JONES DAY

555 SOUTH FLOWER STREET • FIFTIETH FLOOR • LOS ANGELES, CALIFORNIA 90071.2300

TELEPHONE: +1.213.489.3939 • FACSIMILE: +1.213.243.2539

DIRECT NUMBER: (213) 243-2475
SLEVINSON@JONESDAY.COM

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BY ECF FILING AND ELECTRONIC MAIL

Honorable Barbara J. Houser
United States Bankruptcy Judge
Northern District of Texas, Dallas Division
Earle Cabell Federal Building
1100 Commerce Street
Dallas, TX 75242

Re: In re CHC Group Ltd. et al., Case No. 16-31854 (BJH)
PSA Motion, ECF No. 1322

Dear Judge Houser:

We write on behalf of our clients, Angelo, Gordon & Co., L.P. and Cross Ocean Partners (together, the "Objecting Noteholders"), in response to the letter filed by the Debtors on December 7, 2016 (the "Letter"), and this Court's request for precedents "where a plan-support agreement, with fees like this, was approved outside of a plan process," preferably "written opinion[s] where the issues have been analyzed" and "on a contested basis." (Nov. 17, 2016 Hearing Tr. at 400:15-17, 401:10-14).

The Letter cites eight cases, only one of which resulted in a written opinion, *In re Genco Shipping and Trading Ltd.*, 509 B.R. 455 (Bankr. S.D.N.Y. 2014). As explained below, *Genco* is inapposite because, among other reasons, it did not involve a backstop fee payable upon confirmation of a plan, but rather a termination fee payable if the debtor pursued an alternative restructuring transaction.

As discussed below, six of the remaining seven unpublished cases are similarly unhelpful. One (*Energy & Exploration*) did not involve any backstop fee at all; one (*Autoseis*) involved a fee, mislabeled as a "backstop" fee, payable in connection with debtor in possession financing; and two (*Dura Automotive*, *Abitibibowater*) did not require court approval of any plan support agreement. Those cases thus fall outside the ambit of the Court's request. Another (*Penn Virginia*) is distinguishable because it involved assumption of a prepetition restructuring support agreement rather than an agreement executed during a contested bankruptcy case like the one at issue here, and one (*Visteon*) involved facts readily distinguishable from this case. Significantly, in none of those cases were courts confronted with a request to pay fees to certain

members of a class over the objection of other members of the same class who had offered to make the same commitment as that made by class members who would receive the fee.[1]

Momentive

That leaves one case, *In re Momentive Performance Materials Inc.,* Case No. 14-22503 (Bankr. S.D.N.Y. June 19, 2014), in which Judge Drain *declined* to approve the backstop fee requested by the debtors. Although relegated to a footnote in the Letter (at 2 n.5), *Momentive* is highly instructive because it involved essentially the same facts and arguments as those presented by the Debtors in the PSA Motion. In *Momentive*, the debtors sought approval of a restructuring support agreement and backstop commitment agreement pursuant to which holders of 85% of second lien notes agreed to support the proposed plan and to backstop a $600 million rights offering that would be offered to all second lien noteholders. In exchange, the debtors agreed to pay the backstop parties a 5% premium (or $30 million), calculated on the nominal amount of the entire rights offering and payable in new common stock.

Like the Objecting Noteholders here, holders of the second lien notes that had been excluded from participating in the backstop commitment filed objections, arguing, among other things, that: (a) because the backstop parties already owned 85% of the second lien notes, they were assuming a risk of non-subscription only with respect to the 15% remainder and, as a result, any fee should be calculated with reference only to that remainder; (b) the rights offering was to be made at an attractive discount to the equity value, making it highly unlikely that any prepetition lien noteholder would decline to participate in the rights offering, thus further reducing the risk of the backstop commitment; (c) the objecting noteholders' offers to participate in the backstop (including an offer to provide the backstop at a lower fee) had been "summarily dismissed"; and (d) the backstop fee violated section 1123(a)(4) of the Bankruptcy Code because it resulted in greater distributions to the backstop parties than to the objecting noteholders who had not been given an opportunity to participate. (Letter Ex. H, Objection of Fortress Investment Group LLC to Backstop Commitment Agreement (*Momentive* ECF 330)).

After hearing evidence, Judge Drain declined to approve the backstop agreement unless it was modified to provide that the commitment fee be "premised upon the actual unsubscribed shares as of today" (*i.e.*, the 15% remainder). (Letter Ex. H, ECF 615 at 198:8-9). Judge Drain noted that the debtors had failed to establish how the backstop fee "related to what was not committed to, and therefore, what was being backstopped, as well as the other inducements to participate in the subscription to the offering." *Id.* at 195:5-9. Judge Drain's well-reasoned

[1] The Debtors insist that they are not submitting or relying on the cases they cite as comparable transactions for purposes of determining the reasonableness of fees contemplated by their PSA motion. (Letter at 2). And for good reason – the backstop fees in the cases cited in the Letter range from 3.5% to 7.5% (excluding *Genco*, which was a termination fee and, if measured against the total debt-to-equity conversion, provided for a fee of 2.2%).

analysis, including his distinction of *Genco*, is quoted in its entirety below for the Court's convenience:

> It appears to me clearly the case that based on the state of the play today, the record today – where there is, at most, fifteen percent uncommitted, although more likely ten percent uncommitted – a thirty-million-dollar fee is far outside of the range that has been quoted to me, which is roughly three to six percent. It isn't really the five-percent fee; it's more like a thirty-five-percent fee for that fifteen percent. So standing alone as a fee, it doesn't make sense. It could only make sense as another inducement to commit to subscribe to shares. And, again, I have Mr. Carter's testimony that that was how this was ultimately evaluated. On the other hand, I have two other potent pieces of evidence. First, the plan itself contemplates and offers up to the rest of the class subscription without the fee, just for the fifteen-percent discount. Second, I have three institutions, not dissimilar to the institutions who have signed up to the subscription -- I'm sorry; the backstop agreement, which includes -- and the RSA, which includes a reference to subscribing to the 600-million-dollar offering -- who say they are prepared to do it on a very different basis with regard to the thirty million dollars; *i.e.*, they're willing to subscribe now and lock themselves in and to have the fee calculated only on the unsubscribed portion as opposed to the whole 600 million. To me, that's very telling.
>
> I appreciate the argument made by counsel for most of the signatories to this agreement -- all of them except Apollo -- that I would be rewarding Johnny-come-latelies and unduly changing an agreement that had been negotiated at a time when people were, in fact, taking more risk, and that there was value to the company in taking that risk. And I've considered that argument carefully.
>
> I also note that if I rule so as to grant Fortress' objection, to some extent I would be playing chicken with the parties who have signed this agreement, because they have the right to walk on that basis, and no court particularly likes to do that. And going back to the first point, it's well recognized in the case law, including, most recently, by Judge Lane in *In re Genco Shipping* and Trading Ltd., 509 B.R. 455 Bankr. S.D.N.Y. 2014), that the Court should encourage -- as Congress has -- pre-petition negotiations, including

> agreements of this sort, on a generic basis. However, I believe that I need to view this agreement on today's record, *i.e.*, based on the state of facts that exist today. I do not have any sense that this is, as far as the RSA/backstop parties are concerned, a plan that they are eager to get out of. I also have a strong sense that the thirty-million-dollar fee is imbalanced and not supported by the evidence, whereas a fee based on the truly uncommitted amount is.
>
> Moreover, although this agreement was entered into pre-petition, it's effective only upon an order of the Court approving it. There's no rejection claim, on the other hand. There is an element of this agreement that does recognize the substantial contribution that the parties to the agreement have made, which is the provision providing for the payment of their fees and expenses, which I believe is appropriate, given the benefit to the debtors of having these agreements. But I do not believe that on top of the fifteen-percent discount, another five-percent VIG (ph.) is appropriate here, and I can't approve it. It would not fall into the percentage rates that I've been shown is appropriate for a backstop agreement without also having evidence that all that was being backstopped was ten to fifteen percent of unsubscribed shares, nor do I have sufficient evidence that a right that is being offered to all other members of the class for merely the fifteen-percent discount is not fair without another five-percent recovery which the rest of the class is not being offered.
>
> That's not a plan ruling; it's just a ruling on basic fairness. So I would, based on the record today, approve the agreement with the two changes that I've outlined: the September 14th confirmation date and a commitment fee premised upon the actual unsubscribed shares as of today. But I cannot approve the agreement without those two changes, as well as the other changes that have been agreed to on the record.

Id. at 195:11-198:11. Following the court's ruling, the backstop parties in *Momentive* consented to allowing the objecting parties to join the backstop agreement and share pro rata in the benefit of the backstop fees.[2] (Momentive Order Authorizing Backstop Commitment Agreement, at ¶ 7 (*Momentive* (ECF 509))).

[2] Order Authorizing And Approving The Debtors' (I) Entry Into And Performance Under The Backstop Commitment Agreement, (II) Payment Of Related Fees And Expenses, And (Iii) Incurrence Of Certain

Judge Drain's reasoning applies with equal force here:

- The Backstop Parties are Backstopping Themselves. The Backstop Parties have already committed to subscribe to their pro rata share of the Rights Offering, which equals about two-thirds of the offering. As such, the maximum amount of unsubscribed shares in the $300 million Rights Offering that could potentially require a backstop is about $100 million. Moreover, that amount includes the notes held by the Objecting Noteholders, who have made clear that they are prepared to fully subscribe to their pro rata share, meaning that the Backstop Parties actually are at risk for no more than $65 million, for which they want a fee in an amount in excess of 40%.

- The Rights Offering is an Attractive Investment. A representative of one of the Backstop Parties (Michael Bevacqua of Bain Capital) admitted that the Rights Offering is an "attractive investment," suggesting that the Rights Offering could be fully subscribed. (Nov. 22, 2016 Hearing Tr. at 58:5-15; 69:19-20). There is no evidence that the Rights Offering will not be favorably received. Yet, as in *Momentive*, the Debtors are proposing to pay the Backstop Parties a very large fee as compensation for close to zero risk. Indeed, although the Debtors have missed at least two milestones in the Plan Support Agreement, the Backstop Parties twice agreed to extend the deadline for its approval rather than terminating their commitments. As in *Momentive*, this is clearly not a plan that the Backstop Parties are "eager to get out of."

- The Backstop Parties are Adequately Compensated. As in *Momentive*, the Backstop Parties are being paid separately their professional fees and expenses. This is appropriate compensation for any contribution they may have made in helping to formulate the Rights Offering.

- The Objecting Noteholders Have Offered To Participate in the Backstop. The Objecting Noteholders offered to participate as a Backstop Parties for a lower fee but, as in *Momentive*, were "summarily dismissed."

Cases Other Than *Momentive*

In contrast to *Momentive*, the remaining seven cases cited by the Debtors are inapposite or readily distinguishable.

(continued…)

Indemnification Obligations (ECF 509) (Case No. 14-22503-rdd (Bankr. S.D.N.Y. June 23, 2014). A copy of this order is attached hereto as Exhibit A.

Cases Not Involving any Backstop Fee (*Genco, Autoseis, Energy & Exploration*)

Three of the Debtors' cases did not involve a backstop fee at all.

In *Genco*,[3] for example, the debtor sought to assume a prepetition restructuring support agreement for a prepackaged plan that provided for, among other things: (a) the conversion of approximately $1.2 billion of debt into equity of the reorganized debtor, (b) the extension of maturity dates on certain credit facilities, and (c) $100 million of new money to be provided through a rights offering. 509 B.R. 455 at 460-61. That agreement and plan did not provide for any backstop fee. Rather, the debtors sought approval of a $26.5 million *termination* fee (plus expense reimbursements), payable in cash only if the restructuring support agreement was terminated in order to allow the debtor to pursue an alternative transaction *and* the alternative transaction was consummated.[4] In contrast, the Debtors here are seeking approval to pay the $30.8 million "Put Option Premium" upon the effective date of the Plan (not an alternative transaction). *Genco* provides no guidance as to whether it is appropriate for the Court to approve the Put Option Premium outside of the confirmation process.

Genco is distinguishable in other material respects. For example, *Genco* involved a motion to assume a prepetition restructuring support agreement rather than a postpetition agreement like the agreements here. As such, the request arguably fell within the business judgment standard of section 365(a) of the Bankruptcy Code (although Judge Lane applied section 363(a) to his evaluation of the termination fee). *Genco*, 509 B.R. at 462-65. Moreover, Judge Lane was influenced by the public policy favoring out-of-court restructuring agreements (*id*. at 462), which is not implicated here. Perhaps most importantly, the only objectors in *Genco* were *equity holders*. *Id.* at 461. No objections were filed by noteholders within the same class of creditors as the restructuring support parties, and there is no indication that any noteholder or other creditor was excluded from participating in the rights offering. Judge Lane noted that, even though the equity holders might have wanted a larger distribution, there was no indication

[3] Perhaps recognizing its inapplicability, the Debtors cited *Genco* only once in their papers, on the very last page of their reply brief, for the proposition that the Objecting Noteholders may object to the plan even if the Court were to grant the PSA Motion. In describing the holding in their reply brief, Debtors did not claim that *Genco* was precedent for approval of the Put Option Premium. Rather, they described the holding as "saving a review of an objection to the value provided to equity holders in an RSA at the RSA approval hearing until the confirmation hearing and noting that "the [c]ourt need only evaluate whether the RSA is a valid exercise of Debtors' business judgment." (Reply Brief at 21 (citing *Genco*, 509 B.R. at 468). Notably, the Debtors' counsel also did not identify *Genco* when asked by the Court at the November 17 hearing whether any such precedent existed. (Nov. 17 Hearing Tr. at 401:3-4).

[4] *See* Motion for Entry of An Order (A) Authorizing the Assumption of the Restructuring Support Agreement; (B) Approving Payment of the Termination Fee; and (C) Granting Related Relief at 44, (Case No. 14-11108-SHL (Bankr. S.D.N.Y. April 21, 2014) (ECF 13)). A copy of this pleading is attached as Exhibit B hereto.

that any viable alternative existed, and the "logical consequence of the objectors' position would be to destroy the Prepack Plan now in favor of the unknown." *Id.*

In *Autoseis*, the fee at issue was payable in connection with a debtor in possession financing facility, under which the DIP lenders received a premium of 3.5% in exchange for agreeing to equitize their DIP loans. *Autoseis* did not involve a backstop fee and is irrelevant for the same reason that two of Mr. Genereux's purported comparable transactions (*Magnum Hunter* and *Swift*) are not relevant.

Finally, the Debtors themselves acknowledge that *Energy & Exploration* "was not a case in which a backstop fee was at issue" (Letter at 2 n.3) and, accordingly, none required court approval.

Cases Not Involving A Plan Support Agreement (*Dura Automotive*, *Abitibibowater*)

Dura Automotive did not require court approval of a plan support agreement under which backstop fees were to be provided. Accordingly, it falls outside the Court's request for precedents "where a plan support agreement, with fees like this, was approved outside of a plan process." [11/17/16 Tr. at 400:15-17]. Indeed, *Dura* does not present the concerns raised by the Objecting Noteholders in their objection to the PSA Motion – namely, that the proposed backstop fee is, in large part, attributable to the Backstop Parties' agreement to vote in favor of the plan and substantively an additional payment on their claims that is not made available to the Objecting Noteholders. The Debtors candidly recognized this very dynamic in the PSA Motion:

> In addition to removing this litigation risk, the Plan Support Agreement gives the Debtors of [sic] certainty of execution, in that it provides for the votes and support of a significant portion of the Debtors' key creditors (subject to their receipt of an approved disclosure statement). Specifically, it represents support of holders of 67.56% of the Secured Notes, 73.56% of the Unsecured Notes, the UCC, and one of the Company's major lessors, thereby ensuring that the Debtors have at least one consenting impaired class of creditors in compliance with section 1129 of the Bankruptcy Code, as well as the votes and support of a significant threshold of creditors. This foundation of consensus will help the Debtors build great momentum going into the plan confirmation process.

(ECF 956 at ¶ 43). Cases such as *Dura Automotive* in which the approval of a backstop fee is not tied to the approval of a corresponding plan support agreement therefore are not instructive.

The motion to approve the backstop commitment in A*bitibibowater* also did not seek approval of a plan support agreement. Indeed, it specifically stated that the debtors would seek approval of a plan support agreement "by separate motion." (Letter Ex. F. Motion to Approve Bid Procedures and Entry into Backstop Commitment Agreement at 12 (Case No. 09-11296 (KJC) (Bankr. Del. May 24, 2010)). That apparently never happened. *Abitibibowater* is also distinct in that the backstop agreement in that case was an alternative to an exit financing facility, and the company had the right to reduce the size of the rights offering or cancel it altogether if the exit financing was obtained. (*See id.* at ¶ 14). Furthermore, the only filed objection to it centered primarily on the fact that the backstop parties would be entitled to receive a termination fee if the court found that their releases should not be approved. (Letter Ex. F, Objection of Wilmington Trust Company). No party objected on the basis that the fee was a disguised payment on a prepetition claim or a fee for voting in favor of the plan.

Case Involving Assumption of Prepetition RSA (*Penn Virginia*)

Penn Virginia is distinguishable from this case and *Momentive* because, as in *Genco*, it involved a motion to assume a *prepetition* restructuring support agreement rather than motion to approve a postpetition agreement.[5] Accordingly, the Court was not called upon to approve the backstop fee *per se* and did not expressly do so. Just as importantly, no objection was filed by any noteholders in the same class of creditors as those to receive the backstop fee. Accordingly, as in *Genco*, there was no concern that the backstop fee was, at least in part, a disguised payment on the claims of the backstop parties. Rather, the only objections were filed by the United States Trustee, an unsecured creditor that had proposed an alternative transaction, and the Ad Hoc Committee of Equity Security Holders. (*See* Letter Ex. C: Objection of U.S. Trustee (ECF 218); Objection of Republic Midstream, LLC and Republic Midstream Marketing, LLC (ECF 189); Objection of Ad Hoc Committee of Equity Security Holders to Restructuring Support Agreement (ECF 275)).

Case Distinguishable on Its Facts (*Visteon*)

Finally, *Visteon* can be distinguished by the critical fact that the investors there were essentially funding the fees at issue from their own recovery.

The plan in *Visteon* was comprised of two mutually exclusive "sub-plans." (*See* Letter Ex. B, Visteon Motion to Approve PSA at ¶ 2). The first was a rights offering sub-plan pursuant to which holders of prepetition unsecured notes that were "accredited investors" under the Securities Act could purchase 95% of the equity in the reorganized company if $1.25 billion in

[5] The proposed $50 million rights offering in *Penn Virginia* was backstopped by certain noteholders in exchange for a 6% ($3 million) backstop premium and a $2 million termination fee. (Letter Ex. C, Motion to Assume RSA, Backstop Agreement, Exit Commitment, and Fees, at 18 (Case No. 16-32395 (Bankr. E.D. Virginia 2016 (ECF 785))).

cash could be raised through a fully backstopped rights offering. The cash would then be used to pay the term lenders in full and give the investors a 95% equity share in the company. *Id.* at ¶ 3. If the noteholders were unable to raise the cash under the first sub-plan, they would be required to support a "toggle" claims conversion plan pursuant to which holders of term loan debt would receive 85% of the equity, the unsecured note holders would receive 15% of the equity, and other general unsecured creditors would receive cash.

In connection with the rights offering sub-plan, the backstopping parties agreed to provide a $300 million direct purchase commitment and to backstop the remaining $950 million. *Id.* at ¶ 4. In exchange, the backstopping noteholders would be paid (a) a $43.75 million "stock right premium" on account of the direct purchase commitment, 25% (or $10.9 million) of which was payable upon entry of the order approving the direct purchase commitment, and the balance was payable upon the closing of the direct purchase commitment; (b) a $16.625 million arrangement fee; and (c) costs and expenses incurred in connection with the equity commitment agreement. All but the 25% of the stock right premium were payable only upon a successful closing of the Rights Offering Sub Plan.

Thus, the fees at issue were an incentive for the backstop parties to deliver $1.25 billion in cash to the company, $300 million of which was to be committed by the backstop parties themselves. As the court noted, the investors, who would be the 95% owners of the company if the rights offering was successful, were effectively funding the fees out of their own recovery:

> The fees involved, the amount of the fees – look, frankly, they look like they might be a little high. But again, if we get there, it's not anyone else's money that's being spent other than the bondholders. And if they confirm a plan – vote to confirm a plan that takes super high fees out of their recovery, God bless them.

(*See* Letter Ex. B, Transcript of June 17, 2010 Hearing, 27: 10-15, ECF 3428). The court further commented that the only fee that was actually being approved for payment at the time of the entry of the order was the 25% of the stock right premium, or $10.9 million, which was "not such a significant amount" in the context of the $1.25 billion cash raise. (*Id*. at 29:1-25). The court noted that it would reserve approval of any breakup fee if and when it became necessary to do so. (*Id*. at 29:1 to 30:25). Finally, as in *Genco* and *Penn Virginia*, it is significant that none of the prepetition unsecured noteholders with claims in the same class as the investors filed any objection to the motion.

Conclusion

In sum, the Debtors have cited only two cases where a court consider whether to approve "a plan-support agreement, with fees like this, . . . outside of a plan process." One of those cases

resulted in rejection of the fees (*Momentive*) and the other is readily distinguishable on its facts, including that creditors within the same class of creditors as the investors did not object.

