8 Dissolution of Official Committees; Continuation of Future Claimants' Representative; Creation of the Asbestos PI Trust Advisory Committee.** Effective on the Effective Date, any committee appointed in the Chapter 11 Case shall be dissolved automatically, whereupon its members, Professionals, and agents shall be released from any further duties and responsibilities in the Chapter 11 Case and under the Bankruptcy Code, except with respect to applications for compensation by Professionals or reimbursement of expenses incurred as a member of an official committee and any motions or other actions seeking enforcement or implementation of the provisions of the Plan or the Confirmation Order or pending appeals of any other order entered in the Chapter 11 Case.

As provided in Article 9.4(b) and (d) above, the Confirmation Order shall provide for the appointment of the Asbestos PI Trust Advisory Committee effective as of the Effective Date. The Confirmation Order shall also provide that, from and after the Effective Date, the Future Claimants' Representative shall continue to serve as provided in the Plan and the Asbestos PI Trust Agreement, to perform the functions specified and required therein. The Future Claimants' Representative also may, at his option, participate in any: (a) appeal of the Confirmation Order; (b) hearing on a claim for compensation or reimbursement of a Professional; or (c) adversary proceeding pending on the Effective Date in which the Future Claimants' Representative is a party.

Upon termination of the Asbestos PI Trust: (a) the members of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative shall be released and discharged of and from all further authority, duties, responsibilities, and obligations relating to and arising from and in connection with the Chapter 11 Case; and (b) the Asbestos PI Trust Advisory Committee shall be deemed dissolved and the Future Claimants' Representative's employment shall be deemed terminated.

All reasonable and necessary post-Effective Date fees and expenses of the professionals retained by the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative shall be paid exclusively by the Asbestos PI Trust in accordance with the terms of the Asbestos PI Trust Agreement, and Reorganized THAN shall not be liable for any such fees and expenses. The parties shall attempt to resolve any dispute regarding the payment of such fees and expenses in good faith, and if they shall fail to resolve such dispute, they shall submit the dispute to the Bankruptcy Court for resolution.

## ARTICLE XI

### RELEASES, INJUNCTIONS AND WAIVERS OF CLAIMS

**11.1 Discharge.** Except as specifically provided for in Articles 4.2, 4.3 and 11.8 of the Plan, pursuant to section 1141(d)(1)(A) of the Bankruptcy Code, confirmation of the Plan shall discharge THAN and Reorganized THAN from any and all Claims or Demands of any nature whatsoever, including, without limitation, all Claims, Demands and liabilities that arose before the Effective Date and all debts of the kind specified in sections 502(g), 502(h) and 502(i) of the Bankruptcy Code, whether or not: (a) a Proof of Claim based on such Claim or Demand was filed under section 501 of the Bankruptcy Code, or such Claim or Demand was listed on any Schedules of THAN; (b) such Claim or Demand is or was allowed under section 502 of the Bankruptcy Code; or (c) the holder of such Claim or Demand has voted on or accepted the Plan. Except as specifically provided for in Articles 4.2, 4.3 and 11.8 of the

Plan, as of the Effective Date the rights provided in the Plan shall be in exchange for and in complete satisfaction, settlement and discharge of all Claims or Demands against THAN or Reorganized THAN or any of their respective assets and properties.

**11.2 Injunction.** Except as specifically provided for in Articles 4.2, 4.3 and 11.8 of the Plan, all persons or Entities who have held, hold or may hold Claims or Demands are permanently enjoined, from and after the Effective Date, from: (a) commencing or continuing in any manner any action or other proceeding of any kind against Reorganized THAN with respect to such Claim or Demand; (b) enforcing, attaching, collecting, or recovering by any manner or means of any judgment, award, decree, or order against Reorganized THAN with respect to such Claim or Demand; (c) creating, perfecting, or enforcing any Encumbrance of any kind against Reorganized THAN or against the property or interests in property of Reorganized THAN with respect to such Claim or Demand; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due to Reorganized THAN or against the property or interests in property of Reorganized THAN, with respect to such Claim or Demand; and (e) pursuing any Claim or Demand released pursuant to this Article XI of the Plan.

**11.3 Exculpation.** Except for contractual or extracontractual Claims against THAN, Reorganized THAN, or PENAC, relating to or arising out of any Asbestos PI Insurance Contract, none of the Released Parties shall have or incur any liability to any holder of a Claim or Equity Interest, including, without limitation, the Asbestos PI Claims, for any act or omission in connection with, related to, or arising out of: (a) the Chapter 11 Case; (b) pursuit of confirmation of the Plan; (c) consummation of the Plan, or administration of the Plan or the property to be distributed under the Plan or the Asbestos PI Trust Distribution Procedures; (d) the Plan; or (e) the negotiation, formulation and preparation of the Plan, the Plan Documents, and any of the terms and/or settlements and compromises reflected in the Plan and the Plan Documents, except for willful misconduct or gross negligence as determined by a Final Order, and, in all respects, THAN, Reorganized THAN, and each of the other Released Parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and the Plan Documents.

**11.4 Release of THAN's Officers and Directors.** The acceptance by a holder of a Claim or Demand against, or Equity Interest in, THAN, of any Distribution, and, with respect to Asbestos PI Claims, the THAN Contribution by the Asbestos PI Trust, shall constitute a waiver and release of any and all Causes of Action that such holder, including the Asbestos PI Trust, any holder of an Asbestos PI Claim, and the Future Claimants' Representative did commence or could have commenced against any officer or director of THAN (serving in such capacity) from and after the Commencement Date, that is based upon, related to or arising from any acts or omissions of such officer or director occurring prior to the Effective Date, to the fullest extent permitted under section 524(e) of the Bankruptcy Code and applicable law (as now in effect or subsequently extended), except for willful misconduct or gross negligence as determined by a Final Order.

Except with respect to Asbestos PI Claims, nothing in the Plan, Confirmation Order, or PENAC Debtor Contribution providing for the release of any entity (including but not limited to any THAN Related Party or any PENAC Related Party) or an injunction of actions shall apply to (i) any claims, debts, obligations, rights, suits, damages, actions, causes of action, remedies, and liabilities of the United States or any enforcement or regulatory agency thereof; (ii) any claims, debts, obligations, rights, suits, damages, actions, causes of action, remedies, and liabilities of any State or any enforcement or regulatory agency of any State, under state or federal environmental laws; or (iii) any criminal liability under the laws of the United States or any State. Nothing in the preceding paragraph shall affect the treatment of Asbestos PI Claims pursuant to the Plan and the channeling of Asbestos PI Claims pursuant to the Asbestos PI Channeling Injunction.

**11.5 Asbestos PI Channeling Injunction.** Pursuant to the Confirmation Order and sections 105(a) and 524(g) of the Bankruptcy Code, and subject to Article 11.6 below, the sole recourse of any holder of an Asbestos PI Claim on account of such Asbestos PI Claim shall be against the Asbestos PI Trust. Each such holder shall be and is enjoined from taking legal action directed against THAN, Reorganized THAN, any PENAC Related Party, Elementis or any other Asbestos Protected Party, or their respective property, for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery relating to such Asbestos PI Claim.

**11.6 Limitations of Injunctions.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, the releases set forth in the Plan and the injunction set forth in Article 11.5 above shall not enjoin:

- (a) the rights of Entities to the treatment accorded to them under Articles III and IV above, as applicable, including the rights of Entities with Asbestos PI Claims to assert such Claims or Demands against the Asbestos PI Trust in accordance with the Asbestos PI Trust Distribution Procedures;
- (b) the rights of Entities to assert any Claim, debt, obligation, or liability for payment of Asbestos PI Trust Expenses against the Asbestos PI Trust;
- (c) the rights of any PENAC Related Party to take any action with respect to any and all of the Asbestos PI Insurance Contracts, subject to the terms of any applicable Insurance Settlement Agreement and any Asbestos PI Insurer Coverage Defense; and
- (d) the rights of Reorganized THAN and any PENAC Related Party to assert any Claim, debt, obligation, or liability for payment against any Asbestos Insurance Entity to the extent any insurance policies or insurance coverages were not resolved or released in any Insurance Settlement Agreement with that Asbestos Insurance Entity, subject to the terms of such Insurance Settlement Agreement, if any, and any Asbestos PI Insurer Coverage Defense.

**11.7 Releases and Indemnification by THAN.** As of the Effective Date, THAN and Reorganized THAN hereby release and are permanently enjoined from prosecuting or attempting to prosecute any Derivative Liability Claims and any and all Causes of Action against the Released Parties that THAN or Reorganized THAN have, may have or claim to have, now or in the future, that are property of, assertable on behalf of, or derivative of THAN; provided, however, that subject to the terms and provisions of the Bankruptcy Insurance Stipulation, the foregoing release shall not serve to release any Asbestos Insurance Entity from its obligations under any applicable Asbestos PI Insurance Contract. Reorganized THAN also will indemnify, release and hold harmless each of PENAC and the other PENAC Related Parties pursuant to the provisions of, and to the extent set forth in, the Plan.

**11.8 Indemnification and Reimbursement Obligations.** For purposes of the Plan, the obligations of THAN to indemnify and reimburse persons who are or were directors, officers, or employees of THAN on the Commencement Date or at any time thereafter against and for any obligations as provided in THAN's certificate of formation, codes of regulations, limited liability agreement, applicable state law, or other agreement, or any combination of the foregoing, shall survive confirmation of the Plan, remain unaffected thereby, and not be discharged in accordance with section 1141 of the Bankruptcy Code, irrespective of whether indemnification or reimbursement is owed in connection with an event occurring before, on, or after the Commencement Date. Such obligations shall be assumed by Reorganized THAN on the Effective Date. In furtherance of the foregoing, Reorganized THAN shall use its commercially reasonable efforts to maintain or procure insurance for the benefit of such directors, officers, or employees at levels satisfactory to Reorganized THAN and the Asbestos PI Trust.

**11.9 Insurer Contribution Claims.** Subject to the terms and provisions of the Bankruptcy Insurance Stipulation, and notwithstanding anything to the contrary in the Plan, (a) Insurer Contribution Claims against Settling Insurers will be channeled to the Asbestos PI Trust pursuant to Article 11.5 hereof, discharged pursuant to Article 11.1 hereof, and enjoined pursuant to Article 11.2 hereof, (b) Insurer Contribution Claims may be asserted as a defense or counterclaim against only Reorganized THAN, PENAC or the Asbestos PI Trust (as applicable) in any Asbestos Insurance Action, and Reorganized THAN, PENAC or the Asbestos PI Trust (as applicable) may assert the legal or equitable rights, if any, of a Settling Insurer, (c) to the extent Insurer Contribution Claims of a Non-Settling Insurer are determined to be valid, the liability (if any) of such Non-Settling Insurer to Reorganized THAN, PENAC or the Asbestos PI Trust (as applicable) shall be reduced by the amount of such Insurer Contribution Claims, (d) however, and notwithstanding the foregoing, there shall be no affirmative recovery from the Asbestos PI Trust for any Insurer Contribution Claims, (e) Insurer Contribution Claims against any Entity other than a Settling Insurer will not be channeled to the Asbestos PI Trust pursuant to Article 11.5 hereof, discharged pursuant to Article 11.1 hereof, and enjoined pursuant to Article 11.2 hereof, and any Insurer Contribution Claims asserted against THAN will be treated as a General Unsecured Claim under Article 4.3 hereof; and (f) Indirect Asbestos PI Claims by an insurer or an Asbestos Insurance Entity against an Entity other than a Settling Insurer will not be channeled to the Asbestos PI Trust pursuant to Article 11.5 hereof, discharged pursuant to Article 11.1 hereof, and enjoined pursuant to Article 11.2 hereof, and any Insurer Contribution Claims asserted against THAN will be treated as a General Unsecured Claim under Article 4.3 hereof.

**11.10 Preservation of Documents.** The Asbestos PI Trust shall retain each document and record obtained from THAN and in its possession that is related to Asbestos PI Claims until the Asbestos PI Trust determines that all needs and purposes to retain such particular document or record have ended. When the Asbestos PI Trust has made such a determination with regard to a document or record obtained from THAN and related to Asbestos PI Claims, the Asbestos PI Trust may discard or abandon such document or record, subject to Bankruptcy Court approval upon reasonable and adequate notice to each of the Asbestos Insurance Entities and/or their designated counsel, the right of the Asbestos Insurance Entities to be heard in the Bankruptcy Court on their need for preservation of and/or access to the documents that the Asbestos PI Trust seeks to discard or abandon, and the right of the Trust or any other party to assert any defenses, affirmative or otherwise, in that proceeding. THAN and PENAC acknowledge and agree that this Article 11.10 is not intended to nor does it in any way alter any duty to cooperate that they may otherwise owe to any Asbestos Insurance Entity under any Asbestos Insurance Contract or applicable nonbankruptcy law.

## ARTICLE XII

### CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

**12.1 Conditions Precedent to Confirmation of the Plan.** The following are conditions precedent to confirmation of the Plan that must be satisfied, unless waived in accordance with Article 12.3 below:

(a) The Confirmation Order shall be acceptable in form and substance to THAN and PENAC, after consultation with the Asbestos Claimants Group and the Future Claimants' Representative.

(b) At least two-thirds (2/3) in amount and seventy-five percent (75%) in number of those holders of Class 4 Asbestos PI Claims actually voting on the Plan shall have voted to accept the Plan.

(c) The Confirmation Order shall, among other things:

(i) order that the Confirmation Order shall supersede any Bankruptcy Court orders issued prior to the Confirmation Date that may be inconsistent with the Confirmation Order;

(ii) provide that, except with respect to obligations specifically preserved in the Plan, including without limitation, Article 11.8 above, THAN is discharged effective on the Effective Date (in accordance with the Plan) from any Claims and Demands, and THAN's liability in respect thereof, whether reduced to judgment or contingent, asserted or unasserted, fixed or not, matured or unmatured, disputed or undisputed, legal or equitable, or known or unknown, that arose from any agreement of THAN entered into or obligation of THAN incurred before the Effective Date, or from any conduct of THAN prior to the Effective Date, or whether such interest accrued before or after the Commencement Date, is extinguished completely;

(iii) provide for the Asbestos PI Channeling Injunction;

(iv) provide that, as part of the THAN Contribution to the Asbestos PI Trust, THAN or Reorganized THAN is obligated to contribute (or cause to be contributed) the THAN Cash, and, with PENAC, the Insurance Settlement Proceeds Trust Assets, all of which, together with the PENAC Asbestos PI Trust Contribution, shall not exceed \$900 million as of the Effective Date;

(v) provide that, as part of the PENAC Asbestos PI Trust Contribution to the Asbestos PI Trust, PENAC is obligated to contribute (or cause to be contributed) the following, all of which, together with the THAN Contribution shall not exceed \$900 million as of the Effective Date: PENAC Cash, residual Cash as of the Effective Date, if any, whether (A) drawn under the DIP Agreement and not used by THAN or (B) remaining under any pre-Commencement Date advance made to THAN by PENAC, to the extent such residual Cash will not be necessary for distributions under the Plan on account of Allowed General Unsecured Claims, and with THAN, the Insurance Settlement Proceeds Trust Assets;

(vi) provide that Reorganized THAN and the Asbestos PI Trust shall execute the Promissory Note;

(vii) provide that Reorganized THAN, the Asbestos PI Trust and the Parent Trust shall enter into the Pledge Agreement;

(viii) provide that the Qualified Asbestos PI Claims shall be paid in accordance with Article 4.4 of the Plan;

(ix) provide that one hundred percent (100%) of the membership interests of post-Effective Date Reorganized THAN shall be issued to the Parent Trust;

(x) provide that, as a part of the PENAC Debtor Contribution to Reorganized THAN, PENAC shall assume the Known Environmental Liabilities and other obligations as provided in Article 9.5 herein;

(xi) provide that, as a part of the PENAC Debtor Contribution to Reorganized THAN, PENAC shall contribute the PENAC Asset;

(xii) provide that, as a part of the PENAC Debtor Contribution to Reorganized THAN, PENAC shall forgive any amounts THAN may have drawn and used from the DIP Agreement

and release any and all Liens, Claims, Encumbrances or other interests of PENAC on THAN's or Reorganized THAN's assets that served as security for the DIP Agreement;

(xiii) provide that, as a part of the PENAC Debtor Contribution to Reorganized THAN, PENAC shall contribute \$1,000,000 to THAN or Reorganized THAN on the Effective Date for the purpose of establishing a reserve of \$1,000,000 by Reorganized THAN post-Effective Date;

(xiv) provide that, as a part of the PENAC Debtor Contribution to Reorganized THAN, PENAC shall assume any and all obligations with respect to retiree benefits owed to former employees of THAN or employees of THAN as of the Effective Date;

(xv) provide that THAN has procured the Unknown Environmental Liability Insurance Policy as set forth in Article 9.5 herein;

(xvi) provide that, on the Effective Date: (A) the Unknown Environmental Liability Insurance Policy shall vest in Reorganized THAN; (B) on the Effective Date, or as soon as reasonably practicable thereafter, THAN or Reorganized THAN, as the case may be, shall assume the Unknown Environmental Liability Insurance Policy and Reorganized THAN shall be insured under the Unknown Environmental Liability Insurance Policy; and (C) any and all costs associated with providing such coverage for Reorganized THAN under such Unknown Environmental Liability Insurance Policy shall be borne by PENAC;

(xvii) provide that, subject to the limitations expressly set forth in Article 10.4 above all transfers of assets of THAN contemplated under the Plan shall be free and clear of all Claims and Encumbrances against or on such assets;

(xviii) authorize the implementation of the Plan in accordance with its terms and provide that, on the Effective Date, all of the transactions listed in Article 9.2 shall have occurred, as set forth therein;

(xix) provide that any transfers effected or entered into, or to be effected or entered into, under the Plan shall be and are exempt under section 1146(a) of the Bankruptcy Code from any state, city or other municipality transfer taxes, mortgage recording taxes and any other stamp or similar tax;

(xx) approve in all respects the other settlements, transactions and agreements to be effected pursuant to the Plan, including, without limitation, the Asbestos PI Trust Agreement, the Asbestos PI Trust Distribution Procedures, the Promissory Note, the Pledge Agreement, the Asbestos PI Trust Indemnification Agreement and the other Asbestos PI Trust Documents, the Parent Trust documents, and the release of PENAC Related Parties with respect to Derivative Liability Asbestos PI Claims in exchange for the PENAC Contribution;

(xxi) provide that all Executory Contracts assumed or assumed and assigned by THAN during the Chapter 11 Case or under the Plan shall remain in full force and effect for the benefit of Reorganized THAN or the assignee thereof notwithstanding any provision in such contract or lease (including those provisions described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits such assignment or transfer or that enables or requires termination of such contract or lease;

(xxii) provide that the transfers of property by THAN (except for the THAN Contribution and subject to Article 2.3 hereof regarding unused Cash drawn under the DIP



Agreement that will not be necessary for distributions on account of Allowed General Unsecured Claims in Class 3) to Reorganized THAN (A) are or will be legal, valid, and effective transfers of property; (B) vest or will vest Reorganized THAN with good title to such property, except as expressly provided in Article 10.2 of the Plan; (C) do not and will not constitute avoidable transfers under the Bankruptcy Code or under other applicable bankruptcy or non-bankruptcy law; and (D) do not and will not subject Reorganized THAN to any liability by reason of such transfer under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, any laws affecting or effecting successor or transferee liability; and

(xxiii) provide that any attorney-client, work product or other privilege that applies to the Asbestos Records shall be subject to the terms of the Asbestos Records Cooperation Agreement.

(d) In addition to the foregoing, the Confirmation Order shall contain the following findings of fact and conclusions of law, among others:

(i) The Asbestos PI Channeling Injunction is to be implemented in accordance with the Plan and the Asbestos PI Trust;

(ii) The Plan does not provide for the liquidation of all or substantially all of the property of THAN, that Reorganized THAN will continue in business as an ongoing reorganized debtor, and that confirmation of the Plan is not likely to be followed by the liquidation of Reorganized THAN or the need for further financial reorganization;

(iii) The Plan complies with all applicable provisions of the Bankruptcy Code, including, without limitation, those requiring that the Plan was proposed in good faith and that the Confirmation Order was not procured by fraud;

(iv) As of the Commencement Date, THAN had been named as a defendant in personal injury and wrongful death actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

(v) The Asbestos PI Trust is to be funded by the THAN Contribution, the PENAC Asbestos PI Trust Contribution, and distributions from the Parent Trust resulting from the payment of dividends thereto by Reorganized THAN;

(vi) The Asbestos PI Trust, on the Effective Date, by the exercise of contingent rights granted under the Plan, and pursuant to the Promissory Note and the Pledge Agreement, would be entitled to own the majority of voting membership interests of Reorganized THAN;

(vii) The Asbestos PI Trust is to use its assets and income to pay Asbestos PI Claims;

(viii) THAN is likely to be subject to substantial future Demands for payment arising out of the same or similar conduct or events that gave rise to the Asbestos PI Claims, and all such Demands are subject to the Asbestos PI Channeling Injunction;

(ix) The actual amounts, numbers, and timing of Demands cannot be determined;

(x) Pursuit of Demands outside the procedures prescribed by the Plan and the Asbestos PI Trust Distribution Procedures is likely to threaten the Plan's purpose to deal equitably with Asbestos PI Claims;

(xi) The terms of the Asbestos PI Channeling Injunction, including any provisions barring actions against third parties, are set forth in the Plan and the Disclosure Statement;

(xii) The Plan separately classifies Class 4 Asbestos PI Claims, and at least two-thirds (2/3) in amount and seventy-five percent (75%) of the members in such Class that voted on the Plan have voted to accept the Plan;

(xiii) Pursuant to: (A) the Asbestos PI Trust Distribution Procedures; (B) court order; or (C) otherwise, the Asbestos PI Trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Asbestos PI Claims or other comparable mechanisms, that provide reasonable assurance that the Asbestos PI Trust will value, and be in a financial position to pay, similar Asbestos PI Claims in substantially the same manner;

(xiv) The Asbestos PI Trust will make payments to Asbestos PI Claims pursuant to the Asbestos PI Trust Distribution Procedures as funds become available and as Asbestos PI Claims are liquidated, while maintaining sufficient resources to pay future valid Asbestos PI Claims on a substantially equivalent basis;

(xv) The Future Claimants' Representative was appointed by the Bankruptcy Court pursuant to section 524(g) of the Bankruptcy Code as part of the proceedings leading to the issuance of the Asbestos PI Channeling Injunction for the purpose of protecting the interests of Future Demand Holders who do not currently hold asbestos-related Claims arising out of the conduct or products of THAN;

(xvi) In light of the benefits provided, or to be provided, to the Asbestos PI Trust and/or Reorganized THAN by or on behalf of each current and future Asbestos Protected Party, the Asbestos PI Channeling Injunction is fair and equitable to all creditors and Future Demand Holders;

(xvii) The Plan and its acceptance otherwise comply with sections 524(g) and 1126 of the Bankruptcy Code, and confirmation of the Plan is in the best interests of all creditors;

(xviii) The Asbestos PI Trust will have the sole and exclusive authority as of the Effective Date to satisfy or defend against all Asbestos PI Claims;

