

**SECOND AMENDMENT TO AND COMPLETE RESTATEMENT OF
J.T. THORPE CASE VALUATION MATRIX**

The Case Valuation Matrix (“Matrix”) is designed to approximate historical settlement values in the tort system. To achieve this goal, historical settlement values were evaluated where J.T. Thorpe, Inc., a California corporation; J.T. Thorpe, Inc., a dissolved California corporation; Thorpe Holding Company, Inc., a California corporation; and Thorpe Technologies, Inc., a California corporation (collectively “Thorpe”), performed significant work and had a history of being sued and settling cases. Historical settlement values were adjusted to current settlement values using settlement data derived from other defendants who remained active in the tort system. Compensable diseases include mesothelioma, lung cancer, other cancers (as defined herein) and two grades of non-malignant asbestos-related disease. The Matrix establishes the minimum criteria which must be met in order to qualify in each disease category. Capitalized terms not defined herein shall have the meanings ascribed to them in the “J.T. Thorpe, Inc., a California corporation / J.T. Thorpe, Inc., a dissolved California corporation / Thorpe Holding Company, Inc., a California corporation / Thorpe Technologies, Inc., a California corporation Asbestos Personal Injury Settlement Trust Distribution Procedures.”

The following represents the average settlement values adjusted to current value (“Average Value”):

Mesothelioma	<u>\$ 150,000</u>
Lung Cancer	<u>\$ 40,000</u>
Other Cancer	<u>\$ 25,000</u>
Grade I Non-Malignancy	<u>\$ 10,000</u>
Grade II Non-Malignancy	<u>\$ 3,000</u>

The Matrix is designed to value cases using a base case value. This base case value is then increased and/or decreased by a series of adjustment factors that approximate factors which add or subtract value to cases in the tort system. The base case value has been set to yield (after application of the adjustment factors) average liquidation values, that are equal to the historical Average Value described above. The Base Case Values are:

Mesothelioma	<u>\$ 102,647</u>
Lung Cancer	<u>\$ 15,278</u>
Other Cancer	<u>\$ 8,496</u>
Grade I Non-Malignancy	<u>\$ 6,843</u>
Grade II Non-Malignancy	<u>\$ 2,374</u>

I. GENERAL CLAIM PROVISIONS

a. **Minimum and Maximum Values.** All claims after being valued at their respective base case value and any appropriate adjustments are subject to the following minimum and maximum values.

(i) **Minimum Value.** Any Injured Person who has submitted an approved claim under a Compensable Disease category and has submitted a Trust Claim form to the Trust with all required documentation as outlined in the Trust Distribution Plan and herein, will

receive a minimum of 10% of the Average Value of the claim for that disease in the controlling jurisdiction.

(ii) **Maximum Value.** Any Injured Person who has submitted an approved claim under a Compensable Disease category and has submitted a Trust Claim form to the Trust with all required documentation as outlined in the Trust Distribution Plan and herein, will receive a maximum of four times the Average Value of the claim for that disease in the controlling jurisdiction, unless it qualifies as an Extraordinary Claim as defined in Section IX of the Matrix.

b. **Medical Diagnoses.** Any diagnosis of pulmonary asbestosis shall be made by a (i) a Pathologist, who personally reviewed the Injured Person's pathology, or (ii) an Internist, Pulmonologist or Occupational Medicine Physician who actually examined the Injured Person. These findings will be contained in a detailed narrative written report of the examination. All medical diagnoses in the Matrix are required to be made by Board-Certified physicians in appropriate specialties to a level of reasonable medical probability. Specifically, medical reports that only come to a conclusion that findings are "consistent with" asbestos-related disease will not, standing alone, be sufficient to establish compliance with the medical criteria in the Matrix. Medical experts who are not Board-Certified but who meet equivalent medical experience and expertise requirements may be approved by the Trust with the consent of the Trust Advisory Committee ("TAC") and Futures Representative upon application by a Claimant.

c. **Record Review Exception.** Notwithstanding subsection (b) above, in the event that the Trust determines upon adequate showing under penalty of perjury that good cause exists to excuse either (1) personal review of Injured Person's pathology by a Pathologist; and/or (2) actual examination of the Injured Person by an Internist, Pulmonologist or Occupational Medicine Physician, the Trust in its exercise of discretion may permit those medical professionals to submit their diagnosis of pulmonary asbestosis on the basis of a review of the Injured Person's medical records ("Record Review Claim"), provided however, the Maximum Value for any such claim shall be the limit set in Section VIII for Individual Review. Examples of record review claims would be wrongful death actions where no pathology exists, or Injured Persons who are in such extremis or other circumstances exist that no such examination is practicable.

d. **Claimant's Burden to Submit Credible Reliable Claim Information.** Information submitted in support of a claim must comply with recognized medical standards (including but not limited to standards regarding equipment, testing methods, and procedures) and/or legal evidentiary and authenticity standards.