Sincerely,

/s/ Sidney P. Levinson

Sidney P. Levinson

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
MPM Silicones, LLC, et al.,[1]	:	Case No. 14-22503 (RDD)
Debtors.	:	Jointly Administered

ORDER AUTHORIZING AND APPROVING THE DEBTORS' (I) ENTRY INTO AND PERFORMANCE UNDER THE BACKSTOP COMMITMENT AGREEMENT, (II) PAYMENT OF RELATED FEES AND EXPENSES, AND (III) INCURRENCE OF CERTAIN INDEMNIFICATION OBLIGATIONS

Upon the motion (the "**Motion**")[2] of the debtors and debtors in possession (collectively, the "**Debtors**") in the above-captioned chapter 11 cases (the "**Cases**") commenced on April 13, 2014 (the "**Petition Date**") for entry of an order (the "**Order**"), pursuant to sections 105(a), 363(b), and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), (i) authorizing and approving the Debtors' (a) entry into and performance under that certain Backstop Commitment Agreement, annexed hereto as Exhibit 1 (including all other instruments, documents and papers delivered pursuant thereto or in connection therewith, the "**Backstop Commitment Agreement**"), (b) payment of the Backstop Commitment Premium and Expense Reimbursement, and (c) incurrence of the Backstop Indemnification Obligations in connection with the Backstop Commitment Agreement, all as more fully described in the Motion and the

[1] The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Juniper Bond Holdings I LLC (9631); (ii) Juniper Bond Holdings II LLC (9692); (iii) Juniper Bond Holdings III LLC (9765); (iv) Juniper Bond Holdings IV LLC (9836); (v) Momentive Performance Materials China SPV Inc. (8469); (vi) Momentive Performance Materials Holdings Inc. (8246); (vii) Momentive Performance Materials Inc. (8297); (viii) Momentive Performance Materials Quartz, Inc. (9929); (ix) Momentive Performance Materials South America Inc. (4895); (x) Momentive Performance Materials USA Inc. (8388); (xi) Momentive Performance Materials Worldwide Inc. (8357); and (xii) MPM Silicones, LLC (5481). The Debtors' executive headquarters are located at 260 Hudson River Road, Waterford, NY 12188.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion or the Backstop Commitment Agreement, as applicable.

Backstop Commitment Agreement; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and no other or further notice being required; and the relief being requested in the Motion and granted herein being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed and considered the Motion, statements and represenations in support of the relief requested therein and granted herein, objections to the relief requested therein, and testimony and evidence adduced at the hearing held before the Court on June 20, 2014 (the "**Hearing**"); and the objections of Fortress Investment Group LLC; D. E. Shaw Galvanic Portfolios, L.L.C., and Napier Park Napier Park Global Capital US L.P. (the "**Second Lien Objections**") having been withdrawn in their entirety pursuant to the terms set forth herein; and upon the Declaration of William Q. Derrough, dated June 21, 2014; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor

IT IS FOUND AND DETERMINED THAT:[3]

A. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b). Consideration of the Motion and the requested relief is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

[3] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

B. The notice given by the Debtors of the Motion and the Hearing constitutes proper, timely, adequate, and sufficient notice thereof and complies with the Bankruptcy Code, the Bankruptcy Rules, and applicable local rules, and no other or further notice is necessary.

C. The terms and conditions of the Backstop Commitment Agreement are incorporated as if fully set forth herein in the first instance. The terms and conditions thereunder are fair, reasonable, and the best available to the Debtors under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, are based on good, sufficient, and sound business purposes and justifications, and are supported by reasonably equivalent value and consideration. The Backstop Commitment Agreement was negotiated in good faith and at arms' length among the Debtors, the Backstop Parties, and their respective professional advisors.

D. Each of the Backstop Commitment Premium, Expense Reimbursement, and Backstop Indemnification Obligations constitutes an actual and necessary cost and expense to preserve the Debtors' estates and is reasonable and warranted on the terms set forth in the Backstop Commitment Agreement in light of, among other things, (i) the significant benefit to the Debtors' estates of having a definitive and binding equity commitment to fund the Debtors' proposed chapter 11 plan, (ii) the absence of any other parties prepared to make a comparable equity commitment at any time prior to entry of this Order, (iii) the substantial time, effort, and costs incurred by the Backstop Parties in negotiating and documenting the Backstop Commitment Agreement and the Restructuring Support Agreement and reserving the funds to make the equity investment pending confirmation and effectiveness of a chapter 11 plan, and (iv) the risk to the Backstop Parties that the Debtors may ultimately enter into an Alternative Transaction in accordance with the terms of the Backstop Commitment Agreement.

E. The amount and terms and conditions of each of the Backstop Commitment Premium, Expense Reimbursement, and Backstop Indemnification Obligations are reasonable and customary for this type of transaction and constitute actual and necessary costs and expenses to preserve the Debtors' estates. The Backstop Commitment Premium, Expense Reimbursement, and Backstop Indemnification Obligations are bargained-for and integral parts of the transactions specified in the Backstop Commitment Agreement and, without such inducements, the Backstop Parties would not have agreed to the terms and conditions of the Backstop Commitment Agreement. Accordingly, the foregoing transactions are reasonable and enhance the value of the Debtors' estates.

F. The entry into the Backstop Commitment Agreement by the parties thereto, and the performance and fulfillment of their respective obligations thereunder, do not constitute the solicitation of a vote on a chapter 11 plan and comply with the Bankruptcy Code and any and all other applicable statutes, laws, regulations, or orders.

G. All parties in interest have been afforded a reasonable opportunity to object and be heard with respect to the Motion and the transactions set forth within the Backstop Commitment Agreement and all of the relief granted herein.

H. The Backstop Commitment Agreement and all accompanying relief requested in the Motion serve to maximize estate value for the benefit of all the Debtors' stakeholders and parties in interest, and are otherwise in the best interests of the Debtors, their estates, shareholders, creditors, and all parties in interest.

BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.

2. This Order constitutes a Final Order within the meaning of 28 U.S.C. § 158(a) and the provisions of this Order are non-severable and mutually dependent.

3. All objections to the Motion or the relief requested therein, if any, that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled with prejudice.

4. The Debtors are authorized and directed to enter into, execute, deliver, and implement the Backstop Commitment Agreement and any and all instruments, documents, and papers contemplated thereunder, to fully perform any and all obligations thereunder, and to take any and all actions necessary and proper to implement the terms of the Backstop Commitment Agreement.

5. The Backstop Commitment Agreement and the terms and provisions included therein are approved in their entirety pursuant to sections 105 and 363(b) of the Bankruptcy Code, with such changes and modifications set forth herein.

6. The Debtors are authorized to execute, deliver, and perform one or more amendments, waivers, consents, or other modifications to and under the Backstop Commitment Agreement, in each case in accordance with the terms of the Backstop Commitment Agreement, and no further approval of the Court shall be required for any amendment, waiver, consent, or other modification to and under the Backstop Commitment Agreement that does not have a material adverse effect on the Debtors' estates; provided, however, that a copy of any such amendment, waiver, consent, or other modification shall be served by the Debtors on counsel to the Committee, counsel to the DIP Agents, counsel to the First Lien Indenture Trustee, counsel to the 1.5 Lien Indenture Trustee and counsel to the Second Lien Indenture Trustee (each, as

defined in the Final DIP Order[4]) as soon as reasonably practicable; provided further, however, that approval of the Court shall be required if, in connection with any such amendment, waiver, consent, or modification, the amount of the Backstop Commitment Premium is increased or any other fee is imposed.

7. Notwithstanding anything to the contrary in the Backstop Commitment Agreement, within one (1) business day of the date of the entry of this Order, the following entities shall be entitled to execute and become party to the Backstop Commitment Agreement and shall immediately be deemed to be a Commitment Party thereunder: (a) Fortress Investment Group LLC; (b) D. E. Shaw Galvanic Portfolios, L.L.C.; and (c) Napier Park Global Capital US L.P. ("Napier"), each on behalf of itself and/or its Affiliates (collectively, the "**Additional Commitment Parties**"); provided, however, that each Additional Commitment Party shall simultaneously execute the RSA and become a party thereto (and shall have all of the rights and obligations of a "Consenting Noteholder" thereunder). Each of the Additional Commitment Parties shall also be deemed to be members of the Ad Hoc Committee for all purposes of the Backstop Commitment Agreement and this Order, and shall have all of the rights and obligations of a member of the Ad Hoc Committee thereunder and hereunder; provided, however, no Additional Commitment Party shall be (or be deemed to be) a member of the Ad Hoc Committee solely for purposes of the Ad Hoc Committee's representations by any professional or advisor, including any legal advisor, financial advisor, or any consultant.

8. Each such Additional Commitment Party's Backstop Commitment Percentage shall (i) as of the date of execution of the Backstop Commitment Agreement, be

[4] "Final DIP Order" shall mean the Final Order Under 11 U.S.C. §§ 105, 361, 362, 363(c), 363(d), 364(c), 364(d), 364(e) and 507 and Bankruptcy Rules 2002, 4001 and 9014 (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral and (III) Granting Adequate Protection to Prepetition Secured Lenders [Docket No. 253].

determined based upon the *pro rata* share of the amount of Second Lien Notes held by such Additional Commitment Party as reflected in the Rule 2019 statement filed by such parties on June 17, 2014 (and in the case of Napier, as set forth in the Joinder filed by Napier on June 18, 2014 [Docket No. 475]) as compared to the amount of Second Lien Notes held by all Commitment Parties (including the Additional Commitment Parties) on June 17, 2014, calculated using the exchange rate specified in Section 10.14 of the Backstop Commitment Agreement with respect to any Second Lien Notes denominated in Euros and (ii) thereafter, be subject to adjustment in accordance with the terms of the Backstop Commitment Agreement. The Backstop Commitment Percentage with respect to all other existing Commitment Parties as of the date of entry of this Order shall be ratably adjusted, and Schedule 1 of the Backstop Commitment Agreement shall be adjusted accordingly.

9. Section 3.3(a) of the Backstop Commitment Agreement shall be modified to provide for the payment of the following as an Expense Reimbursement: the reasonable and documented fees and expenses of (a) Stroock & Stroock & Lavan LLP ("Stroock") and (b) Kramer Levin Naftalis & Frankel LLP in connection with their representation of the Additional Commitment Parties with respect to these cases in their capacities as holders of Second Lien Notes incurred through and including the date of execution of the Backstop Commitment Agreement and the RSA by the Additional Commitment Parties,[5] which fees shall be paid without the requirement to file a fee application with the Court and without the need for any notice, consent, application or approval of the Court or any person or entity; provided, however that the parties to the Backstop Commitment Agreement shall have the right to object to such fees on the basis of reasonableness.

[5] Which the Court assumes will not exceed $50,000 in the aggregate.

10. Notwithstanding anything contained in the Backstop Commitment Agreement to the contrary, to the extent any Additional Commitment Party transfers any Votable Claims in accordance with Section 6.7(b) of the Backstop Commitment Agreement (other than to a Related Purchaser of such transferring Additional Commitment Party), any member of the Ad Hoc Committee or Apollo may elect, in its sole discretion, within five (5) Business Days of receipt of written notice of such Transfer pursuant to Section 6.7(a) of the Backstop Commitment Agreement, to assume its Assumable Share of the Additional Commitment Party's Backstop Commitment. To the extent that not all members of the Ad Hoc Committee and Apollo have elected to assume their Assumable Share of the Assumable Amount, each member of the Ad Hoc Committee and Apollo that elected to assume its Assumable Share of the Assumable Amount may elect to assume the remaining portion of the Assumable Amount on a pro rata basis (determined by comparing the Backstop Commitment of such members of the Ad Hoc Committee and Apollo that elected to assume its Assumable Share at the time of such election against the aggregate Backstop Commitment of all Commitment Parties so electing to assume such remaining portion). Any Backstop Commitment assumed by a member of the Ad Hoc Committee or Apollo in accordance herewith shall be included, among other things, in the determination of (x) the Backstop Commitment Percentage of such members of the Ad Hoc Committee and Apollo for purposes of Section 3.1 of the Backstop Commitment Agreement and (y) the Backstop Commitment of such party for purposes of the definition of Requisite Commitment Parties. If any Additional Commitment Party that is a Transferring Commitment Party no longer has any Backstop Commitment following a Transfer effected pursuant to Section 6.7 of the Backstop Commitment Agreement, it shall automatically cease to have any rights as a

Commitment Party under this Order or the Backstop Commitment Agreement (and, for the avoidance of doubt, shall not be entitled to receive any portion of the Commitment Premium).

11. The Second Lien Objections are hereby deemed withdrawn in their entirety.

12. The fees and expenses provided for or permitted by the Backstop Commitment Agreement (including, without limitation, the Backstop Commitment Premium, Expense Reimbursement, and Backstop Indemnification Obligations) are hereby approved as reasonable, shall constitute allowed administrative expense claims pursuant to section 503(b) of the Bankruptcy Code and shall be subordinate in right of payment only to the Carve-Out, Superpriority Claims, and the 507(b) Claims (each, as defined in the Final DIP Order) and senior in right of payment to all other claims (of any nature) against the Debtors, now existing or hereafter arising, shall be non-refundable, and shall not be subject to any avoidance, disgorgement, reduction, setoff, recoupment, offset, recharacterization, subordination (whether contractual, equitable, or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, or any other challenges under any theory at law or in equity by any person or entity.

13. The Debtors are authorized and directed to pay the fees and expenses provided for or permitted by the Backstop Commitment Agreement (including, without limitation, the Backstop Commitment Premium, Expense Reimbursement (as modified herein), and Backstop Indemnification Obligations), each in accordance with its terms and as and when required by the Backstop Commitment Agreement, without further application to or order of the Court.

14. The Debtors are authorized and directed to provide and perform their indemnification and contributions set forth in Article VIII of the Backstop Commitment

Agreement in accordance with the terms and conditions thereof, without further application to or order of the Court.

15. To the extent the automatic stay provisions of section 362 of the Bankruptcy Code would otherwise apply, such provisions are vacated and modified to effectuate all of the terms and provisions of the Backstop Commitment Agreement and this Order, including, without limitation, permitting the Backstop Parties to exercise all rights and remedies under the Backstop Commitment Agreement in accordance with its terms, terminate the Backstop Commitment Agreement in accordance with its terms, and deliver any notice contemplated thereunder, in each case, without further order of the Court.

16. The Backstop Commitment Agreement and the provisions of this Order, including all findings herein, shall be effective and binding upon all parties in interest in the Cases, including, without limitation, all creditors of any of the Debtors, the Committee, any other committee appointed in the Debtors' Cases, and the Debtors, and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for any of the Debtors, any examiner appointed pursuant to section 1104 of the Bankruptcy Code, a responsible person, officer, or any other party appointed as a legal representative or designee of any of the Debtors or with respect to the property of the estate of any of the Debtors) whether in the Cases, in any successor chapter 11 or chapter 7 cases (the "**Successor Cases**"), or upon any dismissal of any Case or Successor Case, and shall inure to the benefit of the Backstop Parties and the Debtors and their respective successors and assigns.

17. The Debtors irrevocably waive any right to seek any modification, stay, vacatur, or amendment to this Order without the prior written consent of the Requisite

Commitment Parties (as defined in the Backstop Commitment Agreement), and no such consent shall be implied by any other action, inaction, or acquiescence of any of the Backstop Parties.

18. The failure of any Backstop Party to seek relief or otherwise exercise its rights and remedies under this Order, the Backstop Commitment Agreement, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of any of the Backstop Parties.

19. In the event of any inconsistency between the terms and conditions of the Backstop Commitment Agreement and this Order, the provisions of this Order shall govern and control.

20. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (a) confirming any chapter 11 plan in any of the Debtors' Cases, (b) converting any of the Debtors' Cases to a case under chapter 7 of the Bankruptcy Code, (c) dismissing any of the Debtors' Cases or Successor Cases, or (d) pursuant to which the Court abstains from hearing any of the Debtors' Cases or Successor Cases. The terms and conditions of this Order, and all of the terms and conditions of the Backstop Commitment Agreement, notwithstanding the entry of any order referenced in the immediately prior sentence, shall continue in full force and effect in accordance with the terms hereunder and thereunder in the Debtors' Cases, in any Successor Cases, or following dismissal of the Debtors' Cases or any Successor Cases.

21. For the avoidance of doubt, the Backstop Commitment Premium, Expense Reimbursement, and Backstop Indemnification Obligations shall survive any termination of the Backstop Commitment Agreement in accordance with the terms specified in the Backstop

Commitment Agreement and constitute valid, binding, and enforceable obligations against the Debtors and their estates.

22. The Debtors are authorized and empowered to take all actions necessary, execute all documents, and make all payments that may be necessary or appropriate to perform under the Backstop Commitment Agreement and implement the relief granted in this Order, and such actions shall not constitute a solicitation of acceptances or rejections of a plan pursuant to section 1125 of the Bankruptcy Code.

23. Notwithstanding anything to the contrary contained in this Order or the Backstop Commitment Agreement, the Backstop Commitment Premium and amounts owing in connection with the Backstop Indemnification Obligations shall not be (i) paid by the Debtors or their estates following the occurrence of a Non-Final Subordination Assumption Failure Event, unless and until the order or judgment giving rise to the Non-Final Subordination Assumption Failure Event is reversed, vacated, annulled, amended or modified, and (x) such reversal, vacatur, annulment, amendment or modification is not eligible or certified for a further appeal and (y) in the event of any such further appeal, such reversal, vacatur, annulment, amendment or modification is not in turn reversed, vacated, annulled, amended or modified; or (ii) payable by the Debtors or their estates following the occurrence of a Final Subordination Assumption Failure Event. A "**Non-Final Subordination Assumption Failure Event**" shall occur if (i) this Court issues an order or judgment that the indebtedness evidenced by those certain 11.5% Senior Subordinated Notes due 2016 (the "**Senior Subordinated Notes**") is not subordinated in right of payment to the indebtedness evidenced by those certain 9% Second-Priority Springing Lien Notes due 2021 and 9.5% Second-Priority Springing Lien Notes due 2021 (together, the "**Second Lien Notes**"); (ii) this Court issues an order or judgment that the chapter 11 plan

contemplated by the RSA (the "**RSA Plan**") is not confirmable because the indebtedness evidenced by the Senior Subordinated Notes is not subordinated in right of payment to the indebtedness evidenced by the Second Lien Notes; or (iii) an order is entered by a court with jurisdiction under 28 U.S.C. §§ 158 or 1291 reversing, vacating or annulling any order confirming the RSA Plan on the grounds that such court has determined the indebtedness evidenced by the Senior Subordinated Notes is not subordinated in right of payment to the indebtedness evidenced by the Second Lien Notes. A "**Final Subordination Assumption Failure Event**" shall occur if, with respect to the order or judgment that gives rise to a Non-Final Subordination Assumption Failure Event, (i) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for a new trial, reargument, or rehearing shall then be pending or (ii) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari, or move for new trial reargument, or rehearing shall have expired.

24. For the avoidance of doubt, nothing in this Order is intended to prejudice the rights of any party in interest (i) relating to any litigation or settlement with respect to whether any make-whole claim, prepayment penalty or Applicable Premium[6] is allowable or (ii)

[6] "Applicable Premium" shall have the meaning ascribed to it in (i) that certain indenture, dated as of October 25, 2012 (as amended, modified or supplemented from time to time), between Momentive Performance Materials Inc. ("MPM"), and The Bank of New York Mellon Trust Company, N.A., pursuant to which MPM issued certain first lien notes and (ii) that certain indenture, dated as of May 25, 2012 (as amended, modified or supplemented from time to time), between MPM, and Wilmington Trust, N.A., pursuant to which MPM issued certain 1.5 lien notes.

under that certain Intercreditor Agreement dated as of November 16, 2012, to which MPM is party.

25. Any stay of this Order, otherwise required pursuant to Bankruptcy Rule 6004(h), is hereby waived and the terms and conditions of this Order shall be immediately effective and enforceable upon its entry by the Court.

26. The Backstop Commitment Agreement shall not be revised, modified, or amended, other than by its terms.

27. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and interpretation of this Order.

Dated: June 23, 2014
White Plains, New York

/s/Robert D. Drain
THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Execution Version

BACKSTOP COMMITMENT AGREEMENT

AMONG

MOMENTIVE PERFORMANCE MATERIALS HOLDINGS INC.,

MOMENTIVE PERFORMANCE MATERIALS INC.

AND

THE COMMITMENT PARTIES PARTY HERETO

Dated as of May 9, 2014

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BACKSTOP COMMITMENT AGREEMENT

THIS BACKSTOP COMMITMENT AGREEMENT (this "**Agreement**"), dated as of May 9, 2014, is made by and among Momentive Performance Materials Holdings Inc. (as a debtor in possession and a reorganized debtor, as applicable, the "**Company**") and Momentive Performance Materials Inc. (as a debtor in possession and a reorganized debtor, as applicable, "**MPM**") on behalf of themselves and the other Debtors, on the one hand, and the parties set forth on Schedule 1 hereto (each referred to herein, individually, as a "**Commitment Party**" and, collectively, as the "**Commitment Parties**"), on the other hand. The Company, MPM and each Commitment Party is referred to herein, individually, as a "**Party**" and, collectively, as the "**Parties**".