(xix) The Plan has not been accepted by all Impaired Classes of Claims and Equity Interests because the holders of Equity Interests in Class 6 (Equity Interests in THAN) are deemed to reject the Plan. Nevertheless, the Plan is confirmable because it satisfies section 1129(b)(1) of the Bankruptcy Code because no holder of any interest that is junior to the interests of Class 6 will receive or retain any property under the Plan on account of such junior interest;

(xx) The duties, obligations and liabilities of any Asbestos Insurance Entity under all insurance policies, all Shared Asbestos Insurance Policies, all Insurance Settlement Agreements, and all other settlement agreements, are not enlarged or diminished, reduced or eliminated by any aspect of this Chapter 11 Case; provided, however, that all Asbestos PI Insurer Coverage Defenses are preserved in accordance with Article 10.4 above;

(xxi) THAN is, and was at all times prior to the Effective Date, a valid legal Entity separate and distinct from PENAC, and PENAC is not and may not in the future be held liable for any liability of THAN based upon any legal or equitable theory, including those consisting of or

relating to veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy, including but not be limited to fraudulent transfer or fraudulent conveyance claims under applicable state or federal law, denuding the corporation claims, single business enterprise claims, claims that THAN was the predecessor, mere instrumentality, agent or alter ego of a PENAC Related Party or of Elementis, trust fund claims, claims that a PENAC Related Party or Elementis conspired with THAN, and any causes of action against a PENAC Related Party or Elementis that belong to the Debtor or Debtor in Possession, whether or not included in the foregoing list;

(xxii) The Asbestos PI Channeling Injunction is essential to the Plan and THAN's reorganization efforts;

(xxiii) The PENAC Contribution, including: (A) the PENAC Asbestos PI Trust Contribution (consisting of the PENAC Cash, residual Cash as of the Effective Date, if any, whether (1) drawn under the DIP Agreement and not used by THAN or (2) remaining under any pre-Commencement Date advance made to THAN by PENAC, to the extent such residual Cash will not be necessary for distributions under the Plan on account of Allowed General Unsecured Claims, and with THAN, the Insurance Settlement Proceeds Trust Assets); and (B) the PENAC Debtor Contribution (consisting of the assumption of the Known Environmental Liabilities and other obligations as provided in Article 9.5 herein and the PENAC Assets, the forgiveness of any amounts THAN may have drawn and used from the DIP Agreement and release of any and all Liens, Claims, Encumbrances or other interests of PENAC on THAN's or Reorganized THAN's assets that served as security for the DIP Agreement, any costs associated with providing insurance coverage for Reorganized THAN under the Unknown Environmental Liability Insurance Policy, contribution of \$1,000,000 by PENAC to THAN or Reorganized THAN on the Effective Date for the purpose of establishing a reserve of \$1,000,000 by Reorganized THAN post-Effective Date, and the assumption by PENAC of any and all obligations with respect to retiree benefits owed to former employees of THAN or employees of THAN as of the Effective Date), constitute substantial assets of the Plan and the reorganization, are essential to the feasibility of the Plan and the successful reorganization of the Debtor; and constitute a sufficient basis upon which to provide the PENAC Related Parties and Elementis with the protections afforded to them under the Plan, Plan Documents and Confirmation Order;

(xxiv) The release received by the PENAC Related Parties in exchange for the PENAC Contribution is essential to the global settlement of Asbestos PI Claims arising from the conduct or products of THAN reflected in this Plan;

(xxv) The terms and conditions of the Promissory Note, the Pledge Agreement and any related documents are essential to the success and feasibility of the Plan. All such documents shall constitute legal, valid, binding and authorized obligations of the parties obligated thereunder, enforceable in accordance with their terms. On the Effective Date, all of the liens and security interests granted in accordance with such documents shall be deemed approved and shall be legal, valid, binding and enforceable liens on the collateral in accordance with the terms of each agreement; and

(xxvi) Reorganized THAN, and the Parent Trust and the Asbestos PI Trust to be established pursuant to the Plan, are valid legal Entities separate and distinct from one another and each of Reorganized THAN, the Parent Trust and the Asbestos PI Trust are not and may not in the future be held liable for any liability of the other entities based upon any legal or equitable theory, including those consisting of or relating to veil piercing, alter ego, successor liability, fraudulent transfer, or conspiracy, including but not limited to fraudulent transfer or fraudulent conveyance claims under applicable state or federal law.

**12.2 Effective Date of the Plan.** The Effective Date shall not occur and the Plan shall not become effective until the date that is thirty-five (35) days after the date that the Confirmation Order, containing the Asbestos PI Channeling Injunction, shall have been either entered by the Bankruptcy Court and accepted and affirmed by the District Court or issued by the District Court, on which date the PENAC Asbestos PI Trust Contribution and THAN Contribution shall have been made to the Asbestos PI Trust, and the Asbestos PI Trust shall begin to pay Asbestos PI Claims, including the Qualified Asbestos PI Claims.

**12.3 Waiver of Conditions Precedent to the Confirmation Order.** To the fullest extent permitted by law, any of the conditions precedent set forth in Article 12.1 above may be waived or modified, in whole or in part, by THAN, after consultation with and consent by PENAC, the Future Claimants' Representative and the Asbestos Claimants Group. Any such waiver or modification may be effected at any time without leave or order of the Bankruptcy Court or District Court, and without any other formal action.

**12.4 Effect of Failure of the Effective Date of the Plan.** In the event that THAN determines it is appropriate, after consultation with and consent by PENAC, the Future Claimants' Representative and the Asbestos Claimants Group, prior to the Effective Date, upon notification submitted by THAN to the Bankruptcy Court: (A) the Confirmation Order shall be vacated; (B) no Distributions under the Plan shall be made; and (C) THAN and all holders of Claims against and Equity Interests in THAN shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred. If the Confirmation Order is vacated pursuant to this Article 12.4, nothing contained in the Plan shall: (A) constitute or be deemed a waiver or release of any Claims or Equity Interests by, against, or in THAN or any other Entity; or (B) prejudice in any manner the rights of THAN or any other Entity in the Chapter 11 Case or any other or further proceedings involving THAN.

## ARTICLE XIII

### JURISDICTION OF BANKRUPTCY COURT

**13.1 Retention of Jurisdiction.** Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall, to the fullest extent permitted by law, retain and have exclusive jurisdiction over all matters arising out of and related to the Chapter 11 Case and the Plan, including, among other things, jurisdiction to:

(a) hear and determine any and all objections to and proceedings involving the allowance, estimation, classification, and subordination of Claims that have been or properly should have been brought in the Bankruptcy Court (other than Asbestos PI Claims) or Equity Interests;

(b) hear and determine any and all adversary proceedings, applications, motions, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Asbestos PI Trust after the Effective Date, including any proceedings with respect to any Avoidance Actions (except to the extent that any such Avoidance Actions has been released under the Plan or the Confirmation Order) or otherwise to recover assets for the benefit of the Estate or the Asbestos PI Trust;

(c) hear and determine all objections to the termination of the Asbestos PI Trust;

(d) hear and determine such other matters that may be set forth in or arise in connection with the Plan, the Confirmation Order, the Asbestos PI Channeling Injunction, or the Asbestos PI Trust Agreement;

(e) hear and determine any proceeding that involves the validity, application, construction, enforceability, or modification of the Asbestos PI Channeling Injunction;

(f) hear and determine any conflict or other issues that may arise in the Chapter 11 Case and the administration of the Asbestos PI Trust;

(g) enter such orders as are necessary to implement and enforce the injunctions described herein, including, if necessary, in connection with application of the protections afforded by section 524(g) of the Bankruptcy Code to the Asbestos Protected Parties;

(h) hear and determine any and all applications pursuant to section 330 or 503 of the Bankruptcy Code for allowance of any compensation for Professional services rendered and reimbursement of expenses incurred in connection therewith any other fees and expenses authorized to be paid or reimbursed under the Bankruptcy Code or the Plan;

(i) enter such orders authorizing non-material modifications to the Plan as may be necessary to comply with section 468B of the Internal Revenue Code;

(j) hear and determine any applications pending on the Effective Date for the assumption, assumption and assignment, or rejection, as the case may be, of Executory Contracts to which THAN is a party, and to hear and determine and, if necessary, liquidate any and all Claims arising therefrom;

(k) hear and determine any and all applications, Claims, causes of action, adversary proceedings, and contested or litigated matters that may be pending on the Effective Date or commenced by Reorganized THAN or any other party in interest subsequent to the Effective Date;

(l) consider any technical modifications of the Plan, and remedy any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order, to the extent authorized by the Bankruptcy Code; provided, that there shall be no modification made at any time that would reduce or eliminate any of the protections provided herein to the Asbestos Protected Parties or releases provided with respect to the Derivative Liability Asbestos PI Claims;

(m) issue orders in aid of confirmation, consummation and execution of the Plan to the extent authorized by section 1142 of the Bankruptcy Code, including but not limited to compelling the conveyance of property and other performance contemplated under the Plan and documents executed in connection herewith;

(n) hear and determine any proposed compromise and settlement of any Claim against or cause of action by or against THAN that has been or properly should have been brought in the Bankruptcy Court;

(o) hear and determine any timely objections to Administrative Expense Claims asserted or to Proofs of Claim filed, both before and after the Confirmation Date, including any objections to the classification of any Claim, and to Allow or Disallow any Disputed Claim, in whole or in part;

(p) hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(q) hear and determine such other matters as may be set forth in the Confirmation Order or other orders of the Bankruptcy Court, or which may arise in connection with the Plan, the Confirmation Order, or the Effective Date, as may be authorized under the provisions of the Bankruptcy Code or any other applicable law;

(r) hear and determine all controversies, suits, and disputes that may arise in connection with the interpretation, enforcement, or consummation of the Plan or any Entity's obligations hereunder, including, but not limited to, performance of THAN's duties under the Plan;

(s) enforce remedies upon any default under the Plan;

(t) hear and determine any other matter not inconsistent with the Bankruptcy Code;

(u) hear and determine any claim that in any way challenges or is related to any provision in the Confirmation Order, including, without limitation, the provision of the Confirmation Order set forth in Article 12.1(d)(xxi); and

(v) enter a final decree closing the Chapter 11 Case.

If and to the extent that the Bankruptcy Court is not permitted under applicable law to exercise jurisdiction over any of the matters specified above, the reference to the "Bankruptcy Court" in the preamble to this Article 13.1 shall be deemed to be a reference to the "District Court." Notwithstanding the terms of this Article 13.1, the Bankruptcy Court shall retain continuing but not exclusive jurisdiction over Asbestos Insurance Actions; provided, however, that this Article 13.1 shall not confer or grant jurisdiction to the Bankruptcy Court when the Asbestos Insurance Action is governed by an otherwise applicable arbitration provision. Notwithstanding anything in this Article 13.1 to the contrary, the Asbestos PI Trust Agreement and the Asbestos PI Trust Distribution Procedures shall govern the satisfaction of Asbestos PI Claims and the forum in which Asbestos PI Claims shall be determined.

**13.2 Modification of Plan.** THAN, with the consent of PENAC, any official committee, and the Future Claimants' Representative, may alter, amend, or modify the Plan or any Schedules or Exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date and may include any such amended Schedules or Exhibits in the Plan or the Plan Supplement, provided, that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and THAN shall have complied with section 1125 of the Bankruptcy Code, to the extent necessary. Further, THAN, with the consent of PENAC, any official committee, and the Future Claimants' Representative may alter, amend, or modify the Plan or any Schedules or Exhibits thereto at any time after entry of the Confirmation Order and before the Plan's substantial consummation; provided, that: (a) the Plan, as modified, altered, or amended, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code; and (b) the Bankruptcy Court, after notice and a hearing, confirms the Plan, as modified, under section 1129 of the Bankruptcy Code, and finds that the circumstances warrant such modification. A holder of a Claim that has accepted or rejected the Plan shall be deemed to have accepted or rejected, as the case may be, such Plan as modified, unless, within the time fixed by the Bankruptcy Court, if any, such holder changes its previous acceptance or rejection.

Notwithstanding anything in this Article 13.2, there shall be no modification to the Plan made at any time that would reduce or eliminate any of the protections provided herein to the Asbestos Protected Parties or releases provided with respect to the Derivative Liability Asbestos PI Claims.

**13.3 Compromises of Controversies.** From and after the Effective Date, Reorganized THAN shall be authorized to compromise controversies not involving the Asbestos PI Trust, or Asbestos PI Claims, on such terms as Reorganized THAN may determine, in its sole discretion, to be appropriate.

**13.4 Revocation or Withdrawal of the Plan.** THAN reserves the right to revoke or withdraw the Plan at any time prior to entry of the Confirmation Order. If THAN revokes or withdraws the Plan, or if confirmation of the Plan does not occur, then the Plan shall be null and void in all respects; any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount any Claim or Equity Interest or Class of Claims or Equity Interests), any assumption or rejection of Executory Contracts effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall: (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Equity Interests in, THAN or any other Entity; (b) prejudice in any manner the rights of THAN or any Entity in any further proceedings involving THAN; or (c) constitute an admission of any sort by THAN or any other Entity.

## ARTICLE XIV

### MISCELLANEOUS PROVISIONS

**14.1 Governing Law.** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), or a Schedule or Exhibit hereto or instrument, agreement or other document executed under the Plan provides otherwise, the rights, duties and obligations arising under the Plan, and the instruments, agreements and other documents executed in connection with the Plan, shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York without giving effect to the principles of conflicts of law thereof.

**14.2 Notices.** To be effective, all notices, requests and demands to or upon THAN, or, as applicable, upon PENAC, the Future Claimants' Representative and the Asbestos Claimants Group, shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, and addressed as follows:

If to THAN:

T H Agriculture & Nutrition, L.L.C.  
250 West 57th Street, Suite 901  
New York, New York 10107-0001  
Attention: Joseph L. Wolf, Jr., President  
Steven L. Carter, Secretary

with a copy (which alone will not constitute notice) to:

Greenberg Traurig, LLP  
200 Park Ave.  
New York, New York 10166  
Attention: Bruce R. Zirinsky, Esq.  
John H. Bae, Esq.

If to PENAC or its Affiliates:

Philips Electronics North America Corp.  
3000 Minuteman Road, Bldg. 1  
Andover, Massachusetts 01810  
Attention: Joseph E. Innamorati, Esq.

with a copy (which alone will not constitute notice) to:

Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004-2498  
Attention: Garrard R. Beeney, Esq.

If to the Future Claimants' Representative :

Professor Samuel Issacharoff  
New York University School of Law  
40 Washington Square South  
New York, New York 10012-1099

with a copy (which alone will not constitute notice) to:

Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation  
2323 Bryan Street  
Suite 2200  
Dallas, TX 75201-2689  
Attn: Sander L. Esserman, Esq.

If to the Asbestos Claimants Group:

Frank / Gecker LLP  
325 N. LaSalle St., Suite 625  
Chicago, Illinois 60610  
Attn: Frances Gecker, Esq.

**14.3 Plan Supplement.** Any and all Exhibits, lists, or Schedules referred to herein or in the Disclosure Statement but not filed with the Plan shall be contained in the Plan Supplement and filed with the Clerk of the Bankruptcy Court at least five (5) Business Days prior to the deadline established by the Bankruptcy Court for the filing and service of objections to the Plan. Thereafter, the Plan Supplement will be available for inspection in the office of the Clerk of the Bankruptcy Court during normal court hours and at an internet site maintained for THAN by the Claims and Balloting Agent, with the web



address set forth in the Disclosure Statement. Claimants also may obtain a copy of the Plan Supplement, once filed, from THAN by written request sent to the following address:

THAN Ballot Processing Center  
c/o Kurtzman Carson Consultants LLC  
2335 Alaska Avenue  
El Segundo, CA 90245

**14.4 Inconsistencies.** To the extent the Plan is inconsistent with the Disclosure Statement, the provisions of the Plan shall be controlling. To the extent the Plan is inconsistent with the Confirmation Order, the provisions of the Confirmation Order shall be controlling.

**14.5 Reservation of Rights.** If the Plan is not confirmed by a Final Order, or if the Plan is confirmed and does not become effective, the rights of all parties in interest in the Chapter 11 Case are and shall be reserved in full. Any concessions or settlements reflected herein, if any, are made for purposes of the Plan only, and if the Plan does not become effective, no party in interest in the Chapter 11 Case shall be bound or deemed prejudiced by any such concession or settlement. Moreover, if the Plan does not become effective no party in interest in the Chapter 11 Case shall be bound or prejudiced by any representation, written or oral, made by any party in connection with the Plan or the negotiation or prosecution of the Plan, including without limitation the representations made in the Plan, the Disclosure Statement or the Confirmation Order.

**14.6 Tax Reporting and Compliance.** In connection with the Plan and all instruments issued in connection therewith and Distributions thereon, THAN, and Reorganized THAN, shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority and all Distributions hereunder shall be subject to any such withholding and reporting requirements. No holder of an Allowed Claim against THAN shall effectuate any withholding with respect to the cancellation or satisfaction of such Allowed Claim under the Plan. Reorganized THAN is hereby authorized to request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all taxable periods of THAN ending after the Commencement Date through, and including, the Effective Date of the Plan.

**14.7 Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan shall be exempt from all taxes as provided in such section 1146(a).

**14.8 Binding Effect.** The rights, benefits and obligations of any Entity named or referred to in the Plan, or whose actions may be required to effectuate the terms of the Plan, shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity (including, but not limited to, any trustee appointed for THAN under chapters 7 or 11 of the Bankruptcy Code). The Confirmation Order shall provide that the terms and provisions of the Plan and the Confirmation Order shall survive and remain effective after entry of any order which may be entered converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, and the terms and provisions of the Plan shall continue to be effective in this or any superseding case under the Bankruptcy Code.

**14.9 Severability.** Upon the unanimous agreement of THAN or Reorganized THAN, as the case may be, PENAC, any official committee, unless such committee has been dissolved, and the Future Claimants' Representative, any provision of the Plan, the Confirmation Order, the Asbestos PI

Channeling Injunction, or any of the Exhibits to the Plan that is determined to be prohibited, unenforceable, or invalid by a court of competent jurisdiction or any other governmental Entity with appropriate jurisdiction may be deemed ineffective as to any jurisdiction in which such provision is prohibited, unenforceable, or invalidated to the extent of such prohibition, unenforceability, or invalidation, without invalidating the effectiveness of the remaining provisions of the Plan, the Plan Documents, the Confirmation Order, the Asbestos PI Channeling Injunction and the Exhibits to the Plan or affecting the validity or enforceability of such provision and such remaining provisions in any other jurisdiction.

**14.10 Further Authorizations.** THAN and Reorganized THAN, as applicable, and, after the Effective Date, the Asbestos PI Trust, if and to the extent necessary, may seek such orders, judgments, injunctions, and rulings as each deems necessary to carry out further the intentions and purposes of, and to give full effect to the provisions of, the Plan.

**14.11 Payment of Statutory Fees.** All fees due and owing under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, as pro-rated to the Effective Date, shall be paid on or before the Effective Date. Reorganized THAN shall pay all such fees that arise after the Effective Date but before the closing of the Chapter 11 Case, as pro-rated to the closing of the Chapter 11 Case.

**14.12 Prepayment.** Except as otherwise provided in the Plan, the Plan Documents, or the Confirmation Order, Reorganized THAN shall have the right to prepay, without penalty, all or any portion of an Allowed Claim at any time; provided, that any such prepayment shall not violate or otherwise prejudice the relative priorities and parities among the Classes of Claims.

**14.13 Effective Date Actions Simultaneous.** Unless the Plan or the Confirmation Order provides otherwise, actions required to be taken on the Effective Date shall take place and be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. Actions required to be taken after the Effective Date or as soon as thereafter as is reasonably practicable shall be deemed to have been made on the Effective Date.

**14.14 General Statements.** Statements of a general nature set forth in this Plan shall not be construed to limit or restrict the specific provisions herein.