(i) While the Trust will not strictly apply rules of evidence, information provided in support of claims must be reliable and credible so that the Trust and, if needed, ADR neutrals are fully informed regarding the foundations for facts asserted in support of claims. The Trust normally will accept copies instead of authenticated copies of x-ray reports, laboratory tests, medical examinations, other medical records and reviews that otherwise comply with recognized medical and/or legal standards unless circumstances indicate that the copies of the and /or the tests, reports, or review are not authentic or are otherwise unreliable.

(ii) The Trust normally will accept copies instead of authenticated copies of deposition testimony, invoices, affidavits, business records, deck logs, military service records (including leave records) or other credible indirect or secondary evidence in a form otherwise acceptable to the Trust that establishes an Injured Person's occupation, occupational history, business or other losses or the Injured Person's presence at a particular ship, facility, job site, building or buildings or location during a time period in which the asbestos-containing material for which Thorpe is responsible was present, unless circumstances show that the information being submitted is unreliable.

(iii) Examples of unreliable information include where the circumstances raise questions of authenticity of copies or where persons authoring or verifying facts offered in support of a claim lack direct knowledge of such facts but fail to reveal and describe what facts, and how and from what sources they learned those facts, they relied upon as the basis for their assertion of such facts. Under these circumstances, the Trust and any ADR neutrals shall apply the rules of evidence to exclude evidence where the witness or verifying party declines to provide such foundational information, e.g., on grounds that the information relied upon is privileged or confidential.

e. **Trust's Right to Require Additional Evidence.** The Trust may require the submission any other evidence to support or verify a Trust claim, including but not limited to additional exposure information, x-rays, laboratory tests, medical examinations or reviews, medical reports, or other medical evidence all of which must also meet the requirements of Section I (d) above.

f. **Conspiracy Theory Claims Prohibited.** Claims based on conspiracy theories that do not involve exposure to asbestos-containing materials installed or removed by Thorpe are not compensable under this Matrix.

II. MESOTHELIOMA

a. **Base Case ("M").** The base case value for a Mesothelioma case is referred to in this Agreement as "M". A case will be considered a base case Mesothelioma under this Matrix when it satisfies each of the following criteria:

(i) **Diagnosis.** Injured Person diagnosed with malignant Mesothelioma by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician.

(ii) **Litigation.** Injured Person deceased at commencement of litigation or the time of filing of proof of claim, whichever is earlier;

(iii) **Age.** Injured Person was 75 years old at death;

(iv) **Dependents.** Injured Person had a spouse and no other dependents or minor children at time of death;

(v) **Economic Loss (excluding medical and funeral expenses).** Injured Person's loss of earnings, pension, social security and home services total up to, but no more than, \$200,000;

(vi) **Medical and Funeral Expenses.** Injured Person's medical and funeral

expenses total up to, but no more than, \$200,000;

(vii) **Exposure.** Injured Person had Standard Exposure to asbestos-containing products for which Thorpe is liable at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b);

(viii) **Latency.** The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease.

b. **Adjustments.** Certain features of a Mesothelioma case will warrant an adjustment in the liquidated value either above or below the base case Mesothelioma value, as set forth herein. The following adjustments are provided as multipliers of the base case value M. For example, an adjustment of 1.3 M for a Living 55-year-old mesothelioma Injured Person indicates that such an Injured Person would receive 1.3 times the base case Mesothelioma value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together, and times the base case value M, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 M) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3 M), and who had exposure at what is known to be a high exposure site (1.5 M), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 M times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 M, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 M.

(ii) **Exposure.** The following adjustments are based on exposure at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b):

Exposure Rating	Adjustment
High Exposure Sites or jobtypes, as defined in Section VII(c)	2.0 M
Standard Exposure Sites, as defined in Section VII(c)	1.0 M
Low Exposure Sites, as defined in Section VII(c)	0.5 M

(iii) **Living/Deceased.** If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by 1.3 M.

(iv) **Dependents.** If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 M. Separately and in addition, if an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 M.

(v) **Total Economic Loss (excluding medical and funeral expenses).** An Injured Person who has incurred economic losses for loss of earnings, pension, social security and home services in an amount greater than \$200,000, shall be adjusted upward .001 for every thousand dollars of economic loss over \$200,000, up to a maximum upward adjustment to 2 M. For example, a total economic loss of \$500,000 would result in an increase of .3 to 1.3 M. All claimed economic loss over \$200,000 must be supported by adequate documentation.

(vi) **Medical and Funeral Expenses.** An Injured Person who has or will incur medical and funeral expenses in an amount greater than the base Mesothelioma case maximum of \$200,000, shall be adjusted upward .001 for every thousand dollars of medical and funeral expenses over \$200,000, up to a maximum adjustment to 2 M. All claimed medical and funeral expenses over \$200,000 must be supported by adequate documentation. Standard future medical expenses are presumed to be \$75,000. Future medical expenses exceeding \$75,000 require documentation supported by affidavit.

