

# ELECTRONIC FILER AGREEMENT

[REVISED MARCH 23, 2021]

This Electronic Filer Agreement (this "Agreement") is made by and between the DII Industries, LLC Asbestos PI Trust (the "Trust"), 12222 Merit Drive, Suite 1150, Dallas, Texas 75251, and the law firm of \_\_\_\_\_, with its principal office at \_\_\_\_\_ (the "Law Firm"). Each reference herein to the "Trust" includes the Trust's officers, directors, trustees, employees, contractors, and agents, including the Delaware Claims Processing Facility, LLC (the "Facility"), which the Trust utilizes to process claims.

## **Recitals**

The Law Firm intends to file asbestos personal injury claims on behalf of its clients (the "Claimants") with the Trust. It is mutually beneficial to the Trust and the Law Firm (collectively, the "Parties") to process such claims by communicating information to each other electronically. To facilitate such communication, the Parties agree as follows:

### **1. Electronic Claims Filing**

- 1.1 **Access to Trust Online.** The Trust will provide the Law Firm with access to the Trust Online claim system, which will enable the Law Firm to view, submit, and modify asbestos personal injury claims electronically. The Law Firm will have access to Trust Online for the sole purposes of filing and settling asbestos claims. Except as provided in the next sentence, the Law Firm will have access to information, and will be authorized to act, through Trust Online regarding only the Claimants' claims. The Law Firm also will have access to information, and will be authorized to act, through Trust Online regarding claims that another law firm authorizes the Law Firm's principals, employees, or agents to prosecute on the other law firm's behalf, provided that the other law firm has entered separately into an Electronic Filer Agreement with the Trust and such arrangement is disclosed to the Trust in writing.
- 1.2 **Filing Methods, Media, and Format.** The Trust will accept claim data from the Law Firm using methods, formats, or electronic media that the Trust will specify. The methods, formats, and media will be among those then in general use among businesses transferring information electronically.
- 1.3 **Proprietary System.** The Law Firm acknowledges that Trust Online, including all enhancements thereto and all screens and formats used in connection therewith, is the exclusive proprietary property of the Trust and other entities. The Law Firm shall not publish, disclose, display, provide access to, or otherwise make available, without prior written consent, any software, hardware, or any other products associated with Trust Online, including any screens, formats, reports, or printouts used, provided, or produced by Trust Online, to any person other than a User (as defined below), a principal of the Law Firm, or any individual under the Law Firm's employ, management, or control, except that the Law Firm may make available to a Claimant any screens, formats, reports, or printouts that contain information relating solely to that Claimant's claim.

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### 2. **Firm Super User and Users**

- 2.1 **Roles and Responsibilities of Firm Super User.** The Law Firm's access to Trust Online will be managed by the individual who signs this Agreement on behalf of the Law Firm (the "Firm Super User"). The Firm Super User will be permitted to identify additional individuals under the Law Firm's employ, management, or control as authorized to access Trust Online on the Law Firm's behalf (together with the Firm Super User, "Users"). The Law Firm will be responsible for overseeing and supervising each User, for ensuring that the information submitted by the Law Firm and each User is accurate and complies in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure, and for the violation of any provision of this Agreement by any User or any individual under the Law Firm's employ, management, or control.
- 2.2 **Submission of User List.** The Firm Super User will provide to the Trust a list of all current Users in the form set forth on Attachment 1 hereto when this Agreement is submitted to the Trust; when the information in the list changes, in accordance with section 2.7 below; and at any other time requested by the Trust.
- 2.3 **Assignment of Usernames and Passwords.** The Trust will assign a unique Trust Online password to the Firm Super User. The Firm Super User may then create Trust Online accounts for other Users. Each Trust Online account must be associated with a specific individual identified by full name and cannot be assigned to or utilized by more than one User. A User will not have more than one Trust Online account. The Firm Super User will close a User's Trust Online account promptly upon the User's termination of employment or association with the Law Firm. The system will require each User to change his or her password at least every ninety days.
- 2.4 **Prohibition on Sharing Accounts.** USERS MUST NOT SHARE TRUST ONLINE USERNAMES OR PASSWORDS WITH OTHER PEOPLE OR ATTEMPT TO OBTAIN ANOTHER PERSON'S TRUST ONLINE ACCOUNT INFORMATION. USERS MUST NOT ALLOW OTHER PEOPLE TO ACCESS TRUST ONLINE THROUGH THEIR USER ACCOUNTS. THE FIRM SUPER USER AND THE LAW FIRM WILL KEEP ALL USERNAMES AND PASSWORDS CONFIDENTIAL AND MUST NOT PERMIT ANY INDIVIDUAL TO USE A TRUST ONLINE ACCOUNT THAT IS NOT ASSIGNED TO THAT INDIVIDUAL.
- 2.5 **Limited Access.** Some Users may be limited in the functions they can perform on Trust Online, and the Firm Super User will have the power to designate the level of authority that each User will have on the system. The Trust will limit each User's access to Trust Online to correspond with the level of authority specified by the Firm Super User.
- 2.6 **Grant and Denial of Access.** The Trust will provide a User access to Trust Online only upon entry of the User's Trust Online password. The Trust may deny access to Trust Online to the Law Firm or any User for any reason, including, but not limited to, failed log-ins, system resources, bandwidth constraints, termination of