RECITALS

WHEREAS, on April 13, 2014 (the "**Petition Date**"), the Company and certain of its debtor affiliates (each, individually, a "**Debtor**" and, collectively, the "**Debtors**") commenced jointly administered proceedings (the "**Chapter 11 Proceedings**"), styled *In re MPM Silicones, LLC, et al.*, Case No. 14-22503 under Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of New York, White Plains (the "**Bankruptcy Court**");

WHEREAS, in connection with the Chapter 11 Proceedings, the Debtors have engaged in good faith negotiations with certain parties in interest regarding the terms of the Plan, which Plan shall be consistent in all respects with the plan term sheet setting forth the principal terms to be included in the Plan and attached as Exhibit A to the RSA (the "**Term Sheet**");

WHEREAS, the Debtors intend to seek entry of one or more orders of the Bankruptcy Court, in each case, in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company (x) confirming the Plan pursuant to Section 1129 of the Bankruptcy Code (the "**Confirmation Order**") and (y) authorizing the consummation of the transactions contemplated hereby, which order is expected to take the form of, and be incorporated into, the Confirmation Order(the "**BCA Consummation Approval Order**");

WHEREAS, pursuant to the Plan and this Agreement, and in accordance with the Rights Offerings Procedures, MPM will issue subscription rights to holders of Second Lien Notes (the "**Subscription Rights**") and conduct rights offerings for the Rights Offerings Shares in the Rights Offerings Amount at the Purchase Price;

WHEREAS, pursuant to the Plan, immediately following the Closing (x) all holders of New Common Stock will contribute each share of New Common Stock held by them for one share of common stock of a newly formed Delaware corporation ("**Top HoldCo**," and such shares of Top HoldCo, "**Top HoldCo Common Stock**") and (y) Top HoldCo, as the new holder of the shares of New Common Stock will contribute such shares of New Common Stock for shares of common stock of a newly formed Delaware corporation ("**Intermediate HoldCo**," and such shares of Intermediate HoldCo, "**Intermediate HoldCo Common Stock**") ((x) and (y), collectively, the "**Internal Reorganization**");

WHEREAS, the Company, the Commitment Parties, Top HoldCo, Intermediate HoldCo and MPM intend that the receipt by holders of Second Lien Notes pursuant to the Plan of New Common Stock and the right to participate in the Rights Offerings be treated as a recapitalization pursuant to Section 368(a)(1)(E) of the Code, and that the transfer of the New Common Stock to Top HoldCo in exchange for Top HoldCo Common Stock be treated as a reorganization within the meaning of Section 368(a)(1)(B) of the Code; and

WHEREAS, subject to the terms and conditions contained in this Agreement, each Commitment Party has agreed to purchase (on a several and not joint basis) its Backstop Commitment Percentage of the Unsubscribed Shares, if any.

NOW, THEREFORE, in consideration of the mutual promises, agreements, representations, warranties and covenants contained herein, each of the Parties hereby agrees as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Except as otherwise expressly provided in this Agreement, whenever used in this Agreement (including any Exhibits and Schedules hereto), the following terms shall have the respective meanings specified therefor below:

"**1145 Rights Offering**" means the rights offering to be conducted in reliance upon the exemption from registration under the Securities Act provided in Section 1145 of the Bankruptcy Code.

"**1145 Rights Offering Procedures**" means the procedures with respect to the 1145 Rights Offering that are approved by the Bankruptcy Court pursuant to the BCA Approval Order, which procedures shall be mutually satisfactory to the Requisite Commitment Parties and the Company.

"**1145 Rights Offering Shares**" means the shares of New Common Stock issued in the 1145 Rights Offering.

"**1.5 Lien Note Claims**" means all Claims against MPM, as issuer, or any other Debtor as guarantor, arising under the 1.5 Lien Notes and the 1.5 Lien Indenture.

"**1.5 Lien Notes**" mean the 10% Senior Secured Notes due 2020, issued pursuant to the 1.5 Lien Indenture, in the aggregate principal amount of $250,000,000.

"**1.5 Lien Indenture**" means that certain indenture dated as of May 25, 2012 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof), between MPM, as issuer, and the 1.5 Lien Indenture Trustee, related to the 1.5 Lien Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith (in each case, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**4(a)(2) Rights Offering**" means the rights offering to be conducted in reliance upon the exemption from registration under the Securities Act or provided in Section 4(a)(2) of the Securities Act.

"**4(a)(2) Rights Offering Procedures**" means the procedures with respect to the 4(a)(2) Rights Offering that are approved by the Bankruptcy Court pursuant to the BCA Approval Order, which procedures shall be mutually satisfactory to the Requisite Commitment Parties and the Company.

"**4(a)(2) Rights Offering Shares**" means the shares of New Common Stock issued in the 4(a)(2) Rights Offering.

"**Ad Hoc Committee**" means that certain ad hoc committee of holders of Second Lien Notes (and certain of their Affiliates) party hereto represented by Milbank, Tweed, Hadley & McCloy LLP, and any Ultimate Purchaser to which any member thereof or any of its Affiliates has transferred all or a portion of its Backstop Commitment pursuant to Section 2.6(b).

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (including any Affiliated Funds of such Person); provided, that for purposes of this Agreement, no Commitment Party shall be deemed an Affiliate of the Company or any of its Subsidiaries. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by Contract or otherwise.

"**Affiliated Fund**" has the meaning set forth in Section 2.6(b).

"**Agreement**" has the meaning set forth in the Preamble.

"**Alternative Transaction**" means any chapter 11 plan or restructuring transaction (including, for the avoidance of doubt, a transaction premised on one or more asset sales under Section 363 of the Bankruptcy Code or pursuant to a plan) other than the Restructuring, including (a) any chapter 11 plan, reorganization, restructuring or liquidation involving the Company or any of the other Debtors, (b) the issuance, sale or other disposition of any equity interest or indebtedness, or any material assets, of the Company or any of the other Debtors, or (c) a merger, sale, consolidation, business combination, recapitalization, refinancing, share exchange, rights offering, debt offering, equity investment or similar transaction (including the sale of all or substantially all of the assets of the Company or any of the other Debtors whether through one or more transactions) involving the Company or any of the other Debtors.

"**Alternative Transaction Agreement**" has the meaning set forth in Section 9.2(p).

"**Alternative Transaction Proposal**" has the meaning set forth in Section 6.18(a).

"**Antitrust Authorities**" means the United States Federal Trade Commission, the Antitrust Division of the United States Department of Justice, the attorneys general of the several states of the United States and any other Governmental Entity having jurisdiction pursuant to the Antitrust Laws, and "**Antitrust Authority**" means any of them.

"**Antitrust Laws**" mean the Sherman Act, the Clayton Act, the HSR Act, the Federal Trade Commission Act, and any other Law governing agreements in restraint of trade, monopolization, pre-merger notification, the lessening of competition through merger or acquisition or anti-competitive conduct, and any foreign investment Laws.

"**Apollo**" means Apollo Global Management, LLC, a Delaware limited liability company, and those of its Affiliates who hold Second Lien Notes and any Ultimate Purchaser to which Apollo has transferred all or a portion of its Backstop Commitment pursuant to Section 2.6(b).

"**Applicable Consent**" has the meaning set forth in Section 4.7.

"**Applicable Premium**" means (a) with respect to the First Lien Note Claims, "Applicable Premium" as defined in the First Lien Indenture, and (b) with respect to the 1.5 Lien Note Claims, "Applicable Premium" as defined in the 1.5 Lien Indenture.

"**Assumable Amount**" means, with respect to any Transfer of Votable Claims by a Transferring Commitment Party, an amount equal to the applicable Assumable Percentage multiplied by such Transferring Commitment Party's Backstop Commitment as of the RSA Execution Date.

"**Assumable Percentage**" means, with respect to any Transferring Commitment Party, the ratio (expressed as a percentage) of (a) an amount equal to the difference between (i) the aggregate principal amount of Votable Claims held by such Transferring Commitment Party on the Measuring Date and (ii) the aggregate principal amount of Votable Claims held by such Transferring Commitment Party immediately following such Transfer to (b) the aggregate principal amount of Votable Claims held by such Transferring Commitment Party on the RSA Execution Date; provided, however, that if any Transfer of Votable Claims results in a Transferring Commitment Party holding (x) more in aggregate principal amount of Votable Claims than the Trigger Amount, such ratio shall be 0% with respect to such Transferring Commitment Party or (y) less in aggregate principal amount of Votable Claims than the Fall Away Amount, such ratio shall be 100% with respect to such Transferring Commitment Party.

"**Assumable Share**" means, with respect to any Non-Transferring Commitment Party, the proportion that the amount of such Non-Transferring Commitment Party's Backstop Commitment at the time of the applicable election bears to the aggregate Backstop Commitments at the time of the applicable election of all Non-Transferring Commitment Parties.

"**Available Shares**" means the Unsubscribed Shares that any Commitment Party fails to purchase as a result of a Commitment Party Default by such Commitment Party.

"**Backstop Commitment**" has the meaning set forth in Section 2.2.

"**Backstop Commitment Percentage**" means, with respect to any Commitment Party, such Commitment Party's percentage of the Backstop Commitment as set forth opposite such Commitment Party's name under the column titled "Backstop Commitment Percentage" on Schedule 1 (as it may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement). Any reference to "Backstop Commitment Percentage" in this Agreement means the Backstop Commitment Percentage in effect at the time of the relevant determination.

"**Bankruptcy Code**" has the meaning set forth in the Recitals.

"**Bankruptcy Court**" has the meaning set forth in the Recitals.

"**Bankruptcy Rules**" means the Federal Rules of Bankruptcy Procedure and the local rules and general orders of the Bankruptcy Court, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Chapter 11 Proceedings.

"**BCA Approval Obligations**" means the obligations of the Company under this Agreement.

"**BCA Approval Order**" means an Order entered by the Bankruptcy Court authorizing the Debtors' performance of the BCA Approval Obligations in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

"**BCA Consummation Approval Order**" has the meaning set forth in the Recitals.

"**Business Day**" means any day, other than a Saturday, Sunday or legal holiday, as defined in Bankruptcy Rule 9006(a).

"**Bylaws**" means the amended and restated bylaws of Reorganized Momentive as of the Closing Date, which shall be consistent with the terms set forth in the Term Sheet and otherwise be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

"**Cash**" means, collectively, cash, cash equivalents and marketable securities, other than cash classified as restricted cash in accordance with GAAP.

"**Certificate of Incorporation**" means the amended and restated certificate of incorporation of Reorganized Momentive as of the Closing Date, which shall be consistent with the terms set forth in the Term Sheet and otherwise be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

"**Chapter 11 Proceedings**" has the meaning set forth in the Recitals.

"**Claim**" means any "claim" against any Debtor as defined in section 101(5) of the Bankruptcy Code, including, without limitation, any Claim arising after the Petition Date.

"**Closing**" has the meaning set forth in Section 2.5(a).

"**Closing Date**" has the meaning set forth in Section 2.5(a).

"**Code**" means the Internal Revenue Code of 1986.

"**Commitment Party**" has the meaning set forth in the Preamble.

"**Commitment Party Default**" means the failure by any Commitment Party to (a) deliver and pay the aggregate Purchase Price for such Commitment Party's Backstop Commitment Percentage of any Unsubscribed Shares by the Subscription Escrow Funding Date in accordance with Section 2.4(b) or (b) exercise its Subscription Rights pursuant to and in accordance with the Plan in accordance with Section 2.1(b).

"**Commitment Party Replacement**" has the meaning set forth in Section 2.3(a).

"**Commitment Party Replacement Period**" has the meaning set forth in Section 2.3(a).

"**Commitment Premium**" has the meaning set forth in Section 3.1.

"**Company**" has the meaning set forth in the Preamble.

"**Company Board**" has the meaning set forth in Section 6.18(a).

"**Company Disclosure Schedules**" means the disclosure schedules delivered by the Company to the Commitment Parties on the date of this Agreement.

"**Company Plan**" means any employee pension benefit plan, as such term is defined in Section 3(2) of ERISA, (other than a Multiemployer Plan), subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and (i) sponsored or maintained (at the time of determination or at any time within the five years prior thereto) by the Company or any of its Subsidiaries or any ERISA Affiliate, or for which any such entity has liability or (ii) in respect of which the Company or any of its Subsidiaries or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Confirmation Hearing**" means the hearing held by the Bankruptcy Court pursuant to Section 1128 of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time with the consent of the Requisite Commitment Parties.

"**Confirmation Order**" has the meaning set forth in the Recitals.

"**Contract**" means any agreement, contract or instrument, including any loan, note, bond, mortgage, indenture, guarantee, deed of trust, license, franchise, commitment, lease, franchise agreement, letter of intent, memorandum of understanding or other obligation, and any amendments thereto, whether written or oral, but excluding the Plan.

"**Debtor**" has the meaning set forth in the Recitals.

"**Defaulting Commitment Party**" means in respect of a Commitment Party Default that is continuing, the applicable defaulting Commitment Party.

"**DIP ABL Agent**" means JPMorgan Chase Bank, N.A., as administrative agent and collateral agent under the DIP ABL Loan.

"**DIP ABL Loan**" means that certain Senior Secured Debtor-in-Possession and Exit Amended and Restated Asset Based Revolving Credit Agreement, among Momentive Performance Materials USA Inc., as a borrower, Momentive Performance Materials GmbH, as a borrower, Momentive Performance Materials Quartz GmbH, as a borrower, Momentive Performance Materials Nova Scotia ULC, as a borrower, the Company, MPM, each subsidiary of MPM that is party thereto in its capacity as a guarantor, the lenders party thereto from time to time, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and J.P. Morgan Securities LLC, Citigroup Global Markets Inc. and Credit Suisse Securities (USA) LLC in their respective capacities as arrangers thereunder (substantially in the form annexed to the DIP Motion as Exhibit B and as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**DIP ABL Loan Event of Default**" means an "Event of Default" under, and as defined in, the DIP ABL Loan.

"**DIP Loan Event of Default**" means either a DIP ABL Loan Event of Default or a DIP Term Loan Event of Default.

"**DIP Loans**" means the DIP ABL Loan and the DIP Term Loan.

"**DIP Motion**" means the Debtors' Motion for Interim Order Under Sections 105, 361, 362, 363(c), 363(d), 364(c), 364(d), 364(e) and 507 of the Bankruptcy Code and Rules 2002, 4001 and 9014 of the Bankruptcy Rules (I) Authorizing The Debtors To Obtain Postpetition Financing, (II) Authorizing The Debtors To Use Cash Collateral, (III) Granting Adequate Protection To Prepetition Secured Lenders and (IV) Scheduling a Final Hearing Pursuant To Bankruptcy Rules 4001(b) and 4001(c), Docket No. 27.

"**DIP Term Agent**" means JPMorgan Chase Bank, N.A., as administrative agent and collateral agent under the DIP Term Loan.

"**DIP Term Loan**" means that certain Senior Secured Debtor-in-Possession Term Loan Agreement, among Momentive Performance Materials USA Inc., as a borrower, the Company, MPM, each domestic subsidiary of MPM that is party thereto in its capacity as a guarantor, the lenders party thereto from time to time, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and J.P. Morgan Securities LLC, Citigroup Global Markets Inc. and Credit Suisse Securities (USA) LLC in their respective capacities as arrangers thereunder (substantially in the form annexed to the DIP Motion as Exhibit C and as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**DIP Term Loan Event of Default**" means an "Event of Default" under, and as defined in, the DIP Term Loan.

"**Disclosure Statement**" means the Disclosure Statement for the Plan approved pursuant to the Plan Solicitation Order (including all exhibits and schedules thereto), in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company and each as may be further amended, supplemented or otherwise modified from time to time in a manner that is mutually satisfactory to the Requisite Commitment Parties and the Company.

"**Discount to Equity Value**" means 0.85.

"**Effective Date**" means the effective date under the Plan.

"**Emergence Credit Facilities**" has the meaning set forth in Section 6.8.

"**Enterprise Value**" means $2,200,000,000.

"**Environmental Laws**" means all applicable laws (including common law), rules, regulations, codes, ordinances, orders in council, orders, decrees, treaties, directives, judgments or legally binding agreements promulgated or entered into by or with any Governmental Entity, relating in any way to the environment, preservation or reclamation of natural resources, the generation, management, Release or threatened Release of, or exposure to, any Hazardous Material or to health and safety matters (to the extent relating to the environment or Hazardous Materials).

"**ERISA**" means the Employee Retirement Income Security Act of 1974.

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) that, together with the Company or any of its Subsidiaries, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"**ERISA Event**" means (a) any Reportable Event or the requirements of Section 4043(b) of ERISA apply with respect to a Company Plan; (b) any failure by any Company Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Company Plan, whether or not waived, or, prior to the effectiveness of the Pension Protection Act of 2006, the existence with respect to any Company Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA as in effect prior to the effectiveness of the Pension Protection Act of 2006); (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Company Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Company Plan or the failure to make any required contribution to a Multiemployer Plan; (d) the incurrence by the Company or any of its Subsidiaries or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Company Plan or Multiemployer Plan; (e) a determination that any Company Plan is, or is expected to be, in "at-risk" status (within the meaning of Section 303 of ERISA or Section 430 of the Code); (f) the receipt by the Company or any of its Subsidiaries or any ERISA Affiliate from the PBGC or a plan

administrator of any notice relating to an intention to terminate any Company Plan or to appoint a trustee to administer any Company Plan under Section 4042 of ERISA; (g) the incurrence by the Company or any of its Subsidiaries or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Company Plan or Multiemployer Plan; (h) the receipt by the Company or any of its Subsidiaries or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company or any of its Subsidiaries or any ERISA Affiliate of any notice, concerning the impending imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, "insolvent" (within the meaning of Section 4245 of ERISA), in "reorganization" (within the meaning of Section 4241 of ERISA), or in "endangered" or "critical status " (within the meaning of Section 305 of ERISA or Section 432 of the Code); (i) the conditions for imposition of a lien under Section 303(k) of ERISA shall have been met with respect to any Company Plan; or (j) the adoption of an amendment to a Company Plan requiring the provision of security to such Company Plan pursuant to Section 307 of ERISA.

"**Event**" means any event, development, occurrence, circumstance, effect, condition, result, state of facts or change.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Expense Reimbursement**" has the meaning set forth in Section 3.3(a).

"**Fall Away Amount**" means, with respect to any Transferring Commitment Party, an amount equal to the aggregate principal amount of Votable Claims held by such Transferring Commitment Party on the RSA Execution Date less $20,000,000.

"**Filing Party**" has the meaning set forth in Section 6.17(b).

"**Final Order**" means, as applicable, an Order of the Bankruptcy Court or other court of competent jurisdiction, which has not been reversed, stayed, reconsidered, readjudicated, modified or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the Order could be appealed or from which certiorari could be sought or the new trial, reargument or rehearing shall have been denied, resulted in no modification of such Order or has otherwise been dismissed with prejudice; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, as made applicable by Rule 9024 of the Bankruptcy Rules, may be filed relating to such Order shall not cause such Order to not be a Final Order.

"**Financial Reports**" has the meaning set forth in Section 6.5(a).

"**Financial Statements**" has the meaning set forth in Section 4.9(a).

"**First Lien Indenture**" means that certain indenture, dated as of October 25, 2012 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof), between MPM, as issuer, and the First Lien Indenture Trustee, related to the First Lien Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith (in each case, as

amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**First Lien Note Claims**" means all Claims against MPM, as issuer, or any other Debtor as guarantor, arising under the First Lien Notes and the First Lien Indenture.

"**First Lien Notes**" mean the 8.875% First-Priority Senior Secured Notes due 2020, issued pursuant to the First Lien Indenture, in the original aggregate principal amount of $1,100,000,000.

"**Foreign Pension Plan**" has the meaning set forth in Section 4.21(b).

"**Funding Notice**" has the meaning set forth in Section 2.4(a).

"**GAAP**" has the meaning set forth in Section 4.9(a).

"**Governmental Entity**" means any U.S. or non-U.S. international, regional, federal, state, municipal or local governmental, judicial, administrative, legislative or regulatory authority, entity, instrumentality, agency, department, commission, court or tribunal of competent jurisdiction (including any branch, department or official thereof).

"**Hazardous Materials**" means all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including explosive or radioactive substances or petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls or radon gas, of any nature subject to regulation or which can give rise to liability under any Environmental Law.

"**HoldCo Transaction Agreements**" has the meaning set forth in Section 4.32.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"**Indebtedness**" of a Person means (a) indebtedness for borrowed money; (b) liabilities evidenced by bonds, debentures, notes, or other similar instruments or debt securities; (c) liabilities under or in connection with drawn letters of credit or bankers' acceptances or similar items; (d) liabilities under or in connection with interest rate swaps, collars, caps and similar hedging arrangements; (e) liabilities under or in connection with off balance sheet financing arrangements or synthetic leases; (f) the amount of all capitalized lease obligations of such Person that are required to appear on a balance sheet prepared in accordance with GAAP; and (g) any amounts guaranteed in any manner by such Person (including guarantees in the form of an agreement to repurchase or reimburse) or other amounts for which such Person is indirectly liable as guarantor, surety or otherwise.

"**Indemnified Claim**" has the meaning set forth in Section 8.2.

"**Indemnified Person**" has the meaning set forth in Section 8.1.

"**Indemnifying Party**" has the meaning set forth in Section 8.1.

"**Intellectual Property Rights**" has the meaning set forth in Section 4.15.