III. LUNG CANCER

a. **Base Case (“LC”).** The base case value for a Lung Cancer case is referred to in this Agreement as “LC”. A case will be considered a base case Lung Cancer under this Matrix when it satisfies each of the following criteria:

(i) **Diagnosis.** Injured Person diagnosed with primary lung cancer by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician, and

(ii) **Litigation.** Injured Person deceased at time of commencement of litigation or the time of filing of the proof of claim, whichever is earlier;

(iii) **Age.** Injured Person was 75 years old at death;

(iv) **Dependents.** Injured Person had a spouse and no other dependents or minor children at time of death;

(v) **Economic Loss (excluding medical and funeral expenses).** Injured Person’s loss of earnings, pension, social security and home services total up to, but no more than, \$200,000;

(vi) **Medical and Funeral Expenses.** Injured Person’s medical and funeral expenses total up to, but no more than, \$200,000;

(vii) **Exposure.** Injured Person had Standard Exposure to asbestos-containing products for which Thorpe is liable at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b);

(viii) **Smoking-Pack years.** Injured Person had a 20-80 pack-year history of smoking;

(ix) **Smoking Duration.** Injured Person was still smoking at the time of diagnosis, or had quit smoking fewer than 10 years before diagnosis;

(x) **Medical Causation.** Injured Person had been not diagnosed with clinical or pathological asbestosis, but Injured Person had both:

(A) A reliable history of exposure to asbestos; and

(B) Evidence of asbestos-related anatomical changes, such as: asbestos-related pleural disease, chest X-ray abnormalities graded 1/0 or higher on the ILO scale attributed to prior asbestos exposure, or computed tomography (CT) evidence of interstitial disease attributed to prior asbestos exposure; and

(xi) **Latency.** The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease.

b. Adjustments. Certain features of a Lung Cancer case will warrant an adjustment in the liquidated value either above or below the base case Lung Cancer value, as set forth herein. The following adjustments are provided as multipliers of the base case value LC. For example, an adjustment of 1.3 LC for a living 55-year-old lung cancer Injured Person **indicates that such an Injured Person would receive 1.3 times the base case Lung Cancer value.** In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together, and times the base case value LC, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 LC) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3 LC), and who had exposure at what is known to be a high exposure site (1.5 LC), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 LC times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 LC, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 LC.

(ii) **Exposure.** The following adjustments are based on exposure at traditional jobsites including shipyards, refineries, power plants, or other sites as defined in section VII(b):

Exposure Rating	Adjustment
High Exposure Sites or jobtypes, as defined in Section VII(c)	2.0 LC
Standard Exposure Sites, as defined in Section VII(c)	1.0 LC
Low Exposure Sites, as defined in Section VII(c)	0.5 LC

(iii) **Living/Deceased.** If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by 1.3 LC.

(iv) **Dependents.** If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 LC. Separately and in addition, if an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 LC.

(v) **Total Economic Loss (excluding medical and funeral expenses).** An Injured Person who has incurred economic losses for loss of earnings, pension, social security and home services in an amount greater than \$200,000, shall be adjusted upward .001 for every thousand dollars of economic loss over \$200,000, up to a maximum upward adjustment to 2 LC. For example, a total economic loss of \$500,000 would result in an increase of .3 to 1.3 LC. All claimed economic loss over \$200,000 must be supported by adequate documentation.

(vi) **Medical and Funeral Expenses.** An Injured Person who has or will incur medical and funeral expenses in an amount greater than the base Lung Cancer case maximum of \$200,000, shall be adjusted upward .001 for every thousand dollars of medical and funeral expenses over \$200,000, up to a maximum adjustment to 2 LC. All claimed medical and funeral expenses over \$200,000 must be supported by adequate documentation. Standard future medical expenses are presumed to be \$75,000. Future medical expenses exceeding \$75,000 require documentation supported by affidavit.

(vii) **Medical Causation.** The following adjustments apply to Injured Persons who have different smoking histories and/or medical findings from those described for the base Lung Cancer case. In no event can any of the adjustments listed below be combined for an overall causation adjustment in excess of 3.0 LC.

Causation Information	Adjustment
Pathological diagnosis of asbestosis, or occupational levels of asbestos bodies or asbestos fibers in lung tissue	2.0 LC
Clinical diagnosis of asbestosis (in absence of pathological diagnosis)	1.5 LC

Causation Information	Adjustment
No radiographic evidence of asbestos exposure and no increased fiber burden as a marker of asbestos exposure (Applicable to smokers only)	0.5 LC
Lifetime non-smoker	2.0 LC
1-20 pack-years of smoking	1.2 LC
Over 80 pack-years of smoking	0.6 LC
Diagnosis over 10 years since Injured Person quit smoking	1.2 LC
Diagnosis over 15 years since Injured Person quit smoking	1.5 LC

IV. OTHER CANCER

a. **Base Case** (“OCA”). The base case value for an Other Cancer case is referred to in this Agreement as “OCA”. A case will be considered a base case Other Cancer under this Matrix when it satisfies each of the following criteria:

(i) **Diagnosis.** Injured Person diagnosed with laryngeal, esophageal, kidney, colo-rectal cancer, non-Hodgkin’s lymphoma or chronic lymphocytic leukemia by a Pathologist, Internist, Pulmonologist or Occupational Medicine Physician.