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employment or association, and fraud or security concerns. The Trust will not be liable for any failure to grant or deny access.

- 2.7 Notice of Changes. The Firm Super User will notify the Trust in writing within five days of a change in a User's account, including the addition or removal of a User, a change in a User's authority to access Trust Online on the Law Firm's behalf, and any material change in the status of the Law Firm.
- 2.8 Reliance on Law Firm Communications. The Trust is entitled to rely on communications and instructions received from Users, persons purporting to act on behalf of the Law Firm, and individuals communicating through Law Firm email accounts. The Parties agree that the Trust's reliance on such communications and instructions is reasonable. The Trust will not be held liable for such reliance, except in the case of gross negligence.
- 2.9 Acceptance of Terms and Conditions. Each time a User accesses Trust Online, he or she will be required to certify that he or she is authorized by the Claimant to submit a claim, that all information he or she submits to the Trust complies in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure, and that such information is being submitted subject to the terms of this Agreement, or language having similar effect. A User's acknowledgement shall not in any way affect the validity or binding effect of this Agreement. Additionally, each time a Firm Super User makes changes to a User account in Trust Online, he or she will be required to certify compliance with certain provisions of this Agreement pertaining to the creation, maintenance, and termination of User accounts.
- 2.10 Bulk Data Transmissions. A Law Firm that is permitted to file multiple claims by bulk upload ("Bulk Data Transmission") acknowledges that if a Bulk Data Transmission contains conflicting information for the same claim, the information may not be accepted or accepted properly by Trust Online. The Trust will not be responsible for errors arising from a Bulk Data Transmission containing conflicting information for the same claim.
- 2.11 Simultaneous Entry of Information by Multiple Users. The Law Firm acknowledges that if two or more of its Users enter information about a claim simultaneously, the information may not be accepted or accepted properly by Trust Online. The Trust will not be responsible for errors arising from two or more Users entering information about a claim simultaneously.

### **3. Technical Capabilities**

- 3.1 Compatible Equipment. In order to file claims through Trust Online, the Law Firm will provide its own computer equipment that meets the Trust's technical standards. The standards will be among those then in general use among businesses transferring information electronically.
- 3.2 Reports. The Law Firm may download specified data and generate reports summarizing information regarding the Claimants' claims through Trust Online.

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- 3.3 Continuous Access. The Trust will use its reasonable best efforts to make Trust Online continuously available to the Law Firm, except that availability may be interrupted (a) nightly to synchronize data with processing systems, (b) at any time as a result of system failure, and (c) when necessary for system upgrades, adjustments, maintenance, or other operations. When reasonably possible, the Trust will notify the Law Firm in advance of any foreseen interruption, but will be under no obligation to do so. The Trust will use its reasonable best efforts to minimize the length and frequency of interruptions. Notwithstanding any other provision of this Agreement, the Trust will not be liable for any damages resulting directly or indirectly from system unavailability.
- 3.4 Security. The Trust, and the Facility for the Trust will maintain reasonable physical, electronic, and procedural safeguards to protect the information that the Law Firm transmits through Trust Online. The Trust will not be liable for any damages resulting directly or indirectly from security breaches caused by or traceable to the Law Firm or its officers, directors, partners, employees, contractors, and agents. Further, the Law Firm agrees to indemnify, hold harmless, and defend the Trust against all liabilities, costs, and damages, including reasonable attorneys' fees, incurred by the Trust in connection with third-party claims arising out of any such breach.