"**Intermediate HoldCo**" has the meaning set forth in the Recitals.

"**Intermediate HoldCo Common Stock**" has the meaning set forth in the Recitals.

"**Internal Reorganization**" has the meaning set forth in the Recitals.

"**IRS**" means the United States Internal Revenue Service.

"**Joint Filing Party**" has the meaning set forth in Section 6.17(c).

"**Knowledge of the Company**" means the actual knowledge, after reasonable inquiry, of Craig Morrison, William Carter, George Knight, Douglas Johns and Karen E. Koster.

"**Law**" means any law (statutory or common), statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any Governmental Entity.

"**Legal Proceedings**" has the meaning set forth in Section 4.13.

"**Legend**" has the meaning set forth in Section 6.15.

"**Lien**" means any lien, adverse claim, charge, option, right of first refusal, servitude, security interest, mortgage, pledge, deed of trust, easement, encumbrance, restriction on transfer, conditional sale or other title retention agreement, defect in title, lien or judicial lien as defined in Sections 101(36) and (37) of the Bankruptcy Code or other restrictions of a similar kind.

"**Losses**" has the meaning set forth in Section 8.1.

"**Material Adverse Effect**" means any Event after December 31, 2013 which individually, or together with all other Events, has had or would reasonably be expected to have a material and adverse effect on (a) the business, assets, liabilities, finances, properties, results of operations or condition (financial or otherwise) of the Company and its Subsidiaries (or Reorganized Momentive and its Subsidiaries), taken as a whole, or (b) the ability of the Company and its Subsidiaries (or Reorganized Momentive and its Subsidiaries), taken as a whole, to perform their obligations under, or to consummate the transactions contemplated by, the Transaction Agreements, including the Rights Offerings, in each case, except to the extent such Event results from, arises out of, or is attributable to, the following (either alone or in combination): (i) any change after the date hereof in global, national or regional political conditions (including acts of terrorism or war) or in the general business, market, financial or economic conditions affecting the industries, regions and markets in which the Company (or Reorganized Momentive) and its Subsidiaries operate; (ii) any changes after the date hereof in applicable Law or GAAP, or in the interpretation or enforcement thereof; (iii) the execution, announcement or performance of this Agreement or the other Transaction Agreements or the transactions contemplated hereby or thereby; (iv) changes in the market price or trading volume of the claims or equity or debt securities of the Company (or Reorganized Momentive) or any of

its Subsidiaries (but not the underlying facts giving rise to such changes unless such facts are otherwise excluded pursuant to the clauses contained in this definition); (v) the departure of officers or directors of the Company (or Reorganized Momentive) or any of its Subsidiaries (but not the underlying facts giving rise to such departure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); (vi) the filing or pendency of the Chapter 11 Proceedings or actions taken in connection with the Chapter 11 Proceedings that are directed by the Bankruptcy Court and made in compliance with the Bankruptcy Code; or (vii) declarations of national emergencies or natural disasters; provided, that the exceptions set forth in clauses (i), (ii) and (vii) shall not apply to the extent that such Event is disproportionately adverse to the Company (or Reorganized Momentive) and its Subsidiaries, taken as a whole, as compared to other companies in the industries in which the Company (or Reorganized Momentive) and its Subsidiaries operate.

"**Material Contracts**" means all "plans of acquisition, reorganization, arrangement, liquidation or succession" and "material contracts" (as such terms are defined in Items 601(b)(2) and 601(b)(10) of Regulation S-K under the Exchange Act) to which the Company or any of its Subsidiaries is a party.

"**Measuring Date**" means (a) from the RSA Execution Date until the time immediately following the first time a Transferring Commitment Party holds less in aggregate principal amount of Votable Claims than the Trigger Amount, the RSA Execution Date and (b) thereafter, with respect to any Transfer, the date following the RSA Execution Date but prior to the time of such Transfer upon which such Transferring Commitment Party held the least in aggregate principal amount of Votable Claims.

"**Money Laundering Laws**" has the meaning set forth in Section 4.26.

"**MPM**" has the meaning set forth in the Preamble.

"**MPM SEC Documents**" means all of the reports, schedules, forms, statements and other documents (including exhibits and other information incorporated therein) filed with the SEC by MPM.

"**MSC**" means Momentive Specialty Chemicals, Inc.

"**Multiemployer Plan**" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Company or any of its Subsidiaries or any ERISA Affiliate (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Code Section 414) is making or accruing an obligation to make contributions, has within any of the preceding six plan years made or accrued an obligation to make contributions, or each such plan for which any such entity has liability.

"**Net Debt Amount**" means the aggregate amount of Indebtedness of Reorganized Momentive and its Subsidiaries, less the aggregate amount of Cash of Reorganized Momentive and its Subsidiaries, in each case that are projected to exist as of the time immediately following the Effective Date as provided in the Plan.

"**New Common Stock**" means the common stock of MPM.

"**Non-Consenting Commitment Party**" has the meaning set forth in Section 6.16.

"**Non-RSA Breaching Commitment Parties**" has the meaning set forth in Section 9.2(j).

"**Non-Transferring Commitment Party**" has the meaning set forth in Section 6.7(b).

"**Order**" means any judgment, order, award, injunction, writ, permit, license or decree of any Governmental Entity or arbitrator of applicable jurisdiction.

"**Outside Date**" has the meaning set forth in Section 9.2(f).

"**Party**" has the meaning set forth in the Preamble.

"**PBGC**" means the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

"**Permitted Liens**" means (a) Liens for Taxes that (i) are not due and payable or (ii) are being contested in good faith by appropriate proceedings and for which adequate reserves have been made with respect thereto; (b) mechanics Liens and similar Liens for labor, materials or supplies provided with respect to any Real Property or personal property incurred in the ordinary course of business consistent with past practice and as otherwise not prohibited under this Agreement, for amounts that do not materially detract from the value of, or materially impair the use of, any of the Real Property or personal property of the Company or any of its Subsidiaries; (c) zoning, building codes and other land use Laws regulating the use or occupancy of any Real Property or the activities conducted thereon that are imposed by any Governmental Entity having jurisdiction over such Real Property; provided, that no such zoning, building codes and other land use Laws prohibit the use or occupancy of such Real Property; (d) easements, covenants, conditions, restrictions and other similar matters affecting title to any Real Property and other title defects that do not or would not materially impair the use or occupancy of such Real Property or the operation of the Company's or any of its Subsidiaries' business; (e) Liens granted in connection with the DIP Loans; (f) from and after the occurrence of the Effective Date, Liens granted in connection with the Emergence Credit Facilities; (g) Liens listed on Section 1.1 of the Company Disclosure Schedules; and (h) Liens that, pursuant to the Confirmation Order, will not survive beyond the Effective Date.

"**Person**" means an individual, firm, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, associate, trust, Governmental Entity or other entity or organization.

"**Petition Date**" has the meaning set forth in the Recitals.

"**Plan**" means the Debtors' Joint Plan of Reorganization, which shall provide for the release and exculpation of each Commitment Party and its Affiliates and Representatives, in each case solely in their capacity as such, from liability in connection with the Chapter 11 Proceedings and the Transaction Agreements, shall be consistent with the terms set forth in the

Term Sheet, shall provide for the Internal Reorganization to occur automatically immediately following the Closing and shall otherwise be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Debtors (as the same may be amended, supplemented or otherwise modified from time to time in a manner that is mutually satisfactory to the Requisite Commitment Parties and the Company).

"**Plan Solicitation Motion**" means the Debtors' Motion for an Order, in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company and among other things, (a) approving the Disclosure Statement and the Rights Offerings Procedures; (b) establishing a voting record date for the Plan; (c) approving solicitation packages and procedures for the distribution thereof; (d) approving the forms of ballots; (e) establishing procedures for voting on the Plan; (f) establishing notice and objection procedures for the confirmation of the Plan; and (g) establishing procedures for the assumption and/or assignment of executory Contracts and unexpired leases under the Plan.

"**Plan Solicitation Order**" means an Order entered by the Bankruptcy Court, substantially in the form attached to the Plan Solicitation Motion, which Order shall, among other things, seek approval of the Disclosure Statement and the commencement of a solicitation of votes to accept or reject the Plan, and which Order shall be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

"**Pre-Closing Period**" has the meaning set forth in Section 6.3.

"**Purchase Price**" means a price per share of New Common Stock equal to (a) (i) the Enterprise Value less (ii) the Net Debt Amount, multiplied by (b) the Discount to Equity Value, divided by (c) the Total Outstanding Shares.

"**Put Election**" has the meaning set forth in Section 2.2.

"**Put Option**" has the meaning set forth in Section 2.2.

"**Q1 Financial Statements**" has the meaning set forth in Section 4.9(b).

"**Real Property**" means, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or leased by the Company or any of its Subsidiaries, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures incidental to the ownership or lease thereof.

"**Registration Rights Agreement**" has the meaning set forth in Section 6.10(a).

"**Related Party**" means, with respect to any Person, (i) any former, current or future director, officer, agent, Affiliate, employee, general or limited partner, member, manager or stockholder of such Person and (ii) any former, current or future director, officer, agent, Affiliate, employee, general or limited partner, member, manager or stockholder of any of the foregoing.

"**Related Purchaser**" has the meaning set forth in Section 2.6(a).

"**Release**" means any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the environment.

"**Reorganized Momentive**" means Top HoldCo or, if the Requisite Commitment Parties determine pursuant to Section 6.19(b) that another entity shall issue its equity interests to holders of Second Lien Notes (with approval from the Bankruptcy Court and the lenders under the Emergence Credit Facilities), such other entity.

"**Reorganized Momentive Corporate Documents**" means the Bylaws and the Certificate of Incorporation.

"**Replacing Commitment Parties**" has the meaning set forth in Section 2.3(a).

"**Reportable Event**" means any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30 day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Company Plan (other than a Company Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

"**Representatives**" means, with respect to any Person, such Person's directors, officers, members, partners, managers, employees, agents, investment bankers, attorneys, accountants, advisors and other representatives.

"**Requisite Commitment Parties**" means (a) members of the Ad Hoc Committee holding at least a majority of the aggregate Backstop Commitments of all members of the Ad Hoc Committee as of the date on which the consent or approval of such members is solicited and (b) Apollo; provided, that in the case of a consent or approval to changes in respect of any Selected Economic Term, "Requisite Commitment Parties" means solely the members of the Ad Hoc Committee holding a majority of the aggregate Backstop Commitments provided by all members of the Ad Hoc Committee as of the date on which the consent or approval of such members is solicited; and provided, further, that for purposes of this definition, each Commitment Party shall be deemed to hold the Backstop Commitments held by such Commitment Party's Related Purchasers.

"**Restructuring**" has the meaning set forth in the RSA.

"**Returns**" has the meaning set forth in Section 4.20.

"**Rights Offerings**" means, collectively, the 1145 Rights Offering and the 4(a)(2) Rights Offering.

"**Rights Offerings Amount**" means an amount equal to $600,000,000.

"**Rights Offerings Expiration Time**" means the time and the date on which the rights offering subscription form must be duly delivered to the Rights Offerings Subscription Agent in accordance with the Rights Offerings Procedures, together with the applicable Purchase Price.

"**Rights Offerings Participants**" means those Persons who duly subscribe for Rights Offerings Shares in accordance with the Rights Offerings Procedures.

"**Rights Offerings Procedures**" means, collectively, the 1145 Rights Offering Procedures and the 4(a)(2) Rights Offering Procedures.

"**Rights Offerings Shares**" means, collectively, the 4(a)(2) Rights Offering Shares and the 1145 Rights Offering Shares.

"**Rights Offerings Subscription Agent**" means Kurtzman Carson Consultants or another subscription agent appointed by the Company and satisfactory to the Requisite Commitment Parties.

"**RSA**" means that certain Restructuring Support Agreement entered into by and among the Company, MPM, and each of their direct and indirect subsidiaries party thereto, the Apollo Entities (as defined therein), and the Consenting Noteholders (as defined therein), dated as of April 13, 2014 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**RSA Approval Order**" means an Order entered by the Bankruptcy Court, in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company, approving the RSA and its assumption by the Company.

"**RSA Execution Date**" means April 13, 2014.

"**Sale Transaction**" has the meaning set forth in Section 7.01(h).

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Second Lien Documents**" has the meaning set forth in the DIP Motion.

"**Second Lien Indenture**" means that certain indenture dated as of November 5, 2010 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof), between MPM, as issuer, and the Second Lien Indenture Trustee, related to the Second Lien Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith (in each case, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**Second Lien Intercreditor Agreement**" has the meaning set forth in the DIP Motion.

"**Second Lien Notes**" means those certain notes issued by the Company pursuant to the Second Lien Indenture.

"**Securities Act**" means the Securities Act of 1933.

"**Selected Economic Terms**" means, collectively, the definitions of Enterprise Value or Discount to Equity Value (or their application in the definition of Purchase Price) and the terms of Section 3.1.

"**SSA**" means that certain Amended and Restated Shared Services Agreement by and among the Company, MSC and the other persons party thereto, dated as of March 17, 2011 (as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof).

"**SSA Amendment**" has the meaning set forth in Section 6.10(b).

"**Subscription Escrow Account**" has the meaning set forth in Section 2.4(a).

"**Subscription Escrow Agreement**" has the meaning set forth in Section 2.4(b).

"**Subscription Escrow Funding Date**" has the meaning set forth in Section 2.4(b).

"**Subscription Rights**" has the meaning set forth in the Recitals.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture or other legal entity as to which such Person (either alone or through or together with any other subsidiary), (a) owns, directly or indirectly, more than fifty percent (50%) of the stock or other equity interests, (b) has the power to elect a majority of the board of directors or similar governing body or (c) has the power to direct the business and policies.

"**Superior Transaction**" means an Alternative Transaction, which the Company, after consultation with its outside legal counsel and its independent financial advisor, determines in good faith, and taking into account all aspects of such Alternative Transaction and the Company Board's good-faith estimate of the likelihood and timing of consummating the Alternative Transaction, to be more favorable to the bankruptcy estate of the Company and the other Debtors, from a financial point of view, than the transactions contemplated by this Agreement and the other Transaction Documents, including providing (a) a higher and better recovery for the unsecured creditors of the Debtors and (b) a recovery to holders of Second Lien Notes at least as favorable as the recovery set forth in the RSA.

"**Takeover Statute**" means any restrictions contained in any "fair price," "moratorium," "control share acquisition", "business combination" or other similar anti-takeover statute or regulation.

"**Taxes**" means all taxes, assessments, duties, levies or other mandatory governmental charges paid to a Governmental Entity, including all federal, state, local, foreign and other income, franchise, profits, gross receipts, capital gains, capital stock, transfer, property, sales, use, value-added, occupation, excise, severance, windfall profits, stamp, payroll, social security, withholding and other taxes, assessments, duties, levies or other mandatory governmental charges of any kind whatsoever paid to a Governmental Entity (whether payable directly or by withholding and whether or not requiring the filing of a Return), all estimated taxes, deficiency assessments, additions to tax, penalties and interest thereon and shall include

any liability for such amounts as a result of being a member of a combined, consolidated, unitary or affiliated group.

"**Term Sheet**" has the meaning set forth in the Recitals.

"**Top HoldCo**" has the meaning set forth in the Recitals.

"**Top HoldCo Common Stock**" has the meaning set forth in the Recitals.

"**Total Outstanding Shares**" means the total number of shares of Top HoldCo Common Stock outstanding immediately following the Internal Reorganization as provided in the Plan, including shares exchanged in the Internal Reorganization for shares of Top HoldCo Common Stock issued in satisfaction of Votable Claims and Rights Offerings Shares, and shares issued in accordance with this Agreement (including those issued as payment of the Commitment Premium).

"**Transaction Agreements**" has the meaning set forth in Section 4.2(a).

"**Transfer**" means sell, transfer, assign, pledge, hypothecate, participate, donate or otherwise encumber or dispose of, directly or indirectly (including through derivatives, options, swaps, pledges, forward sales or other transactions in which any Person receives the right to own or acquire any current or future interest in a Subscription Right, a Votable Claim, a Rights Offerings Share, a share of New Common Stock or a share of Top HoldCo Common Stock).

"**Transferring Commitment Party**" has the meaning set forth in Section 6.7(b).

"**Trigger Amount**" means, with respect to any Transferring Commitment Party, an amount equal to the aggregate principal amount of Votable Claims held by such Transferring Commitment Party on the RSA Execution Date less $5,000,000.

"**Ultimate Purchaser**" has the meaning set forth in Section 2.6(b).

"**Unfunded Pension Liability**" means the excess of a Company Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Company Plan's assets, determined in accordance with the assumptions used for funding the Company Plan pursuant to Section 412 of the Code for the applicable plan year.

"**Unlegended Shares**" has the meaning set forth in Section 6.13.

"**Unsubscribed Shares**" means the Rights Offerings Shares that have not been duly purchased by the Rights Offerings Participants in accordance with the Rights Offerings Procedures and the Plan.

"**Votable Claims**" means, collectively, all allowed Claims arising under the Second Lien Notes.

"**willful or intentional breach**" has the meaning set forth in Section 9.4.

"**Withdrawal Liability**" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires:

(a) references to Articles, Sections, Exhibits and Schedules are references to the articles and sections or subsections of, and the exhibits and schedules attached to, this Agreement;

(b) references in this Agreement to "writing" or comparable expressions include a reference to a written document transmitted by means of electronic mail in portable document format (pdf), facsimile transmission or comparable means of communication;

(c) words expressed in the singular number shall include the plural and vice versa; words expressed in the masculine shall include the feminine and neuter gender and vice versa;

(d) the words "hereof", "herein", "hereto" and "hereunder", and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole, including all Exhibits and Schedules attached to this Agreement, and not to any provision of this Agreement;

(e) the term this "Agreement" shall be construed as a reference to this Agreement as the same may have been, or may from time to time be, amended, modified, varied, novated or supplemented;

(f) "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words;

(g) references to "day" or "days" are to calendar days;

(h) references to "the date hereof" means the date of this Agreement;

(i) unless otherwise specified, references to a statute means such statute as amended from time to time and includes any successor legislation thereto and any rules or regulations promulgated thereunder in effect from time to time; and

(j) references to "dollars" or "$" are to United States of America dollars.

ARTICLE II

BACKSTOP COMMITMENT

Section 2.1 The Rights Offerings; Subscription Rights. On and subject to the terms and conditions hereof, including entry of the BCA Approval Order by the

Bankruptcy Court, (a) MPM shall conduct the Rights Offerings pursuant to and in accordance with the Rights Offerings Procedures, this Agreement and the Plan and (b) each Commitment Party shall, and shall cause each of its Affiliates (as applicable) to, exercise the Subscription Rights issued to and held by such Commitment Party or its Affiliates (as applicable) as a holder of Second Lien Notes pursuant to and in accordance with the Rights Offering Procedures, this Agreement and the Plan. If reasonably requested by the Requisite Commitment Parties from time to time prior to the Rights Offerings Expiration Time (and any extensions thereto), MPM shall notify, or cause the Rights Offerings Subscription Agent to notify, the Commitment Parties of the aggregate number of Subscription Rights known by MPM or the Rights Offerings Subscription Agent to have been exercised pursuant to the Rights Offerings as of the most recent practicable time before such request.

Section 2.2 The Backstop Commitment. On and subject to the terms and conditions hereof, including entry of the BCA Consummation Approval Order, each Commitment Party hereby grants to MPM an option (collectively, the "**Put Option**") to require such Commitment Party to purchase Unsubscribed Shares on the Closing Date subject to the terms and conditions of this Agreement. Upon the exercise of the Put Option, each Commitment Party agrees, severally and not jointly, to purchase, and MPM agrees to sell to such Commitment Party, on the Closing Date, the number of Unsubscribed Shares equal to (a) such Commitment Party's Backstop Commitment Percentage multiplied by (b) the aggregate number of Unsubscribed Shares, rounded among the Commitment Parties solely to avoid fractional shares as the Commitment Parties may determine in their sole discretion. The obligations of the Commitment Parties described in this Section 2.2 shall be referred to as the "**Backstop Commitment**". MPM may exercise the Put Option by delivery to each Commitment Party of a written put election notice (the "**Put Election**"), provided that the Put Option shall automatically and irrevocably be deemed to have been exercised by MPM, without the need for delivery of written notice or the taking of any other further action by MPM or any other any Person, if the conditions set forth in Sections 7.3(e) and 7.3(f) shall have been satisfied or waived in accordance with this Agreement. The purchase price payable by each Commitment Party in respect of each Unsubscribed Share that such Commitment Party is obligated to purchase under its Backstop Commitment shall be the Purchase Price.

Section 2.3 Commitment Party Default.