(ii) **Litigation.** Injured Person deceased at commencement of litigation or the time of filing of proof of claim, whichever is earlier;

(iii) **Age.** Injured Person was 75 years old at death;

(iv) **Dependents.** Injured Person had a spouse and no other dependents or minor children at time of death;

(v) **Economic Loss (excluding medial and funeral expenses).** Injured Person’s loss of earnings, pension, social security and home services total up to but no more than, \$200,000;

(vi) **Medical and Funeral Expenses.** Injured Person’s medical and funeral expenses total up to, but no more than, \$200,000;

(vii) **Exposure.** Injured Person had Standard Exposure to asbestos-containing products for which Thorpe is liable at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b);

(viii) **Smoking-Pack years.** Injured Person had a 20-80 pack-year history of smoking;

(ix) **Smoking Duration.** Injured Person was still smoking at the time of diagnosis, or had quit smoking fewer than 10 years before diagnosis;

(x) **Medical Causation.** Injured Person not diagnosed with clinical or pathological asbestosis, but Injured Person had both:

(A) A reliable history of exposure to asbestos, and

(B) Evidence of asbestos-related anatomical changes, such as: asbestos-related pleural disease chest X-ray abnormalities graded 1/0 or higher attributed to prior asbestos exposure on the ILO scale, or computed tomography (CT) evidence of interstitial disease attributed to prior asbestos exposure; and

(xi) **Latency.** The Injured Person had at least a 10-year latency period between the date of the first exposure to asbestos and the date of manifestation of the disease.

b. **Adjustments.** Certain features of an Other Cancer case will warrant an adjustment in the liquidated value either above or below the base case Other Cancer value, as set forth herein. The following adjustments are provided as multipliers of the base case value OCA. For example, an adjustment of 1.3 OCA for a living 55-year-old other cancer Injured Person indicates that such an Injured Person would receive 1.3 times the base case Other Cancer value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value OCA, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 OCA) and alive at the commencement of litigation or the time of filing of proof of claim, whichever is earlier (1.3 OCA), and who had exposure at what is known to be a high exposure site (1.5 OCA), would be eligible for a liquidated value of 1.3 times 1.3 times 1.5 or 2.535 OCA times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 OCA, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 OCA.

(ii) **Exposure.** The following adjustments are based on exposure at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b):

Exposure Rating	Adjustment
High Exposure Sites or jobtypes, as defined in Section VII(c)	2.0 OCA
Standard Exposure Sites, as defined in Section VII(c)	1.0 OCA
Low Exposure Sites, as defined in Section VII(c)	0.5 OCA

(iii) **Living/Deceased.** If an Injured Person is living as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person’s case will be adjusted by 1.3 OCA.

(iv) **Dependents.** If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person’s case will be adjusted by .8 OCA. Separately and in addition, if an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person’s case will be adjusted by 1.5 OCA.

(v) **Total Economic Loss (excluding medical and funeral expenses).** An Injured Person who has incurred economic losses for loss of earnings, pension, social security and home services in an amount greater than \$200,000, shall be adjusted upward .001 for every thousand dollars of economic loss over \$200,000, up to a maximum upward adjustment to 2 OCA. For example, a total economic loss of \$500,000 would result in an increase of .3 to 1.3 OCA. All claimed economic loss over \$200,000 must be supported by adequate documentation.

(vi) **Medical and Funeral Expenses.** An Injured Person who has or will incur medical and funeral expenses in an amount greater than the base Other Cancer case maximum of \$200,000, shall be adjusted upward .001 for every thousand dollars of medical and funeral expenses over \$200,000, up to a maximum adjustment to 2 OCA. All claimed medical and funeral expenses over \$200,000 must be supported by adequate documentation. Standard future medical expenses are presumed to be \$75,000. Future medical expenses exceeding \$75,000 require documentation supported by affidavit.

(vii) **Medical Causation.** The following adjustments apply to Injured Persons who have different smoking histories and/or medical findings from those described for the base Other Cancer case. In no event can any of the adjustments listed below be combined for an overall causation adjustment in excess of 3.0 OCA.

Causation Information	Adjustment
Pathological diagnosis of asbestosis, or occupational levels of asbestos bodies or asbestos fibers in lung tissue	2.0 OCA
Clinical diagnosis of asbestosis (in absence of pathological diagnosis)	1.5 OCA
No radiographic evidence of asbestos exposure and no increased fiber burden as a marker of asbestos exposure	0.25 OCA
Lifetime non-smoker	2.0 OCA
1-20 pack-years of smoking	1.2 OCA
Over 80 pack-years of smoking	0.6 OCA
Causation Information	Adjustment

Diagnosis over 10 years since Injured Person quit smoking 1.2 OCA

Diagnosis over 15 years since Injured Person quit smoking 1.5 OCA

(viii) **Other Organ Cancers.** An Injured Person who has not been diagnosed with cancers of the organs described for the base Other Cancer case (i.e., laryngeal, esophageal, kidney, colo-rectal cancers, non-Hodgkin's lymphoma and chronic lymphocytic leukemia) may still obtain compensation under this Matrix, if the Injured Person has been diagnosed with a primary cancer of a different organ and a Board-Certified specialist in an appropriate specialty or a Board-Certified occupational medicine physician at the time of the report attributes the malignancy to prior asbestos exposure. An Injured Person's case which meets the criteria set forth above, subject to the Trust's consent, shall be classified as an "Other Organ Cancer" and will be adjusted by .5 OCA.