### 4. Rules and Procedures

- 4.1 Adherence to Trust Distribution Procedures. The Law Firm will ensure that any submissions made to the Trust through Trust Online will conform to the rules and procedures established by the Trust and contained in its Trust Distribution Procedures, as they may be amended from time to time (the "Trust Distribution Procedures").
- 4.2 Payment Criteria Unchanged. This Agreement is not intended to alter and does not supersede the claim payment criteria contained in the Trust Distribution Procedures. This Agreement does not create any rights to claim payment beyond those set forth in the Trust Distribution Procedures.
- 4.3 Claim Deferral. Nothing contained in this Agreement shall be construed to permit a Claimant to defer a claim's processing contrary to the Trust Distribution Procedures.

### 5. Claim Information

- 5.1 Law Firm Certification. The Law Firm hereby represents, and in connection with the submission of any claim shall certify, that it is authorized by each Claimant to submit a claim and that the information and materials submitted in connection with a claim filed through Trust Online with the Trust shall be accurate and comply in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure and this Agreement.
- 5.2 Complete Information. The Trust is not obligated to take any action on a claim until it has received all of the information required by the Trust Distribution Procedures.

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- 5.3 Filing. The Law Firm acknowledges and agrees that, although Trust Online permits claim information to be entered before the claim's submission, such entry of information does not constitute a claim filing for any purpose, including for the tolling of any applicable statute of limitations or repose, and the Trust will not have or will be deemed not to have any record of such an entry. Similarly, if Trust Online does not accept a claim submission for any reason, including a Trust Online system failure, the claim will not be considered filed for any purpose. The Trust will not be responsible for any damages resulting from User error.
- 5.4 Maintenance of Supporting Documents. The Law Firm will maintain a paper or electronic copy of each document relied upon in or submitted through Trust Online for a claim for no less than five years from the date of the claim's final resolution. Within ten days of a request made by the Trust, the Law Firm will provide to the Trust copies of any such documents requested by it.
- 5.5 Confidentiality of Claimant Submissions. In accordance with Section 8.4 of the Trust Distribution Procedures, all materials, records, and information submitted by the Claimants are confidential and are considered submitted solely for settlement purposes. Accordingly, any electronic submissions to the Trust under this Agreement shall remain confidential and will not be produced, except as permitted by Section 8.4 of the Trust Distribution Procedures.
- 5.6 Liens. The Law Firm agrees that, prior to disbursing funds received from the Trust to a Claimant, the Law Firm will (a) ask the Claimant whether the Claimant is aware of any valid liens that exist relating to the subject claim, and (b) will advise the Claimant that the funds could be subject to liens or repayment obligations owing under the Medicare Secondary Payer Statute, unless the Law Firm has a process or system in place for the handling of such liens and repayment obligations or deems such advice unnecessary.
- 6. Settlement Offer, Acceptance, and Payment**
- 6.1 Settlement Offers. The Trust shall communicate any settlement offer to the Law Firm through Trust Online. If a Claimant desires to accept his or her settlement offer, Trust Online shall prompt the Law Firm to either electronically generate a customized release for use to accept the offer (the "Release") or request that the Trust mail a Release to the Law Firm. If the Law Firm elects to generate the Release through Trust Online, the system will prompt the Law Firm to electronically view and print the Release. The Release shall not be modified in any manner from the customized form the Trust provides through Trust Online or mails to the Law Firm.
- 6.2 Law Firm Required to Obtain and Deliver Signed Release. In the event a Claimant intends to accept a settlement offer, the Law Firm will be responsible for obtaining the signature of the Claimant on the Release and delivering the Release to the Trust. Delivery of the Release shall be made as instructed in the Notice of Determination Letter. If the Release is uploaded to Trust Online, the Law Firm shall maintain the original, signed Release for no less than five years from the date of

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submission. Within ten days of a request made by the Trust, the Law Firm shall produce to the Trust a hard copy of the original, signed Release.