(a) Upon the occurrence of a Commitment Party Default, the Commitment Parties that are, or are Affiliated with, members of the Ad Hoc Committee (other than any Defaulting Commitment Party) shall have the right, but not the obligation, within five (5) Business Days after receipt of written notice from MPM to all Commitment Parties of such Commitment Party Default, which notice shall be given promptly following the occurrence of such Commitment Party Default and to all Commitment Parties substantially concurrently (such five (5) Business Day period, the "**Commitment Party Replacement Period**"), to make arrangements for one or more of the Commitment Parties that is, or is Affiliated with, a member of the Ad Hoc Committee (other than the Defaulting Commitment Party) to purchase all or any portion of the Available Shares (such purchase, a "**Commitment Party Replacement**") on the terms and subject to the conditions set forth in this Agreement and in such amounts as may be agreed upon by all of the Commitment Parties electing to purchase all or any portion of the Available Shares, or, if no such agreement is reached, based upon the relative applicable

Backstop Commitment Percentages of any such Commitment Parties that are, or are Affiliated with, members of the Ad Hoc Committee (other than the Defaulting Commitment Party) (such Commitment Parties, the "**Replacing Commitment Parties**"). Any such Available Shares purchased by a Replacing Commitment Party shall be included, among other things, in the determination of (x) the Unsubscribed Shares of such Replacing Commitment Party for all purposes hereunder, (y) the Backstop Commitment Percentage of such Commitment Party for purposes of Section 3.1 and (z) the Backstop Commitment of such party for purposes of the definition of Requisite Commitment Parties. If a Commitment Party Default occurs, the Outside Date shall be delayed only to the extent necessary to allow for the Commitment Party Replacement to be completed within the Commitment Party Replacement Period.

(b) If a Commitment Party is a Defaulting Commitment Party, it shall not be entitled to any of the Commitment Premium hereunder.

(c) Nothing in this Agreement shall be deemed to require a Commitment Party to purchase more than its Backstop Commitment Percentage of the Unsubscribed Shares.

(d) For the avoidance of doubt, notwithstanding anything to the contrary set forth in Section 9.4 but subject to Section 10.10, no provision of this Agreement shall relieve any Defaulting Commitment Party from liability hereunder, or limit the availability of the remedies set forth in Section 10.9, in connection with any such Defaulting Commitment Party's Commitment Party Default.

Section 2.4 Subscription Escrow Account Funding.

(a) Funding Notice. No later than the fifth (5th) Business Day following the Rights Offerings Expiration Time, the Rights Offerings Subscription Agent shall deliver to each Commitment Party a written notice (the "**Funding Notice**") of (i) the number of Rights Offerings Shares elected to be purchased by the Rights Offerings Participants and the aggregate Purchase Price therefor; (ii) the aggregate number of Unsubscribed Shares, if any, and the aggregate Purchase Price therefor; (iii) the aggregate number of Unsubscribed Shares (based upon such Commitment Party's Backstop Commitment Percentage) to be issued and sold by MPM to such Commitment Party and the aggregate Purchase Price therefor; and (iv) the escrow account to which such Commitment Party shall deliver and pay the aggregate Purchase Price for such Commitment Party's Backstop Commitment Percentage of the Unsubscribed Shares (the "**Subscription Escrow Account**"). The Rights Offerings Subscription Agent shall promptly provide any written backup, information and documentation relating to the information contained in the applicable Funding Notice as any Commitment Party may reasonably request.

(b) Subscription Escrow Account Funding. No later than the second (2nd) Business Day following receipt of the Funding Notice (such date, the "**Subscription Escrow Funding Date**"), each Commitment Party shall deliver and pay the aggregate Purchase Price for such Commitment Party's Backstop Commitment Percentage of the Unsubscribed Shares by wire transfer in immediately available funds in U.S. dollars into the Subscription Escrow Account in satisfaction of such Commitment Party's Backstop Commitment. The Subscription Escrow Account shall be established with an escrow agent satisfactory to the Requisite Commitment Parties and the Company pursuant to an escrow agreement in form and

substance mutually satisfactory to the Requisite Commitment Parties and the Company (the "**Subscription Escrow Agreement**"). If this Agreement is terminated in accordance with its terms, the funds held in the Subscription Escrow Account shall be released, and each Commitment Party shall receive from the Subscription Escrow Account the cash amount actually funded to the Subscription Escrow Account by such Commitment Party, plus any interest accrued thereon, promptly following such termination.

Section 2.5 Closing.

(a) Subject to Article VII, unless otherwise mutually agreed in writing between the Company and the Requisite Commitment Parties, the closing of the Backstop Commitments (the "**Closing**") shall take place at the offices of Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, New York 10005, at 11:00 a.m., New York City time, on the date on which all of the conditions set forth in Article VII shall have been satisfied or waived in accordance with this Agreement (other than conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions). The date on which the Closing actually occurs shall be referred to herein as the "**Closing Date**".

(b) At the Closing, the funds held in the Subscription Escrow Account shall be released and utilized as set forth in, and in accordance with, the Plan and the Subscription Escrow Agreement.

(c) At the Closing, issuance of the Unsubscribed Shares will be made by MPM to each Commitment Party (or to its designee in accordance with Section 2.6(a)) against payment of the aggregate Purchase Price for the Unsubscribed Shares of such Commitment Party, in satisfaction of such Commitment Party's Backstop Commitment. Unless a Commitment Party requests delivery of a physical stock certificate, the entry of any Unsubscribed Shares to be delivered pursuant to this Section 2.5(c) into the account of a Commitment Party pursuant to MPM's book entry procedures and delivery to such Commitment Party of an account statement reflecting the book entry of such Unsubscribed Shares shall be deemed delivery of such Unsubscribed Shares for purposes of this Agreement. Notwithstanding anything to the contrary in this Agreement, all Unsubscribed Shares will be delivered with all issue, stamp, transfer, sales and use, or similar transfer Taxes or duties that are due and payable (if any) in connection with such delivery duly paid by MPM.

Section 2.6 Designation and Assignment Rights.

(a) Each Commitment Party shall have the right to designate by written notice to MPM no later than two (2) Business Days prior to the Closing Date that some or all of the Unsubscribed Shares that it is obligated to purchase hereunder be issued in the name of, and delivered to, one or more of its Affiliates or Affiliated Funds (other than any portfolio company of such Commitment Party or its Affiliates) (each, a "**Related Purchaser**") upon receipt by MPM of payment therefor in accordance with the terms hereof, which notice of designation shall (i) be addressed to MPM and signed by such Commitment Party and each such Related Purchaser, (ii) specify the number of Unsubscribed Shares to be delivered to or issued in the name of such Related Purchaser and (iii) contain a confirmation by each such Related Purchaser of the accuracy of the representations set forth in Sections 5.6 through 5.9 as applied to such

Related Purchaser; provided, that no such designation pursuant to this Section 2.6(a) shall relieve such Commitment Party from its obligations under this Agreement.

(b) In addition to the Transfers required by Section 6.7, each Commitment Party shall have the right to Transfer all or any portion of its Backstop Commitment only to (i) any investment fund the primary investment advisor to which is such Commitment Party or an Affiliate thereof (an "**Affiliated Fund**") or (ii) one or more special purpose vehicles that are wholly-owned by one or more of such Commitment Party and its Affiliated Funds, created for the purpose of holding such Backstop Commitment or holding debt or equity of the Debtors, and with respect to which such Commitment Party either (A) has provided an adequate equity support letter or a guarantee of such special purpose vehicle's Backstop Commitment or (B) otherwise remains obligated to fund the Backstop Commitment to be Transferred until the consummation of the Plan; provided that such special purpose vehicle shall not be related to or Affiliated with any portfolio company of such Commitment Party or any of its Affiliates or Affiliated Funds (other than solely by virtue of its affiliation with such Commitment Party) and the equity of such special purpose vehicle shall not be transferable other than to such Persons described in clause (i) or (ii) of this Section 2.6(b), and in such manner, as such Commitment Party's Backstop Commitment is transferable pursuant to this Section 2.6(b) (each of the Persons referred to in clauses (i) and (ii), an "**Ultimate Purchaser**"), and that, in each case, provides a written agreement to the Company under which it (x) confirms the accuracy of the representations set forth in Article V as applied to such Ultimate Purchaser, (y) agrees to purchase such portion of such Commitment Party's Backstop Commitment, and (z) agrees to be fully bound by, and subject to, this Agreement as a Commitment Party hereto; provided, that no sale or Transfer pursuant to this Section 2.6(b) shall relieve such Commitment Party from its obligations under this Agreement. Other than as set forth in this Section 2.6(b) or as required by Section 6.7, no Commitment Party shall be permitted to Transfer its Backstop Commitment. For the avoidance of doubt, no Commitment Party shall have the right to Transfer all or any portion of its Backstop Commitment to Momentive Performance Materials Holdings LLC.

(c) Each Commitment Party, severally and not jointly, agrees that it will not Transfer, at any time prior to the Closing Date or the earlier termination of this Agreement in accordance with its terms, any of its rights and obligations under this Agreement to any Person other than in accordance with Sections 2.3, 2.6(a), 2.6(b) and 6.7. After the Closing Date, nothing in this Agreement shall limit or restrict in any way the ability of any Commitment Party (or any permitted transferee thereof) to Transfer any of the shares of Top HoldCo Common Stock or any interest therein; provided, that any such Transfer shall be made pursuant to an effective registration statement under the Securities Act or an exemption from the registration requirements thereunder and pursuant to applicable securities Laws. For the avoidance of doubt, New Common Stock may only be Transferred to Top HoldCo in exchange for Top HoldCo Common Stock, which Transfer shall occur automatically pursuant to the Internal Reorganization.

ARTICLE III

BACKSTOP COMMITMENT PREMIUM AND EXPENSE REIMBURSEMENT

Section 3.1 Premium Payable by the Company. Subject to Section 3.2, as consideration for the Put Option, the Backstop Commitment and the other agreements of the Commitment Parties in this Agreement, the Debtors shall pay or cause to be paid a nonrefundable aggregate premium in an amount equal to $30,000,000, which represents 5.0% of the Rights Offerings Amount without application of the Discount to Equity Value, payable in accordance with Section 3.2, to the Commitment Parties (including any Replacing Commitment Party, but excluding any Defaulting Commitment Party) or their designees based upon their respective Backstop Commitment Percentages at the time the payment is made (the "**Commitment Premium**").

The provisions for the payment of the Commitment Premium and Expense Reimbursement, and the indemnification provided herein, are an integral part of the transactions contemplated by this Agreement and without these provisions the Commitment Parties would not have entered into this Agreement, and the Commitment Premium (to the extent required to be paid in cash as set forth in Section 9.4) and Expense Reimbursement shall, pursuant to the BCA Approval Order, constitute allowed administrative expenses of the Debtors' estate under Sections 503(b) and 507 of the Bankruptcy Code.

Section 3.2 Payment of Premium. The Commitment Premium shall be fully earned, nonrefundable and non-avoidable upon entry of the BCA Approval Order and shall be paid by the Debtors, free and clear of any withholding or deduction for any applicable Taxes, on the Closing Date as set forth above. For the avoidance of doubt, to the extent payable in accordance with the terms of this Agreement, the Commitment Premium will be payable regardless of the amount of Unsubscribed Shares (if any) actually purchased. MPM shall satisfy its obligation to pay the Commitment Premium on the Closing Date by issuing additional shares of New Common Stock out of the Total Outstanding Shares to the Commitment Parties in lieu of any cash payment (the aggregate number of shares of New Common Stock to be issued in satisfaction of the Commitment Premium will be approximately 1.5 million, subject to the Net Debt Amount as provided in the Plan); provided, that if the Closing does not occur, the Commitment Premium shall be payable in cash and only to the extent provided in Section 9.4.

Section 3.3 Expense Reimbursement.

(a) Until the earlier to occur of (i) the Closing and (ii) the termination of this Agreement, the Debtors agree to pay in accordance with Section 3.3(b) (A) the reasonable documented fees and expenses of counsel, financial advisors, and consultants and other professionals for specialized areas of expertise as circumstances warrant retained by the Ad Hoc Committee, in each case that have been and are incurred in connection with (x) the negotiation, preparation and implementation of the Transaction Agreements and the other agreements and transactions contemplated thereby and (y) the Restructuring and the Chapter 11 Proceedings, (B) the reasonable documented fees and expenses of one counsel and one financial advisor retained by Apollo that have been and are incurred solely with respect to Apollo's capacity as a Commitment Party, (C) the reasonable documented fees and expenses of each member of the Ad Hoc Committee, including the reasonable documented fees and expenses of professionals, including consultants, retained by each member of the Ad Hoc Committee, that have been incurred prior to April 1, 2014 in connection with performing diligence with respect to the Second Lien Notes (provided, that, the fees and expenses referred to in this clause (C) shall not

exceed $1,000,000 in the aggregate for all such members), (D) all filing fees, if any, required by the HSR Act or any other Antitrust Law and all reasonable documented expenses related thereto, and (E) the reasonable documented fees and expenses of one executive search consultant retained by the Commitment Parties to assist in the selection of the board of directors and officers of Reorganized Momentive, in each case, that have been paid or are payable by the Commitment Parties (such payment obligations set forth in clauses (A), (B), (C), (D) and (E) above, collectively, the "**Expense Reimbursement**").

(b) The Expense Reimbursement accrued through the date on which the BCA Approval Order is entered shall be paid within one (1) Business Day of such date. The Expense Reimbursement shall thereafter be payable by the Debtors as soon as practicable after receipt of monthly invoices therefor; provided, that the Debtors' final payment shall be made contemporaneously with the Closing or the termination of this Agreement pursuant to Article IX. The Commitment Parties shall promptly provide copies of such invoices (redacted to protect privileges) to the Debtors and to the United States Trustee.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the corresponding section of the Company Disclosure Schedules, the Debtors, jointly and severally, hereby represent and warrant to the Commitment Parties (unless otherwise set forth herein, as of the date of this Agreement and as of the Closing Date) as set forth below.

Section 4.1 Organization and Qualification. The Company and each of its Subsidiaries (i) is a duly organized and validly existing corporation, limited liability company or limited partnership, as the case may be, and, if applicable, in good standing (or the equivalent thereof) under the Laws of the jurisdiction of its incorporation or organization (except where the failure to be in good standing (or the equivalent) would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect), (ii) has the corporate or other applicable power and authority to own its property and assets and to transact the business in which it is currently engaged and presently proposes to engage and (iii) is duly qualified and is authorized to do business and is in good standing in each jurisdiction where the conduct of its business as currently conducted requires such qualifications, except in the cases of clauses (ii) and (iii) where the failure to have such authority or qualifications would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.2 Corporate Power and Authority.

(a) Each of the Company and MPM has the requisite corporate power and authority (i) (A) subject to entry of the BCA Approval Order, to enter into, execute and deliver this Agreement and to perform the BCA Approval Obligations and (B) subject to entry of the BCA Consummation Approval Order and the Confirmation Order, to perform each of its other obligations hereunder and (ii) subject to entry of the BCA Consummation Approval Order and the Confirmation Order, to consummate the transactions contemplated herein and in the Plan, to enter into, execute and deliver the Registration Rights Agreement and all other agreements to

which it will be a party as contemplated by this Agreement and the Plan (this Agreement, the Plan, the Disclosure Statement, the RSA, any documentation or agreements relating to the Emergence Credit Facilities, the Registration Rights Agreement and such other agreements and any plan supplements or documents referred to herein or therein or hereunder or thereunder, collectively, the "**Transaction Agreements**") and to perform its obligations under each of the Transaction Agreements (other than this Agreement). Subject to the receipt of the foregoing Orders, as applicable, the execution and delivery of this Agreement and each of the other Transaction Agreements and the consummation of the transactions contemplated hereby and thereby have been or will be duly authorized by all requisite corporate action on behalf of the Company and MPM, and no other corporate proceedings on the part of the Company or MPM are or will be necessary to authorize this Agreement or any of the other Transaction Agreements or to consummate the transactions contemplated hereby or thereby.

(b) Subject to entry of the BCA Consummation Approval Order and the Confirmation Order, each of the other Debtors has the requisite power and authority (corporate or otherwise) to enter into, execute and deliver each Transaction Agreement to which such other Debtor is a party and to perform its obligations thereunder. Subject to entry of the BCA Consummation Approval Order and the Confirmation Order, the execution and delivery of this Agreement and each of the other Transaction Agreements and the consummation of the transactions contemplated hereby and thereby have been or will be duly authorized by all requisite action (corporate or otherwise) on behalf of each other Debtor party thereto, and no other proceedings on the part of any other Debtor party thereto are or will be necessary to authorize this Agreement or any of the other Transaction Agreements or to consummate the transactions contemplated hereby or thereby.

Section 4.3 Execution and Delivery; Enforceability. Subject to entry of the BCA Approval Order, this Agreement will have been, and subject to the entry of the BCA Consummation Approval Order and the Confirmation Order, each other Transaction Agreement will be, duly executed and delivered by the Company and each of the other Debtors party thereto. Upon entry of the BCA Approval Order and assuming due and valid execution and delivery hereof by the Commitment Parties, the BCA Approval Obligations will constitute the valid and legally binding obligations of the Company and MPM and, to the extent applicable, the other Debtors, enforceable against the Company and MPM and, to the extent applicable, the other Debtors in accordance with their respective terms. Upon entry of the BCA Consummation Approval Order and assuming due and valid execution and delivery of this Agreement and the other Transaction Agreements by the Commitment Parties, each of the obligations hereunder and thereunder will constitute the valid and legally binding obligations of the Company and MPM and, to the extent applicable, the other Debtors, enforceable against the Company and, to the extent applicable, the other Debtors, in accordance with their respective terms.

Section 4.4 Authorized and Issued Capital Stock.

(a) On the Closing Date, (i) the authorized capital stock of MPM will consist of 70,000,000 shares of New Common Stock, (ii) the outstanding capital stock of MPM will consist of 50,000,000 issued and outstanding shares of New Common Stock (which shall be the number of Total Outstanding Shares), (iii) no shares of New Common Stock will be held by MPM in its treasury, (iv) shares of New Common Stock will be reserved for issuance upon

exercise of stock options and other rights to purchase or acquire shares of New Common Stock granted in connection with any employment arrangement entered into in accordance with Section 6.3, and (v) no warrants to purchase shares of New Common Stock will be issued and outstanding.

(b) As of the Closing Date, all issued and outstanding shares of New Common Stock will have been duly authorized and validly issued and will be fully paid and non-assessable, and will not be subject to any preemptive rights.

(c) Except as set forth in this Section 4.4, as of the Closing Date, no shares of capital stock or other equity securities or voting interest in Reorganized Momentive will have been issued, reserved for issuance or outstanding.

(d) Except as described in this Section 4.4 and except as set forth in the Registration Rights Agreement, the Reorganized Momentive Corporate Documents, the Emergence Credit Facilities or any employment agreement entered into in accordance with Section 7.1(h), as of the Closing Date, neither Reorganized Momentive nor any of its Subsidiaries will be party to or otherwise bound by or subject to any outstanding option, warrant, call, right, security, commitment, Contract, arrangement or undertaking (including any preemptive right) that (i) obligates Reorganized Momentive or any of its Subsidiaries to issue, deliver, sell or transfer, or repurchase, redeem or otherwise acquire, or cause to be issued, delivered, sold or transferred, or repurchased, redeemed or otherwise acquired, any shares of the capital stock of, or other equity or voting interests in, Reorganized Momentive or any of its Subsidiaries or any security convertible or exercisable for or exchangeable into any capital stock of, or other equity or voting interest in, Reorganized Momentive or any of its Subsidiaries, (ii) obligates Reorganized Momentive or any of its Subsidiaries to issue, grant, extend or enter into any such option, warrant, call, right, security, commitment, Contract, arrangement or undertaking, (iii) restricts the Transfer of any shares of capital stock of Reorganized Momentive or any of its Subsidiaries or (iv) relates to the voting of any shares of capital stock of Reorganized Momentive.

Section 4.5 Issuance. The shares of New Common Stock, Intermediate HoldCo Common Stock and Top HoldCo Common Stock to be issued pursuant to the Plan, including the shares of New Common Stock to be issued in connection with the consummation of the Rights Offerings and pursuant to the terms hereof, will, when issued and delivered on the Closing Date in exchange for the aggregate Purchase Price therefor and the shares of Intermediate HoldCo Common Stock and Top HoldCo Common Stock issued in the Internal Reorganization, be duly and validly authorized, issued and delivered and shall be fully paid and non-assessable, and free and clear of all Taxes, Liens (other than Transfer restrictions imposed hereunder or under the Reorganized Momentive Corporate Documents or by applicable Law), preemptive rights, subscription and similar rights (other than any rights set forth in the Reorganized Momentive Corporate Documents, and the Registration Rights Agreement).