V. GRADE I NON-MALIGNANCY

a. **Base Case ("I").** The base case value for an Grade I Non-malignancy case is referred to in this Matrix as "I". A case will be considered a base case Grade I Non-malignancy under this Matrix when it satisfies each of the following criteria:

(i) **Age.** Injured Person is 75 years old;

(ii) **Dependents.** Injured Person has a spouse and no other dependents or minor children;

(iii) **Economic Loss (excluding medical and funeral expenses).** Injured Person's loss of earnings, pension, social security and home services total up to, but no more than, \$200,000;

(iv) **Medical and Funeral Expenses.** Injured Person's medical and funeral expenses total up to, but no more than, \$200,000;

(v) **Exposure.** Injured Person had Standard Exposure to asbestos-containing products at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b);

(vi) **Medical Causation.** Injured Person satisfies all the following criteria of interstitial lung disease with impairment of lung function:

1. The Injured Person must establish at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease, and clinical evidence of asbestosis defined in subsection 2;

2. Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by a Pulmonologist, Internist or Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

(a) Chest X-rays which, in the opinion of a Certified B-reader,

show small irregular opacities of ILO Grade 1/0 or greater, or a report from a Pulmonologist, Internist or Occupational Medicine Physician that the Injured Person has evidence of asbestos-related interstitial fibrosis on high resolution CT scan; and

(b) Pulmonary Function Testing results demonstrating either:

1) $FVC < 80\%$ of Predicted Value with $FEV-1/FVC \geq 65\%$ (actual value) if the individual tested is at least 70 years old at the date of testing, $\geq 70\%$ (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and $\geq 75\%$ (actual value) if the individual tested is less than 60 years old at the date of testing; or

2) $TLC < 80\%$ of Predicted Value; or

3) $DLCO < 75\%$ of Predicted Value with $FEV-1/FVC \geq 65\%$ (actual value) if the individual tested is at least 70 years old at the date of testing, $\geq 70\%$ (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and $\geq 75\%$ (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist or an Occupational Medicine Physician stating that the asbestos-related lung disease is the probable explanation for the test result.

3. Those claims wherein the Injured Person suffers from extensive disabling asbestos-related pleural disease may be submitted to the Individual Review process, as described in Section VIII of this Matrix, provided however such a claim shall not be limited to Average Value and may be awarded up to the Maximum Value for Grade I.

b. **Adjustments.** Certain features of a Grade I Non-malignancy Case will warrant an adjustment in the liquidated value either above or below the base case Grade I Non-malignancy value, as set forth herein. The following adjustments are provided as multipliers of the base case value I. For example, an adjustment of 1.3 I for a 55-year-old Grade I non-malignancy Injured Person indicates that such an Injured Person would receive 1.3 times the base case Grade I Non-malignancy value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value I, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 I) and determined to be an Enhanced Grade I non-malignancy Injured Person as defined in section (vi) herein (1.5 I) and who had exposure at what is known to be a high exposure site (1.5 I), would be eligible for a liquidated value of 1.3 times 1.5 times 1.5, or 2.925 I, times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 I, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 I.

(ii) **Exposure.** The following adjustments are based on exposure at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b):

Exposure Rating	Adjustment
High Exposure Sites or jobtypes, as defined in Section VII(c)	2.0 I
Standard Exposure Sites, as defined in Section VII(c)	1.0 I
Low Exposure Sites, as defined in Section VII(c)	0.5 I

(iii) **Dependents.** If an Injured Person does not have a spouse as of the date litigation commences or the proof of claim is filed, whichever is earlier, the Injured Person's case will be adjusted by .8 I. Separately and in addition, if an Injured Person has minor children, adult disabled dependent children or dependent minor grandchildren living with the Injured Person at the time of diagnosis, the Injured Person's case will be adjusted by 1.5 I.

(iv) **Total Economic Loss (excluding medical).** An Injured Person who has incurred economic losses for loss of earnings, pension, social security and home services in an amount greater than \$200,000, shall be adjusted upward .001 for every thousand dollars of economic loss over \$200,000, up to a maximum upward adjustment to 2 I. For example, a total economic loss of \$500,000 would result in an increase of .3 to 1.3 I. All claimed economic loss over \$200,000 must be supported by adequate documentation.

(v) **Medical Expenses.** An Injured Person who has or will incur medical expenses in an amount greater than the base Grade I Non-malignancy case maximum of \$200,000, shall be adjusted upward .001 for every thousand dollars of medical and funeral expenses over \$200,000, up to a maximum adjustment to 2 I. All claimed medical and funeral expenses over \$200,000 must be supported by adequate documentation. Standard future medical expenses are presumed to be \$75,000. Future medical expenses exceeding \$75,000 require documentation supported by affidavit.

(vi) **Enhanced Grade I Non-Malignancy.** If an Injured Person has evidence of asbestosis of a severity exceeding the following criteria, the liquidated value of that Injured Person's case will be adjusted by 1.5 I.

