

## PRO SE ELECTRONIC FILER AGREEMENT

This Electronic Filer Agreement (the “Agreement”) is made by and between DII Silica Trust (“DII Silica”), with offices at 1007 North Orange Street, Wilmington, Delaware 19801-3023, and \_\_\_\_\_, who resides at \_\_\_\_\_ (“Pro se Claimant”) (collectively, DII Silica and Pro Se Claimant may be referred to as “the Parties.”)

### Recitals

DII Silica Trust is a qualified settlement Trust, established in part to process, settle and pay silica personal injury claims to persons injured by exposure to silica containing materials manufactured or sold by Mid-Valley, Inc., DII Industries, LLC, Kellogg Brown & Root, Inc., KBR Technical Services, Inc., Kellogg Brown & Root Engineering Corporation, Kellogg Brown & Root International, Inc. (a Delaware corporation), Kellogg Brown & Root International, Inc. (a Panamanian corporation), and BPM Minerals, LLC. Inc.; and

Pro Se Claimant is an individual who has filed or intends to file an silica personal injury claim on his own behalf without representation of counsel; and

it is mutually beneficial to DII Silica and the Pro Se Claimant to settle the silica personal injury claim by communicating information to each other electronically, to speed claim processing and lower transactional costs,

NOW THEREFORE, in consideration of the promises and undertakings described herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, with each other, as follows:

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

- 1.1 Access to DII Silica Online. DII Silica will provide the Pro Se Claimant with access to DII Silica’s on-line claim system (DII Silica Online), through which Pro Se Claimant may view, submit and modify the silica injury claims submitted to DII Silica in electronic format. The Pro Se Claimant will have access to DII Silica Online for the sole purpose of providing and reviewing claim information on-line. The Pro Se Claimant will have access to information through DII Silica Online only regarding the Pro Se Claimant’s own claim, and will be authorized to act through DII Silica Online only in regard to the Pro Se Claimant’s own claim.
- 1.2 Filing Methods, Media, and Format. DII Silica will accept claim data from the Pro Se Claimant using one or more methods and electronic media that DII Silica will from time to time specify, in formats that DII Silica will from time to time specify. The methods, media, and formats which DII Silica will specify will be among those then in general use among businesses transferring information electronically.

1.3 Proprietary System. The Pro Se Claimant acknowledges that the DII Silica Online, including all enhancements thereto and all screens and formats used in connection therewith, are the exclusive proprietary property of DII Silica, and the Pro Se Claimant shall not publish, disclose, display, provide access to or otherwise make available any DII Silica Online or any products thereof, or any screens, formats, reports or printouts used, provided, produced from or in connection therewith, to any person or entity other than an employee or principal of the Pro Se Claimant, without the prior written consent of DII Silica, with the exception that the Pro Se Claimant may publish, disclose, display, provide access to or otherwise make available to a Claimant represented by the Pro Se Claimant any screens, reports or printouts which contain information relating solely to that Claimant's claim.

## 2. User Identification.

2.1 Limited Access. DII Silica will assign a unique DII Silica Online password to the Pro Se Claimant. DII Silica will provide access to DII Silica Online only upon entry of DII Silica Online password. DII Silica may deny access to its system following failed log-ins. Individuals with access to DII Silica Online may not share their passwords with others, and the Pro Se Claimant will not permit any individual to use his DII Silica Online password. DII Silica also retains the right to temporarily deny access to proper passwords for any reason, including, but not limited to, system resources, bandwidth constraints, and fraud or security concerns.

2.2 Reliance on Pro Se Claimant Communications. DII Silica is entitled to rely on communications and instructions it receives from the Pro Se Claimant and, except if DII Silica has acted with gross negligence, will not be held liable for such reliance.

2.3 Acceptance of Terms and Conditions. Each time the Pro Se Claimant enters the DII Silica Online system, he will be required to review a screen that will affirm that all on-line submissions to DII Silica will conform to the terms of this agreement and will be true and accurate to the best of the Pro Se Claimant's knowledge, information and belief. The pop-up screen will have a hyperlink to an electronic copy of this Agreement. The pop-up screen will also require the user to assent to these terms and conditions by clicking "I Agree" or other similar language. The requirement of assenting to the terms and conditions before entering the system shall not in any way affect the validity or binding effect of this Agreement once executed.

## 3. Technical Capabilities

3.1 Compatible Equipment. In order to file claims through DII Silica Online, the Pro Se Claimant will provide his own compatible computer equipment that meets technical standards that DII Silica will from time to time announce. The standards that DII Silica will set for this purpose will be among those then in general use among businesses transferring information electronically.