**IN WITNESS WHEREOF**, the undersigned has duly executed the Plan as of the date first above written.

Respectfully submitted,

**T H Agriculture & Nutrition, L.L.C.**

By: /s/ Steven A. Carlson

Name: Steven A. Carlson

Title: Chief Restructuring Officer

New York, New York  
May 11, 2009

## SCHEDULE 1

### PENAC AFFILIATES

210 East Tarrant Street Realty Co.	370 West Trimble Road Corporation
ADAC Capital, LLC	ADAC Iberia S.A.
ADAC Laboratories Canada Limited	ADAC Laboratories Europe B.V.
ADAC Laboratories Inc.	ADAC Laboratories Pacific Inc.
Adamind Ltd.	Advance Transformer Co.
Advance Transformer Co., S.A. de C.V.	Advanced Metrology Systems LLC
Advanced Metrology Systems Holdings LLC	Advanced Technology Laboratories Argentina S.A.
Advanced Technology Laboratories, Inc.	Advanced Technology Laboratories, Inc. (Delaware)
A-Life Medical, Inc.	Alkrode B.V.
Alltronics, LLC	American Color & Chemical, L.L.C.
Anoro B.V.	APMCQ Automotive Playback Modules Portugal, Unipessoal, LDA

<b>Apollo Light Systems Inc.</b>	<b>Artemis Holdings</b>
<b>Assembléon America, Inc.</b>	<b>Assembléon B.V.</b>
<b>Assembléon China B.V.</b>	<b>Assembléon Denmark A/S I Likvidation</b>
<b>Assembléon Denmark A/S</b>	<b>Assembléon Deutschland GmbH</b>
<b>Assembléon Hong Kong Limited</b>	<b>Assembléon Italia S.R.L.</b>
<b>Assembléon Mexicana, S.A. de C.V.</b>	<b>Assembléon Netherlands B.V.</b>
<b>Assembléon Philippines, Inc.</b>	<b>Assembléon Singapore PTE LTD</b>
<b>Assembléon Taiwan Ltd.</b>	<b>Assembléon Technology (Suzhou) Co., Ltd.</b>
<b>Assembléon United Kingdom Ltd</b>	<b>Associated Electronic Products (Nigeria) Limited</b>
<b>ATL International LLC</b>	<b>ATL Ultrasound, Inc.</b>
<b>Atlas Diagnostics International, Inc.</b>	<b>Automated Response Center LLC</b>
<b>Avelingen Licht Holding B.V.</b>	<b>Avent Babycare Ltd</b>
<b>Avent Development Ltd</b>	<b>Avent Enterprises Ltd</b>

<b>Avent Finance Ltd</b>	<b>Avent Future Mothers Limited</b>
<b>Avent Group Ltd</b>	<b>Avent Holdings Ltd</b>
<b>Avent International Limited</b>	<b>Avent Limited</b>
<b>Avent Services Ltd</b>	<b>B.V. Expeditiekantoor voorheen A. Wouters &amp; Co.</b>
<b>B.V. Woningbouw Exenkaf</b>	<b>Beijing Dtvia Condition Receiving System Co., Ltd.</b>
<b>Binafon Telecommunications Sdn. Berhad</b>	<b>Birlesik Aydinlatma Sanayi ve Ticaret Anonim Sirketi</b>
<b>Bouw- en Exploitatie Maatschappij “De Burgh” B.V.</b>	<b>BruxTec B.V.</b>
<b>Canlyte Inc.</b>	<b>Cannon Avent (S) PTE Ltd</b>
<b>Cannon Avent (Singapore) Pte Limited</b>	<b>Cannon Babysafe Limited</b>
<b>Cardiac Evaluation Services, Inc.</b>	<b>Carsonite Composites LLC</b>
<b>Care Technologies, Inc.</b>	<b>Cedova B.V.</b>
<b>Cellularvision Technology &amp; Telecommunications, L.P.</b>	<b>Central Inkomensadministratie Nederland “CIAN” B.V.</b>

<b>Changshu Philips Ferrite Co., Ltd.</b>	<b>Chicago Magnet Wire Corp.</b>
<b>Children's Medical Ventures, LLC</b>	<b>CIV Comércio e Importação Vitória Ltda.</b>
<b>Coding Concepts LLC</b>	<b>Coding Concepts, Inc.</b>
<b>Color Kinetics Europe Limited</b>	<b>Color Kinetics Incorporated</b>
<b>Color Kinetics Netherlands B.V.</b>	<b>Color Kinetics Security Corporation</b>
<b>Compagnie Française Philips</b>	<b>Compañía de Vidrio Industrial, S.A. de C.V.</b>
<b>Componentes Eléctricos de Lámparas, S.A. de C.V.</b>	<b>Consort Investments B.V.</b>
<b>Construlita de Queretaro, S.A. de C.V.</b>	<b>Croxton Investments Ltd</b>
<b>CVL Componentes de Vidro Ltda.</b>	<b>DAM Central Management (D.C.M.) B.V.</b>
<b>DCF International Limited</b>	<b>De Vitrite Fabriek (The Vitrite Works) B.V.</b>
<b>Decolux Leuchtenvertriebs-GmbH</b>	<b>Digital Voice, Inc.</b>
<b>Dixtal Biomédica Indústria e Comércio Ltda.</b>	<b>Dixtal Tecnologia Indústria e Comércio Ltda.</b>
<b>DLO Asia Limited</b>	<b>DLO Holdings, Inc.</b>

<b>Dongyang Tospo Lighting Co., Ltd.</b>	<b>Dordtse Metaalindustrie “Johan de Witt” B.V.</b>
<b>DTVIA Conditional Access System (ChinaCrypt) Co., Ltd.</b>	<b>DutchAero B.V.</b>
<b>EBT Technology, Inc.</b>	<b>ECS Lighting Controls Ltd</b>
<b>Ekogaisma SIA</b>	<b>Ekolamp s.r.o.</b>
<b>Ekosij d.o.o.</b>	<b>Elecktrorama Holding B.V.</b>
<b>Electrical Lamp Manufacturers Thailand Limited</b>	<b>Electris Finance SA</b>
<b>Electrologica B.V.</b>	<b>Electronic Devices Limited</b>
<b>Elektro Holding S.A.</b>	<b>ElektroEko Organizacja Odzysku Sprzetu Elektrycznego i Elektronicznego S.A.</b>
<b>Elektrorama B.V.</b>	<b>Elektrorama Holding B.V.</b>
<b>Elevite AG</b>	<b>Emergin, Inc.</b>
<b>Emergency Response Systems, Inc.</b>	<b>EMGO</b>
<b>Enhanced CT Technology, LLC</b>	<b>Exenkaf Holding B.V.</b>
<b>F.I.M.I. S.R.L.</b>	<b>Fabrica Austral de Productos Eléctricos S.A.</b>



<b>Feidong Lighting Co., Ltd.</b>	<b>Feixin Lighting Co., Ltd.</b>
<b>Fiberoptic Medical Products, Inc.</b>	<b>Flash Acquisition Sub, Inc.</b>
<b>Framas Lightings Limited</b>	<b>Fuji Respiration Kabushiki Kaisha</b>
<b>General Lighting Pont-à-Mousson</b>	<b>Genlyte Canadian Holdings LLC</b>
<b>Genlyte DISC, Inc.</b>	<b>Genlyte Intangible Inc.</b>
<b>Genlyte Thomas Group LLC</b>	<b>Genlyte Thomas Group Nova Scotia ULC</b>
<b>Global Re B.V.</b>	<b>GT Mexican Holding Corp.</b>
<b>GTG Intangible Holdings LLP</b>	<b>GTG Intangible Inc.</b>
<b>GTG International Acquisitions LP</b>	<b>H.J. von Burg B.V.</b>
<b>Hanover Lantern Inc.</b>	<b>Hasrode B.V.</b>
<b>Hazlett Ireland Ltd.</b>	<b>Health Watch Holdings, Inc.</b>
<b>Health Watch, Inc.</b>	<b>Helfont Produtos Elétricos Ltda.</b>
<b>Helicor, Inc.</b>	<b>High Tech Campus Property Fund C.V.</b>
<b>Hilvarenbeek Training Services B.V.</b>	<b>Hoffmeister Leuchten GmbH</b>

<b>Hoffmeister-Leuchten Gesellschaft m.b.H.</b>	<b>HTCE General Partner B.V.</b>
<b>HTCE Limited Partner B.V.</b>	<b>IGC-Superpower, LLC</b>
<b>Iluminacion Tecnica I.L.T.E.C. S.A. de C.V.</b>	<b>Inbraphil - Indústrias Brasileiras Philips Ltda.</b>
<b>Industrias Venezolanas Philips, S.A.</b>	<b>Industriegrundstücks-Verwaltungsgesellschaft m.b.H.</b>
<b>Industriële Ontwikkelings-Maatschappij B.V.</b>	<b>Industrie-Spedition Gesellschaft mit beschränkter Haftung</b>
<b>Insurebase Enterprises Ltd.</b>	<b>Internationaal Octrooibureau B.V.</b>
<b>InterTrust Technologies Corporation</b>	<b>Invivo Corp.</b>
<b>Invivo Germany GmbH</b>	<b>Invivo Research UK Ltd</b>
<b>Invivo UK Ltd</b>	<b>Jilin NXP Semiconductors Ltd.</b>
<b>JJI Lighting Group GmbH Europe</b>	<b>JJI Lighting Group Inc.</b>
<b>Kayers A.S.</b>	<b>Kegler Lichttechnik GmbH</b>
<b>Kel Corporation</b>	<b>Kempston (1987) Limited</b>
<b>Koninklijke Philips Electronics N.V.</b>	<b>Kuhlmann-Informations-Systeme GmbH</b>

<b>Lampen-Recycling und Service GmbH</b>	<b>Lanier Healthcare, LLC</b>
<b>Larestine Ireland Ltd</b>	<b>Latin-American Holdings Corp</b>
<b>Lavington Investments Ltd</b>	<b>Ledalite Architectural Products LP</b>
<b>Leto Holdings</b>	<b>Leuchten Direkt GmbH</b>
<b>LG.Philips Displays Holding B.V.</b>	<b>LG.Philips LCD Co., Ltd.</b>
<b>LHC Australia, Inc.</b>	<b>LHC Canada, Inc.</b>
<b>Lifeline Systems Canada, Inc.</b>	<b>Lifeline Systems Company</b>
<b>Lifeline Systems Securities Corporation</b>	<b>Lifeline Systems, Inc.</b>
<b>Lightcycle Retourlogistik und Service GmbH</b>	<b>Lighthouse Consulting Group B.V.</b>
<b>Lighting de Colombia S.A.</b>	<b>Lighting Group Massive NV</b>
<b>Lighting Group Massive</b>	<b>Lighting Group PLI Holding</b>
<b>Lighting.Com., Inc.</b>	<b>Lightolier de Mexico, S.A. de C.V.</b>
<b>Limited Liability Company “Philips Ukraine”</b>	<b>Limited Liability Company “Philips”</b>
<b>Limited Liability Company “PHILPS</b>	<b>Linear Laboratories Corporation</b>

**LATVIA”**

<b>Lite-tech Industries L.L.C.</b>	<b>Ljusgruppen Aktibolag</b>
<b>Lumec Holding Corp.</b>	<b>Lumec Inc.</b>
<b>Lumileds Lighting (Korea), Inc. - IN LIQUIDATION</b>	<b>LumiLeds Lighting Deutschland GmbH</b>
<b>LumiLeds Lighting Italia S.r.l.</b>	<b>Lumisistemas De México, S.A. de C.V.</b>
<b>Luxram Electric Ltd</b>	<b>Maatschappij voor Onroerend Goed “De Nieuwe Erven” B.V.</b>
<b>Magyar Hangszoro Rendszerek Ipari es Kereskedelmi Korlatolt Felelossegu Tarsasag</b>	<b>Malaysian Lamps SDN BHD</b>
<b>Manufactures Services Poland Sp.z.o.o.</b>	<b>Marconi Medical Systems Netherlands B.V.</b>
<b>Marconi Medizintechnik Deutschland GmbH</b>	<b>Marlin Developer Community LLC</b>
<b>Marlin Trust Management Organization LLC</b>	<b>Massive</b>
<b>Massive AG</b>	<b>Massive Asia Pacific Ltd.</b>
<b>Massive Aydinlatma Ürünleri Ticaret Limited Sirketi</b>	<b>Massive Belysning A/S</b>
<b>Massive Belysning AS</b>	<b>Massive Belysning Norge AS</b>

<b>Massive Belysning Sverige AB</b>	<b>Massive China Limited</b>
<b>MASSIVE d.o.o.</b>	<b>Massive Estonia Oscülingu</b>
<b>Massive Export</b>	<b>Massive Finland Oy</b>
<b>Massive France</b>	<b>Massive Holding UK Ltd</b>
<b>MASSIVE Hungária Villamospari Termelő Kft.</b>	<b>Massive Iluminacion, S.A.</b>
<b>Massive Ireland Limited</b>	<b>Massive Italia SpA</b>
<b>Massive Leuchten Gesellschaft m.b.H.</b>	<b>Massive Leuchten GmbH</b>
<b>“Massive Lighting” d.o.o. Zemun</b>	<b>Massive Nederland B.V.</b>
<b>Massive NV</b>	<b>Massive Polska Sp.z.o.o.</b>
<b>Massive Production Ningbo Ltd.</b>	<b>Massive Produktie Nederland B.V.</b>
<b>Massive Romania Impex S.R.L.</b>	<b>Massive Slovakia, spol. s.r.o.</b>
<b>Massive Svetila d.o.o.</b>	<b>Massive Svetila trgovina na debelo s svetili d.o.o.</b>
<b>Massive Svitidla s.r.o.</b>	<b>Massive UK Ltd</b>

<b>Massiveport - Comércio de Artigos de Iluminação, Lda</b>	<b>Matevu Import Export B.V.</b>
<b>Medi-Call Inc</b>	<b>Medith Oy</b>
<b>MedQuist Canada Company</b>	<b>MedQuist CM Corporation</b>
<b>Medquist Inc.</b>	<b>MedQuist IP Corporation</b>
<b>MedQuist of Delaware, Inc.</b>	<b>MedQuist Transcriptions, Ltd.</b>
<b>Mepco/Centralab, Inc.</b>	<b>Metaaldraadlampenfabriek “Volt” B.V.</b>
<b>Micro Scope B.V.</b>	<b>Microvision Medical Holding B.V.</b>
<b>Mini-Mitter Company, Inc.</b>	<b>Modular Lighting Instruments</b>
<b>Modular Lighting Instruments NV</b>	<b>Modular Lighting Nederland B.V.</b>
<b>Modular Lighting Paris</b>	<b>MRI Devices Corporation</b>
<b>Mullard Ltd.</b>	<b>NARVA Speziallampen GmbH</b>
<b>NARVA Speziallampen GmbH Plauen</b>	<b>Navpart II B.V.</b>
<b>NEC Philips Unified Solutions B.V.</b>	<b>NEC Philips Unified Solutions FR SAS</b>

<b>NEC Philips Unified Solutions Italia SPA</b>	<b>Necesse B.V.</b>
<b>Neglin Lamp B.V.</b>	<b>Netalog, Inc.</b>
<b>New Oxford Aluminum LLC</b>	<b>Noble Europe B.V.</b>
<b>Nolam 20 S.A.S.</b>	<b>Nolam 23 S.A.S.</b>
<b>Norlux S.A.R.L.</b>	<b>Normed AS</b>
<b>Omnium de Participation et de Gestion Maghrébin “O.P.G.M.”</b>	<b>Open Invention Network LLC</b>
<b>Optical Manufacturing and Holding Company B.V.</b>	<b>Optiva Nevada Corporation</b>
<b>Organization for Enhanced Capability, Incorporated</b>	<b>P.T. Philips Industries Batam</b>
<b>Paco Adviseurs voor Informatiesystemen B.V.</b>	<b>Partners in Lighting International NV</b>
<b>Pavad Medical Inc.</b>	<b>PB North America Limited</b>
<b>PCW Beheermaatschappij B.V.</b>	<b>PD Magnetics B.V.</b>
<b>PDO Professional Digital Optical Media B.V.</b>	<b>PENAC World Sales Inc.</b>
<b>P-F Services Center (Thailand) Ltd.</b>	<b>Philip (M) SDN BHD</b>

<b>Philips &amp; BenQ Digital Storage USA, Inc.</b>	<b>Philips &amp; Lite-on Digital Solutions (Shanghai) Co., Ltd.</b>
<b>Philips &amp; Lite-on Digital Solutions Corporation</b>	<b>Philips &amp; LiteOn Digital Solutions Korea Ltd.</b>
<b>Philips &amp; Lite-on Digital Solutions Korea Ltd.</b>	<b>Philips &amp; Yaming Lighting Co., Ltd.</b>
<b>Philips (China) Investment Co., Ltd.</b>	<b>Philips (I) Limited</b>
<b>Philips AB</b>	<b>Philips Accessories &amp; Computers Peripherals Inc.</b>
<b>Philips Accounting Services Ltd</b>	<b>Philips Advanced Metrology Systems, Inc.</b>
<b>Philips Aerospace B.V.</b>	<b>Philips AG</b>
<b>Philips Aktiebolag</b>	<b>Philips Algérie</b>
<b>Philips Analytical Technology GmbH</b>	<b>Philips and Elba Street Lighting S.R.L.</b>
<b>Philips and Neusoft Medical Systems Co., Ltd.</b>	<b>Philips Antillana N.V.</b>
<b>Philips Apeldoorn B.V.</b>	<b>Philips Appliances Ltd.</b>
<b>Philips Argentina S.A.</b>	<b>Philips Austria GmbH</b>
<b>Philips Automotive Lighting Hubei Co., Ltd.</b>	<b>Philips Bangladesh Limited</b>



<b>Philips Belgium</b>	<b>Philips Belgium NV</b>
<b>Philips Beteiligungs AG</b>	<b>Philips Bulgaria EOOD</b>
<b>Philips Business Communications - Soluções Empresariais Ltda.</b>	<b>Philips Business Communications China B.V.</b>
<b>Philips Business Electronics International B.V.</b>	<b>Philips Canada Ltd.</b>
<b>Philips Caribbean Panamá, Inc.</b>	<b>Philips Česká republika s.r.o.</b>
<b>Philips Chilena S.A.</b>	<b>Philips Colombiana de Comercializacion S.A.</b>
<b>Philips Communication Systems B.V.</b>	<b>Philips Components B.V.</b>
<b>Philips Components International B.V.</b>	<b>Philips Components Ltd</b>
<b>Philips Consumer Communication</b>	<b>Philips Consumer Communications B.V.</b>
<b>Philips Consumer Communications International B.V.</b>	<b>Philips Consumer Communications UK Ltd</b>
<b>Philips Consumer Electronic Company</b>	<b>Philips Consumer Electronic Services B.V.</b>
<b>Philips Consumer Electronics B.V.</b>	<b>Philips Consumer Electronics Export B.V.</b>
<b>Philips Consumer Electronics International B.V.</b>	<b>Philips Consumer Products</b>

<b>Philips Consumer Lifestyle B.V.</b>	<b>Philips Consumer Lifestyle International B.V.</b>
<b>Philips Consumer Lighting (Ningbo) Co., Ltd.</b>	<b>Philips Consumer Lighting (Shenzhen) Co.. Ltd.</b>
<b>Philips Consumer Luminaires Czech Republic s.r.o.</b>	<b>Philips Consumer Luminaires Denmark A/S</b>
<b>Philips Consumer Luminaires Estonia OU</b>	<b>Philips Consumer Luminaires Export</b>
<b>Philips Consumer Luminaires Finland Oy</b>	<b>Philips Consumer Luminaires Italy SpA</b>
<b>Philips Consumer Luminaires Norway AS</b>	<b>Philips Consumer Luminaires Poland Sp.z.o.o.</b>
<b>Philips Consumer Luminaires Portugal, Lda</b>	<b>Philips Consumer Luminaires Slovakia s.r.o.</b>
<b>Philips Consumer Luminaires Spain, S.A.</b>	<b>Philips Consumer Luminaires Sweden AB</b>
<b>Philips Consumer Luminaires the Netherlands B.V.</b>	<b>Philips Consumer Luminaires UK Limited</b>
<b>Philips Consumer Products</b>	<b>Philips Consumer Products SA</b>
<b>Philips Consumer Relations B.V.</b>	<b>Philips Consumer-Service GmbH</b>
<b>Philips Consumption Electronics (Shanghai) Co., Ltd.</b>	<b>Philips Credit Corporation</b>
<b>Philips Crypto B.V.</b>	<b>Philips CSI Inc.</b>

<b>Philips D.O.O. Sarajevo</b>	<b>Philips da Amazônia Indústria Eletrônica Ltda.</b>
<b>Philips Danmark A/S</b>	<b>Philips DAP Export GmbH</b>
<b>Philips DAP Industries Poland Sp ZOO</b>	<b>Philips DAP Suzhou Holding B.V.</b>
<b>Philips DAP Zhuhai Holding B.V.</b>	<b>Philips Data Systems Ireland Ltd</b>
<b>Philips del Paraguay S.A.</b>	<b>Philips Design Limited</b>
<b>Philips Digital Networks B.V.</b>	<b>Philips Digital Video Systems (Breda) B.V.</b>
<b>Philips do Brasil Ltda.</b>	<b>Philips Domestic Appliances And Personal Care B.V.</b>
<b>Philips Domestic Appliances and Personal Care Co. of Suzhou Ltd.</b>	<b>Philips Domestic Appliances And Personal Care Company of Zhuhai SEZ, Ltd.</b>
<b>Philips Domestic Appliances and Personal Care International B.V.</b>	<b>Philips Dominicana S.A.</b>
<b>Philips Ecuador C.A.</b>	<b>Philips Egypt</b>
<b>Philips Egypt (Limited Liability Company)</b>	<b>Philips Electrical Company of Pakistan (Private) Limited</b>
<b>Philips Electrical Industries of Pakistan Ltd</b>	<b>Philips Electrical Zambia Ltd</b>

<b>Philips Electronic Components (Shanghai)</b>	<b>Philips Electronic Components (Shanghai) Co., Ltd.</b>
<b>Philips Electronic Equipment Ltd.</b>	<b>Philips Electronic Supplies (Malaysia) Sdn. Bhd.</b>
<b>Philips Electronics &amp; Lighting, Inc.</b>	<b>Philips Electronics (Israel) Ltd.</b>
<b>Philips Electronics (Shanghai) Co., Ltd.</b>	<b>Philips Electronics (Shenzhen) Co., Ltd.</b>
<b>Philips Electronics (Thailand) Limited</b>	<b>Philips Electronics (Zhuhai) Co., Ltd.</b>
<b>Philips Electronics Asia Pacific Pte Ltd.</b>	<b>Philips Electronics Australia Limited</b>
<b>Philips Electronics China B.V.</b>	<b>Philips Electronics Employment Services B.V.</b>
<b>Philips Electronics Hong Kong Limited</b>	<b>Philips Electronics India Limited</b>
<b>Philips Electronics Industries (Taiwan) Ltd.</b>	<b>Philips Electronics Industries (Taiwan) Ltd. Chu Pei Plant</b>
<b>Philips Electronics Ireland Ltd</b>	<b>Philips Electronics Japan, Ltd.</b>
<b>Philips Electronics Korea Ltd</b>	<b>Philips Electronics Ltd.</b>
<b>Philips Electronics Malaysia Sdn. Bhd.</b>	<b>Philips Electronics Middle East &amp; Africa B.V.</b>
<b>Philips Electronics Nederland B.V.</b>	<b>Philips Electronics North America Corporation</b>

<b>Philips Electronics Realty Corporation</b>	<b>Philips Electronics Representative Offices B.V.</b>
<b>Philips Electronics Singapore Pte Ltd</b>	<b>Philips Electronics Systems S.A.</b>
<b>Philips Electronics Technology (Shanghai) Co., Ltd.</b>	<b>Philips Electronics Technology Shanghai Holding B.V.</b>
<b>Philips Electronics Trading &amp; Services (Shanghai) Co., Ltd.</b>	<b>Philips Electronics UK Limited</b>
<b>Philips Electronics Vietnam Limited</b>	<b>Philips Electronique Maroc</b>
<b>Philips Eletrônica da Amazônia Ltda.</b>	<b>Philips Eletrônica do Nordeste S.A.</b>
<b>Philips Employee Share Plan Pty. Limited</b>	<b>Philips Enabling Technologies Group (Belgium) NV</b>
<b>Philips Enabling Technologies Group (Belgium)</b>	<b>Philips Enabling Technologies Group B.V.</b>
<b>Philips Enabling Technologies Group Nederland B.V.</b>	<b>Philips Estate</b>
<b>Philips Estate SA</b>	<b>Philips Export B.V.</b>
<b>Philips Extreme UV GmbH</b>	<b>Philips France</b>
<b>Philips GmbH</b>	<b>Philips GmbH Automotive Playback Modules</b>

<b>Philips Healthcare Informatics, Inc.</b>	<b>Philips Healthcare Informatics, Limited</b>
<b>Philips Healthcare Ltd</b>	<b>Philips Hearing Implants</b>
<b>Philips Hearing Technologies B.V.</b>	<b>Philips Hellas S.A. Commercial and Industrial Co. for Electrotechnical Products, Lighting and Medical Systems</b>
<b>Philips Hengdian Lighting (HK) Holding Limited</b>	<b>Philips High Tech Plastics B.V.</b>
<b>Philips High Tech Plastics Suzhou Ltd.</b>	<b>Philips Holding Mexico. S.A. de C.V.</b>
<b>Philips Holding U.S.A., Inc.</b>	<b>Philips Holdings Ltd</b>
<b>Philips Hong Kong Limited</b>	<b>Philips Ibérica, S.A.</b>
<b>Philips Impex Ltd</b>	<b>Philips India</b>
<b>Philips India Limited</b>	<b>Philips India Limited</b>
<b>Philips India Limited (Semiconductor &amp; components division)</b>	<b>Philips Industrial Development, Inc.</b>
<b>Philips Industrial Electronics Nederland B.V.</b>	<b>Philips Industriepark Rothe Erde GmbH</b>
<b>PHILIPS INDUSTRIES Hungary Electronical Mechanical Manufacturing and Trading Limited Liability Company</b>	<b>Philips Industries Magyarország Elektronikai Mechanikai Gyarto es Kereskedelmi Korlatolt F</b>