1. The Injured Person must establish at least a 10-year latency period between the date of first exposure to asbestos and the date of manifestation of the disease, and either clinical or pathological evidence of asbestosis as defined in subsection 2 or 3;

2. Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by an Internist, Pulmonologist or an Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

Chest X-rays which, in the opinion of a Certified B-reader, show small irregular opacities of ILO Grade 1/1 or greater, or an asbestos-related interstitial fibrosis on high resolution CT scan; and Pulmonary Function Testing results demonstrating either:

a) $FVC < 60\%$ of Predicted Value with $FEV-1/FVC \geq 65\%$ 9 (actual value) if the individual tested is at least 70 years old at the date of testing, $\geq 70\%$ (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of

testing, and $\geq 75\%$ (actual value) if the individual tested is less than 60 years old at the date of testing; or

b) TLC < 70% of Predicted Value; or

c) DLCO < 60% of Predicted Value with FEV-1/FVC $\geq 65\%$ (actual value) if the individual tested is at least 70 years old at the date of testing, $\geq 70\%$ (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and $\geq 75\%$ (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist or an Occupational Medicine Physician stating that the asbestos-related lung disease is the probable explanation for the test result.; or,

d) VO MAX < 20 mL (kg • min) or < 5.7 METS with FEV-1/FVC $\geq 65\%$ (actual value) if the individual tested is at least 70 years old at the date of testing, $\geq 70\%$ (actual value) if the individual tested is at least 60 years old but less than 70 years old at the date of testing, and $\geq 75\%$ (actual value) if the individual tested is less than 60 years old at the date of testing and a statement by a Pulmonologist or an Occupational Medicine Physician stating that the asbestos-related lung disease is the probable explanation for the test result.

3. Pathological Evidence of Asbestosis. A statement by a Pathologist, Pulmonologist or an Occupational Medicine Physician that a representative section of lung tissue demonstrates asbestosis as defined by the 1982 report of the Pneumoconiosis Committee of the College of American Pathologists and the National Institute for Occupational Safety and Health including the "demonstration of discrete foci of fibrosis in the walls of respiratory bronchioles associated with accumulations of asbestos bodies", and also that there is no more probable explanation for the presence of the fibrosis than prior asbestos exposure.

(vii) "**Serious asbestosis**" is asbestosis with ILO 2/2 or greater and AMA Class IV Impairment, or where the Injured Person is on oxygen with a report by a Pulmonologist or an Occupational Medicine Physician that asbestosis is the predominant cause of the need for oxygen. "Asbestosis death" is where asbestosis is listed as the cause or a significant contributing cause of death on the death certificate, or where a report from a Pathologist, Pulmonologist or an Occupational Medicine Physician states that asbestosis was a significant contributing cause of death. If an Injured Person has evidence of serious asbestosis or asbestosis death, and exposure to Thorpe or conduct was a substantial contributing cause of the serious asbestosis or asbestosis death, then the valuation criteria for lung cancer, including the base Lung Cancer case, as defined in (II)(a), shall be utilized to determine the value of the claim. An Injured Party who qualifies for Serious Asbestosis automatically meets the requirements for Grade I Non-malignancy claims.

VI. GRADE II NON-MALIGNANCY

a. **Base Case** ("II"). The base case value for a Grade II Non-malignancy case is referred to in this Matrix as "II". A case will be considered a base case Grade II Non-malignancy under this Matrix when it satisfies each of the following criteria:

(i) **Age.** Injured Person is 75 years old;

(ii) **Exposure.** Injured Person had Standard Exposure to asbestos for which Thorpe is liable at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b);

(iii) **Medical Causation.** Injured Person satisfies the following criteria for asbestos-related disease:

1. The Injured Person must establish at least a 10-year latency period between the date of the first exposure to asbestos and the date of diagnosis of the disease; and

2. The Injured Person must establish evidence of an asbestos-related disease including:

a) Clinical Evidence of Asbestosis. A diagnosis of pulmonary asbestosis by an Internist, Pulmonologist or qualified Occupational Medicine Physician who actually examined the Injured Person based on the following minimum objective criteria:

1) Chest X-rays which, in the opinion of a Certified B-reader, show small irregular opacities of ILO Grade 1/0 or greater, or

2) Asbestos-related interstitial fibrosis on high resolution CT scan or appropriate diagnostic imaging procedure; or

b) Clinical Evidence of Asbestos-Related Pleural Disease. A diagnosis of asbestos-related pleural disease by an Internist, Pulmonologist or Occupational Medicine Physician.

b. **Adjustments.** Certain features of a Grade II Non-malignancy case will warrant an adjustment in the liquidated value either above or below the base Grade II Non-malignancy value, as set forth herein. The following adjustments are provided as multipliers of the base case value II. For example, an adjustment of 1.3 II for a 55-year-old Grade II non-malignancy Injured Person indicates that such an Injured Person would receive 1.3 times the base case Grade II Non-malignancy value. In situations where numerous adjustments are required for an Injured Person's case, all of the applicable adjustment multipliers shall be multiplied together and times the base case value II, to determine the liquidated value of the case. For example, an Injured Person who is age 55 (1.3 II) and who had exposure at what is known to be a high exposure site (1.5 II), would be eligible for a liquidated value of 1.3 times 1.5, or 1.95 II, times the base case value.