- 3.2 Reports. DII Silica will make available to the Pro Se Claimant through DII Silica's web site the ability to download specified data and, if applicable, to generate reports summarizing information regarding the Pro Se Claimant's claim.
- 3.3 Continuous Access. DII Silica will make the DII Silica Online available to the Pro Se Claimant seven days per week, with the exception that availability will be interrupted nightly for approximately one hour to synchronize data with Trust processing systems and at any time as a result of system failure or when necessary for system upgrades, adjustments, maintenance or other operational considerations. Notwithstanding any other provision of this Agreement, DII Silica shall not be liable for any damages resulting directly or indirectly from system unavailability.
- 3.4 Security. DII Silica will maintain physical, electronic, and procedural safeguards that will protect the information the Pro Se Claimant transmits on-line. DII Silica will not disclose non-public personally identifiable information about its Pro Se Claimant's Claimants to unauthorized persons, and DII Silica will restrict access to such information to authorized individuals who need to know this information for purposes relating to the processing and settlement of silica personal injury claims.

#### **4. Rules and Procedures**

- 4.1 Adherence to CRP. The Pro Se Claimant will assure that any submissions made to DII Silica through DII Silica Online will conform to the rules and procedures established by DII Silica and contained in its Silica Personal Injury Claims Resolution Procedures (CRP) as may be amended from time to time.
- 4.2 Payment Criteria Unchanged. This Agreement is not intended to alter and does not supersede the claim payment criteria contained in the CRP. This Agreement does not create any rights to claim payment beyond those set forth in the CRP.

#### **5. Claim Information**

- 5.1 Complete and Accurate Information. Consistent with the Pro Se Claimant's legal responsibilities and the terms of this Agreement, the Pro Se Claimant will provide complete and accurate information through DII Silica Online. DII Silica is not obligated to take any action on a claim until it has received all the complete information as required by its CRP.
- 5.2 Maintenance of Supporting Documents. The Pro Se Claimant will timely provide to DII Silica hard copies of documents relied upon in DII Silica Online whenever instructed to do so by DII Silica. Whenever DII Silica does not instruct the Pro Se Claimant to provide copies of documents relied upon in DII Silica Online, the Pro Se Claimant will maintain a copy of each document so relied upon, in either paper or electronic format, and thereafter will timely provide copies of such documents to DII Silica upon request.

**6. Miscellaneous**

- 6.1 Limited Damages. Except as specifically provided in this Agreement, or as otherwise required by law, no officer, director, trustee, employee, contractor, or agent of DII Silica will be held liable for any indirect, incidental, special or consequential damages by reason of Pro Se Claimant's use of DII Silica Online.
- 6.2 No Assignment. Neither 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.
- 6.3 Termination. Either Party may terminate this Agreement upon written notice to the other Party. Upon effective date of termination of this Agreement, DII Silica will cease providing the Pro Se Claimant with access to its system, and the Pro Se Claimant will cease submitting claim information on-line.
- 6.4 Disputes. Any dispute between the Parties relating to the appropriate categorization or settlement value of a claim submitted by the Pro Se Claimant to DII Silica will be resolved pursuant to DII Silica's dispute resolution procedures.
- 6.5 Force Majeure. Neither party will be liable for any failure 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, or failure of Internet service, provided that the delaying party: (a) gives the other party prompt notice of such cause, and (b) uses reasonable efforts to correct promptly such failure or delay in performance.
- 6.6 Applicable Law. This Agreement shall be interpreted, construed and enforced according to the laws of the State of Delaware.
- 6.7 Binding Effect. Each of the undersigned persons represents and warrants that they are authorized to sign this Agreement on behalf of the Party they represent, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, representatives, successors and assigns. A signature on a copy of this Agreement transmitted by facsimile machine will have the force of an original signature.
- 6.8 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.
- 6.9 Entire Agreement and Waiver. This Agreement constitutes the entire agreement and understanding between and among 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 either party to exercise or enforce its rights under this Agreement shall not act as a waiver of subsequent breaches.

\_\_\_\_\_

*( Pro Se Claimant)*

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

\_\_\_\_\_

*(print)*

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

\_\_\_\_\_

*(for DII SILICA)*

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

\_\_\_\_\_

*(print)*

ATTACHMENT 1 ELECTRONIC POP-UP SCREEN

The following will be imported into a pop up screen that will appear each time a user logs on for the first time:

By clicking the "I AGREE" box below the user affirms that all on-line submissions to DII Silica conform to the terms of the Electronic Filer Agreement executed by the Parties. User further affirms that all submissions made during this on-line session are true and accurate to the best of the individual user's, knowledge, information and belief and the knowledge information and belief of the party who executed this Agreement (if different than the user). In order to have access to this system you must click the "I AGREE" button below indicating your assent to these terms and conditions. In the event you wish to review the full text of [Electronic Filer Agreement](#) you may do so by clicking the hyperlink.

**I AGREE**