<b>Philips Innov. Techno. Solutions NV</b>	<b>Philips Innovative Applications</b>
<b>Philips Innovative Applications SA</b>	<b>Philips Innovative Technology Solutions</b>
<b>Philips Intellectual Property &amp; Standards GmbH</b>	<b>Philips Interactive Media Benelux</b>
<b>Philips Interactive Media Benelux B.V.</b>	<b>Philips International B.V.</b>
<b>Philips International Finance SA</b>	<b>Philips Iran (Private Joint Stock Company)</b>
<b>Philips Kommunikations Industrie AG</b>	<b>Philips Lamps &amp; Luminaires Ltd</b>
<b>Philips Latvia LLC</b>	<b>Philips Lighting</b>
<b>Philips Lighting Alpignano S.R.L.</b>	<b>Philips Lighting B.V.</b>
<b>Philips Lighting Bielsko Sp.z.o.o.</b>	<b>Philips Lighting Central America, S.A. de C.V.</b>
<b>Philips Lighting Electronics (Shanghai) Co., Ltd.</b>	<b>Philips Lighting Electronics (Xiamen) Co., Ltd.</b>
<b>Philips Lighting Electronics Company</b>	<b>Philips Lighting Electronics Mexico, S.A. de C.V.</b>
<b>Philips Lighting Electronics Shanghai Holding B.V.</b>	<b>Philips Lighting Export Eastern Europe Ltd Sp.z.o.o.</b>

<b>Philips Lighting Holding B.V.</b>	<b>Philips Lighting Ltd</b>
<b>Philips Lighting Luminares (Shanghai) Co., Ltd.</b>	<b>Philips Lighting Luminares Shanghai Holding B.V.</b>
<b>Philips Lighting Malaysia Sdn. Bhd.</b>	<b>Philips Lighting Pabianice SA</b>
<b>Philips Lighting Poland S.A.</b>	<b>Philips Lite-On Digital Solutions Corporation</b>
<b>Philips Lübeckertordamm 5 Dritte Verwaltungs-GmbH</b>	<b>Philips Lübeckertordamm 5 Vierte Verwaltungs-GmbH</b>
<b>Philips Lübeckertordamm 5 Vierte Verwaltungs-GmbH</b>	<b>Philips Lübeckertordamm 5 Zweite Verwaltungs-GmbH</b>
<b>Philips Lübeckertordamm 5 Zweite Verwaltungs-GmbH</b>	<b>Philips Lumileds Holding B.V.</b>
<b>Philips Lumileds Lighting Company (Holding) B.V.</b>	<b>Philips Lumileds Lighting Company B.V.</b>
<b>Philips LumiLeds Lighting Company LLC</b>	<b>Philips LumiLeds Lighting Company Sdn. Bhd.</b>
<b>Philips Lumileds Lighting LLC</b>	<b>Philips Luminares Ltd</b>
<b>Philips Luxembourg</b>	<b>Philips Luxembourg SA</b>
<b>Philips Magyarország Kereskedelmi Korlatolt Felelossegu Tarsasag</b>	<b>Philips Malaysia Sdn. Berhad</b>



<b>Philips Marketing Services, Inc.</b>	<b>Philips Maroc</b>
<b>Philips Media B.V.</b>	<b>Philips Media Systems B.V.</b>
<b>Philips Medical Capital France</b>	<b>Philips Medical Capital GmbH</b>
<b>Philips Medical Capital S.p.A.</b>	<b>Philips Medical Capital, LLC</b>
<b>Philips Medical Customer Support (Pty) Limited</b>	<b>Philips Medical Financial Services, Inc.</b>
<b>Philips Medical Refurbished Systems B.V.</b>	<b>Philips Medical System India Limited</b>
<b>Philips Medical System Service Private Joint Stock Company</b>	<b>Philips Medical Systems</b>
<b>Philips Medical Systems (Cleveland), Inc.</b>	<b>Philips Medical Systems (East Africa) Limited</b>
<b>Philips Medical Systems (pmms Puerto Rico), Inc.</b>	<b>Philips Medical Systems (PMMS Sales) Corporation</b>
<b>Philips Medical Systems (Proprietary) Limited</b>	<b>Philips Medical Systems DMC GmbH</b>
<b>Philips Medical Systems Export, Inc.</b>	<b>Philips Medical Systems Holding B.V.</b>
<b>Philips Medical Systems International</b>	<b>Philips Medical Systems International B.V.</b>
<b>Philips Medical Systems Ltda.</b>	<b>Philips Medical Systems MR, Inc</b>

<b>Philips Medical Systems Nederland B.V.</b>	<b>Philips Medical Systems North America Inc.</b>
<b>Philips Medical Systems NV</b>	<b>Philips Medical Systems Puerto Rico, Inc.</b>
<b>Philips Medical Systems S.p.a.</b>	<b>Philips Medical Systems s.r.o.</b>
<b>“Philips Medical Systems Services Polska” Sp.z.o.o. w likwidacji</b>	<b>Philips Medical Systems Technologies Ltd.</b>
<b>Philips Medical Systems UK Ltd</b>	<b>Philips Medical Systems, L.L.C.</b>
<b>Philips Medizin Systeme Boblingen GmbH</b>	<b>Philips Medizin Systeme GmbH</b>
<b>Philips Medizin Systeme Hofheim-Wallau GmbH.</b>	<b>Philips Medizinische Systeme Gesellschaft m.b.H.</b>
<b>Philips Medizinsysteme Hofheim-Wallau GmbH</b>	<b>Philips Mexicana. S.A. de C.V.</b>
<b>Philips MPEG Inc.</b>	<b>Philips Nederland B.V.</b>
<b>Philips Nederland Financieringsmaatschappij B.V.</b>	<b>Philips New Zealand Limited</b>
<b>Philips Norge AS</b>	<b>Philips Nuclear Medicine, Inc.</b>
<b>Philips' Ontwikkelings-Maatschappij B.V.</b>	<b>Philips OOO</b>
<b>Philips Oral Healthcare, Inc.</b>	<b>Philips Outdoor Lighting Romania S.R.L.</b>

<b>Philips Overseas Holdings Corporation</b>	<b>Philips Oy</b>
<b>Philips Participations B.V.</b>	<b>Philips Patient Monitoring Systems China Holding B.V.</b>
<b>Philips Pension (Property Trustee) Ltd</b>	<b>Philips Pension Trustees Ltd</b>
<b>Philips Pensionskasse Aktiengesellschaft in Liquidation</b>	<b>Philips Peruana S.A.</b>
<b>Philips PMF International B.V.</b>	<b>Philips PMF Nederland B.V.</b>
<b>Philips Polska Sp.z.o.o.</b>	<b>Philips Portuguesa, S.A.</b>
<b>Philips Projects B.V.</b>	<b>Philips Properties</b>
<b>Philips Properties SA</b>	<b>Philips Radio B.V.</b>
<b>Philips Radio Communication Systems Ireland Ltd</b>	<b>Philips Radio Manufacturing Co. Ltd.</b>
<b>Philips Real Estate Investment Management B.V.</b>	<b>Philips Real Estates (Taiwan) Ltd.</b>
<b>Philips Recordable Media Unternehmensbereich der Philips GmbH</b>	<b>Philips Romania S.R.L</b>
<b>Philips S Ventures LP Incorporated</b>	<b>Philips SC Unterstützungskasse GmbH</b>

<b>Philips Semiconductor Manufacturing Inc.</b>	<b>Philips Semiconductors GmbH</b>
<b>Philips Semiconductors Inc.</b>	<b>Philips Semiconductors Marketing and Sales Unternehmensbereich der Philips GmbH</b>
<b>Philips Services</b>	<b>Philips Services SA</b>
<b>Philips Singapore Private Limited</b>	<b>Philips Slovakia s.r.o.</b>
<b>Philips Slovenija trgovina, d.o.o.</b>	<b>Philips Societa per Azioni</b>
<b>Philips Software Centre Limited</b>	<b>Philips Software Centre Private Limited</b>
<b>Philips Solid-State Lighting Solutions, Inc.</b>	<b>Philips South Africa (Proprietary) Limited</b>
<b>Philips SPA</b>	<b>Philips Speech Recognition Systems GmbH</b>
<b>Philips Speech Solutions, S.A.</b>	<b>Philips Systemes Medicaux Algerie</b>
<b>Philips Systèmes Médicaux Maroc</b>	<b>Philips Taiwan Ltd.</b>
<b>Philips Technologie GmbH</b>	<b>Philips Technologies GmbH</b>
<b>Philips Telecommunicatie en Data Systemen Nederland B.V.</b>	<b>Philips Telecommunication and Data Systems Limited</b>
<b>Philips Telecommunication Industries Limited</b>	<b>Philips TMC Ltd</b>

<b>Philips Trading House B.V.</b>	<b>Philips Trans-America Holdings Corporation</b>
<b>Philips Tunisienne d' Eclairage S.A.</b>	<b>Philips U.K. Ltd</b>
<b>Philips Ukraine LLC</b>	<b>Philips Ultrasound, Inc.</b>
<b>Philips UQE Holding Company, Inc.</b>	<b>Philips Uruguay S.A.</b>
<b>Philips Venture Capital Fund B.V.</b>	<b>Philips Ventures II Incorporated</b>
<b>Philips Ventures Incorporated</b>	<b>Philips Video International Beteiligungs Gesellschaft m.b.H.</b>
<b>Philips Warehouse &amp; Services B.V.</b>	<b>Philips' Ontwikkelings-Maatschappij B.V.</b>
<b>Phillips Autopartes, S.A. de C.V.</b>	<b>Phillips Consumer Communications International B.V.</b>
<b>Phillips Dominicana, S.A.</b>	<b>Phillips Electrical Company of Pakistan PVT LTD</b>
<b>PHIT Philips Healthcare Information Technology GmbH</b>	<b>PhSiTh LLC</b>
<b>PHTP High Tech Plastics Holding B.V.</b>	<b>Picker International Del Caribe, Inc.</b>
<b>Pioneer Medical Systems Corp.</b>	<b>PKV Vermögensverwaltung AG</b>

<b>PKV Vermögensverwaltung Aktiengesellschaft</b>	<b>PLDS Germany GmbH</b>
<b>PLDS Netherlands B.V.</b>	<b>PLI Information Technology</b>
<b>PLI Information Technology NV</b>	<b>Podium</b>
<b>Podium NV</b>	<b>Polymer Vision B.V.</b>
<b>Polymer Vision Limited</b>	<b>PPC Limited</b>
<b>Premium Sound Solutions (Shenzhen) Co., Ltd.</b>	<b>PrimeDisc Technologies GmbH</b>
<b>Productos de Consumo Electronico Philips, S.A. de C.V.</b>	<b>Profile Pharma Limited</b>
<b>Project Realty LLC</b>	<b>Pro-Tech Services Inc.</b>
<b>Protect Emergency Response Systems, Inc.</b>	<b>PSS Belgium NV</b>
<b>PT. Pesona Gemilang Raya</b>	<b>PT. Philips Indonesia</b>
<b>Pye (Electronic Products) Ltd.</b>	<b>Pye Ltd.</b>
<b>Pyecam Company Ltd</b>	<b>R.T.V. Electro Export B.V.</b>
<b>Radio Finance S.A.</b>	<b>Rainbow Displays, Incorporated - DISSOLVED</b>

<b>Raytel Cardiac Services, Inc.</b>	<b>Raytel Imaging Network, Inc.</b>
<b>Raytel USA, Inc.</b>	<b>RCM Manufacturing</b>
<b>RCS - Sistemas de Control Remoto, S.A.</b>	<b>Reality Leuchten GmbH</b>
<b>Recylum</b>	<b>Reda Service B.V.</b>
<b>Remediation Services, Inc.</b>	<b>Respironics (HK) Limited</b>
<b>Respironics (Ireland) Limited</b>	<b>Respironics Sweden AB</b>
<b>Respironics (UK) Limited</b>	<b>Respironics AG</b>
<b>Respironics Australia Holdings Pty. Ltd.</b>	<b>Respironics Australia Pty. Ltd.</b>
<b>Respironics Bermuda Ltd.</b>	<b>Respironics California, Inc.</b>
<b>Respironics Charitable Foundation</b>	<b>Respironics Colorado, Inc.</b>
<b>Respironics Deutschland GmbH &amp; Co. KG</b>	<b>Respironics Deutschland Verwaltungsgesellschaft mbH</b>
<b>Respironics do Brasil Representação de Produtos Médicos Ltda.</b>	<b>Respironics France</b>
<b>Respironics France S.A.R.L.</b>	<b>Respironics International Global Enterprises, Inc.</b>

<b>Respironics International, Inc.</b>	<b>Respironics In-X, Inc.</b>
<b>Respironics Italy S.r.l.</b>	<b>Respironics Ltd.</b>
<b>Respironics Medical Products (Shenzhen) Ltd.</b>	<b>Respironics Medith Oy</b>
<b>Respironics Netherlands B.V.</b>	<b>Respironics New Jersey, Inc.</b>
<b>Respironics Novametric, LLC</b>	<b>Respironics Novamatrix, LLC</b>
<b>Respironics Overseas, Inc.</b>	<b>Respironics OxyTec, Inc.</b>
<b>Respironics Profile, Inc.</b>	<b>Respironics Respiratory Drug Delivery (UK) Ltd.</b>
<b>Respironics Sleep &amp; Respiratory Research Foundation</b>	<b>Respironics Sweden AB</b>
<b>Respironics Switzerland GmbH</b>	<b>Respironics Technotrend Limited</b>
<b>Respironics UK Holding Company Limited</b>	<b>Respironics, Inc.</b>
<b>Response Ability Systems, Inc.</b>	<b>RI Assurance, Inc.</b>
<b>RI Finance, Inc.</b>	<b>RI Licensing, Inc.</b>
<b>RI Trading, LLC</b>	<b>RIC Investments, LLC</b>



<b>Ring Station II</b>	<b>S.C.I. Opéra-Sèvres</b>
<b>S3 Holdings Ltd</b>	<b>SAFINA S.A. de Capitalización y Ahorro</b>
<b>Saftel</b>	<b>SCBO - Sociedade de Componentes Bobinados de Ovar, S.A.</b>
<b>Scientific Medical Systems International, Inc.</b>	<b>SEDS - Sociedade de Electronica, Desenvolvimento e Serviços, S.A,</b>
<b>Shakespeare Composite Structures LLC</b>	<b>Shanghai Yaming Illuminative Co., Ltd.</b>
<b>Shanxi Jinpu Philips Electric Appliance Sales Co., Ltd.</b>	<b>Shenzhen Goldway Industrial Inc.</b>
<b>SIA Ekogaisma</b>	<b>Side-Lite, LLC</b>
<b>Siera Electronics B.V.</b>	<b>Sigma Manufacturing Limited</b>
<b>Sigor Glühlampen GmbH</b>	<b>Silicon &amp; Software Systems Cesk republika s.r.o.</b>
<b>Silicon &amp; Software Systems US</b>	<b>Silicon &amp; Software Systems Polska SP ZOO</b>
<b>Silicon B203 Ltd</b>	<b>Silicon Hive B.V.</b>
<b>Silicon Manufacturing Itzehoe SMI GmbH</b>	<b>Silicon MEMS Itzehoe GmbH</b>

<b>Sleep HealthCenters, LLC.</b>	<b>Smit Röntgen B.V.</b>
<b>Société Service de Propriété Industrielle et de Documentation</b>	<b>Sonoma Lighting Ltd.</b>
<b>Sound International B.V.</b>	<b>SpeechMagic Holding GmbH</b>
<b>Speech Machines Inc</b>	<b>Speech Machines Ltd</b>
<b>Speech Machines Ltd.</b>	<b>Speziallampenfabrik Dr. Fischer GmbH</b>
<b>Spiropharma</b>	<b>Spiropharma A/S</b>
<b>Splendor Gloeilampenfabrieken B.V.</b>	<b>SSI • Sociedade de Serviços Industriais, S.A.</b>
<b>Sportlite, Inc.</b>	<b>Stadion Amsterdam C.V.</b>
<b>Ste Civile Spid</b>	<b>Stella Lamp Company Ltd</b>
<b>Strand Lighting Asia Limited</b>	<b>Strand Lighting Europe Limited</b>
<b>Strand Lighting Inc.</b>	<b>Super Club International B.V.</b>
<b>Super Club Nederland B.V.</b>	<b>Superclub Retail Nederland B.V.</b>
<b>Superclub Trading</b>	<b>Superlight Trading</b>



<b>Traxtal Inc.</b>	<b>Trio Leuchten GmbH</b>
<b>Trixell</b>	<b>TTX (US) LLC</b>
<b>TTX Limited</b>	<b>Tubemaster, Inc</b>
<b>Turk Philips Ticaret AS</b>	<b>U G M Laboratory, Inc.</b>
<b>U.S. Philips Corporation</b>	<b>U-L-M Photonics GmbH</b>
<b>UQE, LLC</b>	<b>Uranus Elektronik-Beteiligungs GmbH</b>
<b>USS Manufacturing Inc.</b>	<b>Van der Heem B.V.</b>
<b>Van Der Heem B.V. SOS</b>	<b>Verwaltungsgesellschaft Philips Medizin Systeme mbH</b>
<b>VISICU, Inc.</b>	<b>Vision Robotics Corporation</b>
<b>VLSI Technology (UK) Holdings Ltd</b>	<b>VLSI Technology Ltd</b>
<b>VMI Indústria e Comércio Ltda.</b>	<b>W.J. Addison Ltd.</b>
<b>WCLP L.P.</b>	<b>Wegot Investment Limited</b>

**Western Biomedical Technologies Limited**

**Westpoort**

**Witt Biomedical Corporation**

**XIMIS Peru S.A.C.**

**Yort Inc.**

**ZAO Idman MOW**

**Zhejiang Yankon Lighting Co., Ltd.**

**Zymed Puerto Rico, Inc.**

## SCHEDULE 2

### THAN AFFILIATES

Agricultural Chemicals, Inc.	Commerce Industrial Chemicals
Consolidated Electronics Industries Company	DePeseter Western, Inc.
Independent Petrochemical Corporation, Inc.	Koninklijke Philips Electronics NV
Leeds Investment Company	N.V. Philips Gloeilampenfabrieken
North American Philips Corp.	Ok-Tex Chemicals, Inc.
PEPI Inc.	Peter Hand Co
Philips Electronics and Pharmaceutical Industries Corporation	Philips Electronics North America Corp.
Philips Holdings, USA	Philips-Roxane, Inc. (International Division)
Planter's Chemical Corp.	Remediation Services, Inc
Sep-Ko Chemicals	Speare Company Laundry Supply
Specifide, Inc.	Tesco Chemicals, Inc. (Industrial Chemicals Division)

Thompson-Hayward Chemical Company (1925)	Thompson-Hayward Chemical Company (1961)
Thompson Hayward & Schlueter, Inc.	Thompson-Munro-Robbins Chemical Company
Wittichen Chemical Compay	383 Beechmont Drive Corp.
Duphar Nutrition, Inc.	Uniroyal, Inc.
210 East Tarrant Street Realty Corp	Elementis Group B.V.

### SCHEDULE 3

#### ELEMENTIS AFFILIATES

<b>Abbey Chemicals Limited</b>	<b>Elementis London Limited</b>
<b>Agrichrome Limited</b>	<b>Elementis LTP Holdings Inc.</b>
<b>American Chrome &amp; Chemicals Holdings Inc</b>	<b>Elementis LTP Inc.</b>
<b>American Chrome &amp; Chemicals Inc</b>	<b>Elementis LTP LP</b>
<b>American Chrome &amp; Chemicals LP</b>	<b>Elementis Malaysia Sdn Bhd</b>
<b>Deuchem (HK) Trading Co Ltd</b>	<b>Elementis Nederland B.V.</b>
<b>Deuchem (Shanghai) Chemical Co Ltd</b>	<b>Elementis New Zealand Limited</b>
<b>Deuchem Co Ltd</b>	<b>Elementis NZ Limited</b>
<b>Deuchem Holding Inc</b>	<b>Elementis Pigments Inc</b>
<b>Deuchem International Inc</b>	<b>Elementis PLC</b>
<b>Deuchem Trading International Ltd</b>	<b>Elementis Securities Limited</b>



<b>Elementis America Shared Services Inc.</b>	<b>Elementis Service Centre NV</b>
<b>Elementis Australia Limited</b>	<b>Elementis Services Limited</b>
<b>Elementis Australia Pty Limited (in liquidation)</b>	<b>Elementis Specialties (Anji) Ltd</b>
<b>Elementis Benelux SA / NV</b>	<b>Elementis Specialties Changxing Limited</b>
<b>Elementis Benelux Unlimited</b>	<b>Elementis Specialties Inc</b>
<b>Elementis BV</b>	<b>Elementis Specialties Netherlands BV</b>
<b>Elementis Catalysts Inc</b>	<b>Elementis UK Limited</b>
<b>Elementis Chemicals Inc</b>	<b>Elementis Worldwide Inc.</b>
<b>Elementis Chromium America Inc</b>	<b>H &amp; C Lumber Inc</b>
<b>Elementis Chromium GP Inc</b>	<b>H.&amp; C. Acquisitions Limited</b>
<b>Elementis Chromium Limited Liability Partnership</b>	<b>Harcros Chemicals Canada Inc</b>
<b>Elementis Chromium LP</b>	<b>Harcros Coffee Plantations Limited</b>
<b>Elementis Chromium LPI Inc</b>	<b>Harrisons &amp; Crosfield (PNG) Limited</b>

<b>Elementis Dormants Limited</b>	<b>Iron Oxides sa de CV, Mexico</b>
<b>Elementis Finance (Australia) Limited</b>	<b>Kamarl Limited</b>
<b>Elementis Finance (Germany) Limited</b>	<b>Linatex Asia Sdn Bhd</b>
<b>Elementis Germany GmbH</b>	<b>Malzfabrik Schragmalz Vermögensverwaltungs GmbH</b>
<b>Elementis Germany Limited</b>	<b>NB Chrome Ltd.</b>
<b>Elementis GmbH</b>	<b>Rheox Limited</b>
<b>Elementis Group BV</b>	<b>Servo USA BV</b>
<b>Elementis Group Limited</b>	<b>Shanghai Deuchem Chemical Technology and Development Co Ltd</b>
<b>Elementis Holdings Limited</b>	<b>Shanghai Winchem Trading Co Ltd</b>
<b>ELEMENTIS JAPAN KK</b>	<b>Wismo Chemical Corp</b>

**EXHIBIT A**

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**ASBESTOS PI TRUST AGREEMENT**

**T H AGRICULTURE & NUTRITION, L.L.C.  
ASBESTOS PERSONAL INJURY TRUST AGREEMENT**

**dated as of**

**\_\_\_\_\_, 2009**

**by and among**

**T H Agriculture & Nutrition, L.L.C.**

**and**

**the persons listed on the signature pages attached hereto**

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## ASBESTOS PERSONAL INJURY TRUST AGREEMENT

This ASBESTOS PERSONAL INJURY TRUST AGREEMENT (this “Agreement”), dated as of \_\_\_\_\_, 2009, is made by and among T H Agriculture & Nutrition, L.L.C. (“THAN” or the “Company”), a Delaware limited liability company and a debtor-in-possession in Case No. \_\_\_\_\_ (\_\_\_\_) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), and Philips Electronics North America Corporation, a Delaware corporation (“PENAC”), as the settlors of the trust established pursuant to this Agreement (the “Asbestos PI Trust”) in accordance with the Prepackaged Plan of Reorganization of T H Agriculture & Nutrition, L.L.C. Under Chapter 11 of the Bankruptcy Code, filed pursuant to section 1121(a) of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) and confirmed by an order of the Bankruptcy Court entered on \_\_\_\_\_, 2009, which confirmation was affirmed by an order of the United States District Court for the Southern District of New York entered on \_\_\_\_\_, 2009 (the “Plan”), the trustees of the Asbestos PI Trust appointed as contemplated by Section 5.1 below (the “Asbestos PI Trustees”), Wilmington Trust Company (“Wilmington Trust”), as the initial “Delaware Trustee” (as defined in Section 5.11), the members of the Asbestos PI Trust Advisory Committee established pursuant to this Agreement and the Plan appointed as contemplated by Section 6.1 below, and the legal representative for the holders of future Asbestos PI Claims appointed as contemplated by Section 7.1 below (the “Future Claimants’ Representative”).