Section 4.6 No Conflict. Assuming the consents described in clauses (a) through (f) of Section 4.7 are obtained, the execution and delivery by the Company and, if applicable, its Subsidiaries of this Agreement, the Plan and the other Transaction Agreements, the compliance by the Company and, if applicable, its Subsidiaries with the

provisions hereof and thereof and the consummation of the transactions contemplated herein and therein will not (a) conflict with, or result in a breach, modification or violation of, any of the terms or provisions of, or constitute a default under (with or without notice or lapse of time, or both), or result, except to the extent specified in the Plan, in the acceleration of, or the creation of any Lien under, or cause any payment or consent to be required under any Contract to which the Company or any of its Subsidiaries (including any Subsidiaries that are not Debtors) will be bound as of the Closing Date after giving effect to the Plan or to which any of the property or assets of the Company or any of its Subsidiaries (including any Subsidiaries that are not Debtors) will be subject as of the Closing Date after giving effect to the Plan, (b) result in any violation of the provisions of the Reorganized Momentive Corporate Documents or any of the organization documents of any of the Company's Subsidiaries, or (c) result in any violation of any Law or Order applicable to the Company or any of its Subsidiaries (including any Subsidiaries that are not Debtors) or any of their properties, except in each of the cases described in clauses (a) and (c) for any conflict, breach, modification, violation, default, acceleration or Lien which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.7 Consents and Approvals. No consent, approval, authorization, order, registration or qualification of or with any Governmental Entity having jurisdiction over the Company or any of its Subsidiaries or any of their properties (each, an "**Applicable Consent**") is required for the execution and delivery by the Company and, to the extent relevant, its Subsidiaries of this Agreement, the Plan and the other Transaction Agreements, the compliance by the Company and, to the extent relevant, its Subsidiaries with the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein, except for (a) the entry of the BCA Approval Order authorizing the Company and MPM to execute and deliver this Agreement and perform the BCA Approval Obligations, (b) the entry of the BCA Consummation Approval Order authorizing the Company and MPM to perform each of its other obligations hereunder, (c) the entry of the Confirmation Order, (d) filings, notifications, authorizations, approvals, consents, clearances or termination or expiration of all applicable waiting periods under any Antitrust Laws in connection with the transactions contemplated by this Agreement, (e) such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or "Blue Sky" Laws in connection with the purchase of the Unsubscribed Shares by the Commitment Parties, the issuance of the Subscription Rights, the issuance of the Rights Offerings Shares pursuant to the exercise of the Subscription Rights, the issuance of New Common Stock in satisfaction of Votable Claims pursuant to the Plan, the issuance of New Common Stock as payment of the Commitment Premium and the issuance of shares of Intermediate HoldCo Common Stock and Top HoldCo Common Stock in the Internal Reorganization, and (f) any Applicable Consents that, if not made or obtained, would not reasonably be expected to be material to the Company and its Subsidiaries taken as a whole.

Section 4.8 Arm's-Length. The Company and MPM acknowledge and agree that (a) each of the Commitment Parties is acting solely in the capacity of an arm's-length contractual counterparty to the Company and MPM with respect to the transactions contemplated hereby (including in connection with determining the terms of the Rights Offerings) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any of its Subsidiaries and (b) no Commitment Party is advising the Company or any of its Subsidiaries as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction.

Section 4.9 Financial Statements.

(a) The audited consolidated balance sheets of MPM as at December 31, 2013 and the related consolidated statements of operations and of cash flows for the fiscal year then ended, accompanied by a report thereon by PricewaterhouseCoopers LLP (collectively, the "**Financial Statements**"), present fairly the consolidated financial condition of MPM as at such date, and the consolidated results of its operations and its consolidated cash flows for the fiscal year then ended. All such Financial Statements, including the related schedules and notes thereto, have been prepared in accordance with U.S. generally accepted accounting principles ("**GAAP**") applied consistently throughout the periods involved (except as disclosed therein).

(b) The unaudited consolidated balance sheet of MPM as at March 31, 2014 and the related consolidated statements of operations and of cash flows (collectively, the "**Q1 Financial Statements**"), that MPM will file with the SEC shall present fairly the consolidated financial condition of MPM as at March 31, 2014, and the consolidated results of its operations and its consolidated cash flows for the quarter then ended. The consolidated EBITDA of MPM for the quarter ended March 31, 2014 that is reflected in the Q1 Financial Statements (which shall be presented in a manner consistent with the presentation of EBITDA in the Financial Statements) shall be no less than $48,000,000.

Section 4.10 MPM SEC Documents and Disclosure Statement. Since December 31, 2012, MPM has filed all required reports, schedules, forms and statements with the SEC. As of their respective dates, and giving effect to any amendments or supplements thereto filed prior to the date of this Agreement, each of the MPM SEC Documents that have been filed as of the date of this Agreement complied in all material respects with the requirements of the Securities Act or the Exchange Act applicable to such MPM SEC Documents. MPM has filed with the SEC all Material Contracts that are required to be filed as exhibits to the MPM SEC Documents that have been filed as of the date of this Agreement. No MPM SEC Document that has been filed prior to the date of this Agreement, after giving effect to any amendments or supplements thereto and to any subsequently filed MPM SEC Documents, in each case filed prior to the date of this Agreement, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Disclosure Statement as approved by the Bankruptcy Court will conform in all material respects with Section 1125 of the Bankruptcy Code.

Section 4.11 Absence of Certain Changes. Since December 31, 2013, no event, development, occurrence or change has occurred or exists that constitutes, individually or in the aggregate, a Material Adverse Effect.

Section 4.12 No Violation; Compliance with Laws. (i) The Company is not in violation of its charter or bylaws, and (ii) no Subsidiary of the Company is in violation of its respective charter or bylaws or similar organizational document in any material respect. Neither the Company nor any of its Subsidiaries is or has been at any time since January 1, 2013 in violation of any Law or Order, except for any such violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

There is and since January 1, 2013 has been no failure on the part of the Company or MPM to comply in all material respects with the Sarbanes-Oxley Act of 2002.

Section 4.13 Legal Proceedings. Other than the Chapter 11 Proceedings and any adversary proceedings or contested motions commenced in connection therewith, there are no material legal, governmental, administrative, judicial or regulatory investigations, audits, actions, suits, claims, arbitrations, demands, demand letters, claims, notices of noncompliance or violations, or proceedings ("**Legal Proceedings**") pending or, to the Knowledge of the Company, threatened to which the Company or any of its Subsidiaries is a party or to which any property of the Company or any of its Subsidiaries is the subject, in each case that in any manner draws into question the validity or enforceability of this Agreement, the Plan or the other Transaction Agreements or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.14 Labor Relations.

Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Company or any of its Subsidiaries; (b) the hours worked and payments made to employees of the Company or any of its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Law dealing with such matters; and (c) all payments due from the Company or any of its Subsidiaries or for which any claim may be made against the Company or any of its Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Company or such Subsidiaries to the extent required by GAAP. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the consummation of the transactions contemplated by the Transaction Agreements will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Company or any of the Subsidiaries (or any predecessor) is a party or by which the Company or any of the Subsidiaries (or any predecessor) is bound.

Section 4.15 Intellectual Property. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) each of the Company and its Subsidiaries owns, or possesses the right to use, all of the patents, patent rights, trademarks, service marks, trade names, copyrights, mask works, domain names, and any and all applications or registrations for any of the foregoing (collectively, "**Intellectual Property Rights**") that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person, (b) to the Knowledge of the Company, none of the Company or any of its Subsidiaries nor any Intellectual Property Right, proprietary right, product, process, method, substance, part, or other material now employed, sold or offered by or contemplated to be employed, sold or offered by such person, is interfering with, infringing upon, misappropriating or otherwise violating any valid Intellectual Property Rights of any Person, and (c) no claim or litigation regarding any of the foregoing is pending or, to the Knowledge of the Company, threatened.

Section 4.16 Title to Real and Personal Property.

(a) Real Property. Each of the Company and its Subsidiaries has valid fee simple title to, or valid leasehold interests in, or easements or other limited property interests in, all its Real Properties and has valid title to its personal property and assets, in each case, except for Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failure to have such title would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens.

(b) Leased Real Property. Each of the Company and its Subsidiaries has complied with all obligations under all leases to which it is a party that have not been rejected in the Chapter 11 Proceedings, except where the failure to comply would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and all such leases are in full force and effect, except leases in respect of which the failure to be in full force and effect would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Each of the Company and its Subsidiaries enjoys peaceful and undisturbed possession under all such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Personal Property. Each of the Company and its Subsidiaries owns or possesses the right to use, all Intellectual Property Rights and all licenses and rights with respect to any of the foregoing used in the conduct of their businesses, without any conflict (of which the Company or any of its Subsidiaries has been notified in writing) with the rights of others, and free from any burdensome restrictions on the present conduct of the Company and its Subsidiaries, as the case may be, except where such conflicts and restrictions would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or.

Section 4.17 No Undisclosed Relationships. Other than Contracts or other direct or indirect relationships between or among the Company and its Subsidiaries or between the Subsidiaries of the Company and each other, there are no Contracts or other direct or indirect relationships existing as of the date hereof between or among the Company or any of its Subsidiaries, on the one hand, and any director, officer or greater than 5% stockholder of the Company or any of its Subsidiaries, on the other hand, that is required by the Exchange Act to be described in MPM's filings with the SEC and that is not so described, except for the transactions contemplated by this Agreement. Any Contract existing as of the date hereof between or among the Company or any of its Subsidiaries, on the one hand, and any director, officer or greater than 5% stockholder of the Company or any of its Subsidiaries, on the other hand, that is required by the Exchange Act to be described in MPM's filings with the SEC is filed as an exhibit to, or incorporated by reference as indicated in, the Annual Report on Form 10-K for the year ended December 31, 2013 that MPM filed on April 11, 2014 or another MPM SEC Document filed between April 11, 2014 and the date hereof.

Section 4.18 Licenses and Permits. The Company and its Subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate Governmental Entities that are necessary for the ownership or lease of their respective properties and the conduct of the business, except where

the failure to possess, make or give the same would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries (i) has received notice of any revocation or modification of any such license, certificate, permit or authorization or (ii) has any reason to believe that any such license, certificate, permit or authorization will not be renewed in the ordinary course, except to the extent that any of the foregoing would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 4.19 Environmental. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) no written notice, claim, demand, request for information, order, complaint or penalty has been received by the Company or any of its Subsidiaries, and there are no judicial, administrative or other actions, suits or proceedings pending or, to the Knowledge of the Company, threatened which allege a violation of or liability under any Environmental Laws, in each case relating to the Company or any of its Subsidiaries, (b) the Company and each of its Subsidiaries has all environmental permits, licenses and other approvals, and has maintained all financial assurances, necessary for its operations to comply with all applicable Environmental Laws and is, and during the term of all applicable statutes of limitation, has been, in compliance with the terms of such permits, licenses and other approvals and with all other applicable Environmental Laws, (c) to the Knowledge of the Company, no Hazardous Material is located at, on or under any property currently owned, operated or leased by the Company or any of its Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of the Company or any of its Subsidiaries under any Environmental Laws, (d) no Hazardous Material has been generated, owned, treated, stored, handled or controlled by the Company or any of its Subsidiaries and transported to or Released at any location in a manner that would reasonably be expected to give rise to any cost, liability or obligation of the Company or any of its Subsidiaries under any Environmental Laws, and (e) there are no agreements in which the Company or any of its Subsidiaries has expressly assumed or undertaken responsibility for any known or reasonably likely liability or obligation of any other Person arising under or relating to Environmental Laws, which in any such case has not been made available to the Commitment Parties prior to the date hereof.

Section 4.20 Tax Returns.

(a) Except as would not reasonably be expected to be material to the Company and its Subsidiaries taken as a whole, (i) each of the Company and its Subsidiaries has filed or caused to be filed all U.S. federal, state, provincial, local and non-U.S. Tax returns required to have been filed by it and (ii) taken as a whole, each such Tax return is true and correct;

(b) Each of the Company and its Subsidiaries has timely paid or caused to be timely paid all Taxes shown to be due and payable by it on the returns referred to in clause (a) and all other Taxes or assessments (or made adequate provision (in accordance with GAAP) for the payment of all Taxes due) with respect to all periods or portions thereof ending on or before the date hereof (except Taxes or assessments that are being contested in good faith by appropriate proceedings and for which the Company and its Subsidiaries (as the case may be) has set aside on its books adequate reserves in accordance with GAAP or with respect to the

Debtors only, except to the extent the non-payment thereof is permitted by the Bankruptcy Code), which Taxes, if not paid or adequately provided for, would reasonably be expected to be material to the Company and its Subsidiaries taken as a whole; and

(c) As of the date hereof, with respect to the Company and its Subsidiaries, other than in connection with the Chapter 11 Proceedings and other than Taxes or assessments that are being contested in good faith and are not expected to result in significant adjustments that would be material to the Company and its Subsidiaries taken as a whole, (i) there are no claims being asserted in writing with respect to any Taxes, (ii) no presently effective waivers or extensions of statutes of limitation with respect to Taxes have been given or requested and (iii) no Tax returns are being examined by, and no written notification of intention to examine has been received from, the IRS or any other Governmental Entity.

Section 4.21 Employee Benefit Plans.

(a) Except for the filing and pendency of the Chapter 11 Proceedings or otherwise as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (i) each Company Plan and each Multiemployer Plan is in compliance in all material respects with the applicable provisions of ERISA and the Code; (ii) no Reportable Event has occurred during the past five years as to which the Company or any of its Subsidiaries or any ERISA Affiliate was required to file a report with the PBGC, other than reports that have been filed; (iii) no Company Plan has any Unfunded Pension Liability in excess of $35,000,000 with respect to any single Company Plan and in excess of $75,000,000 with respect to all Company Plans in the aggregate; (iv) no ERISA Event has occurred or is reasonably expected to occur; (v) none of the Company or any of its Subsidiaries has engaged in a "prohibited transaction" (as defined in Section 406 of ERISA and Section 4975 of the Code) in connection with any employee pension benefit plan (as defined in Section 3(2) of ERISA) that would subject the Company or any of its Subsidiaries to Tax; (vi) with respect to any employee welfare plan (as defined in Section 3(1) of ERISA) maintained or contributed to by the Company and its Subsidiaries which provides benefits to retired employees or other former employees (other than as required by Section 601 of ERISA), the amount of the projected plan benefits with respect to any such plan does not exceed the fair market value of all assets allocable to such liabilities by more than $50,000,000 and the amount of the projected benefit liabilities with respect to all such plans does not exceed the fair market value of all assets allocable to such liabilities by more than $75,000,000; and (vii) none of the Company or any of its Subsidiaries or any ERISA Affiliate has incurred or is reasonably expected to incur any Withdrawal Liability to any Multiemployer Plan.

(b) Each of the Company and its Subsidiaries is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other employee benefit plan governed by the laws of a jurisdiction other than the United States of America ("**Foreign Pension Plan**") and (ii) with the terms of any such Foreign Pension Plan, except, in each case, for such noncompliance that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All Contributions required to be made with respect to any Foreign Pension Plan have been or will be timely made. Neither the Company nor any of its Subsidiaries has incurred any material obligation in connection with the termination of or

withdrawal from any Foreign Pension Plan. The amount of the accumulated plan benefits with respect to any single Foreign Pension Plan does not exceed the fair market value of all plan assets allocable to such liabilities by more than $35,000,000 and the amount of the accumulated plan benefits with respect to all Foreign Pension Plans does not exceed the fair market value of all plan assets allocable to such liabilities by more than $100,000,000.

(c) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, there are no pending, or to the Knowledge of the Company, threatened claims (other than claims for benefits in the normal course), sanctions, actions or lawsuits, asserted or instituted against any Company Plan or any person as fiduciary or sponsor of any Company Plan, that would reasonably be expected to result in liability to the Company or its Subsidiaries or any ERISA Affiliate.

(d) Within the last five years, no Company Plan of the Company, any of its Subsidiaries or any ERISA Affiliate has been terminated, whether or not in a "standard termination" as that term is used in Section 4041(b)(1) of ERISA, that would reasonably be expected to result in liability to the Company, any of its Subsidiaries or any ERISA Affiliate in excess of $35,000,000, nor has any Company Plan of the Company, any of its Subsidiaries or any ERISA Affiliate (determined at any time within the past five years) with Unfunded Pension Liabilities been transferred outside of the "controlled group" (with the meaning of Section 4001(a)(14) of ERISA) that has or would reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

Section 4.22 Internal Control Over Financial Reporting. MPM has established and maintains a system of internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act) that complies in all material respects with the requirements of the Exchange Act and has been designed to provide reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. To the Knowledge of the Company, there are no material weaknesses in MPM's internal control over financial reporting as of the date hereof.

Section 4.23 Disclosure Controls and Procedures. MPM maintains disclosure controls and procedures (within the meaning of Rules 13a-15(e) and 15d-15(e) promulgated under the Exchange Act) designed to ensure that information required to be disclosed by MPM in the reports that it files and submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, including that information required to be disclosed by MPM in the reports that it files and submits under the Exchange Act is accumulated and communicated to management of MPM as appropriate to allow timely decisions regarding required disclosure.

Section 4.24 Material Contracts. All Material Contracts are valid, binding and enforceable by and against the Company or its relevant Subsidiary (except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws limiting creditors' rights generally or by equitable principles relating to enforceability), and no written notice to terminate, in whole or part, any Material Contract has been delivered to the Company or any of its Subsidiaries. Other than as a result of the filing of the Chapter 11

Proceedings, neither the Company nor any of its Subsidiaries nor, to the Knowledge of the Company, any other party to any Material Contract, is in material default or breach under the terms thereof. Each Material Contacts to which the Company or any Subsidiary is a party as of the date hereof is filed as an exhibit to, or incorporated by reference as indicated in, the Annual Report on Form 10-K for the year ended December 31, 2013 that MPM filed on April 11, 2014 or another MPM SEC Document filed between April 11, 2014 and the date hereof.

Section 4.25 No Unlawful Payments. Since January 1, 2013, neither the Company nor any of its Subsidiaries nor, to the Knowledge of the Company, any of their respective directors, officers or employees has in any material respect: (a) used any funds of the Company or any of its Subsidiaries for any unlawful contribution, gift, entertainment or other unlawful expense, in each case relating to political activity; (b) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (c) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977; or (d) made any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment.

Section 4.26 Compliance with Money Laundering Laws. The operations of the Company and its Subsidiaries are and, since January 1, 2013 have been at all times, conducted in compliance in all material respects with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, the money laundering statutes of all jurisdictions in which the Company and its Subsidiaries operate (and the rules and regulations promulgated thereunder) and any related or similar Laws (collectively, the "**Money Laundering Laws**") and no material Legal Proceeding by or before any Governmental Entity or any arbitrator involving the Company or any of its Subsidiaries with respect to Money Laundering Laws is pending or, to the Knowledge of the Company, threatened.

Section 4.27 Compliance with Sanctions Laws. Neither the Company nor any of its Subsidiaries nor, to the Knowledge of the Company, any of their respective directors, officers, employees or other Persons acting on their behalf with express authority to so act is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department. Neither the Company nor MPM will directly or indirectly use the proceeds of the Rights Offerings, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for the purpose of financing the activities of any Person that, to the Knowledge of the Company, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department.

Section 4.28 No Broker's Fees. Neither the Company nor any of its Subsidiaries is a party to any Contract with any Person (other than this Agreement) that would give rise to a valid claim against the Commitment Parties for a brokerage commission, finder's fee or like payment in connection with the Rights Offerings or the sale of the Unsubscribed Shares.

Section 4.29 Takeover Statutes. No Takeover Statute is applicable to this Agreement, the Backstop Commitment and the other transactions contemplated by this Agreement. As of the entry of the BCA Approval Order, the board of directors of Reorganized

Momentive shall have authorized and approved the issuance of the New Common Stock and the Rights Offerings Shares pursuant to this Agreement, the Plan and the Rights Offerings.

Section 4.30 Investment Company Act. Neither the Company nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 4.31 Insurance. The Company and its Subsidiaries have insured their properties and assets against such risks and in such amounts as are customary for companies engaged in similar businesses. All premiums due and payable in respect of material insurance policies maintained by the Company and its Subsidiaries have been paid. The Company reasonably believes that the insurance maintained by or on behalf of the Company and its Subsidiaries is adequate in all material respects. As of the date hereof, to the Knowledge of the Company, neither the Company nor any of its Subsidiaries has received notice from any insurer or agent of such insurer with respect to any material insurance policies of the Company and its Subsidiaries of cancellation or termination of such policies, other than such notices which are received in the ordinary course of business or for policies that have expired in accordance with their terms.

Section 4.32 Intermediate HoldCo and Top HoldCo Corporate Power and Authority. Each of Intermediate HoldCo and Top HoldCo, when incorporated by the Debtors, will have the requisite corporate power and authority, subject to entry of the Confirmation Order, to consummate the transactions contemplated in the Plan, to enter into, execute and deliver all agreements to which each will be a party as contemplated by the Plan (the "**HoldCo Transaction Agreements**") and to perform their respective obligations under each of the HoldCo Transaction Agreements. Subject to the receipt of the Confirmation Order, the execution and delivery of the HoldCo Transaction Agreements and the consummation of the transactions contemplated thereby will be duly authorized by all requisite corporate action on behalf of each of Intermediate HoldCo and Top HoldCo, and no other corporate proceedings on the part of either Intermediate HoldCo or Top HoldCo will be necessary to authorize any of the HoldCo Transaction Agreements or to consummate the transactions contemplated thereby.

Section 4.33 Authorized and Issued Capital Stock of Top HoldCo.

(a) Immediately after the Internal Reorganization, (i) the authorized capital stock of Top HoldCo will consist of 70,000,000 shares of Top HoldCo Common Stock, (ii) the outstanding capital stock of Top HoldCo will consist of 50,000,000 issued and outstanding shares of Top HoldCo Common Stock (which shall be the number of Total Outstanding Shares) plus any shares issued after the Effective Date in accordance with the new management incentive plan in accordance with the Term Sheet, (iii) no shares of Top HoldCo Common Stock will be held by Top HoldCo in its treasury, (iv) shares of Top HoldCo Common Stock will be reserved for issuance upon exercise of stock options and other rights to purchase or acquire shares of Top HoldCo Common Stock granted in connection with any employment arrangement entered into in accordance with Section 6.3, and (v) no warrants to purchase shares of Top HoldCo Common Stock will be issued and outstanding.