- 6.3 Payment Method Options. The Trust shall pay claims electronically through the Automated Clearing House network pursuant to the instructions on file at the time of payment, unless the Law Firm and the Trust agree otherwise.

### 7. Limitation of Liability

- 7.1 Limited Damages and Disclaimer. Except as specifically provided in this Agreement, or as otherwise required by law, the Trust will not be held liable for any indirect, incidental, special, or consequential damages by reason of the Law Firm's use of Trust Online.

THE TRUST MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO ANY PERSON AND EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER IMPLIED OR STATUTORY, OR ARISING OUT OF CUSTOM OR COURSE OF DEALING OR USAGE OF OR IN THE TRADE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

If this liability limitation or disclaimer is held inapplicable or unenforceable for any reason, then the liability of the Trust to the Law Firm, the Claimant's counsel of record, any Claimant, or any third party for any type of damages will be limited to a maximum of \$1,000.

### 8. Miscellaneous

- 8.1 No Assignment. No Party may assign or otherwise transfer in any way any of its rights and obligations arising out of this Agreement without the prior written consent of the other Party, except that the Trust may utilize another entity to process claims.
- 8.2 Termination. Either Party may terminate this Agreement upon written notice to the other Party. On the effective date of termination, the Trust will cease providing the Law Firm with access to Trust Online and the Law Firm will cease making online claim submissions and accessing Trust Online; however, at the Trust's discretion, it may allow the Law Firm access to Trust Online only to complete or read then-filed claims. After termination, this Agreement will continue to govern filed claims.
- 8.3 Disputes. Any dispute between the Parties relating to the Trust's allowance, disallowance, or valuation of a claim submitted by the Law Firm will be resolved pursuant to the Trust Distribution Procedures and the Trust's dispute resolution procedures.
- 8.4 Force Majeure. No Party will be liable for any failure of or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of God, embargo, riot, sabotage, labor shortage or dispute, governmental act, terrorism, failure of Internet service, or technological or electronic security issue, provided that the delaying Party (a) gives the other Party prompt notice of such

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cause to the extent it is reasonably feasible to do so, and (b) uses reasonable efforts to correct promptly such failure of or delay in performance.

8.5 Applicable Law. This Agreement shall be interpreted, construed, and enforced according to the laws of the State of Texas, without regard for its choice of law provisions.

8.6 Binding Effect. Each of the undersigned persons represents and warrants that he or she is authorized to sign this Agreement on behalf of the Party he or she represents, and that he or she has the full power and authority to bind such Party to each and every provision of this Agreement. The person executing this Agreement on behalf of the Law Firm is a licensed, practicing attorney who is a partner or other principal in the Law Firm. A signature on a copy of this Agreement transmitted by facsimile, email, or other electronic means will have the force and effect of an original signature.

8.7 Severability. If any term or provision of this Agreement should be declared invalid or unenforceable by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Agreement shall remain in full force and effect.

8.8 Entire Agreement and Waiver. This Agreement constitutes the entire agreement and understanding between the Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the Parties. Any failure of a Party to exercise or enforce its rights under this Agreement shall not act as a waiver of subsequent breaches.

8.9 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one instrument.

**LAW FIRM:**

\_\_\_\_\_  
[Name of Law Firm]

By: \_\_\_\_\_  
[Signature Required]

Name: \_\_\_\_\_  
[Print]

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

Date: \_\_\_\_\_

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

Tax ID/EIN: \_\_\_\_\_

**DII INDUSTRIES, LLC ASBESTOS PI TRUST**

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

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

Date: \_\_\_\_\_



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**ATTACHMENT 1: USER LIST**

<b>Last Name</b>	<b>First Name</b>	<b>Middle Initial</b>	<b>Trust Online Username</b>	<b>Email Address</b>	<b>Job Title</b>	<b>Employer, if not the Law Firm</b>