All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan. All terms used but not defined herein or in the Plan but defined in the Bankruptcy Code or Bankruptcy Rules shall have the meanings ascribed to them in the Bankruptcy Code and Bankruptcy Rules, as the case may be. For purposes of this Agreement and the Asbestos PI Trust Distribution Procedures, “Asbestos PI Claims” shall not include Asbestos PI Trust Expenses.

WHEREAS, the Company has reorganized under the provisions of chapter 11 of the Bankruptcy Code in a case pending in the Bankruptcy Court known as In re T H Agriculture & Nutrition, L.L.C., Debtor, Case No. 08-14692 (REG); and

WHEREAS, the Plan has been confirmed by the Bankruptcy Court; and

WHEREAS, the Plan provides, *inter alia*, for the creation of the Asbestos PI Trust in accordance with this Agreement; and

WHEREAS, pursuant to the Plan, the Asbestos PI Trust is to use its assets and income to satisfy all Asbestos PI Claims; and

WHEREAS, it is the intent of each of the Company, the Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee and the Future Claimants’ Representative that the Asbestos PI Trust be administered, maintained and operated at all times through mechanisms that provide reasonable assurance that the Asbestos PI Trust will satisfy all Asbestos PI Claims paid in accordance with the Asbestos PI Trust Distribution Procedures in substantially the same manner and in strict compliance with this Agreement; and



WHEREAS, pursuant to the Plan, the Asbestos PI Trust is intended to qualify as a “qualified settlement fund” within the meaning of section 1.468B-1 *et seq.* of the Treasury Regulations promulgated under section 468B of the United States Internal Revenue Code (the “IRC”); and

WHEREAS, the Bankruptcy Court has determined that the Asbestos PI Trust and the Plan satisfy all the prerequisites for an injunction pursuant to section 524(g) of the Bankruptcy Code, and the Asbestos PI Channeling Injunction has been entered in connection with the Confirmation Order;

NOW, THEREFORE, it is hereby agreed as follows:

#### Article I. Agreement of Trust

1.1 Creation and Name. The Company and PENAC, as the settlors of the Asbestos PI Trust, hereby create a trust known as the “T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust,” which is the Asbestos PI Trust provided for and referred to in the Plan. The Asbestos PI Trustees may transact the business and affairs of the Asbestos PI Trust in the name of the Asbestos PI Trust. It is the intention of the parties hereto that the trust created hereby constitute a statutory trust under the Delaware Statutory Trust Act, Chapter 38 of title 12 of the Delaware Code, 12 Del. C. § 3801 *et seq.* (the “Act”) and that this document, together with the bylaws described in Section 2.2, constitute the governing instruments of the Asbestos PI Trust. The Asbestos PI Trustees and the Delaware Trustee are hereby authorized and directed to execute and file a Certificate of Trust with the Delaware Secretary of State in the form attached hereto as Exhibit A.

1.2 Purpose. The purpose of the Asbestos PI Trust is to (a) assume all liabilities and responsibility for Asbestos PI Claims (whether existing as of the Effective Date or arising at any time thereafter), (b) direct the processing, liquidation and payment of all Asbestos PI Claims in accordance with the Asbestos PI Trust Distribution Procedures, (c) preserve, hold, manage and maximize the Asbestos PI Trust Assets for use in paying and otherwise satisfying Asbestos PI Claims and paying Asbestos PI Trust Expenses, and (d) otherwise comply in all respects with the requirements of a trust set forth in section 524(g)(2)(B) of the Bankruptcy Code, all in accordance with the Plan and this Agreement.

1.3 Transfer of Assets. Pursuant to the Plan, THAN and its parent company, PENAC, have made contributions equaling \$900 million to the Asbestos PI Trust. As provided in the Plan, any funds contributed by THAN and PENAC in excess of the \$900 million contribution provided for in the Plan will be returned to PENAC. In addition, pursuant to the Plan, the Asbestos PI Trust is the sole beneficiary of the Parent Trust, which holds all of the membership interests in Reorganized THAN. Finally, also pursuant to the Plan, Reorganized THAN has made the Promissory Note in the principal amount of \$1,000,000 in favor of the Asbestos PI Trust, and the Parent Trust has entered into the Pledge Agreement granting the Asbestos PI Trust a security interest in 100% of the membership interests in Reorganized THAN to secure payment of the Promissory Note. In furtherance of the purpose of the Asbestos PI Trust, the Asbestos PI Trust hereby expressly accepts these assets. For purposes of this Agreement, “Asbestos PI Trust Assets” shall mean the assets described in this section, all of which have been transferred or

granted to the Asbestos PI Trust free and clear of any liens, security interests and other claims or causes of action, and any other assets which may from time to time be held by the Asbestos PI Trust.

#### 1.4 Assumption of Liabilities and Certain Obligations.

(a) In furtherance of the purpose of the Asbestos PI Trust, the Asbestos PI Trust hereby expressly assumes all liability and responsibility for (i) all Asbestos PI Claims and (ii) Asbestos PI Trust Expenses.

(b) Except as otherwise provided in this Agreement and the Asbestos PI Trust Distribution Procedures, the Asbestos PI Trust shall have all defenses, cross-claims, offsets and recoupments, as well as rights of indemnification, contribution, subrogation and similar rights, regarding Asbestos PI Claims that the Company has or would have under applicable law. Regardless of the foregoing, however, except as otherwise provided in Section 5.1(a)(2) of the Asbestos PI Trust Distribution Procedures, a claimant must meet otherwise applicable federal, state and foreign statutes of limitations and repose.

(c) Pursuant to the Plan, the Asbestos PI Trust has entered into, and agreed to provide the indemnification relating to Asbestos PI Claims provided for in, the Asbestos PI Trust Indemnification Agreement in the form attached hereto as Exhibit B.

(d) Nothing in this Agreement shall be construed in any way to limit the scope, enforceability or effectiveness of the Asbestos PI Channeling Injunction issued in connection with the Plan or the Asbestos PI Trust's assumption of all liability for Asbestos PI Claims, subject to the provisions of Section 1.4(b) above.

1.5 Counsel and Asbestos Records. THAN and PENAC shall not withhold consent to the Asbestos PI Trust's retention of the professional services of the counsel retained by THAN and/or PENAC in connection with matters pertaining to Asbestos PI Claims. The Asbestos PI Trust and the Asbestos Records Parties have entered into the Asbestos Records Cooperation Agreement in the form attached hereto as Exhibit C.

1.6 Beneficial Owners. To the extent required by the Act, the beneficial owners (within the meaning of the Act) of the Asbestos PI Trust shall be deemed to be the holders of Asbestos PI Claims (the "Beneficial Owners"); provided that (i) the holders of Asbestos PI Claims, as such Beneficial Owners, shall have only such rights with respect to the Asbestos PI Trust and its assets as are set forth in the Asbestos PI Trust Distribution Procedures, and (ii) no greater or other rights, including upon dissolution, liquidation or winding up of the Asbestos PI Trust, shall be deemed to apply to the holders of Asbestos PI Claims in their capacity as Beneficial Owners.

## Article II. Powers and Trust Administration

### 2.1 Powers.

(a) The Asbestos PI Trustees are, and shall act as, the fiduciaries to the Asbestos PI Trust in accordance with the provisions of this Agreement, the Asbestos PI Trust

Distribution Procedures, the Plan and the Act. The Asbestos PI Trustees shall at all times administer the Asbestos PI Trust and the Asbestos PI Trust Assets in accordance with the purpose set forth in Section 1.2 above. Subject to the Plan and this Agreement, the Asbestos PI Trustees shall have the power to take any and all actions that they may consider necessary, appropriate or desirable to fulfill the purpose of the Asbestos PI Trust, including without limitation each power expressly granted in this Section 2.1, any power reasonably incidental thereto and any statutory trust power now or hereafter permitted under the laws of the State of Delaware.

(b) Except as required by applicable law, the Plan or this Agreement, the Asbestos PI Trustees need not obtain the order or approval of any court in the exercise of any power or discretion conferred hereunder.

(c) Subject to and without limiting the generality of Section 2.1(a) above, and except as limited below, the Asbestos PI Trustees shall have the power to:

(i) receive and hold the Asbestos PI Trust Assets and exercise all rights and powers with respect thereto, including, without limitation, rights as sole beneficiary of the Parent Trust, rights under the Promissory Note and the Pledge Agreement, and rights to vote and dispose of any securities that are included in the Asbestos PI Trust Assets;

(ii) invest the monies held from time to time by the Asbestos PI Trust;

(iii) sell, transfer or exchange any or all of the Asbestos PI Trust Assets at such prices and upon such terms as the Asbestos PI Trustees may consider necessary, appropriate or desirable in fulfilling the purpose of the Asbestos PI Trust;

(iv) enter into such leasing and financing agreements with third parties as the Asbestos PI Trustees may consider necessary, appropriate or desirable in fulfilling the purpose of the Asbestos PI Trust;

(v) pay liabilities and expenses of the Asbestos PI Trust, including without limitation Asbestos PI Trust Expenses;

(vi) establish such funds, reserves and accounts within the Asbestos PI Trust estate as the Asbestos PI Trustees may consider necessary, appropriate or desirable in fulfilling the purpose of the Asbestos PI Trust;

(vii) sue and be sued and participate, as a party or otherwise, in any judicial, administrative, arbitral or other proceeding;

(viii) establish, supervise and administer the Asbestos PI Trust in accordance with this Agreement and the Asbestos PI Trust Distribution Procedures;

(ix) appoint such officers and hire such employees and engage such legal, financial, accounting, investment, auditing and forecasting and other advisors, consultants, independent contractors and agents and, to the extent permitted by the fiduciary duties of the Asbestos PI Trustees, delegate to such persons such powers and authorities, in each case as the

Asbestos PI Trustees may consider necessary, appropriate or desirable in fulfilling the purpose of the Asbestos PI Trust;

(x) pay any officers, employees, legal, financial, accounting, investment, auditing and forecasting and other advisors, consultants, independent contractors and agents engaged by the Asbestos PI Trust, including without limitation those engaged by the Asbestos PI Trust in connection with its alternative dispute resolution activities, reasonable compensation;

(xi) compensate the Asbestos PI Trustees, the Delaware Trustee, the members of the Asbestos PI Trust Advisory Committee, the Future Claimants' Representative and their respective officers, employees, legal, financial, accounting, investment, auditing, forecasting and other advisors, consultants, independent contractors and agents, and reimburse the Asbestos PI Trustees, the Delaware Trustee, the members of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative any reasonable out-of-pocket fees and expenses incurred by or on behalf of it, him or her in connection with the performance of its, his or her duties hereunder, all as provided below;

(xii) execute and deliver such instruments as the Asbestos PI Trustees may consider necessary, appropriate or desirable in administering the Asbestos PI Trust;

(xiii) enter into such other arrangements with third parties as the Asbestos PI Trustees may consider necessary, appropriate or desirable in fulfilling the purpose of the Asbestos PI Trust, provided such arrangements do not conflict with any other provision of this Agreement;

(xiv) in accordance with Section 5.6 below, defend, indemnify and hold harmless (and purchase insurance indemnifying) (A) the Asbestos PI Trustees, (B) the Delaware Trustee and (C) the members of the Asbestos PI Trust Advisory Committee, the Future Claimants' Representative, the officers and employees of the Asbestos PI Trust and any advisors, attorneys, consultants and agents of the Asbestos PI Trust, the Asbestos PI Trustees, the Delaware Trustee, the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative (collectively, the "Additional Indemnitees"), to the fullest extent that a statutory trust organized under the laws of the State of Delaware is from time to time entitled to indemnify and/or insure its directors, trustees, officers, employees, advisors, attorneys, consultants and agents;

(xv) delegate any or all of the authority herein conferred with respect to the investment of all or any portion of the Asbestos PI Trust Assets to any one or more reputable individuals or recognized institutional investment advisors or investment managers without liability for any action taken or omission made because of any such delegation, except as provided in Section 5.4 below; and

(xvi) consult with the Company, the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative at such times and with respect to such issues relating to the conduct of the Asbestos PI Trust as the Asbestos PI Trustees may consider necessary, appropriate or desirable.

(xvii) make, pursue (by litigation or otherwise), collect, compromise or settle, in the name of the Asbestos PI Trust, any claim, right, action, or cause of action included in the Asbestos PI Trust Assets.

(d) Notwithstanding anything to the contrary contained herein, the Asbestos PI Trustees shall not have the power to guarantee any debt of other persons.

(e) The Asbestos PI Trustees shall give the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative prompt notice of any act performed or taken pursuant to Section 2.1(c)(i), (iii), (vii) or (xv) above and any act proposed to be performed or taken of the type described in Section 2.2(e) below.

## 2.2 General Administration.

(a) The Asbestos PI Trustees shall act in accordance with this Agreement. The Asbestos PI Trustees shall adopt and act in accordance with written bylaws (the "Trust Bylaws"). To the extent not inconsistent with this Agreement, the Trust Bylaws shall govern the affairs of the Asbestos PI Trust. In the event of an inconsistency between the Trust Bylaws and this Agreement, this Agreement shall govern.

(b) The Asbestos PI Trustees shall timely account to the Bankruptcy Court as follows:

(i) The Asbestos PI Trustees shall cause to be prepared and filed with the Bankruptcy Court, as soon as available and in any event within one hundred twenty (120) days following the end of each fiscal year of the Asbestos PI Trust, an annual report (the "Annual Report") containing financial statements of the Asbestos PI Trust (including without limitation a balance sheet of the Asbestos PI Trust as of the end of such fiscal year and a statement of operations for such fiscal year) audited by a firm of independent certified public accountants selected by the Asbestos PI Trustees and accompanied by an opinion of such firm as to the fairness of the financial statements' presentation of the cash and investments available for the payment of Asbestos PI Claims and as to the conformity of the financial statements with generally accepted accounting principles. The Asbestos PI Trustees shall provide a copy of the Annual Report to the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative when such reports are filed with the Bankruptcy Court.

(ii) Simultaneously with the filing of the Annual Report, the Asbestos PI Trustees shall cause to be prepared and filed with the Bankruptcy Court a report containing a summary regarding the number and type of Asbestos PI Claims disposed of during the period covered by the financial statements. The Asbestos PI Trustees shall provide a copy of such report to the Asbestos PI Trust Advisory Committee and the Future Claimants' Representatives when such report is filed.

(iii) All materials required to be filed with the Bankruptcy Court by this Section 2.2(b) shall be available for inspection by the public in accordance with procedures established by the Bankruptcy Court and shall be submitted to the US Trustee.

(c) The Asbestos PI Trustees shall cause to be prepared as soon as practicable prior to the commencement of each fiscal year of the Asbestos PI Trust a budget and cash flow projections covering such fiscal year and the succeeding four fiscal years. The budget and cash flow projections shall include a proposed “Maximum Annual Payment” pursuant to Section 2.4 of the Asbestos PI Trust Distribution Procedures and the “Claims Payment Ratio” pursuant to Section 2.5 of the Asbestos PI Trust Distribution Procedures. The Asbestos PI Trustees shall provide a copy of the budget and cash flow projections to the Asbestos PI Trust Advisory Committee and the Future Claimants’ Representative.

(d) The Asbestos PI Trustees shall consult with both the Asbestos PI Trust Advisory Committee and the Future Claimants’ Representative (i) on the general implementation and administration of the Asbestos PI Trust, (ii) on the general implementation and administration of the Asbestos PI Trust Distribution Procedures, and (iii) on such other matters as may be required under this Agreement or the Asbestos PI Trust Distribution Procedures.

(e) The Asbestos PI Trustees shall be required to obtain the consent of both the Asbestos PI Trust Advisory Committee and the Future Claimants’ Representative pursuant to the consent process set forth in Section 6.7(b) and 7.7(b) below, as the case may be, in addition to any other instances elsewhere enumerated herein, in order:

(i) to change the “Claims Payment Ratio” described in Section 2.5 of the Asbestos PI Trust Distribution Procedures in the event that the requirements for such a change set forth in such provision have been met;

(ii) to change the “Disease Levels,” “Scheduled Values” and/or “Medical/Exposure Criteria” set forth in Section 5.3(a)(3) of the Asbestos PI Trust Distribution Procedures and/or the “Average Values” and/or “Maximum Values” set forth in Section 5.3(b)(3) and/or the extraordinary maximum value set forth in Section 5.4 of the Asbestos PI Trust Distribution Procedures;

(iii) to change the “Payment Percentage” described in Section 2.3 of the Asbestos PI Trust Distribution Procedures as provided in Section 4.2 of the Asbestos PI Trust Distribution Procedures;

(iv) to establish and/or to change the “Claims Materials” to be provided holders of Asbestos PI Claims under Section 6.1 of the Asbestos PI Trust Distribution Procedures;

(v) to require that claimants provide additional kinds of medical and/or exposure evidence pursuant to Section 5.7 of the Asbestos PI Trust Distribution Procedures;

(vi) to change the form of release to be provided pursuant to Section 7.8 of the Asbestos PI Trust Distribution Procedures;

(vii) to terminate the Asbestos PI Trust pursuant to Section 8.2(a)(i) or (ii) below;

(viii) to change the compensation of the Asbestos PI Trustees, the Delaware Trustee, the members of the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative, other than to reflect reasonable cost-of-living increases or changes approved by the Bankruptcy Court as otherwise provided herein; provided that a change in the compensation of the Delaware Trustee shall also require the consent of the Delaware Trustee;

(ix) to take structural or other actions to minimize any tax on the Asbestos PI Trust Assets;

(x) to amend any provision of this Agreement in accordance with the terms hereof (and the consent of the Delaware Trustee solely to the extent any such amendment adversely affects the rights, duties and obligations of the Delaware Trustee hereunder);

(xi) to amend any provision of the Asbestos PI Trust Distribution Procedures in accordance with the terms thereof;

(xii) to adopt the Trust Bylaws in accordance with Section 2.2(a) above or thereafter to amend the Trust Bylaws in accordance with the terms thereof;

(xiii) to become the holder of a membership interest in Reorganized THAN by exercise of the Asbestos PI Trust's rights under the Pledge Agreement or otherwise, to accept any distribution from the Parent Trust of an asset other than cash, or to transfer, surrender, exchange, or otherwise dispose of the Asbestos PI Trust's interest in the Parent Trust; and

(xiv) to merge any asbestos claims resolution organization formed by the Asbestos PI Trust with another asbestos claims resolution organization that is not specifically created by this Agreement or the Asbestos PI Trust Distribution Procedures, acquire an interest in any asbestos claims resolution organization that is not specifically created by this Agreement or the Asbestos PI Trust Distribution Procedures, contract with another asbestos claims resolution organization or any other entity that is not specifically created by this Agreement or the Asbestos PI Trust Distribution Procedures or permit any other party to join in any asbestos claims resolution organization that is formed by the Asbestos PI Trust pursuant to this Agreement or the Asbestos PI Trust Distribution Procedures; provided that any such merger, acquisition, contract or joinder shall not (a) subject the Company to any risk of having any Asbestos PI Claim asserted against it or (b) otherwise jeopardize the validity or enforceability of the Asbestos PI Channeling Injunction; and provided, further, that the terms of any such merger will require the surviving organization to make decisions about the allowability and value of Asbestos PI Claims in accordance with Section V of the Asbestos PI Trust Distribution Procedures.

(f) For all purposes of this Agreement and the Act, the consent of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative shall be deemed the consent of the Beneficial Owners.

(g) The Asbestos PI Trustees shall meet with the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative no less often than quarterly. The Asbestos PI Trustees shall meet with the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative between such quarterly meetings at mutually convenient times and

locations when so requested by either the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative. The Delaware Trustee shall not be required or permitted to attend meetings.

(h) The Asbestos PI Trustees, upon notice from either the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative, if practicable in view of pending business, shall, at their next meeting with the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative, as the case may be, consider issues submitted by either of them.

(i) Periodically, but not less often than once a year, the Asbestos PI Trustees shall make available to holders of Asbestos PI Claims and other interested parties the number of Asbestos PI Claims by disease levels that have been resolved both by individual review and by arbitration, as well as by trial, indicating the amounts of the awards and the averages of the awards by jurisdiction pursuant to Section 7.10 of the Asbestos PI Trust Distribution Procedures.

2.3 Claims Administration. The Asbestos PI Trustees shall promptly proceed to implement the Asbestos PI Trust Distribution Procedures.

### Article III. Qualified Settlement Fund

3.1 Tax Treatment. The Asbestos PI Trust is intended to be treated for U.S. federal income tax purposes as a "qualified settlement fund" as described within section 1.468B-1 *et seq.* of the Treasury Regulations. Accordingly, for all U.S. federal income tax purposes the transfer of assets to the Asbestos PI Trust will be treated as a transfer to a trust satisfying the requirements of section 1.468B-1(c) of the Treasury Regulations by the Company and PENAC, as transferors, for distribution to holders of Asbestos PI Claims and in complete settlement of such Asbestos PI Claims. Any income on the assets of the Asbestos PI Trust will be treated as subject to tax on a current basis, and all distributions pursuant to the Plan will be made net of provision for taxes and subject to the withholding and reporting requirements set forth in the Plan and this Agreement.

3.2 No Right to Reversion with Respect to Asbestos PI Trust Assets. The Company and PENAC will have no rights to any refunds or reversion with respect to any Asbestos PI Trust Assets or any earnings thereon. As provided in the Plan, any funds contributed on the Effective Date by THAN and PENAC in excess of the \$900 million contribution provided for in the Plan will be returned to PENAC. Such return of excess funds shall not be a refund or reversion of Asbestos PI Trust Assets.

3.3 Obligations of the Asbestos PI Trustees. The Asbestos PI Trustees shall be the "administrator" (as defined in section 1.468B-2(k) of the Treasury Regulations) of the Asbestos PI Trust and shall (a) timely file such income tax and other returns and statements and timely pay all taxes required to be paid from the assets in the Asbestos PI Trust as required by law and in accordance with the provisions of the Plan and this Agreement, (b) comply with all withholding obligations, as required under the applicable provisions of the IRC and of any state law and the regulations promulgated thereunder, (c) meet all other requirements necessary to qualify and maintain qualification of the Asbestos PI Trust as a "qualified settlement fund" within the



meaning of section 1.468B-1 *et seq.* of the Treasury Regulations, and (d) take no action that could cause the Asbestos PI Trust to fail to qualify as a “qualified settlement fund” within the meaning of section 1.468B-1 *et seq.* of the Treasury Regulations.