(b) Immediately after the Internal Reorganization, all issued and outstanding shares of Top HoldCo Common Stock will have been duly authorized and validly issued and will be fully paid and non-assessable, and will not be subject to any preemptive rights (except as set forth in the Registration Rights Agreement and the Reorganized Momentive Corporate Documents).

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE COMMITMENT PARTIES

Each Commitment Party represents and warrants as to itself only (unless otherwise set forth herein, as of the date of this Agreement and as of the Closing Date) as set forth below.

Section 5.1 Incorporation. Such Commitment Party is a legal entity duly organized, validly existing and, if applicable, in good standing (or the equivalent thereof) under the Laws of its jurisdiction of incorporation or organization.

Section 5.2 Corporate Power and Authority. Such Commitment Party has the requisite power and authority (corporate or otherwise) to enter into, execute and deliver this Agreement and each other Transaction Agreements to which such Commitment Party is a party and to perform its obligations hereunder and thereunder and has taken all necessary action (corporate or otherwise) required for the due authorization, execution, delivery and performance by it of this Agreement and the other Transaction Agreements.

Section 5.3 Execution and Delivery. This Agreement and each other Transaction Agreement to which such Commitment Party is a party (a) has been, or prior to its execution and delivery will be, duly and validly executed and delivered by such Commitment Party and (b) upon entry of the BCA Consummation Approval Order and assuming due and valid execution and delivery hereof and thereof by the Company and the other Debtors (as applicable), will constitute valid and legally binding obligations of such Commitment Party, enforceable against such Commitment Party in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws limiting creditors' rights generally or by equitable principles relating to enforceability.

Section 5.4 No Conflict. Assuming that the consents referred to in clauses (a) and (b) of Section 5.5 are obtained, the execution and delivery by such Commitment Party of this Agreement and each other Transaction Agreement to which such Commitment Party is a party, the compliance by such Commitment Party with all of the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein (a) will not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute a default under (with or without notice or lapse of time, or both), or result in the acceleration of, or the creation of any Lien under, any Contract to which such Commitment Party is a party or by which such Commitment Party is bound or to which any of the properties or assets of such Commitment Party are subject, (b) will not result in any violation of the provisions of the certificate of incorporation or bylaws (or comparable constituent documents) of such Commitment Party and (c) will not result in any material violation of any Law or Order

applicable to such Commitment Party or any of its properties, except in each of the cases described in clauses (a) and (c), for any conflict, breach, violation, default, acceleration or Lien which would not reasonably be expected, individually or in the aggregate, to prohibit, materially delay or materially and adversely impact such Commitment Party's performance of its obligations under this Agreement.

Section 5.5 Consents and Approvals. No consent, approval, authorization, order, registration or qualification of or with any Governmental Entity having jurisdiction over such Commitment Party or any of its properties is required for the execution and delivery by such Commitment Party of this Agreement and each other Transaction Agreement to which such Commitment Party is a party, the compliance by such Commitment Party with the provisions hereof and thereof and the consummation of the transactions (including the purchase by such Commitment Party of its Backstop Commitment Percentage of the Unsubscribed Shares and its portion of the Rights Offering Shares) contemplated herein and therein, except (a) any consent, approval, authorization, order, registration or qualification which, if not made or obtained, would not reasonably be expected, individually or in the aggregate, to prohibit, materially delay or materially and adversely impact such Commitment Party's performance of its obligations under this Agreement and each other Transaction Agreement to which such Commitment Party is a party and (b) filings, notifications, authorizations, approvals, consents, clearances or termination or expiration of all applicable waiting periods under any Antitrust Laws in connection with the transactions contemplated by this Agreement.

Section 5.6 No Registration. Such Commitment Party understands that (a) the Unsubscribed Shares, the 4(a)(2) Rights Offering Shares and any shares of New Common Stock issued to such Commitment Party in satisfaction of the Commitment Premium, and any shares of Top HoldCo Common Stock into which such shares are exchanged in the Internal Reorganization, have not been registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act, the availability of which depends on, among other things, the bona fide nature of the investment intent and the accuracy of such Commitment Party's representations as expressed herein or otherwise made pursuant hereto, and (b) the foregoing shares cannot be sold unless subsequently registered under the Securities Act or an exemption from registration is available.

Section 5.7 Purchasing Intent. Such Commitment Party is acquiring the Unsubscribed Shares, the 4(a)(2) Rights Offering Shares and any shares of New Common Stock issued to such Commitment Party in satisfaction of the Commitment Premium, and any shares of Top HoldCo Common Stock into which such shares are exchanged in the Internal Reorganization, for its own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof not in compliance with applicable securities Laws, and such Commitment Party has no present intention of selling, granting any participation in, or otherwise distributing the same, except in compliance with applicable securities Laws.

Section 5.8 Sophistication; Investigation. Such Commitment Party has such knowledge and experience in financial and business matters such that it is capable of evaluating the merits and risks of its investment in the Unsubscribed Shares, the 4(a)(2) Rights Offering Shares and any shares of New Common Stock issued to such Commitment Party in

satisfaction of the Commitment Premium, and any shares of Top HoldCo Common Stock into which such shares are exchanged in the Internal Reorganization. Such Commitment Party is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act and a "qualified institutional buyer" within the meaning of Rule 144A of the Securities Act. Such Commitment Party understands and is able to bear any economic risks associated with such investment (including the necessity of holding such shares for an indefinite period of time). Such Commitment Party has conducted and relied on its own independent investigation of, and judgment with respect to, the Company and its Subsidiaries and the advice of its own legal, tax, economic and other advisors. Except for the representations and warranties expressly set forth in this Agreement or any other Transaction Agreement, such Commitment Party disclaims reliance on any representations or warranties, either express or implied, by or on behalf of the Company or any of its Subsidiaries. Such Commitment Party acknowledges and agrees that any financial forecasts or projections relating to the Company or any of its Subsidiaries prepared by or on behalf of the Company of any of its Subsidiaries have been provided to such Commitment Party with the understanding and agreement that neither the Company nor any of its Subsidiaries is making any representation or warranty with respect to such forecasts or projections and that actual future results may vary from such forecasts or projections based upon numerous factors.

Section 5.9 No Broker's Fees. Such Commitment Party is not a party to any Contract with any Person (other than this Agreement and any Contract giving rise to the Expense Reimbursement hereunder) that would give rise to a valid claim against the Company or any of its Subsidiaries for a brokerage commission, finder's fee or like payment in connection with the Rights Offerings or the sale of the Unsubscribed Shares.

Section 5.10 Votable Claims.

(a) As of the Petition Date, such Commitment Party and its Affiliates were, collectively, the beneficial owner of, or the investment advisor or manager for the beneficial owner of, the aggregate principal amount of Votable Claims as set forth opposite such Commitment Party's name under the column titled "Votable Claims" on Schedule 2 attached hereto.

(b) As of the date hereof, such Commitment Party or its applicable Affiliates has the full power to vote, dispose of and compromise at least the aggregate principal amount of the Votable Claims set forth opposite such Commitment Party's name under the column titled "Votable Claims" on Schedule 2 attached hereto.

(c) Other than the RSA, such Commitment Party has not entered into any Contract to Transfer, in whole or in part, any portion of its right, title or interest in such Votable Claims where such Transfer would prohibit such Commitment Party from complying with the terms of this Agreement or the RSA.

Section 5.11 Arm's-Length. Such Commitment Party acknowledges and agrees that (a) the Company and its Subsidiaries are acting solely in the capacities of arm's-length contractual counterparties to such Commitment Party with respect to the transactions contemplated hereby (including in connection with determining the terms of the Rights Offerings) and not as a financial advisor or a fiduciary to, or an agent of, such Commitment

Party and (b) neither the Company nor any of its Subsidiaries is advising such Commitment Party as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction.

ARTICLE VI

ADDITIONAL COVENANTS

Section 6.1 BCA Consummation Approval Order and Solicitation Order. The Company shall use its reasonable best efforts, consistent with the RSA, to (a) obtain the entry of the BCA Approval Order, RSA Approval Order, Plan Solicitation Order, Confirmation Order and BCA Consummation Approval Order and (b) cause the Plan Solicitation Order, RSA Approval Order, Confirmation Order and BCA Consummation Approval Order to become a Final Order (and request that such Orders be effective immediately upon entry by the Bankruptcy Court pursuant to a waiver of Rules 3020 and 6004(h) of the Bankruptcy Rules, as applicable), in each case, as soon as reasonably practicable following the filing of the motion seeking entry of such Orders (for the avoidance of doubt, entry of the BCA Consummation Approval Order will be sought at the Confirmation Hearing). The Company shall provide to each of the Commitment Parties and its counsel copies of the proposed motion seeking entry of the BCA Approval Order, RSA Approval Order, Plan Solicitation Order, Confirmation Order and BCA Consummation Approval Order and a copy of the proposed Plan Solicitation Order, and a reasonable opportunity to review and comment on such motions and such Order prior to such motions and such Order being filed with the Bankruptcy Court, and such motions and such Order must be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company. Unless otherwise determined by the Requisite Commitment Parties, counsel to the Commitment Parties will provide the Company and its counsel with copies of the proposed BCA Approval Order, RSA Approval Order and BCA Consummation Approval Order, and such Orders shall be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company. Any amendments, modifications, changes or supplements to any of the BCA Approval Order, RSA Approval Order, Plan Solicitation Order, BCA Consummation Approval Order and Confirmation Order, and any of the motions seeking entry of such Orders, shall be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

Section 6.2 Confirmation Order; Plan and Disclosure Statement. The Debtors shall use their respective reasonable best efforts to obtain entry of the Confirmation Order. The Company shall provide to each of the Commitment Parties and its counsel a copy of the proposed Plan and the Disclosure Statement and any proposed amendment, modification, supplement or change to the Plan or the Disclosure Statement and a reasonable opportunity to review and comment on such documents and each such amendment, modification, supplement or change to the Plan or the Disclosure Statement must be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company. The Company shall provide to each of the Commitment Parties and its counsel a copy of the proposed Confirmation Order (together with copies of any briefs, pleadings and motions related thereto) and a reasonable opportunity to review and comment on such Order, briefs, pleadings and motions prior to such Order, briefs, pleadings and motions being filed with the Bankruptcy Court, and such Order, briefs, pleadings and motions must be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

Section 6.3 Conduct of Business. Except as set forth in this Agreement (including with respect to the Internal Reorganization) or with the prior written consent of Requisite Commitment Parties (requests for which, including related information, shall be directed to the counsel and financial advisors to the Ad Hoc Committee and to Apollo), during the period from the date of this Agreement to the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with its terms (the "**Pre-Closing Period**"), (a) the Company shall, and shall cause each of its Subsidiaries to, carry on its business in the ordinary course and use its reasonable best efforts to (i) preserve intact its business, (ii) keep available the services of its officers and employees, (iii) preserve its material relationships with customers, suppliers, licensors, licensees, distributors and others having material business dealings with the Company or its Subsidiaries in connection with their business and (iv) with respect to MPM, file its financial statements with the SEC within the time periods required under the Exchange Act, and (b) the Company shall not, and shall not permit any of its Subsidiaries to, enter into any transaction that is material to their business other than (A) transactions in the ordinary course of business, (B) other transactions after prior notice to the Commitment Parties to implement tax planning which transactions are not reasonably expected to materially adversely affect any Commitment Party, (C) transactions expressly contemplated by the Transaction Agreements, and (D) such other transactions set forth in Section 6.3 of the Company Disclosure Schedules.

For the avoidance of doubt, the following shall be deemed to occur outside of the ordinary course of business of the Company and shall require the prior written consent of the Requisite Commitment Parties unless the same would otherwise be permissible under the preceding clauses (B), (C) or (D): (1) any transaction that is with any Person that, collectively with its Affiliates, including any Affiliated Funds, beneficially owns more than 20% of the equity in any Debtor (other than the Company and its Subsidiaries) and involves aggregate payments or value in excess of $1,750,000, (2) any amendment, modification, termination, waiver, supplement, restatement or other change to the SSA, including any changes to the Allocation Percentage (as defined in the SSA) in the SSA or any assumption of the SSA in connection with the Chapter 11 Proceedings, (3) any amendment, modification, termination, waiver, supplement, restatement or other change to any Material Contract or any assumption of any Material Contract in connection with the Chapter 11 Proceedings (other than any Material Contracts that are otherwise addressed by clause (5) below), (4) entry into, or any amendment, modification, termination (other than for cause), waiver, supplement or other change to, any employment agreement to which the Company or any of its Subsidiaries is a party or any assumption of any such employment agreement in connection with the Chapter 11 Proceedings, other than (x) with respect to employment agreements entered into in the ordinary course of business consistent with past practice that do not contain a change of control or similar provision or (y) entry into, or any amendment, modification, termination, waiver, supplement or other change to, any employment agreements entered into between MSC or any of its Subsidiaries on the one hand and any employee of MSC or any of its Subsidiaries on the other hand who perform services for the Company or any of its Subsidiaries pursuant to the SSA or (5) the adoption or amendment of any management incentive or equity plan by any of the Debtors except for (x) such adoptions or amendments that do not require approval of the Bankruptcy Court and under which the payments shall not exceed $4,000,000 in the aggregate or $150,000 in the aggregate for any individual (provided, that, to the extent any individual amendment or adoption involves payments that equal or exceed $500,000 in the aggregate, the Debtors will provide

information concerning such adoption or amendment in advance of, or as promptly as practicable after, their implementation) and (y) the new management incentive plan in accordance with the Term Sheet. Except as otherwise provided in this Agreement, nothing in this Agreement shall give the Commitment Parties, directly or indirectly, any right to control or direct the operations of the Company and its Subsidiaries prior to the Closing Date. Prior to the Closing Date, the Company and its Subsidiaries shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of the business of the Company and its Subsidiaries.

Section 6.4 Access to Information; Confidentiality.

(a) Subject to applicable Law and Section 6.4(b), upon reasonable notice during the Pre-Closing Period, the Company shall (and shall cause its Subsidiaries to) afford the Commitment Parties and their Representatives upon request reasonable access, during normal business hours and without unreasonable disruption or interference with the Company's and its Subsidiaries' business or operations, to the Company's and its Subsidiaries' employees, properties, books, Contracts and records and, during the Pre-Closing Period, the Company shall (and shall cause its Subsidiaries to) furnish promptly to such parties all reasonable information concerning the Company's and its Subsidiaries' business, properties and personnel as may reasonably be requested by any such party, provided that the foregoing shall not require the Company (a) to permit any inspection, or to disclose any information, that in the reasonable judgment of the Company would cause the Company or any of its Subsidiaries to violate any of their respective obligations with respect to confidentiality to a third party if the Company shall have used its reasonable best efforts to obtain, but failed to obtain, the consent of such third party to such inspection or disclosure, (b) to disclose any legally privileged information of the Company or any of its Subsidiaries or (c) to violate any applicable Laws or Orders. All requests for information and access made in accordance with this Section 6.4 shall be directed to an executive officer of the Company or such Person as may be designated by the Company's executive officers.

(b) From and after the date hereof until the date that is one (1) year after the expiration of the Pre-Closing Period, each Commitment Party shall, and shall cause its Representatives to, (i) keep confidential and not provide or disclose to any Person any documents or information received or otherwise obtained by such Commitment Party or its Representatives pursuant to Section 6.4(a), Section 6.5 or in connection with a request for approval pursuant to Section 6.3 (except that provision or disclosure may be made to any Affiliate or Representative of such Commitment Party who needs to know such information for purposes of this Agreement or the other Transaction Agreements and who agrees to observe the terms of this Section 6.4(b)), and (ii) not use such documents or information for any purpose other than in connection with this Agreement or the other Transaction Agreements or the transactions contemplated hereby or thereby. Notwithstanding the foregoing, the immediately preceding sentence shall not apply in respect of documents or information that (i) is now or subsequently becomes generally available to the public through no violation of this Section 6.4(b), (ii) becomes available to a Commitment Party or its Representatives on a non-confidential basis from a source other than the Company or any of its Subsidiaries or any of their respective Representatives, (iii) becomes available to a Commitment Party or its Representatives through document production or discovery in connection with the Chapter 11

Proceedings or other judicial or administrative process, but subject to any confidentiality restrictions imposed by the Chapter 11 Proceedings or other such process); or (iv) such Commitment Party or any Representative thereof is required to disclose pursuant to judicial or administrative process or pursuant to applicable law or applicable securities exchange rules; provided, that, such Commitment Party or such Representative shall provide the Company with prompt written notice of such legal compulsion and cooperate with the Company to obtain a protective order or similar remedy to cause such information or documents not to be disclosed, including interposing all available objections thereto, at the Company's sole cost and expense; provided, further, that, in the event that such protective order or other similar remedy is not obtained, the disclosing party shall furnish only that portion of such information or documents that is legally required to be disclosed and shall exercise its reasonable best efforts (at the Company's sole cost and expense) to obtain assurance that confidential treatment will be accorded such disclosed information or documents.

Section 6.5 Financial Information.

(a) During the Pre-Closing Period, the Company shall deliver to the counsel and financial advisors to the Ad Hoc Committee and to Apollo, and to each Commitment Party that so requests, all statements and reports the Company is required to deliver to the DIP Term Agent pursuant to Section 5.04 of the DIP Term Loan and to the DIP ABL Agent pursuant to Section 5.04 of the DIP ABL Loan (each as in effect on the date hereof) (the "**Financial Reports**"). Neither any waiver by the parties to the DIP Term Loan or DIP ABL Loan of their right to receive the Financial Reports nor any amendment or termination of the DIP Term Loan or DIP ABL Loan shall affect the Company's obligation to deliver the Financial Reports to the Commitment Parties in accordance with the terms of this Agreement.

(b) Information required to be delivered pursuant to Section 5.04 of the DIP Term Loan and pursuant to Section 5.04 of the DIP ABL Loan (each as in effect on the date hereof) shall be deemed to have been delivered in accordance with Section 6.5(a) on the date on which the Company provides written notice to the counsel and financial advisors to the Ad Hoc Committee, and to each Commitment Party that so requests, such information that such information is available via the EDGAR system of the SEC on the internet (to the extent such information has been posted or is available as described in such notice).

(c) Each Commitment Party agrees that all information and reports delivered pursuant to this Section 6.5 shall be subject to the provisions of Section 6.4(b).

Section 6.6 Reasonable Best Efforts.

(a) Without in any way limiting any other respective obligation of the Company or any Commitment Party in this Agreement, each Party shall use reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, reasonably necessary, proper or advisable in order to consummate and make effective the transactions contemplated by this Agreement and the Plan, including using reasonable best efforts in:

(i) timely preparing and filing all documentation reasonably necessary to effect all necessary notices, reports and other filings of such Person and to obtain as

promptly as practicable all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party or Governmental Entity;

(ii) defending any Legal Proceedings in any way challenging (A) this Agreement, the Plan or any other Transaction Agreement, (B) the BCA Approval Order, RSA Approval Order, Plan Solicitation Order, Confirmation Order or BCA Consummation Approval Order or (C) the consummation of the transactions contemplated hereby and thereby, including seeking to have any stay or temporary restraining Order entered by any Governmental Entity vacated or reversed; and

(iii) working together in good faith to finalize the Reorganized Momentive Corporate Documents, Transaction Agreements and all other documents relating thereto for timely inclusion in the Plan and filing with the Bankruptcy Court.

(b) Subject to applicable Laws relating to the exchange of information, the Commitment Parties and the Company shall have the right to review in advance, and to the extent practicable each will consult with the other on all of the information relating to Commitment Parties or the Company, as the case may be, and any of their respective Subsidiaries, that appears in any filing made with, or written materials submitted to, any third party and/or any Governmental Entity in connection with the transactions contemplated by this Agreement or the Plan; provided, however, that the Commitment Parties are not required to provide for review in advance declarations or other evidence submitted in connection with any filing with the Bankruptcy Court. In exercising the foregoing rights, the Parties shall act reasonably and as promptly as practicable.

(c) Without limitation to Sections 6.1 and 6.2, to the extent exigencies permit, the Company shall provide or cause to be provided a draft of all motions, applications, pleadings, schedules, Orders, reports or other material papers (including all material memoranda, exhibits, supporting affidavits and evidence and other supporting documentation) in the Chapter 11 Proceedings relating to or affecting the Transaction Agreements in advance of filing the same with the Bankruptcy Court. All such motions, applications, pleadings, schedules, Orders, reports and other material papers shall be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company.

(d) Nothing contained in this Section 6.6 shall limit the ability of any Commitment Party to consult with the Debtors, to appear and be heard, or to file objections, concerning any matter arising in the Chapter 11 Proceedings to the extent not inconsistent with the RSA.

Section 6.7 Transfers and Acquisitions of Votable Claims.

(a) Each Commitment Party shall deliver written notice of all Transfers and acquisitions, whether direct or indirect, of Votable Claims, whether through a derivative instrument or otherwise, made by it and the aggregate principal amount of Votable Claims held by it immediately following such Transfer or acquisition to the Company, Milbank, Tweed, Hadley & McCloy LLP, Houlihan Lokey Capital, Inc., Akin Gump Strauss Hauer & Feld LLP

and Lazard Frères & Co LLC, in each case, within two (2) Business Days of the date of such Transfer or acquisition.