(i) **Age.** Age shall be determined as of the commencement of litigation or the time of filing of the proof of claim, whichever is earlier. The adjustment factor for age shall be decreased .015 for every year over 75 years of age up to a maximum downward adjustment to .7 II, and shall be increased .015 for every year under 75 years of age up to a maximum upward adjustment to 1.4 II.

(ii) **Exposure.** The following adjustments are based on exposure at traditional jobsites including shipyards, refineries, power plants or other sites, as defined in section VII(b):

Exposure Rating	Adjustment
High Exposure Sites or jobtypes, as defined in Section VII(c)	2.0 II
Standard Exposure Sites, as defined in Section VII(c)	1.0 II
Low Exposure Sites, as defined in Section VII(c)	0.5 II

VII. EXPOSURE REQUIREMENTS

a. **Standard Exposure Criteria.** Subject to Section 6.2 of the Trust Distribution Procedures, exposure to asbestos-containing material for which Thorpe is responsible can be established by evidence described in Section I (d) and (e) above. Claimant must demonstrate the Injured Party had reasonable proximity to work performed by Thorpe. The Trust shall have the right to consider all other appropriate evidence of exposure and may establish appropriate alternative exposure criteria after consultation with the TAC and the Futures Representative. The burden shall be on the Claimant or Injured Person to establish exposure to Thorpe products by credible reliable evidence.

b. **Site List/Traditional jobsites.** The Trust in consultation with the TAC will compile a list of the ships, facilities and other locations where Thorpe performed installation or removal of asbestos- containing materials for which Thorpe is liable. The Trust may use this list to establish and to characterize exposure and to create a list of sites where exposure is accepted. The Trust with consent of the TAC and Futures Representative may modify the list in light of additional evidence or experience with claims processing. Any Injured Person may submit additional evidence to establish Thorpe’s presence at a site, or in support of a higher exposure categorization of a particular site.

c. Exposure Site Rating and High Exposure Jobtypes.

1. **High Exposure Sites.** Sites rated “High” include exposures to asbestos at shipyards, refineries, power plants and other industrial and commercial sites where Thorpe was determined by the Trust to have performed 50 or more distinct contracts or jobs installing or removing asbestos-containing material for which Thorpe is responsible.

2. **Standard Exposure Sites.** Sites rated “Standard” include exposures to asbestos at shipyards, refineries, power plants and other industrial and commercial sites where Thorpe was determined by the Trust to have performed more than 3 and fewer than 50 distinct contracts or jobs installing or removing asbestos-containing material for which Thorpe is responsible.

3. **Low Exposure Sites.** Sites rated “Low” include exposures to asbestos at shipyards, refineries, power plants and other industrial and commercial sites where Thorpe was determined by the Trust to have performed 3 or fewer distinct contracts or jobs installing or removing asbestos-containing material for which Thorpe is responsible.

4. **High Exposure Jobtypes.** Certain jobtypes, known as “High Exposure Jobtypes” including boilermakers, insulators, pipefitters, steamfitters, stationary engineers, boilertenders, and Thorpe employees will receive an upward adjustment of 2 times the base case value of the particular Compensable Diseases, if they worked these jobs at High Exposure, Standard Exposure or Low Exposure Thorpe jobsites. Individuals with these jobtypes will be presumptively considered to qualify for the upward adjustment notwithstanding the site exposure rating. Other individuals who claim boiler exposure at Thorpe jobsites will be evaluated on a case-by-case basis for this upward adjustment. The maximum adjustment based upon High Exposure Jobtypes will be 2 times the base case value of the particular Compensable Disease, even if it occurs at a High Exposure Site. The Trust, with consent of the TAC, may review the list of qualifying High Exposure Jobtypes and modify the list in light of additional evidence or experience with claims processing.

d. Minimum Exposure Criteria.

1. To meet the minimum exposure requirements, an Injured Person filing a claim as a Mesothelioma case must establish that the Injured Person’s asbestos exposure at approved Thorpe sites totals at least three months or at least 10% of the Injured Person’s total asbestos exposure. Notwithstanding the foregoing, an Injured Person filing Thorpe sites totals at least one month (but less than three months) exposure shall be entitled to a reduced liquidated claim value.

2. An Injured person filing in any other Compensable Disease category must establish that the Injured Person’s asbestos exposure at approved Thorpe sites totals at least one year or at least 25% of the Injured Person’s total asbestos exposure. Notwithstanding the foregoing, an Injured Person filing in any other Compensable Disease category who can establish that the Injured Person’s exposure at approved Thorpe sites totals at least three months (but less than one year) exposure shall be entitled to a reduced liquidated claim value.

3. If no one site is sufficient to establish the duration necessary, an Injured Person may aggregate exposure at multiple sites to meet the minimum exposure requirements. The Trust will use a blending formula to give credit for exposure time beginning with the highest rated site and job type.