3.4 Obligations of the Company and PENAC. Following the funding of the Asbestos PI Trust (and in no event later than February 15th of the calendar year following the date of this Agreement), the Company and PENAC shall provide, or cause to be provided, to the Asbestos PI Trust “§ 1.468B-3 Statements” in accordance with section 1.468B-3 of the Treasury Regulations. Following any subsequent transfers of cash or other property to the Asbestos PI Trust, the transferor (or the entity treated as the transferor for U.S. federal income tax purposes) shall provide, or cause to be provided, to the Asbestos PI Trustees a “§ 1.468B-3 Statement” on or before February 15th of the calendar year following the date of each such transfer.

3.5 No Contravention of Requirements. No provision in this Agreement or the Asbestos PI Trust Distribution Procedures shall be construed to mandate any distribution on any claim or other action that would contravene the Asbestos PI Trust’s compliance with the requirements of a “qualified settlement fund” within the meaning of section 1.468B-1 *et seq.* of the Treasury Regulations promulgated under section 468B of the IRC.

#### Article IV. Accounts, Investments and Payments

##### 4.1 Accounts.

(a) The Asbestos PI Trustees may from time to time create such accounts and reserves within the Asbestos PI Trust as they may consider necessary, appropriate or desirable in order to provide for payment, or to make provisions for future payment, of Asbestos PI Claims in accordance with the Asbestos PI Trust Distribution Procedures or to provide for payment, or to make provisions for future payment, of Asbestos PI Trust Expenses in accordance with this Agreement and may, with respect to any such account or reserve, restrict the use of monies therein.

(b) The Asbestos PI Trustees shall include a reasonably detailed description of the creation of any account or reserve in accordance with this Section 4.1 and, with respect to any such account, the transfers made to such account, the proceeds of or earnings on the assets held in each such account and the payments from each such account in the Annual Report.

4.2 Investments. Investment of monies held in the Asbestos PI Trust shall be administered in the manner consistent with the standards set forth in the Uniform Prudent Investor Act drafted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995, subject to the following limitations and provisions:

(a) Until the fifth anniversary of the Effective Date, except as otherwise authorized by prior written consent of each of the Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee, the Future Claimants’ Representative and PENAC, funds not immediately necessary for distribution to claimants shall be invested in money market funds that invest exclusively in U.S. Treasury short term obligations. Such securities must be issued only by the U.S. Treasury or should be guaranteed in writing by the U.S. Treasury and should be rated

AAAm-G by Standard & Poor's ("S & P") and having an additional AAA rating by either Moody's Investor Services ("Moody's") or Fitch Ratings. In addition no more than \$450 million shall be invested in a single fund and (ii) the investment in a fund should not exceed 10% of total size of such fund. Asbestos PI Trust Assets means, collectively: (a) the PENAC Asbestos PI Trust Contribution; (b) the THAN Contribution; (c) all other assets, rights, and benefits assigned, transferred or conveyed to the Asbestos PI Trust in connection with the Plan or any Plan Documents; and (d) all proceeds of the foregoing.

(b) The Asbestos PI Trust shall not acquire, directly or indirectly, equity in any entity or business enterprise if, immediately following such acquisition, the Asbestos PI Trust would hold more than 5% of the equity in such entity or business enterprise. The Asbestos PI Trust shall not hold, directly or indirectly, more than 10% of the equity in any entity or business enterprise.

(c) The Asbestos PI Trust shall not acquire or hold any long-term debt securities unless such securities (i) are rated "Baa" or higher by Moody's, "BBB" or higher by S & P or have been given an equivalent investment grade rating by another nationally recognized credit rating agency or (ii) have been issued or fully guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof.

(d) The Asbestos PI Trust shall not acquire or hold for longer than ninety (90) days any commercial paper unless such commercial paper is rated "Prime-1" or higher by Moody's or "A-1" or higher by S&P or has been given an equivalent rating by another nationally recognized credit rating agency.

(e) The Asbestos PI Trust shall not acquire or hold any preferred stock or securities convertible into common stock unless such preferred stock or convertible securities are rated "A" or higher by Moody's or S&P or have been given an equivalent investment grade rating by another nationally recognized credit rating agency.

(f) The Asbestos PI Trust shall not hold any debt securities or other debt instruments issued by any entity (other than debt securities or other debt 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 Asbestos PI Trust would exceed 5% of the then-current aggregate value of the Asbestos PI Trust Assets.

(g) The Asbestos PI Trust shall not acquire or 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 4.2(c) above.

(h) The Asbestos PI Trust shall not acquire or hold any repurchase obligations unless, in the opinion of the Asbestos PI Trustees, they are adequately collateralized.

(i) The Asbestos PI Trust shall not acquire or hold any rights, warrants, options or similar securities.

(j) The Asbestos PI Trust may, without regard to the limitations set forth in Subsections (a) - (i) above, acquire and hold (i) the interest as beneficiary of the Parent Trust granted to the Asbestos PI Trust pursuant to the Plan, (ii) the Promissory Note, (iii) the rights under the Pledge Agreement, (iv) the membership interests in Reorganized THAN and (v) any securities or instruments obtained by it from any entity or business enterprise as proceeds of litigation or otherwise to resolve disputes.

#### 4.3 Source of Payments.

(a) All payments to be made by the Asbestos PI Trust, including without limitation payments in respect of Asbestos PI Claims and Asbestos PI Trust Expenses, shall be payable solely by the Asbestos PI Trust out of the Asbestos PI Trust Assets. None of the Company, PENAC, any PENAC Related Party, any THAN Related Party, Elementis, their subsidiaries or the present or former directors, officers, employees, advisors, consultants, agents or Representatives of any of them, or the Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative or the present or former officers, employees, advisors, consultants, agents or Representatives of any of them, shall be liable for the payment of any Asbestos PI Claim or any Asbestos PI Trust Expense or other liability of the Asbestos PI Trust.

(b) The Asbestos PI Trustees shall include a reasonably detailed description of any payments made in accordance with this Section 4.3 in the Annual Report.

### Article V. Asbestos PI Trustees; Delaware Trustee

#### 5.1 Initial Asbestos PI Trustees.

(a) In addition to the Delaware Trustee appointed pursuant to Section 5.11 hereof, there shall be three (3) Asbestos PI Trustees. The initial Asbestos PI Trustees are those persons named on the signature page hereto.

(b) Each initial Asbestos PI Trustee shall serve until the earliest of (i) the end of his or her term pursuant to Section 5.2(a) below, (ii) his or her death, (iii) his or her resignation pursuant to Section 5.2(b) below, (iv) his or her removal pursuant to Section 5.2(c) below, or (v) the termination of the Asbestos PI Trust pursuant to Section 8.2 below.

#### 5.2 Term of Service.

(a) Subject to the other provisions of this Article V, (i) each Asbestos PI Trustee appointed in accordance with Section 5.1 above shall serve for an initial term expiring on the date indicated on the signature page hereof as the expiration date of such Trustee's initial term and (ii) except with respect to such initial terms, each Asbestos PI Trustee shall serve for a term expiring five (5) years from the date on which the preceding term expired.

(b) An Asbestos PI Trustee may resign at any time by written notice to the remaining Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative. Such notice shall specify a date when such resignation shall take

effect, which shall not be less than ninety (90) days after the date such notice is given, where practicable.

(c) An Asbestos PI Trustee may be removed by unanimous vote of the other Asbestos PI Trustees in the event that he or she 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, any substantial failure to comply with the general administration provisions of Section 2.2 above, a consistent pattern of neglect and failure to perform or participate in performing the duties of the Asbestos PI Trustees hereunder, or repeated non-attendance at scheduled meetings. Such removal shall require the approval of the Bankruptcy Court and shall take effect at such time as the Bankruptcy Court shall determine.

### 5.3 Successor Asbestos PI Trustees.

(a) Upon the termination of service of a Trustee, whether as a result of the expiration of his or her term or his or her death, resignation or removal, the remaining Asbestos PI Trustees shall consult with both the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative concerning appointment of a successor Trustee. Unless a majority of the members of the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative vetoes the appointment, the vacancy shall be filled by the unanimous vote of the remaining Asbestos PI Trustees. If the remaining Asbestos PI Trustees cannot agree on a successor Asbestos PI Trustee or a majority of the members of the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative vetoes the appointment of a successor Trustee, the Bankruptcy Court shall make the appointment. Nothing in this Agreement shall prevent the reappointment of an individual serving as an Asbestos PI Trustee for an additional term or terms.

(b) Immediately upon the appointment of any successor Asbestos PI Trustee, all rights, titles, duties, powers and authority of the predecessor Asbestos PI Trustee hereunder shall be vested in, and undertaken by, the successor Asbestos PI Trustee without any further act. No successor Asbestos PI Trustee shall be liable personally for any act or omission of his or her predecessor Asbestos PI Trustees.

(c) Each successor Asbestos PI Trustee shall serve until the earliest of (i) the end of a full term of five (5) years for which he or she was appointed if his or her immediate predecessor Asbestos PI Trustee completed his or her term pursuant to Section 5.2(a) above, (ii) the end of the term of the Asbestos PI Trustee whom he or she replaced if his or her predecessor Asbestos PI Trustee did not complete such term, (iii) his or her death, (iv) his or her resignation pursuant to Section 5.2(b) above, (v) his or her removal pursuant to Section 5.2(c) above, or (vi) the termination of the Asbestos PI Trust pursuant to Section 8.2 below.

### 5.4 Liability of Asbestos PI Trustees, Delaware Trustee and Others.

(a) The Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees shall not be liable to the Asbestos PI Trust, to any Beneficial Owner or to any other Person (as defined in the Act), except for a Trustee's, Delaware Trustee's or Additional Indemnitee's own breach of trust committed in bad faith or willful misappropriation. In addition,

no Trustee, Delaware Trustee or Additional Indemnatee shall be liable for any act or omission of any other Trustee, Delaware Trustee or Additional Indemnatee unless such Person (as defined in the Act) acted with bad faith in the selection or retention of such other Trustee, Delaware Trustee or Additional Indemnatee.

(b) To the extent that, at law or in equity, the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees have duties (including fiduciary duties) and liabilities relating thereto to the Asbestos PI Trust, any Beneficial Owner, or to any other Person (as defined in the Act), the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees acting under this Agreement shall not be liable to the Asbestos PI Trust, any Beneficial Owner or to any other Person (as defined in the Act) for their good faith reliance on the provisions of this Agreement except as provided in Section 5.4(a). The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees.

(c) Notwithstanding any other provision of this Agreement or otherwise applicable law, whenever in this Agreement the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees are permitted or required to make a decision in their “*good faith*” or under another express standard, the Asbestos PI Trustees’, the Delaware Trustee’s and the Additional Indemnitees’ actions shall be evaluated under such express standard and shall not be subject to any other or different standard.

(d) The liability of the Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees to any Person (as defined in the Act) other than the Asbestos PI Trust and the Beneficial Owners shall be further limited (*i.e.*, to the extent such limitation is greater than the limitation provided in the other subsections of this Section 5.4) to the fullest extent allowed by Section 3803 of the Act.

#### 5.5 Compensation and Expenses of Asbestos PI Trustees and Delaware Trustee.

(a) Each Asbestos PI Trustee shall receive compensation from the Asbestos PI Trust for his or her services as an Asbestos PI Trustee in the amount of \$\_\_\_\_\_ per annum, payable in a lump sum at the beginning of each year of service. Each Asbestos PI Trustee shall also receive compensation at the rate of \$\_\_\_\_\_ per hour for all time expended in meetings, in preparation for meetings, and on other business of the Asbestos PI Trust, with the time computed on a quarter-hour basis. Each Asbestos PI Trustee shall maintain hourly time records for such time. The per annum compensation does not function as a retainer and the hourly items are not charged against the per annum compensation. The compensation payable to the Asbestos PI Trustees hereunder shall be reviewed every three (3) years and appropriately adjusted with the consent of the Asbestos PI Trust Advisory Committee and the Future Claimants’ Representative. The Delaware Trustee shall be paid such compensation as is agreed pursuant to a separate fee agreement.

(b) The Asbestos PI Trust shall promptly reimburse each Asbestos PI Trustee and the Delaware Trustee for any reasonable out-of-pocket fees and expenses incurred by it, him

or her in connection with the performance of its, his or her duties as an Asbestos PI Trustee or Delaware Trustee.

(c) The Asbestos PI Trust shall include a reasonably detailed description of the amounts paid under this Section 5.5 in the Annual Report.

**5.6 Indemnification of Asbestos PI Trustees, the Delaware Trustee and Additional Indemnitees.**

(a) The Asbestos PI Trust shall indemnify and defend each Trustee, the Delaware Trustee and each Additional Indemnitee in the performance of its, his or her duties hereunder to the fullest extent that a statutory trust organized under the laws of the State of Delaware is from time to time entitled to indemnify and defend such Person (as defined in the Act) against any and all liabilities, expenses, claims, damages or losses incurred by or on behalf of it, him or her in the performance of its, his or her duties. Notwithstanding the foregoing, no Trustee, Delaware Trustee or Additional Indemnitee shall be indemnified or defended in any way for any liability, expense, claim, damage or loss for which it, he or she is ultimately liable under Section 5.4 above.

(b) Any reasonable fees and expenses incurred by or on behalf of a Trustee, the Delaware Trustee or an Additional Indemnitee in connection with any action, suit or proceeding, whether civil, administrative or arbitral, from which it, he or she is indemnified by the Asbestos PI Trust pursuant to Section 5.6(a) above, including without limitation out-of-pocket fees and expenses and attorneys' fees and expenses, shall be paid by the Asbestos PI Trust in advance of the final disposition thereof upon receipt of an undertaking, by or on behalf of the Trustee, Delaware Trustee or Additional Indemnitee, as the case may be, to repay such amount in the event that it shall be determined by a Final Order that such Trustee, Delaware Trustee or Additional Indemnitee is not entitled to be indemnified by the Asbestos PI Trust.

(c) The Asbestos PI Trustees (i) may purchase and maintain reasonable amounts and types of insurance on behalf of any Person (as defined in the Act) who is or was an Asbestos PI Trustee or an Additional Indemnitee, and, (ii) if requested by the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative, shall purchase and maintain reasonable amounts and types of insurance on behalf of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative, including, in either case, for liability asserted against or incurred by such Person (as defined in the Act) in that capacity or arising from its, his or her status with regard to the Asbestos PI Trust. To the extent the Asbestos PI Trust Advisory Committee and/or the Future Claimants' Representative requests insurance coverage pursuant to the preceding sentence, such Person (as defined in the Act) shall cooperate with the Asbestos PI Trust and the Asbestos PI Trustees in seeking the requested insurance coverage. The obligation of the Asbestos PI Trustees to provide insurance requested by the Asbestos PI Trust Advisory Committee or the Future Claimants' Representative shall be subject to the cooperation required in the preceding sentence and further subject to the determination of the Asbestos PI Trustees that the requested amounts and types of insurance are reasonable. Insurance coverage may, with agreement among the Asbestos PI Trustees, the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative, be provided through self-insurance arrangements.

5.7 Asbestos PI Trustees' Lien. The Asbestos PI Trustees, the Delaware Trustee and the Additional Indemnitees shall have a first priority lien upon the Asbestos PI Trust Assets to secure the payment of any amounts payable to them pursuant to Section 5.6 above.

5.8 Asbestos PI Trustees' Employment of Experts; Delaware Trustee's Employment of Counsel.

(a) The Asbestos PI Trustees may, but shall not be required to, retain and/or consult with counsel, accountants, appraisers, auditors, forecasters, experts, financial and investment advisors and such other parties deemed by the Asbestos PI Trustees to be qualified as experts ("Trust Professionals") on any matter submitted to them, and, in the absence of gross negligence, the written opinion of or information provided by any such party deemed by the Asbestos PI Trustees to be an expert on the particular matter submitted to him or her by the Asbestos PI Trustees shall be full and complete authorization and protection in respect of any action taken or not taken by the Asbestos PI Trustees hereunder in good faith and in accordance with the written opinion of or information provided by any such party.

(b) The Delaware Trustee shall only be permitted to retain counsel and only in such circumstances as required in the exercise of its obligations hereunder, and compliance with the advice of such counsel shall be full and complete authorization and protection for actions taken or not taken by the Delaware Trustee in good faith in compliance with such advice.

5.9 Asbestos PI Trustees' Independence. No Asbestos PI Trustee shall, during the term of his or her service, (a) hold a financial interest in, or act as attorney or agent or serve as any other professional for, the Company, PENAC or any PENAC Affiliate, or (b) act as an attorney for any Person (as defined in the Act) who holds a Asbestos PI Claim. For the avoidance of doubt, this Section 5.9 shall not be applicable to the Delaware Trustee.

5.10 Bond. The Asbestos PI Trustees and the Delaware Trustee shall not be required to post any bond or other form of surety or security unless otherwise ordered by the Bankruptcy Court.

5.11 Delaware Trustee.

(a) There shall at all times be a Delaware Trustee. The "Delaware Trustee" shall either be (i) a natural person who is at least 21 years of age and a resident of the State of Delaware or (ii) a legal entity that has its principal place of business in the State of Delaware, otherwise meets the requirements of applicable Delaware law and acts through one or more persons authorized to bind such entity. The initial Delaware Trustee shall be Wilmington Trust. If at any time the Delaware Trustee shall cease to be eligible in accordance with the provisions of this Section 5.11, it shall resign immediately in the manner and with the effect hereinafter specified in Section 5.11(c) below. For the avoidance of doubt, the Delaware Trustee will only have such rights and obligations as expressly provided by reference to the Delaware Trustee hereunder.

(b) The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Asbestos PI Trustees set forth herein. The Delaware Trustee shall be one of the trustees of the Trust for the

sole and limited purpose of fulfilling the requirements of Section 3807 of the Act and for taking such actions as are required to be taken by a Delaware trustee under the Act. The duties (including fiduciary duties), liabilities and obligations of the Delaware Trustee shall be limited to (i) accepting legal process served on the Asbestos PI Trust in the State of Delaware and (ii) the execution of any certificates required to be filed with the Secretary of State of the State of Delaware that the Delaware Trustee is required to execute under Section 3811 of the Act and there shall be no other duties (including fiduciary duties) or obligations, express or implied, at law or in equity, of the Delaware Trustee.

(c) The Delaware Trustee shall serve until such time as the Asbestos PI Trustees remove the Delaware Trustee or the Delaware Trustee resigns and a successor Delaware Trustee is appointed by the Asbestos PI Trustees in accordance with the terms of Section 5.11(d) below. The Delaware Trustee may resign at any time upon the giving of at least 60 days' advance written notice to the Asbestos PI Trustees; provided, that such resignation shall not become effective unless and until a successor Delaware Trustee shall have been appointed by the Asbestos PI Trustees in accordance with Section 5.11(d) below. If the Asbestos PI Trustees do not act within such 60-day period, the Delaware Trustee may apply to the Court of Chancery of the State of Delaware for the appointment of a successor Delaware Trustee.

(d) Upon the resignation or removal of the Delaware Trustee, the Asbestos PI Trustees shall appoint a successor Delaware Trustee by delivering a written instrument to the outgoing Delaware Trustee. Any successor Delaware Trustee must satisfy the requirements of Section 3807 of the Act. Any resignation or removal of the Delaware Trustee and appointment of a successor Delaware Trustee shall not become effective until a written acceptance of appointment is delivered by the successor Delaware Trustee to the outgoing Delaware Trustee and the Asbestos PI Trustees and any fees and expenses due to the outgoing Delaware Trustee are paid. Following compliance with the preceding sentence, the successor Delaware Trustee shall become fully vested with all of the rights, powers, duties and obligations of the outgoing Delaware Trustee under this Agreement, with like effect as if originally named as Delaware Trustee, and the outgoing Delaware Trustee shall be discharged of its duties and obligations under this Agreement.

## Article VI. Trust Advisory Committee

### 6.1 Initial Members of the Asbestos PI Trust Advisory Committee.

(a) The Asbestos PI Trust Advisory Committee shall consist of five (5) members, who shall initially be the persons named on the signature page hereof.

(b) Each initial member of the Asbestos PI Trust Advisory Committee shall serve until the earliest of (i) the end of his or her term pursuant to Section 6.3(a) below, (ii) his or her death, (iii) his or her resignation pursuant to Section 6.3(b) below, (iv) his or her removal pursuant to Section 6.3(c) below, or (v) the termination of the Asbestos PI Trust pursuant to Section 8.2 below.

6.2 Duties. The members of the Asbestos PI Trust Advisory Committee shall serve in a fiduciary capacity, representing all of the holders of present Asbestos PI Claims for the purpose



of protecting the rights of such persons. The Asbestos PI Trustees must consult with the Asbestos PI Trust Advisory Committee on matters identified in Section 2.2(d) above and in other provisions herein and must obtain the consent of the Asbestos PI Trust Advisory Committee on matters identified in Section 2.2(e) above. Where provided in the Asbestos PI Trust Distribution Procedures, certain other actions of the Asbestos PI Trustees are also subject to the consent of the Asbestos PI Trust Advisory Committee.

### 6.3 Term of Office.

(a) The initial members of the Asbestos PI Trust Advisory Committee appointed in accordance with Section 6.1(a) above shall serve the staggered three-, four-, or five-year terms shown on the signatures pages hereof. Thereafter, each term of service shall be five (5) years. Each member of the Asbestos PI Trust Advisory Committee shall serve until the earliest of (i) the end of his or her first full term of office, (ii) his or her death, (iii) his or her resignation pursuant to Section 6.3(b) below, (iv) his or her removal pursuant to Section 6.3(c) below, or (v) the termination of the Asbestos PI Trust pursuant to Section 8.2 below, in each case as specified in 6.1(b) or 6.4(b), as applicable.

(b) A member of the Asbestos PI Trust Advisory Committee may resign at any time by written notice to the other members of the Asbestos PI Trust Advisory Committee, the Asbestos PI Trustees and the Future Claimants' Representative. Such notice shall specify a date when such resignation shall take effect, which shall not be less than ninety (90) days after the date such notice is given, where practicable.

(c) A member of the Asbestos PI Trust Advisory Committee may be removed in the event that he or she becomes unable to discharge his or her duties hereunder due to accident, physical deterioration, mental incompetence, a consistent pattern of neglect and failure to perform or to participate in performing the duties of such member (such as repeated nonattendance of scheduled meetings) or for other good cause. Such removal shall be made at the recommendation of the other members of the Asbestos PI Trust Advisory Committee with the approval of the Bankruptcy Court.

