

**J T THORPE COMPANY SUCCESSOR TRUST**

**RELEASE AND INDEMNITY**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENT THAT WE, \_\_\_\_\_, (Social Security No. \_\_\_\_\_) (“Claimant”), individually, and, if he/she is married, his/her spouse, but only if such spouse is a party to the subject lawsuit \_\_\_\_\_ (“Spouse”), Social Security No. \_\_\_\_\_, as husband and wife, on behalf of themselves, their heirs, administrators, executors, personal representatives, and assigns, hereinafter collectively referred to as “Releasers,” for consideration of the sum of One Dollar and other good and valuable consideration, do hereby forever release and discharge (i) the J T Thorpe Company Successor Trust (the “Successor Trust”), J T Thorpe Company, Thorpe Corporation, Thorpe Products Company, Thorpe Insulation Services Company, Leacon-Sunbelt, Inc. (f/k/a Sunbelt Constructors, Inc.), Thorpe Insulation Company (dissolved), Thorpe Equipment Sales Company (dissolved), Cactus Construction Company, NJT, Inc., and Allstates Refractories, Inc. (collectively “Thorpe”), and (ii) all of Thorpe’s present and former shareholders, directors, officers, employees, agents and servants, and all of Thorpe’s present and former divisions and subsidiary corporations, and any and all predecessors, successors, and assigns, and their insurance carriers to the extent of coverage provided to any of the foregoing, provided however, that such release and discharge of the persons and entities named in (ii) herein shall only be with respect to derivative liability of Thorpe, hereinafter the aforementioned parties and entities named in (i) and (ii) collectively shall be referred to as “Releasees,” from any and all claims, causes or rights of action, demands and damages of every kind and nature whatsoever, including but not limited to, any and all present claims relating to asbestos-related diseases, injuries, cancers, and /or malignancies, including, but not limited to, loss of consortium, companionship, service, support, pain and suffering, injury and damage of any kind, including the wrongful death of Claimant, which any of the Releasers now have that are in any way related to the possible exposure of Claimant to asbestos or asbestos-containing products manufactured, sold, supplied, distributed, installed, handled, or removed by Thorpe, which may have caused injuries or damages to any of the Releasers or for which Releasees may bear legal responsibility (“Claim”). The undersigned reserve all rights to proceed at law and/or in equity against any person, corporation and/or association other than Releasees for harmful exposure to asbestos or asbestos-containing products.

If the Claim is for a non-malignant asbestos-related condition of Claimant, the parties to this Release intend not to release, and the Releasers specifically do not release, claims for lung cancer, mesothelioma, primary colon-rectal, laryngeal, esophageal, pharyngeal or stomach cancer, or death resulting from lung cancer, mesothelioma, primary colon-rectal, laryngeal, esophageal, pharyngeal or stomach cancer, not diagnosed as of the date hereof and allegedly resulting or alleged to result from Claimant’s exposure to asbestos or asbestos-containing products (the “Non-Released Claims”); provided, however, that Non-Released Claims shall be

asserted only against the Successor Trust. Other than the Successor Trust, the Releasees shall have no personal liability for any of the Non-Released Claims except to the extent necessary to access applicable insurance proceeds of Thorpe in accordance with the J T Thorpe Company Successor Trust Agreement and the Releasors' only recourse for payment on the Non-Released Claims shall be against the Successor Trust. If, however, the Claim is for a malignant asbestos-related condition of Claimant, the parties to this Release intend to release, and the Releasors specifically do release, any other claim of Claimant against the Releasees for a distinct malignant asbestos-related condition.

The parties to this Release further understand and agree that nothing in this Release is intended to settle, waive or relinquish any claim that the Claimant's Spouse, children and/or personal representative individually may have today or in the future against Releasees or any other entity for an asbestos-related injury or disease that results from his/her personal exposure to asbestos fibers and/or products manufactured, sold or distributed by Releasees, as applicable, or any other manufacturer, supplier or distributor of asbestos-containing products.

The Releasors agree that this is a compromise of doubtful and disputed claims and that the payment of the consideration for this Release is not to be considered as an admission of liability on the part of any person or entity released hereby. It is further understood that this Release is not intended to relinquish any claim the Releasees may have against any party or the Releasors have against any party that is not a Releasee. The parties further agree that this Release shall not be admissible in any suit or proceeding whatsoever as evidence or admission of any liability.

In order to induce the payment of the aforesaid consideration, the Releasors, jointly and severally, do covenant and agree to defend, hold harmless and indemnify all Releasees from any and all claims (including actions and suits), but solely those claims released by Releasors under this Release and Indemnity, including any and all claims (i) of any Worker's Compensation carrier, any employer who is self-insured for Worker's Compensation purposes, any governmental Worker's Compensation funds, and/or arising under any state Worker's Compensation law, (ii) arising under the Federal Longshoremen's and Harbor Workers' Act, (iii) of any health care provider (including all medical, hospital, ambulance and/or drug bills or related expenses), and (iv) of any insurance carrier or other party who has, or claims to have, a lien against the aforesaid consideration, and all such claims (including actions and suits), but solely those claims released by Releasors under this Release and Indemnity, as may now be pending or which may heretofore have been made, against any or all of the Releasees, which may be brought and/or made on account of any claimed injuries and/or damages arising from or relating to the exposure of Claimant to asbestos or asbestos-containing products, and to indemnify them in legal tender and/or by offset, up to the full extent of the compensation paid or to be paid by the Successor Trust to any of the Releasors on account of the Claim.

This Release contains the entire agreement between the parties and supersedes all prior or contemporaneous, oral or written agreements or understandings relating to the subject matter hereof between or among any of the parties hereto.

This Release shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas, without giving effect to the principles of conflicts of law thereof and shall be binding on Releasors and their heirs, legal representatives, successors and assigns.

To the extent California law may be determined to be applicable to this Release, Claimant hereby waives all rights under Section 1542 of the California Civil Code. California Civil Code, Section 1542 provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Claimant understands and acknowledges that because of Claimant's waiver of Section 1542 of the California Civil Code, even if Claimant should eventually suffer additional damages, Claimant will not be able to make any claim for those damages, except as expressly provided herein. Claimant acknowledges that he or she intends these consequences.

The Releasors further state:

1. That each of them is of legal age, with no mental disability of any kind, and is fully and completely competent to execute this Release on his or her own behalf; and
2. That the above Release has been explained to them and they know the contents as well as the effect thereof.

Releasors further acknowledge that they executed this instrument after consultation with their attorney or the opportunity to consult with an attorney.

Each of the undersigned hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

\_\_\_\_\_  
[Name]  
Social Security No. \_\_\_\_\_  
Executed on \_\_\_\_\_

\_\_\_\_\_  
[Spouse], if a party to the subject lawsuit  
Social Security No. \_\_\_\_\_  
Executed on \_\_\_\_\_