4. If the Injured Person has exposure at multiple sites, but there is no evidence supporting actual length of time at any of the sites, for purposes of applying the provisions of 2, above, the Trust will allocate exposure based upon an even distribution of the total length of exposure among all sites claimed. The Injured Person’s attorney and the Injured Person or Personal Representative must provide declarations stating that the work sites listed include all work sites where the Injured Person worked, and that there is no other information available to demonstrate actual work time at each site. In addition, the interrogatories accompanying the claim must contain the Injured Person’s entire work history.

Nothing in sub-paragraphs 3 and 4, above, shall diminish the obligation of a claimant to offer evidence of exposure that meets the minimum required exposure at approved Thorpe Sites set forth in paragraph c. above to qualify for a Matrix Claim.

e. Specific Exposure Types.

1. Ship Exposure. Evaluation of shipboard exposure shall be as follows:

a) Claims of shipboard exposure will require evidence that Thorpe actually performed installation or removal of asbestos-containing products on the ship, and that the Injured Person can demonstrate presence in an area of the ship that would constitute an exposure to Thorpe's operations at that ship or an exposure to these products.

b) Exposure on board a ship at a shipyard during a repair or overhaul will constitute an exposure at that shipyard if the Injured Person remained on board during the repair or overhaul, subject to meeting the duration of exposure requirements herein.

c) Evidence that an Injured Person was subsequently present on a ship that was repaired or overhauled at a shipyard where Thorpe installed or removed asbestos-containing material is not sufficient to constitute exposure. See Dumin v. Owens Corning Fiberglas Corp., 28 Cal. App. 4th 650 (1994).

d) It shall not be sufficient for an Injured Person to show that Thorpe generally performed installation or removal at a shipyard where a particular ship that the Injured Person worked on was repaired. Specific identification of Thorpe installation and/or removal of asbestos-containing products on board the ship and meeting the duration of exposure requirements on the ship are both required. See Dumin v. Owens Corning Fiberglas Corp., 28 Cal. App. 4th 650 (1994).

2. Derivative Exposure. An Injured Person exposed to asbestos-containing products for which Thorpe is liable solely from exposure to an occupationally exposed person, such as a family member, will have his or her claims valued by the Trust as follows:

a) The Injured Person must establish that the occupationally exposed person would have met the exposure requirements under the Matrix that would have been applicable had that person filed a direct claim with the Trust.

b) The Injured Person must establish that he or she is suffering from one of the Compensable Diseases and that his or her own exposure to the occupationally exposed person occurred within the same time frame as the occupationally exposed person experienced Thorpe exposure as defined herein and that such exposure was the cause of the claimed disease. All other liquidation and payment rights and limitations under this Matrix shall be applicable to such claims.

3. Longshore Exposure. A Longshoreman with Thorpe exposure will be treated as a Standard exposure.

f. **Remote Exposures.** The following adjustment shall be made to the liquidated value of claims based upon the length of time that has passed between the time that Thorpe last performed operations at the jobsite and the time the Injured Person was exposed at the jobsite: (1) if Thorpe last performed operations at the jobsite five years or less before the Injured Person was exposed at the jobsite – no adjustment is made to the liquidated value of the claim; (2) if

Thorpe last performed operations at the jobsite more than five years, but less than ten years, before the Injured Person was exposed at the jobsite - the liquidated value of the claim shall be reduced by 50%; (3) if Thorpe last performed operations at the jobsite more than ten years, but less than twenty years, before the Injured Person was exposed at the jobsite - the liquidated value of the claim shall be reduced by 75%; and (4) if Thorpe last performed operations at the jobsite more than twenty years before the Injured Person was exposed at the jobsite - the claim shall be disallowed in its entirety unless the Claimant or Injured Party can demonstrate actual exposure by the Injured Party to asbestos containing products used by Thorpe in its operations at that jobsite.

VIII. INDIVIDUAL REVIEW

Any Claimant or Injured Person whose claim does not meet the medical or exposure criteria for any Compensable Disease shall have the opportunity for individual consideration and evaluation of his or her claim. In such a case, the Trust shall either deny the claim or the Trust can offer the Injured Person a liquidated value amount up to the average settlement value for that Compensable Disease, unless the claim qualifies as an Extraordinary Claim as defined in IX below, in which case its liquidated value cannot exceed the maximum value specified for such a claim.

IX. EXTRAORDINARY CLAIMS PROVISION

a. **Extraordinary Claims.** In extraordinary situations such as where an Injured Person was exposed only to Thorpe, or where Thorpe exposure constituted over 80% of the Injured Person's asbestos exposure, where extraordinary present or future medical expenses are incurred, or where special damages are exceptionally large, the Trust may individually evaluate and liquidate a claim for an amount that exceeds the Maximum Value for the particular Compensable Disease asserted by the Injured Person. Any dispute as to Extraordinary Claim status shall be submitted to arbitration by a special Extraordinary Claims panel established by the Trust. Under no circumstances shall an Extraordinary Claim be valued at more than 8 times the Average Value for the particular Compensable Disease.