### 6.4 Successor Members of the Asbestos PI Trust Advisory Committee.

(a) If, prior to the termination of service of a member of the Asbestos PI Trust Advisory Committee other than as a result of removal, he or she has designated in writing an individual to succeed him or her as a member of the Asbestos PI Trust Advisory Committee, such individual shall be his or her successor. If such member of the Asbestos PI Trust Advisory Committee did not designate an individual to succeed him or her prior to the termination of his or her service as contemplated above, such member's law firm may designate his or her successor. If (i) a member of the Asbestos PI Trust Advisory Committee did not designate an individual to succeed him or her prior to the termination of his or her service and such member's law firm does not designate his or her successor as contemplated above or (ii) he or she is removed pursuant to Section 6.3(c) above, his or her successor shall be appointed by a majority of the remaining members of the Asbestos PI Trust Advisory Committee or, if such members cannot agree on a successor, the Bankruptcy Court. Nothing in this Agreement shall prevent the reappointment of an individual serving as a member of the Asbestos PI Trust Advisory

Committee for an additional term or terms and there shall be no limit on the number of terms that an Asbestos PI Trust Advisory Committee member may serve.

(b) Each successor member of the Asbestos PI Trust Advisory Committee shall serve until the earliest of (i) the end of a full term of five (5) years for which he or she was appointed if his or her immediate predecessor member of the Asbestos PI Trust Advisory Committee completed his or her term pursuant to Section 6.3(a) above, (ii) the end of the term of the member of the Asbestos PI Trust Advisory Committee whom he or she replaced if his or her predecessor member did not complete such term, (iii) his or her death, (iv) his or her resignation pursuant to Section 6.3(b) above, (v) his or her removal pursuant to Section 6.3(c) above, or (vi) the termination of the Asbestos PI Trust pursuant to Section 8.2 below.

#### 6.5 TAC's Employment of Professionals.

(a) The Asbestos PI Trust Advisory Committee may, but is not required to, retain and/or consult counsel, accountants, appraisers, auditors, forecasters, experts, financial and investment advisors and such other parties deemed by the Asbestos PI Trust Advisory Committee to be qualified as experts on any matter submitted to the Asbestos PI Trust Advisory Committee (the "Asbestos PI Trust Advisory Committee Professionals"). The Asbestos PI Trust Advisory Committee and the Asbestos PI Trust Advisory Committee Professionals shall at all times have complete access to the Asbestos PI Trust's officers, employees and agents, as well as to any Trust Professionals, and shall also have complete access to all information generated by them or otherwise available to the Asbestos PI Trust or the Asbestos PI Trustees; provided that in no event shall the Asbestos PI Trust Advisory Committee, its members or the Asbestos PI Trust Advisory Committee Professionals have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust. In the absence of gross negligence, the written opinion of or information provided by any Asbestos PI Trust Advisory Committee Professional or Trust Professional deemed by the Asbestos PI Trust Advisory Committee to be qualified as an expert on the particular matter submitted to the Asbestos PI Trust Advisory Committee shall be full and complete authorization and protection in support of any action taken or not taken by the Asbestos PI Trust Advisory Committee in good faith and in accordance with the written opinion of or information provided by such Asbestos PI Trust Advisory Committee Professional or Trust Professional.

(b) The Asbestos PI Trust shall promptly reimburse, or pay directly if so instructed, the Asbestos PI Trust Advisory Committee for any reasonable fees and expenses associated with the Asbestos PI Trust Advisory Committee's employment of legal counsel pursuant to this provision in connection with the Asbestos PI Trust Advisory Committee's performance of its duties hereunder. The Asbestos PI Trust shall also promptly reimburse, or pay directly if so instructed, the Asbestos PI Trust Advisory Committee for any reasonable fees and expenses associated with the Asbestos PI Trust Advisory Committee's employment of any other Asbestos PI Trust Advisory Committee Professional pursuant to this provision in connection with the Asbestos PI Trust Advisory Committee's performance of its duties hereunder; provided, however, that (i) the Asbestos PI Trust Advisory Committee has first submitted to the Asbestos PI Trust a written request for such reimbursement setting forth the reasons (A) why the Asbestos PI Trust Advisory Committee desires to employ such Asbestos PI

Trust Advisory Committee Professional and (B) why the Asbestos PI Trust Advisory Committee cannot rely on Trust Professionals to meet the needs of the Asbestos PI Trust Advisory Committee for such expertise or advice and (ii) the Asbestos PI Trust has approved the Asbestos PI Trust Advisory Committee's request for reimbursement in writing. If the Asbestos PI Trust agrees to pay for the Asbestos PI Trust Advisory Committee Professional, such reimbursement shall be treated as an Asbestos PI Trust Expense. If the Asbestos PI Trust declines to pay for the Asbestos PI Trust Advisory Committee Professional, it must set forth its reasons in writing. If the Asbestos PI Trust Advisory Committee still desires to employ such Asbestos PI Trust Advisory Committee Professional at the expense of the Asbestos PI Trust, the Asbestos PI Trust Advisory Committee and/or the Asbestos PI Trustees shall resolve their dispute in accordance with Section 8.12 below.

6.6 Compensation and Expenses of the Asbestos PI Trust Advisory Committee. Each member of the Asbestos PI Trust Advisory Committee shall receive compensation from the Asbestos PI Trust for attendance at meetings or other Asbestos PI Trust business performed in the form of a reasonable hourly rate set by the Asbestos PI Trustees. In addition, the Asbestos PI Trust shall promptly reimburse each member of the Asbestos PI Trust Advisory Committee for any reasonable out-of-pocket fees and expenses incurred by him or her in connection with the performance of his or her duties as a member of the Asbestos PI Trust Advisory Committee. Such compensation or reimbursement shall be deemed an Asbestos PI Trust Expense. The Asbestos PI Trust shall include a reasonably detailed description of the amounts paid under this Section 6.6 in the Annual Report.

6.7 Procedures for Consultation with and Obtaining the Consent of the Asbestos PI Trust Advisory Committee.

(a) Consultation Process.

(i) In the event the Asbestos PI Trustees are required to consult with the Asbestos PI Trust Advisory Committee pursuant to Section 2.2(d) above or on other matters as provided herein, the Asbestos PI Trustees shall provide the Asbestos PI Trust Advisory Committee with written advance notice of the matter under consideration and with all relevant information concerning the matter as is reasonably practicable under the circumstances. The Asbestos PI Trustees shall also provide the Asbestos PI Trust Advisory Committee with such reasonable access to any counsel, accountants, appraisers, auditors, forecasters, experts or financial or investment advisors retained by the Asbestos PI Trust and its staff (if any) as the Asbestos PI Trust Advisory Committee may reasonably request during the time that the Asbestos PI Trustees are considering such matter and shall also provide the Asbestos PI Trust Advisory Committee the opportunity, at reasonable times and for reasonable periods of time, to discuss and comment on such matter with the Asbestos PI Trustees; provided that in no event shall the Asbestos PI Trust Advisory Committee or its members have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust.

(ii) In determining when to take definitive action on any matter subject to the consultation process set forth in this Section 6.7(a), the Asbestos PI Trustees shall take into consideration the time required for the Asbestos PI Trust Advisory Committee, if its members so

wish, to engage and consult with its own independent financial or investment advisors as to such matter. In any event, the Asbestos PI Trustees shall not take definitive action on any such matter until at least thirty (30) days after providing the Asbestos PI Trust Advisory Committee with the initial written notice that such matter is under consideration by the Asbestos PI Trustees, unless such time period is waived by the Asbestos PI Trust Advisory Committee.

(b) Consent Process.

(i) In the event the Asbestos PI Trustees are required to obtain the consent of the Asbestos PI Trust Advisory Committee pursuant to Section 2.2(e) above, the Asbestos PI Trustees shall provide the Asbestos PI Trust Advisory Committee with a written notice stating that its consent is being sought pursuant to that provision, describing in detail the nature and scope of the action the Asbestos PI Trustees propose to take and explaining in detail the reasons why the Asbestos PI Trustees desire to take such action. The Asbestos PI Trustees shall provide the Asbestos PI Trust Advisory Committee as much relevant additional information concerning the proposed action as is reasonably practicable under the circumstances. The Asbestos PI Trustees shall also provide the Asbestos PI Trust Advisory Committee with such reasonable access to any counsel, accountants, appraisers, auditors, forecasters, experts or financial or investment advisors retained by the Asbestos PI Trust and its staff (if any) as the Asbestos PI Trust Advisory Committee may reasonably request during the time that the Asbestos PI Trustees are considering such action, and shall also provide the Asbestos PI Trust Advisory Committee the opportunity, at reasonable times and for reasonable periods of time, to discuss and comment on such action with the Asbestos PI Trustees; provided that in no event shall the Asbestos PI Trust Advisory Committee or its members have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust.

(ii) The Asbestos PI Trust Advisory Committee must consider in good faith and in a timely fashion any request for its consent by the Asbestos PI Trustees and must in any event advise the Asbestos PI Trustees in writing of its consent or its objection to the proposed action within thirty (30) days of receiving the original request for consent from the Asbestos PI Trustees. The Asbestos PI Trust Advisory Committee may not withhold its consent unreasonably. If the Asbestos PI Trust Advisory Committee decides to withhold its consent, it must explain in detail its objections to the proposed action. If the Asbestos PI Trust Advisory Committee does not advise the Asbestos PI Trustees in writing of its consent or its objections to the action within thirty (30) days of receiving notice regarding such request, the Asbestos PI Trust Advisory Committee's consent to the proposed actions shall be deemed to have been affirmatively granted.

(iii) If, after following the procedures specified in this Section 6.7(b), the Asbestos PI Trust Advisory Committee continues to object to the proposed action and to withhold its consent to the proposed action, the Asbestos PI Trustees and/or the Asbestos PI Trust Advisory Committee shall resolve their dispute in accordance with Section 8.12 below. However, the burden of proof with respect to the validity of the Asbestos PI Trust Advisory Committee's objection and withholding of its consent shall be on the Asbestos PI Trust Advisory Committee.

## Article VII. The Future Claimants' Representative

7.1 Appointment of Initial Future Claimants' Representative. The initial Future Claimants' Representative shall be the individual named on the signature page hereto.

7.2 Duties. The Future Claimants' Representative shall serve in a fiduciary capacity, representing the interests of the holders of future Asbestos PI Claims for the purpose of protecting the rights of such persons. The Asbestos PI Trustees must consult with the Future Claimants' Representative on matters identified in Section 2.2(d) above and on certain other matters provided herein and must obtain the consent of the Future Claimants' Representative on matters identified in Section 2.2(e) above. Where provided in the Asbestos PI Trust Distribution Procedures, certain other actions by the Asbestos PI Trustees are also subject to the consent of the Future Claimants' Representative.

### 7.3 Term of Office.

(a) Each Future Claimants' Representative shall serve until the earliest of (i) his or her death, (ii) his or her resignation pursuant to Section 7.3(b) below, (iii) his or her removal pursuant to Section 7.3(c) below, or (iv) the termination of the Asbestos PI Trust pursuant to Section 8.2 below.

(b) The Future Claimants' Representative may resign at any time by written notice to the Asbestos PI Trustees. Such notice shall specify a date when such resignation shall take effect, which shall not be less than ninety (90) days after the date such notice is given, where practicable.

(c) At the request of the Asbestos PI Trustees or the Asbestos PI Trust Advisory Committee, the Future Claimants' Representative may be removed pursuant to an order of the Bankruptcy Court in the event he or she becomes unable to discharge his or her duties hereunder due to accident, physical deterioration, mental incompetence, a consistent pattern of neglect and failure to perform, or to participate in performing, his or her duties hereunder (such as repeated nonattendance at scheduled meetings) or for other good cause.

7.4 Appointment of Successor. A vacancy caused by death or resignation shall be filled with an individual nominated prior to the effective date of the resignation or the death by the resigning or deceased Future Claimants' Representative, and a vacancy caused by removal of the Future Claimants' Representative shall be filled with an individual nominated by the Asbestos PI Trustees in consultation with the Asbestos PI Trust Advisory Committee, subject, in each case, to the approval of the Bankruptcy Court. In the event a majority of the Asbestos PI Trustees cannot agree, or a nominee has not been pre-selected, the successor shall be chosen by the Bankruptcy Court.

### 7.5 Future Claimants' Representative's Employment of Professionals.

(a) The Future Claimants' Representative may, but is not required to, retain and/or consult counsel, accountants, appraisers, auditors, forecasters, experts, financial and investment advisors and such other parties deemed by the Future Claimants' Representative to be qualified as experts on any matter submitted to the Future Claimants' Representative (the

“Future Representative Professionals”). The Future Claimants’ Representative and the Future Representative Professionals shall at all times have complete access to the Asbestos PI Trust’s officers, employees and agents, as well as to Trust Professionals, and shall also have complete access to all information generated by them or otherwise available to the Asbestos PI Trust or the Asbestos PI Trustees; provided that in no event shall the Future Claimants’ Representative or the Future Representative Professionals have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust. In the absence of gross negligence, the written opinion of or information provided by any Future Representative Professional or Trust Professional deemed by the Future Claimants’ Representative to be qualified as an expert on the particular matter submitted to the Future Claimants’ Representative shall be full and complete authorization and protection in support of any action taken or not taken by the Future Claimants’ Representative in good faith and in accordance with the written opinion of or information provided by such Future Representative Professional or Trust Professional.

(b) The Asbestos PI Trust shall promptly reimburse, or pay directly if so instructed, the Future Claimants’ Representative for any reasonable fees and expenses associated with the Future Claimants’ Representative’s employment of legal counsel pursuant to this provision in connection with the Future Claimants’ Representative’s performance of his or her duties hereunder. The Asbestos PI Trust shall also promptly reimburse, or pay directly if so instructed, the Future Claimants’ Representative for any reasonable fees and expenses associated with the Future Claimants’ Representative’s employment of any other Future Representative Professional pursuant to this provision in connection with the Future Claimants’ Representative’s performance of his or her duties hereunder; provided, however, that (i) the Future Claimants’ Representative has first submitted to the Asbestos PI Trust a written request for such reimbursement setting forth the reasons (A) why the Future Claimants’ Representative desires to employ such Future Representative Professional and (B) why the Future Claimants’ Representative cannot rely on Trust Professionals to meet the needs of the Future Claimants’ Representative for such expertise or advice and (ii) the Asbestos PI Trust has approved the Future Claimants’ Representative’s request for reimbursement in writing. If the Asbestos PI Trust agrees to pay for the Future Representative Professional, such reimbursement shall be treated as an Asbestos PI Trust Expense. If the Asbestos PI Trust declines to pay for the Future Representative Professional, it must set forth its reasons in writing. If the Future Claimants’ Representative still desires to employ such Future Representative Professional at the expense of the Asbestos PI Trust, the Future Claimants’ Representative and/or the Asbestos PI Trustees shall resolve their dispute pursuant to Section 8.12 below.

7.6 Compensation and Expenses of the Future Claimants’ Representative. The Future Claimants’ Representative shall receive compensation from the Asbestos PI Trust at the rate of \$\_\_\_\_\_ per hour for attendance at meetings or other Asbestos PI Trust business performed. The compensation payable to the Future Claimants’ Representative hereunder shall be reviewed every three (3) years and appropriately adjusted by the Asbestos PI Trustees. In addition, the Asbestos PI Trust shall promptly reimburse the Future Claimants’ Representative for any reasonable out-of-pocket fees and expenses incurred by him or her in connection with the performance of his or her duties as the Future Claimants’ Representative. Such compensation or reimbursement shall be deemed an Asbestos PI Trust Expense. The Asbestos PI Trust shall

include a reasonably detailed description of the amounts paid under this Section 7.6 in the Annual Report.

7.7 Procedures for Consultation with and Obtaining the Consent of the Future Claimants' Representative.

(a) Consultation Process.

(i) In the event the Asbestos PI Trustees are required to consult with the Future Claimants' Representative pursuant to Section 2.2(d) above or on any other matters specified herein, the Asbestos PI Trustees shall provide the Future Claimants' Representative with written advance notice of the matter under consideration and with all relevant information concerning the matter as is reasonably practicable under the circumstances. The Asbestos PI Trustees shall also provide the Future Claimants' Representative with such reasonable access to any counsel, accountants, appraisers, auditors, forecasters, experts or financial or investment advisor retained by the Asbestos PI Trust and its staff (if any) as the Future Claimants' Representative may reasonably request during the time that the Asbestos PI Trustees are considering such matter, and shall also provide the Future Claimants' Representative the opportunity, at reasonable times and for reasonable periods of time, to discuss and comment on such matter with the Asbestos PI Trustees; provided that in no event shall the Future Claimants' Representative have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust.

(ii) In determining when to take definitive action on any matter subject to the consultation process set forth in this Section 7.7(a), the Asbestos PI Trustees shall take into consideration the time required for the Future Claimants' Representative, if he or she so wishes, to engage and consult with his or her own independent financial or investment advisors as to such matter. In any event, the Asbestos PI Trustees shall not take definitive action on any such matter until at least thirty (30) days after providing the Future Claimants' Representative with the initial written notice that such matter is under consideration by the Asbestos PI Trustees, unless such time period is waived by the Future Claimants' Representative.

(b) Consent Process.

(i) In the event the Asbestos PI Trustees are required to obtain the consent of the Future Claimants' Representative pursuant to Section 2.2(e) above, the Asbestos PI Trustees shall provide the Future Claimants' Representative with a written notice stating that his or her consent is being sought pursuant to that provision, describing in detail the nature and scope of the action the Asbestos PI Trustees propose to take and explaining in detail the reasons why the Asbestos PI Trustees desire to take such action. The Asbestos PI Trustees shall provide the Future Claimants' Representative as much relevant additional information concerning the proposed action as is reasonably practicable under the circumstances. The Asbestos PI Trustees shall also provide the Future Claimants' Representative with such reasonable access to any counsel, accountants, appraisers, auditors, forecasters, experts or financial or investment advisors retained by the Asbestos PI Trust and its staff (if any) as the Future Claimants' Representative may reasonably request during the time that the Asbestos PI Trustees are considering such

action, and shall also provide the Future Claimants' Representative the opportunity, at reasonable times and for reasonable periods of time, to discuss and comment on such action with the Asbestos PI Trustees; provided that in no event shall the Future Claimants' Representative have any right to consult with counsel to the Asbestos PI Trust or obtain any information in such a manner as would result in the waiver of attorney-client or other applicable privilege belonging to the Asbestos PI Trust.

(ii) The Future Claimants' Representative must consider in good faith and in a timely fashion any request for his or her consent by the Asbestos PI Trustees and must in any event advise the Asbestos PI Trustees in writing of his or her consent or objection to the proposed action within thirty (30) days of receiving the original request for consent from the Asbestos PI Trustees. The Future Claimants' Representative may not withhold his or her consent unreasonably. If the Future Claimants' Representative decides to withhold consent, he or she must explain in detail his or her objections to the proposed action. If the Future Claimants' Representative does not advise the Asbestos PI Trustees in writing of his or her consent or objections to the proposed action within thirty (30) days of receiving the notice from the Asbestos PI Trustees regarding such consent, the Future Claimants' Representative's consent shall be deemed to have been affirmatively granted.

(iii) If, after following the procedures specified in this Section 7.7(b), the Future Claimants' Representative continues to object to the proposed action and to withhold his or her consent to the proposed action, the Asbestos PI Trustees and/or the Future Claimants' Representative shall resolve their dispute in accordance with Section 8.12 below. However, the burden of proof with respect to the validity of the Future Claimants' Representative's objection and withholding of his or her consent shall be on the Future Claimants' Representative.

#### Article VIII. General Provisions

8.1 Irrevocability. The Asbestos PI Trust is irrevocable.

8.2 Term and Termination.

(a) The term for which the Asbestos PI Trust is to exist shall commence on the date of the filing of the Certificate of Trust and shall terminate pursuant to the provisions of Section 8.2 below.

(b) The Asbestos PI Trust shall automatically dissolve on the date (the "Dissolution Date") ninety (90) days after the first to occur of the following:

(i) the date on which the Asbestos PI Trustees decide to dissolve the Asbestos PI Trust because (A) the Asbestos PI Trustees deem it unlikely that any new Asbestos PI Claim will be filed against the Asbestos PI Trust, (B) all Asbestos PI Claims duly filed with the Asbestos PI Trust have been liquidated and, to the extent possible based upon the funds available to the Asbestos PI Trust through the Plan, paid to the extent provided in this Agreement and the Asbestos PI Trust Distribution Procedures or disallowed by a final, non-appealable order, and (C) twelve (12) consecutive months have elapsed during which no new Asbestos PI Claim has been filed with the Asbestos PI Trust;



(ii) if the Asbestos PI Trustees have procured and have in place irrevocable insurance policies and have established claims handling agreements and other necessary arrangements with suitable third parties adequate to discharge all expected remaining obligations and expenses (including without limitation Asbestos PI Trust Expenses) of the Asbestos PI Trust in a manner consistent with this Agreement and the Asbestos PI Trust Distribution Procedures, the date on which the Bankruptcy Court enters an order approving such insurance and other arrangements and such order becomes a Final Order; or

(iii) to the extent that any rule against perpetuities shall be deemed applicable to the Asbestos PI Trust, that date which is twenty-one (21) years less ninety-one (91) days after the death of the last survivor of all of the descendants of the late Joseph P. Kennedy, Sr., father of the late President John F. Kennedy, living on the date hereof.

(c) On the Dissolution Date or as soon as reasonably practicable, after the wind-up of the Asbestos PI Trust's affairs by the Asbestos PI Trustees and payment of all the Asbestos PI Trust's liabilities (including without limitation Asbestos PI Trust Expenses) has been provided for as required by applicable law including Section 3808 of the Act, all assets remaining in the Asbestos PI Trust estate shall be given to such organization(s) exempt from federal income tax under section 501(c)(3) of the IRC, which tax-exempt organization(s) shall be selected by the Asbestos PI Trustees using their reasonable discretion; provided, however, that (i) if practicable, the activities of the selected tax-exempt organization(s) shall be related to the treatment of, research on or the relief of suffering of individuals suffering from asbestos-related lung diseases or disorders and (ii) the tax-exempt organization(s) shall not bear any relationship to the Company or PENAC within the meaning of section 468B(d)(3) of the IRC. Notwithstanding any contrary provision of the Plan and related documents, this Section 8.2(c) cannot be modified or amended.

(d) Following the dissolution and distribution of the assets of the Asbestos PI Trust, the Asbestos PI Trust shall terminate and the Asbestos PI Trustees, or any one of them, shall execute and cause a Certificate of Cancellation of the Certificate of Trust of the Asbestos PI Trust to be filed in accordance with the Act. Notwithstanding anything to the contrary contained in this Agreement, the existence of the Asbestos PI Trust as a separate legal entity shall continue until the filing of such Certificate of Cancellation.

8.3 Amendments. The Asbestos PI Trustees may modify or amend this Agreement by a writing signed by each Trustee; provided, however, that any such amendment shall require the consent of each member of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative in accordance with Section 2.2(e) above; and provided, further, that no such modification or amendment, unless the modification or amendment is signed by the Delaware Trustee, may adversely affect the rights, duties or obligations of the Delaware Trustee. The Asbestos PI Trustees may modify or amend the Asbestos PI Trust Distribution Procedures by a writing signed by each Asbestos PI Trustee with the consent of the Asbestos PI Trust Advisory Committee and the Future Claimants' Representative as provided in the Asbestos PI Trust Distribution Procedures; provided, however, that no amendment to such procedures shall be inconsistent with the provisions limiting amendments to such procedures provided therein and, in particular, the provisions limiting amendment of the "Claims Payment Ratio" set forth in Section 2.5 of the Asbestos PI Trust Distribution Procedures and of the "Payment Percentage"

set forth in Section 4.2 of the Asbestos PI Trust Distribution Procedures. Notwithstanding anything contained in this Agreement to the contrary, none of this Agreement, the Asbestos PI Trust Distribution Procedures or the Trust Bylaws, or any document annexed to the foregoing, shall be modified or amended in any way that could jeopardize, impair or modify the applicability of section 524(g) of the Bankruptcy Code, the efficacy or enforceability of the Asbestos PI Channeling Injunction or the Asbestos PI Trust's qualified settlement fund status under section 1.468B-1 *et seq.* of the Treasury Regulations promulgated under section 468B of the IRC.

8.4 Severability. Should any provision in this 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 Agreement.

8.5 Notices.

(a) Any notices or other communications required or permitted hereunder to any person asserting a Asbestos PI Claim shall be in writing and delivered at the address for such person or, where applicable, such person's legal representative, in each case as provided on such person's claim form submitted to the Asbestos PI Trust with respect to his or her claim, or mailed by first class mail, postage prepaid, addressed to such address.

(b) Any notices or other communications required or permitted hereunder to any of the following parties shall be in writing and delivered at the address, email address or facsimile number for such party designated below, or in accordance with such other instructions as may hereafter be furnished in writing to each of the other parties listed below in compliance with the terms hereof.

To THAN:

T H Agriculture & Nutrition, L.L.C.  
250 West 57th Street, Suite 901  
New York, New York 10107-0001  
Attention: Joseph Wolf, Jr., President  
Steven L. Carter, Secretary

Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_

Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

To PENAC:

Philips Electronics North America Corp.  
3000 Minuteman Road, Bldg. 1  
Andover, Massachusetts 01810  
Attention: Joseph E. Innamorati, Esq.

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

with a copy to:

Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004-2498  
Attention: Garrard R. Beeney, Esq.

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

To the Asbestos PI Trust through the Asbestos PI Trustees:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

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Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

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Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

To the Delaware Trustee:

Wilmington Trust Company  
1100 N. Market Street  
Wilmington, Delaware 19890-1625  
Attention: Joseph B. Feil  
Email: jfeil@wilmingtontrust.com

To the Asbestos PI Trust Advisory Committee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

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Email: \_\_\_\_\_

Email: \_\_\_\_\_

with a copy to:

Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation  
2323 Bryan Street  
Suite 2200  
Dallas, TX 75201-2689  
Attn: Sander L. Esserman, Esq.

Facsimile: 214-969-4999  
Email: Esserman@sbep-law.com

(c) All notices and communications in accordance with this Section 8.5 shall be deemed given (i) when delivered personally, (ii) when sent by email or facsimile before 5:00 p.m., prevailing Eastern time, on a Business Day with a copy of such email or facsimile sent on the same day to the recipient by reputable overnight courier service (charges prepaid), (iii) five days after deposit in the U.S. mail, mailed by registered or certified mail, return receipt requested, postage prepaid, or (iv) one Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid).

8.6 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Company, the Asbestos PI Trust, the Asbestos PI Trustees, the Delaware Trustee, the members of the Asbestos PI Trust Advisory Committee, the Future Claimants' Representative and their respective successors and assigns, except that none of such persons may assign or otherwise transfer any of its rights or obligations under this Agreement except, in the case of the Asbestos PI Trust and the Asbestos PI Trustees, as contemplated by Section 2.1 above.

8.7 Limitation on Claim Interests for Securities Laws Purposes. Asbestos PI Claims and any interests therein (a) shall not be assigned, conveyed, hypothecated, pledged or otherwise transferred, voluntarily or involuntarily, directly or indirectly, except by will or under the laws of descent and distribution, (b) shall not be evidenced by a certificate or other instrument, (c) shall not possess any voting rights, or (d) shall not be entitled to receive any dividends or interest; provided, however, that clause (a) of this Section 8.7 shall not apply to the holder of a claim that is subrogated to a Asbestos PI Claim as a result of its satisfaction of such claim.

8.8 Entire Agreement; No Waiver. The entire agreement of the parties relating to the subject matter of this Agreement is contained herein and in the documents referred to herein, and this Agreement and such documents supersede 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 or 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.

8.9 Headings. The headings used in this Agreement are inserted for convenience only and do not constitute a portion of this Agreement, nor in any manner affect the construction of the provisions of this Agreement.

8.10 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without regard to Delaware conflict of laws principles; provided, however, that there shall not be applicable to the parties hereunder or this Agreement any provision of the laws (common or statutory) of the state of Delaware pertaining to trusts that relate to or regulate, in a manner inconsistent with the terms hereof, (a) the filing with any court or governmental body or agency of trustee accounts or schedules of trustee fees and charges, (b) affirmative requirements to post bonds for trustees, officers, agents or employees of a trust, (c) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of real or personal property, (d) fees or other sums payable to trustees, officers, agents or employees of a trust, (e) the allocation of receipts and expenditures to income or principal, (f) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding or investing trust assets or (g) the establishment of fiduciary or other standards of responsibility or limitations on the acts or powers of trustees that are inconsistent with the limitations or authorities and powers of the Asbestos PI Trustees and Delaware Trustee hereunder as set forth or referenced in this Agreement. Section 3540 of title 12 of the Delaware Code shall not apply to the Asbestos PI Trust.

8.11 Settlors Representative and Cooperation. The Company and PENAC are hereby irrevocably designated as the settlors of the Asbestos PI Trust, and they are hereby authorized to take any action required as such in connection with this Agreement. The Company and PENAC agree to cooperate in implementing the goals and objectives of the Asbestos PI Trust.

8.12 Dispute Resolution. Any disputes that arise under this Agreement or under the Asbestos PI Trust Distribution Procedures shall be resolved by submission of the matter to an alternative dispute resolution (“ADR”) process mutually agreeable to the parties involved. Should any party to the ADR process be dissatisfied with the decision of the arbitrator(s), that party may apply to the Bankruptcy Court for a judicial determination of the matter. Any review conducted by the Bankruptcy Court shall be *de novo*. In any case, if the dispute arose pursuant to the consent provision set forth in Section 6.7(b) above or Section 7.7(b) above, the burden of proof shall be on the party or parties who withheld consent to show that the objection was valid. Should the dispute not be resolved by the ADR process within thirty (30) days after submission, the parties are relieved of the requirement to pursue ADR prior to application to the Bankruptcy Court. If the Asbestos PI Trustees determine that the matter in dispute is exigent and cannot await the completion of the ADR process, the Asbestos PI Trustees shall have the discretion to elect out of the ADR process altogether or at any stage of the process and seek resolution of the dispute in the Bankruptcy Court.

8.13 Enforcement and Administration. The provisions of this Agreement and the Asbestos PI Trust Distribution Procedures attached hereto shall be enforced by the Bankruptcy Court pursuant to the Plan. The parties hereby further acknowledge and agree that the Bankruptcy Court shall have exclusive jurisdiction over the settlement of the accounts of the Asbestos PI Trust and over any disputes hereunder not resolved by ADR in accordance with

Section 8.12 above. Notwithstanding anything else herein contained, to the extent any provision of this Agreement is inconsistent with any provision of the Asbestos PI Trust Distribution Procedures or the Plan, the Asbestos PI Trust Distribution Procedures or the Plan, as the case may be, shall control.

8.14 Effectiveness. This Agreement shall not become effective until it has been executed and delivered by all the parties hereto.

8.15 Counterpart Signatures. This 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.





**MEMBERS OF THE ASBESTOS PI TRUST  
ADVISORY COMMITTEE**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Expiration Date of Initial Term: \_\_\_\_\_  
anniversary of the date of this Agreement

\_\_\_\_\_  
Name: \_\_\_\_\_  
Expiration Date of Initial Term: \_\_\_\_\_  
anniversary of the date of this Agreement

\_\_\_\_\_  
Name: \_\_\_\_\_  
Expiration Date of Initial Term: \_\_\_\_\_  
anniversary of the date of this Agreement

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Name: \_\_\_\_\_  
Expiration Date of Initial Term: \_\_\_\_\_  
anniversary of the date of this Agreement

\_\_\_\_\_  
Name: \_\_\_\_\_  
Expiration Date of Initial Term: \_\_\_\_\_  
anniversary of the date of this Agreement

**FUTURE CLAIMANTS' REPRESENTATIVE**

\_\_\_\_\_  
Name: Samuel Issacharoff

**EXHIBIT A**

CERTIFICATE OF TRUST

OF

T H AGRICULTURE & NUTRITION, L.L.C.

ASBESTOS PERSONAL INJURY TRUST

THIS Certificate of Trust of the T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust (the “Trust”) is being duly executed and filed by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. Code, § 3801 et seq.) (the “Act”).

1. Name. The name of the statutory trust formed hereby is T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust.

2. Delaware Trustee. The name and business address of the trustee of the Trust in the State of Delaware are Wilmington Trust Company, 1100 N. Market Street, Wilmington, Delaware 19890-1625, Attention: Corporate Trust Administration.

3. Effective Date. This Certificate of Trust shall be effective upon filing.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have duly executed this Certificate of Trust in accordance with Section 3811(a) of the Act.

WILMINGTON TRUST COMPANY, not  
in its individual capacity but solely as Delaware  
Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_, not in his individual  
capacity but solely as Trustee

\_\_\_\_\_, not in his individual  
capacity but solely as Trustee

\_\_\_\_\_, not in his individual  
capacity but solely as Trustee

**EXHIBIT B**

Asbestos PI Trust Indemnification Agreement



## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “Agreement”) is effective as of \_\_\_\_\_, 2009, by and among (i) T H Agriculture & Nutrition, L.L.C. (the “Debtor” or “THAN”), a debtor and debtor in possession in Case No. 08-14692 (REG) before the United States Bankruptcy Court for the Southern District of New York, (ii) Philips Electronics North America Corporation, a Delaware corporation (“PENAC”) and (iii) T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust (the “Asbestos PI Trust”).

### RECITALS

**WHEREAS**, at the time of the entry of the order for relief in the Chapter 11 Case, personal-injury and wrongful-death claims based on the presence of, or exposure to, asbestos or asbestos-containing products had been asserted against the Debtor, PENAC, and certain other Protected Parties; and

**WHEREAS**, the Debtor has reorganized under the provisions of chapter 11 of the Bankruptcy Code in a case known as *In re T H Agriculture and Nutrition, L.L.C.*, Case No. 08-14692 (REG), pending before the Bankruptcy Court; and

**WHEREAS**, the Plan provides for, among other things, the creation of the Asbestos PI Trust; and

**WHEREAS**, all Asbestos PI Claims are channeled to the Asbestos PI Trust pursuant to the Asbestos PI Channeling Injunction;

**WHEREAS**, notwithstanding the Asbestos PI Channeling Injunction, to the extent any Asbestos PI Claim is asserted against the Debtor, the Reorganized Debtor, PENAC or any other Protected Party, the Asbestos PI Trust will indemnify such Indemnitees pursuant to this Agreement; and

**WHEREAS**, the Debtor, the Trustees, members of the Trust Advisory Committee and the Future Claimants’ Representative have entered into the T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust Agreement (the “Asbestos PI Trust Agreement”); and

**WHEREAS**, pursuant to the Plan and the Asbestos PI Trust Agreement, the Asbestos PI Trust is to use its assets and income to pay Asbestos PI Claims; and

**WHEREAS**, the Plan provides for, among other things, the complete treatment of all liabilities and obligations of the Debtor, the Reorganized Debtor, PENAC and the other Protected Parties with respect to Asbestos PI Claims; and

**WHEREAS**, the Plan provides for, among other things, PENAC, on behalf of itself and the other Protected Parties, to make the PENAC Contribution to the Asbestos PI Trust and Reorganized THAN; and

**WHEREAS**, the Asbestos PI Trust Agreement requires that the Asbestos PI Trust indemnify THAN, Reorganized THAN, PENAC and the other Protected Parties for Asbestos PI Claims.

**NOW, THEREFORE**, in consideration of the foregoing and the covenants and agreements set forth below and such other valuable consideration, the Parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 (a) Interpretation. All capitalized terms used herein but not otherwise defined shall have the respective meanings given to such terms in the Prepackaged Plan of Reorganization of T H Agriculture & Nutrition, L.L.C. Under Chapter 11 of the Bankruptcy Code (the “Plan”), and such definitions are incorporated herein by reference. All capitalized terms not defined herein or in the Plan, but defined in the Bankruptcy Code or Bankruptcy Rules, shall have the meanings given to them in such code and rules, and such definitions are incorporated herein by reference. When a reference is made in this Agreement to an Article or a Section, such reference shall be to an article or section of this Agreement unless otherwise indicated.

(b) Definitions.

“Asbestos PI Claim” means each of the following (i) a THAN Asbestos PI Claim, (ii) a Derivative Liability Asbestos PI Claim, (iii) an Indirect Asbestos PI Claim, (iv) a Qualified Asbestos PI Claim, and (v) an Asbestos PI Trust Expense. Asbestos PI Claim shall not include an Asbestos Property Damage Claim.

“Indemnified Claims” means any claims against any of the Indemnitees arising out of an Asbestos PI Claim.

“Indemnitees” means THAN, Reorganized THAN and each Protected Party.

“Liabilities” means any and all costs, expenses, actions, causes of action, suits, controversies, damages, claims, demands, debts, liabilities or obligations of any nature, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, liquidated or unliquidated, matured or not matured, contingent or direct, whether arising at common law, in equity, or under any statute, relating to any Indemnified Claims.

“Party” means each of the signatories hereto.



“Protected Parties” means: (a) THAN and Reorganized THAN; (b) PENAC and any PENAC Related Party; (c) Elementis; and (d) any current or former Representative of any of the above, in their capacities as such.

“Reasonable” means (i) consistent with rates and costs paid by similarly situated indemnitees in similar litigated matters; and (ii) incurred in connection with tasks reasonably deemed by the Indemnitees or their counsel to be necessary to the defense of Indemnified Claims; provided that such tasks shall not include routine monitoring of ongoing litigation unless the Asbestos PI Trust fails to promptly take over the defense of such Indemnified Claim.

“Representatives” means, with respect to any specified Entity, all current or former officers, directors, employees, agents, attorneys, accountants, financial advisors, other representatives, or any person who controls any of these within the meaning of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

## ARTICLE II

### INDEMNIFICATION

Section 2.1 Indemnification by the Asbestos PI Trust. Except as otherwise provided in this Agreement, the Asbestos PI Trust shall indemnify, defend, pay the Reasonable defense costs for, and hold harmless the Indemnitees from and against any and all Liabilities associated with the Indemnified Claims that any third party seeks to impose upon the Indemnitees, or that are imposed upon the Indemnitees, including, without limitation, Indirect Asbestos PI Claims; provided, however, that the Asbestos PI Trust shall not indemnify the Indemnitees or any other person with respect to any Liabilities associated with (i) Indirect Asbestos PI Claims that are not channeled to the Asbestos PI Trust; or (ii) Insurer Contribution Claims asserted against an Entity other than a Settling Insurer or THAN.

In the event that the Asbestos PI Trust makes a payment to any of the Indemnitees hereunder, and any Liabilities on account of which such payment was made are subsequently reduced, either directly or through a third-party recovery, the applicable Indemnitees will promptly repay the Asbestos PI Trust the amount by which the payment made by the Asbestos PI Trust exceeds the associated indemnified Liabilities after taking into account such reduction.

Section 2.2 Procedures for Defense, Settlement, and Indemnification of Trust Claims.

(a) Notice of Claims. If an Indemnatee shall receive notice or otherwise learn of the assertion or commencement by an Entity of any Indemnified Claim with respect to which the Asbestos PI Trust may be obligated to provide indemnification to such Indemnatee pursuant to Section 2.1, the Indemnatee shall give the Asbestos PI Trust written notice thereof within thirty (30) days after becoming aware of such Indemnified Claim. Any such notice shall describe the Indemnified Claim in reasonable detail. Notwithstanding the foregoing, the delay or failure of any Indemnatee to give notice as provided in this Section 2.2(a) shall not relieve the Asbestos PI Trust of its obligations under this Article II, except to the extent that the Asbestos PI Trust is actually prejudiced by such delay or failure to give notice.

(b) Defense by Asbestos PI Trust. The Asbestos PI Trust shall have the sole right to manage the defense of any Indemnified Claim for which the Asbestos PI Trust may be obligated to provide indemnification to an Indemnatee pursuant to Section 2.1. Within thirty (30) days after the receipt of notice from an Indemnatee in accordance with Section 2.2(a) (or sooner, if the nature of such Indemnified Claim so requires), the Asbestos PI Trust shall notify the Indemnatee that the Asbestos PI Trust will assume responsibility for managing the defense of such Indemnified Claim, which notice shall specify any reservations or exceptions.

(c) Defense by Indemnatee. If the Asbestos PI Trust fails to assume responsibility for managing the defense of an Indemnified Claim for which the Asbestos PI Trust may be obligated to provide indemnification to an Indemnatee pursuant to Section 2.1, or fails to notify an Indemnatee that it will assume responsibility as provided in Section 2.2(b), such Indemnatee may manage the defense of such Indemnified Claim; provided, however, that the Asbestos PI Trust shall reimburse all such costs and expenses in the event it is ultimately determined that the Asbestos PI Trust is obligated to indemnify the Indemnatee with respect to such Indemnified Claim.

(d) No Consent to Certain Judgments or Settlements Without Consent. Notwithstanding any provision of this Section 2.2, no Party shall consent to entry of any judgment or enter into any settlement of an Indemnified Claim for which the Asbestos PI Trust may be obligated to provide indemnification to an Indemnatee pursuant to Section 2.1 without the consent of the other Party (such consent not to be unreasonably withheld), if the effect of such judgment or settlement is to permit any injunction, declaratory judgment, other order, or other nonmonetary relief to be entered, directly or indirectly, against the other Party.

(e) Subrogation. In the event of payment by or on behalf of the Asbestos PI Trust to or on behalf of any Indemnatee in connection with any Indemnified Claim, the Asbestos PI Trust shall be subrogated to and shall stand in the place of such Indemnatee, in whole or in part based upon whether the Asbestos PI Trust has paid all or only part of the Indemnatee's Liability, as to any events or circumstances in respect of which such Indemnatee may have any right, defense, or claim relating to such Indemnified Claim against any claimant or plaintiff asserting such Indemnified Claim or against any other Entity. Such Indemnatee shall cooperate with the Asbestos PI Trust in a reasonable manner, and at the cost and expense of the Asbestos PI Trust, in prosecuting any subrogated right, defense, or claim.

### ARTICLE III

#### MISCELLANEOUS

Section 3.1 Entire Agreement. Except as provided otherwise in the Plan Documents or the Confirmation Order, this Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all prior written and oral and all contemporaneous oral agreements and understandings with respect to the subject matter hereof; provided, however, that, in the event of an inconsistency between this Agreement and the Plan, the Plan shall govern.

Section 3.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of New York, without regard to its conflicts of law principles.

Section 3.3 Descriptive Headings. The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 3.4 Notices. Any notice, statement, or other report required or permitted by this Agreement must be: (i) in writing and is deemed given when (a) delivered personally to the recipient, (b) sent by facsimile before 5:00 p.m. Prevailing Eastern Time on a Business Day with a copy of such facsimile sent to the recipient by reputable overnight courier service (charges prepaid) on the same day, (c) five (5) days after deposit in the United States mail, mailed by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid); and (ii) addressed to the parties to whom such notice, statement or report is directed (and, if required, its counsel) at the addresses set forth below, or at such other address as such party may designate from time to time in writing in accordance with this Section 3.4.

If to the Asbestos PI Trust through the Trustees:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With copies to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to the Debtor:

T H Agriculture & Nutrition, L.L.C.  
250 West 57th Street, Suite 901  
New York, New York 10107-0001  
Attention: Joseph L. Wolf, Jr., President  
Telephone: (212) 536-0592  
Facsimile: (212) 536-0629

With copies to:

Greenberg Traurig, LLP  
200 Park Ave.  
New York, New York 10166  
Attention: Bruce R. Zirinsky, Esq. and John H. Bae, Esq.  
Telephone: (212) 801-9200  
Facsimile: (212) 801-6400

If to PENAC or any other Protected Party:

Philips Electronics North America Corporation  
3000 Minuteman Road, Bldg. 1  
Andover, Massachusetts 01810  
Attention: Joseph E. Innamorati, Esq.  
Telephone: (212) 536-0617  
Facsimile: (212) 536-0598

With copies to:

Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004-2498  
Attention: Garrard R. Beeney, Esq.  
Telephone: (212) 558-3737  
Facsimile: (212) 558-3588

Section 3.5 Third-Party Beneficiaries. This Agreement shall inure to the benefit of the Parties and each of their respective heirs, successors, and assigns. Except for THAN, Reorganized THAN, PENAC, the Protected Parties and the Asbestos PI Trust, nothing in this Agreement, express or implied, is intended to confer upon any other Entity any rights or remedies of any nature whatsoever under or by reason of this Agreement.

Section 3.6 Other Agreements Evidencing Indemnification Obligations. The Asbestos PI Trust hereby agrees to execute, for the benefit of any Indemnatee, such documents as may be reasonably requested by such Indemnatee, evidencing the Asbestos PI Trust's agreement that the indemnification obligations of the Asbestos PI Trust set forth in this Agreement inure to the benefit of, and are enforceable by, such Indemnatee.

Section 3.7 Counterparts. This Agreement and the other documents referred to herein may be executed in counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

Section 3.8 Binding Effect; Assignment. No Party may assign or transfer this Agreement, directly or indirectly, in whole or in part, whether by operation of law or otherwise, without the other Parties' prior written consents, and any attempted assignment, transfer, or delegation without such prior written consents shall be voidable at the sole option of such other

Parties. Notwithstanding the foregoing, each Party (or its permitted successive assignees or transferees hereunder) may assign or transfer this Agreement as a whole without consent to an entity that succeeds to all or substantially all of the business or assets of such Party. Without limiting the foregoing, this Agreement will be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns. This Agreement may be enforced separately by the Asbestos PI Trust and each Indemnitee.

Section 3.9 Severability. If any term or other provision of this Agreement is determined by a court, administrative agency, or arbitrator to be invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the fullest extent possible.

Section 3.10 Failure or Indulgence Not Waiver; Remedies Cumulative. No failure or delay on the part of any Party hereto in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty, or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right.

Section 3.11 Amendment. No change or amendment will be made to this Agreement except by an instrument in writing signed on behalf of each of the Parties to this Agreement.

**IN WITNESS WHEREOF**, each of the Parties has caused this Indemnification to be executed on its behalf by its duly authorized officers thereunto on the day and year first above written.

**T H Agriculture & Nutrition, L.L.C.:**

By: \_\_\_\_\_  
Name: Joseph L. Wolf, Jr.  
Title: President

**Philips Electronics North America Corporation:**

**On behalf of itself and the Protected Parties**

By: \_\_\_\_\_  
Name: Joseph E. Innamorati, Esq.  
Title: Senior Vice President & Chief Legal Officer

**ASBESTOS PI TRUST:**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT C**

Asbestos Records Cooperation Agreement