(b) If any Commitment Party (together with all of its Affiliates, collectively, the "**Transferring Commitment Party**") Transfers any Votable Claims in accordance with the terms and conditions hereof (other than to a Related Purchaser of such Transferring Commitment Party), each other Commitment Party that is a member of the Ad Hoc Committee (the "**Non-Transferring Commitment Party**") may elect in its sole discretion, within five (5) Business Days of receipt of written notice of such Transfer pursuant to Section 6.7(a), to assume its Assumable Share of the Assumable Amount of the Transferring Commitment Party's Backstop Commitment. To the extent that not all Non-Transferring Commitment Parties have elected to assume their Assumable Share of the Assumable Amount, each Commitment Party that elected to assume its Assumable Share of the Assumable Amount may elect to assume the remaining portion of the Assumable Amount on a *pro rata* basis (determined by comparing the Backstop Commitment of such Commitment Party that elected to assume its Assumable Share at the time of such election against the aggregate Backstop Commitment of all Commitment Parties so electing to assume such remaining portion). Any Backstop Commitment assumed by a Non-Transferring Commitment Party in accordance with this Section 6.7(b) shall be included, among other things, in the determination of (x) the Backstop Commitment Percentage of such Commitment Party for purposes of Section 3.1 and (y) the Backstop Commitment of such party for purposes of the definition of Requisite Commitment Parties. If any Commitment Party that is a Transferring Commitment Party no longer has any Backstop Commitment following a Transfer effected pursuant to this Section 6.7, it shall automatically cease to be a Party and will no longer have any rights as a Commitment Party (and, for the avoidance of doubt, shall not be entitled to receive any portion of the Commitment Premium).

(c) Each Commitment Party agrees that any Transfer of any Votable Claims or any other Claims or equity interests in the Debtors that does not comply with the terms and procedures set forth in this Section 6.7 shall be deemed void *ab initio*. To the extent any Commitment Party (i) beneficially acquires additional Votable Claims, (ii) beneficially holds or acquires any other Claims or (iii) beneficially holds or acquires any equity interests in the Debtors, each such Commitment Party agrees that such Claims shall be subject to this Section 6.7.

Section 6.8 Emergence Credit Facilities. The Debtors agree to work in good faith to obtain exit financing in amounts and upon terms and conditions that, taken as a whole, are more favorable to Reorganized Momentive and its Subsidiaries than the exit facility currently proposed by J.P. Morgan Securities LLC, JPMorgan Chase Bank, N.A., Citigroup Global Markets Inc., Credit Suisse AG, Credit Suisse Securities (USA) LLC pursuant to that certain Commitment Letter dated April 3, 2014 (the "**Currently Proposed Terms**") and that is otherwise in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company (the "**Emergence Credit Facilities**"), it being understood that if the Debtors are unable to obtain exit financing in amounts and upon terms and conditions that, taken as a whole, are more favorable to Reorganized Momentive and its Subsidiaries than the Currently Proposed Terms, then the Debtors shall obtain exit financing on the Currently Proposed Terms. Each of the Commitment Parties shall have the right to receive, upon reasonable request, an update by

the Company on, and a summary of, any material meetings, discussions or negotiations relating to the Emergence Credit Facilities.

Section 6.9 New Board of Directors. On the Closing Date, the composition of the board of directors of Reorganized Momentive shall be as described in the Term Sheet.

Section 6.10 Registration Rights Agreement; Reorganized Momentive Corporate Documents; SSA Amendment; Rights Offering Procedures.

(a) The Plan will provide that from and after the Closing Date each holder of Top HoldCo Common Stock receiving "control" or "restricted" securities shall be entitled to registration rights pursuant to a registration rights agreement, which agreement shall be in form and substance consistent with the terms set forth in the Term Sheet and mutually satisfactory to the Requisite Commitment Parties and the Company (the "**Registration Rights Agreement**"). A form of the Registration Rights Agreement shall be filed with the Bankruptcy Court as part of the Plan or an amendment thereto.

(b) The Plan will provide that on the Effective Date (i) the Reorganized Momentive Corporate Documents will be approved, adopted and effective and (ii) the amendment to the SSA to be executed and delivered to the Commitment Parties during the Pre-Closing Period, in form and substance consistent with the terms set forth in the Term Sheet and mutually satisfactory to the Requisite Commitment Parties and the Company, shall be assumed pursuant to the Plan and in connection with the Chapter 11 Proceedings and become effective in accordance with its terms (the "**SSA Amendment**"). Notwithstanding anything to the contrary set forth in Section 6.3, the SSA shall be assumed pursuant to the Plan, with such assumption being (x) contingent upon the execution and assumption of the SSA Amendment and (y) deemed effective upon and contingent on the occurrence of the Effective Date. Forms of the Reorganized Momentive Corporate Documents and the SSA Amendment shall be filed with the Bankruptcy Court as part of the Plan or an amendment thereto.

(c) The Parties will use their reasonable best efforts to finalize the form of Rights Offering Procedures and file them with the Bankruptcy Court on or prior to May 26, 2014.

Section 6.11 Form D and Blue Sky. Following the Closing, the Company shall timely file a Form D with the SEC with respect to the Unsubscribed Shares issued hereunder to the extent required under Regulation D of the Securities Act and shall provide, upon request, a copy thereof to each Commitment Party. The Company shall, on or before the Closing Date, take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Unsubscribed Shares issued hereunder and any shares of Top HoldCo Common Stock into which such shares are exchanged in the Internal Reorganization for, sale to the Commitment Parties at the Closing Date pursuant to this Agreement under applicable securities and "Blue Sky" Laws of the states of the United States (or to obtain an exemption from such qualification) and any applicable foreign jurisdictions, and shall provide evidence of any such action so taken to the Commitment Parties on or prior to the Closing Date. The Company shall timely make all filings and reports relating

to the offer and sale of the Unsubscribed Shares issued hereunder required under applicable securities and "Blue Sky" Laws of the states of the United States following the Closing Date. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 6.11.

Section 6.12 No Integration; No General Solicitation. Neither the Company nor any of its affiliates (as defined in Rule 501(b) of Regulation D promulgated under the Securities Act) will, directly or through any agent, sell, offer for sale, solicit offers to buy or otherwise negotiate in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the 4(a)(2) Rights Offering Shares, the Rights Offerings and this Agreement in a manner that would require registration of the New Common Stock, Intermediate HoldCo Common Stock or Top HoldCo Common Stock to be issued by the Company on the Effective Date under the Securities Act. None of the Company or any of its affiliates or any other Person acting on its or their behalf will solicit offers for, or offer or sell, any 4(a)(2) Rights Offering Shares by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D promulgated under the Securities Act or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act.

Section 6.13 DTC Eligibility. The Company shall use reasonable best efforts to promptly make, when applicable from time to time after the Closing, all Unlegended Shares eligible for deposit with The Depository Trust Company. "**Unlegended Shares**" means any shares of Top HoldCo Common Stock acquired by the Commitment Parties and their respective Affiliates (including any Related Purchaser or Ultimate Purchaser in respect thereof) pursuant to this Agreement and the Plan, including all shares of Top HoldCo Common Stock received in exchange for Unsubscribed Shares pursuant to the Internal Reorganization and all shares issued to the Commitment Parties and their respective Affiliates in connection with the Rights Offerings, that do not require, or are no longer subject to, the Legend.

Section 6.14 Use of Proceeds. The Debtors will apply the proceeds from the exercise of the Subscription Rights and the sale of the Unsubscribed Shares for the purposes identified in the Disclosure Statement and the Plan.

Section 6.15 Share Legend. Each certificate evidencing all shares of Top HoldCo Common Stock received in exchange for Unsubscribed Shares pursuant to the Internal Reorganization that are issued hereunder and any certificate evidencing shares of Top HoldCo Common Stock that may be issued in satisfaction of the Commitment Premium as provided herein, and each certificate issued in exchange for or upon the Transfer of any such shares, shall be stamped or otherwise imprinted with a legend (the "**Legend**") in substantially the following form:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON [DATE OF ISSUANCE], HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY OTHER APPLICABLE STATE SECURITIES LAWS, AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AN AVAILABLE EXEMPTION FROM REGISTRATION THEREUNDER."

In the event that any such shares are uncertificated, such shares shall be subject to a restrictive notation substantially similar to the Legend in the stock ledger or other appropriate records maintained by Reorganized Momentive or agent and the term "Legend" shall include such restrictive notation. Reorganized Momentive shall remove the Legend (or restrictive notation, as applicable) set forth above from the certificates evidencing any such shares (or the stock ledger or other appropriate Reorganized Momentive records, in the case of uncertified shares) at any time after the restrictions described in such Legend cease to be applicable, including, as applicable, when such shares may be sold under Rule 144. Reorganized Momentive may reasonably request such opinions, certificates or other evidence that such restrictions no longer apply as a condition to removing the Legend.

Section 6.16 Withdrawal of Commitment Party. In the event there is an amendment to or waiver of this Agreement directly or indirectly modifying any Selected Economic Term or any waiver or extension of the Outside Date pursuant to Section 9.2(f), then any Commitment Party that did not consent to such amendment (a "**Non-Consenting Commitment Party**") may elect, within seven (7) days of such change, to withdraw as a Commitment Party by delivering written notice to the Company of such election. Upon such election, (i) the Commitment Parties that are members of the Ad Hoc Committee (other than the Non-Consenting Commitment Party) shall automatically assume the Backstop Commitment of the Non-Consenting Commitment Party on a *pro rata* basis according to such Commitment Parties' Backstop Commitment Percentages (relative to the aggregate Backstop Commitment provided by the Commitment Parties that are members of the Ad Hoc Committee (other than the Non-Consenting Commitment Party)) at the time of the election by the Non-Consenting Commitment Party to withdraw and (ii) the Non-Consenting Commitment Party shall automatically cease to be a party to this Agreement or the RSA and will no longer have any rights as a Commitment Party (and, for the avoidance of doubt, the Non-Consenting Commitment Party shall not be entitled to receive any portion of the Commitment Premium). Any Backstop Commitment assumed by a Commitment Party in accordance with this Section 6.16 shall be included, among other things, in the determination of (x) the Backstop Commitment Percentage of such Commitment Party for purposes of Section 3.1 and (y) the Backstop Commitment of such party for purposes of the definition of Requisite Commitment Parties.

Section 6.17 Antitrust Approval.

(a) Each Party agrees to use reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary to consummate and make effective the transactions contemplated by this Agreement, the Plan and the other Transaction Agreements, including (i) if applicable, filing, or causing to be filed, the Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated by this Agreement with the Antitrust Division of the United States Department of Justice and the United States Federal Trade Commission and any filings (or, if required by any Antitrust Authority, any drafts thereof) under any other Antitrust Laws that are necessary to consummate and make effective the transactions contemplated by this Agreement as soon as reasonably practicable and no later than fifteen (15) Business Days following the date hereof and (ii) promptly furnishing documents or information reasonably requested by any Antitrust Authority.

(b) The Company and each Commitment Party subject to an obligation pursuant to the Antitrust Laws to notify any transaction contemplated by this Agreement, the Plan or the other Transaction Agreements that has notified the Company in writing of such obligation (each such Commitment Party, a "**Filing Party**") agree to reasonably cooperate with each other as to the appropriate time of filing such notification and its content. The Company and each Filing Party shall, to the extent permitted by applicable Law: (i) promptly notify each other of, and if in writing, furnish each other with copies of (or, in the case of material oral communications, advise each other orally of) any communications from or with an Antitrust Authority; (ii) not participate in any meeting with an Antitrust Authority unless it consults with each other Filing Party and the Company, as applicable, in advance and, to the extent permitted by the Antitrust Authority and applicable Law, give each other Filing Party and the Company, as applicable, a reasonable opportunity to attend and participate thereat; (iii) furnish each other Filing Party and the Company, as applicable, with copies of all correspondence and communications between such Filing Party or the Company and the Antitrust Authority; (iv) furnish each other Filing Party with such necessary information and reasonable assistance as may be reasonably necessary in connection with the preparation of necessary filings or submission of information to the Antitrust Authority; and (v) not withdraw its filing, if any, under the HSR Act without the prior written consent of the Requisite Commitment Parties and the Company.

(c) Should a Filing Party be subject to an obligation under the Antitrust Laws to jointly notify with one or more other Filing Parties (each, a "**Joint Filing Party**") any transaction contemplated by this Agreement, the Plan or the other Transaction Agreements, such Joint Filing Party shall promptly notify each other Joint Filing Party of, and if in writing, furnish each other Joint Filing Party with copies of (or, in the case of material oral communications, advise each other Joint Filing Party orally of) any communications from or with an Antitrust Authority.

(d) The Company and each Filing Party shall use their reasonable best efforts to obtain all authorizations, approvals, consents, or clearances under any applicable Antitrust Laws or to cause the termination or expiration of all applicable waiting periods under any Antitrust Laws in connection with the transactions contemplated by this Agreement at the earliest possible date after the date of filing. The communications contemplated by this Section 6.17 may be made by the Company or a Filing Party on an outside counsel-only basis or subject to other agreed upon confidentiality safeguards. The obligations in this Section 6.17 shall not apply to filings, correspondence, communications or meetings with Antitrust Authorities unrelated to the transactions contemplated by this Agreement, the Plan or the other Transaction Agreements.

Section 6.18 Alternative Transactions.

(a) From the date of this Agreement until the earlier of the termination of this Agreement in accordance with its terms and the Closing Date, (i) the Company and its Subsidiaries shall, and shall instruct and direct their respective Representatives to, immediately cease and terminate any ongoing solicitation, discussions and negotiations with any Person (including any Commitment Party) with respect to any Alternative Transaction, and (ii) the Company and its Subsidiaries shall not, and the Company and its Subsidiaries shall instruct and

direct their respective Representatives not to, initiate or solicit any inquiries or the making of any proposal or offer relating to an Alternative Transaction, engage or participate in any discussions or negotiations, or provide any non-public information to any Person (including any Commitment Party), with respect to an Alternative Transaction. Notwithstanding the foregoing sentence, if following the date of this Agreement (A) the Company or any of its Subsidiaries receives a bona fide, written unsolicited proposal or offer for an Alternative Transaction (an "**Alternative Transaction Proposal**") from any Person (including any Commitment Party) that did not result from a breach of this Section 6.18 and (B) the board of directors of the Company (the "**Company Board**") has determined in good faith, after consultation with its outside counsel and independent financial advisor, that such Alternative Transaction Proposal constitutes, or could reasonably be expected to result in, a Superior Transaction, the Company and its Subsidiaries may, in response to such Alternative Transaction Proposal: (x) furnish non-public information in response to a request therefor by such Person if such Person has executed and delivered to the Company a confidentiality agreement on customary terms if the Company also promptly (and in any event within twenty-four (24) hours after the time such information is provided to such Person) makes such information available to the Commitment Parties, to the extent not previously provided to the Commitment Parties; and (y) engage or participate, or instruct and direct their respective Representatives to engage or participate, in discussions and negotiations with such Person regarding such Alternative Transaction Proposal. Notwithstanding the foregoing, nothing in this Section 6.18(a) shall prohibit, limit or otherwise restrict the Company and its Subsidiaries and their respective Representatives from engaging or participating in discussions with, or providing any information to, any official committee appointed in the Chapter 11 Proceedings, so long as the Company and its Subsidiaries do not, and instruct and direct their respective Representatives not to, initiate or solicit any inquiries or make any proposal or offer relating to an Alternative Transaction.

(b) The Company shall notify the Commitment Parties promptly (and, in any event, within twenty-four (24) hours) if any Alternative Transaction Proposal (as well as, for purposes of this paragraph, any other proposal with respect to an Alternative Transaction made by or on behalf of any official committee appointed in the Chapter 11 Proceedings) is received by and in connection therewith any non-public information is requested from, or any discussions or negotiations are sought to be initiated or continued with, the Company or its Subsidiaries or their respective Representatives, which notice shall indicate the identity of the parties and the material terms and conditions of such Alternative Transaction Proposal (including, if applicable, copies of any written inquiries, requests, proposals or offers, including any proposed agreements) and, thereafter, the Company shall keep the Commitment Parties reasonably informed of the status and material terms of such Alternative Transaction Proposal (including any material amendments thereto) and the status of any such discussions or negotiations, including any change in the Company's intentions as previously notified. None of the Company or any of its Subsidiaries shall, after the date of this Agreement, enter into any confidentiality or similar agreement that would prohibit it from providing such information to the Commitment Parties.

(c) Subject to the Company's compliance with this Section 6.18, prior to the earlier of the occurrence of the Closing Date and the termination of this Agreement in accordance with its terms, the Company Board may approve an Alternative Transaction Proposal (including an Alternative Transaction made by or on behalf of any official committee appointed in the Chapter 11 Proceedings) not solicited in violation of this Section 6.18 that the Company

Board has determined in good faith, after consultation with its outside legal counsel and its independent financial advisor, constitutes a Superior Transaction, if and only if, (i) prior to taking such action the Company Board determines in good faith, after consultation with its outside legal counsel, that failure to take such action would be inconsistent with the directors' fiduciary or other duties under applicable Law and (ii) the Company Board notifies the Commitment Parties in writing at least forty-eight (48) hours in advance that it intends to take such action or that the Company intends to terminate this Agreement pursuant to Section 9.3(e), which notice shall specify the identity of the Person making such Alternative Transaction Proposal and all of the material terms and conditions of such Alternative Transaction Proposal and attach the most current version of any proposed transaction agreement (and any related agreements) providing for such Alternative Transaction Proposal); provided, that such forty-eight (48) hours' notice shall be given again in the event of any revision to the financial terms or any other material terms of such Alternative Transaction Proposal.

(d) With respect to any Alternative Transaction that is premised, whether directly or indirectly, on one or more asset sales under Section 363 of the Bankruptcy Code or pursuant to a chapter 11 plan, each Commitment Party and/or the respective agents under the Second Lien Indenture (including the Collateral Agent under and as defined in the Second Lien Indenture) shall (in the manner provided for in the Second Lien Documents and the Second Lien Notes) have the right to "credit bid" (whether pursuant to Section 363(k) of the Bankruptcy Code or otherwise) all (or such lesser portion as they may determine under the Second Lien Documents and the Second Lien Notes) of the Obligations under and as defined in the Second Lien Indenture (including all principal, premium, interest (at the default rate to the extent applicable under the Second Lien Documents and Second Lien Notes and irrespective of whether permissible under the Bankruptcy Code), penalties, fees, charges, expenses, indemnifications, reimbursements, damages, and all other amounts and liabilities payable under the Second Lien Documents and the Second Lien Notes), the principal amount of which shall be no less than $1,345,000,000 as of the Petition Date, notwithstanding any provision of the Bankruptcy Code or any applicable Law (including Section 363(k) of the Bankruptcy Code) to the contrary, subject only to any applicable term or condition of the Second Lien Intercreditor Agreement, to the extent that such term or condition is found to be enforceable. The BCA Approval Order shall provide for the foregoing.

Section 6.19 Other Entities; Corporate Form; Internal Reorganization.

(a) The Company shall cause each of its Subsidiaries to comply with all terms of this Agreement applicable to such Subsidiaries.

(b) If the Requisite Commitment Parties, with the approval of the Bankruptcy Court and the lenders under the Emergence Credit Facility, determine that Reorganized Momentive shall be a Person other than Top HoldCo, then the Company shall promptly cause Reorganized Momentive to enter into and become a party to this Agreement and become fully bound by the agreements and obligations of the Company hereunder and make the representations and warranties made by the Company hereunder, this Agreement shall be amended as necessary to reflect such determination, and the Company shall use its reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things,

reasonably necessary, proper or advisable in order to cause Reorganized Momentive to be such Person determined by the Requisite Commitment Parties.

(c) On the Effective Date, Reorganized Momentive shall be a Delaware corporation unless the Requisite Commitment Parties, with the approval of the Bankruptcy Court and the lenders under the Emergence Credit Facility, determine that Reorganized Momentive shall be formed in another jurisdiction or with another corporate form (such as a limited liability company), in which case this Agreement shall be amended as necessary to reflect such determination and the Company shall use its reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, reasonably necessary, proper or advisable in order to cause Reorganized Momentive to be formed in such jurisdiction, and with such corporate form, as determined by the Requisite Commitment Parties.

(d) Pursuant to the Plan, prior to or concurrently with the Closing, the Debtors shall organize Intermediate HoldCo and Top HoldCo as new corporations existing under the Laws of Delaware and immediately after the Closing, the Debtors shall cause the Internal Reorganization to be effected.

Section 6.20 Bar Date Order. The Debtors shall (a) as soon as reasonably practicable following the date hereof, file a motion seeking an order of the Bankruptcy Court setting a bar date with respect to the filing of all Claims that arose prior to the Petition Date and (b) use their reasonable best efforts to make such bar date as early as reasonably practicable.

ARTICLE VII

CONDITIONS TO THE OBLIGATIONS OF THE PARTIES

Section 7.1 Conditions to the Obligations of the Commitment Parties. The obligations of each Commitment Party to consummate the transactions contemplated hereby shall be subject to (unless waived in accordance with Section 7.2) the satisfaction of the following conditions prior to or at the Closing:

(a) BCA Approval Order; RSA Approval Order. The Bankruptcy Court shall have entered the BCA Approval Order and the RSA Approval Order, and such orders shall be Final Orders.

(b) Plan Solicitation Order. The Bankruptcy Court shall have entered the Plan Solicitation Order, and such order shall be in full force and effect.

(c) BCA Consummation Approval Order. The Bankruptcy Court shall have entered the BCA Consummation Approval Order (which may be the Confirmation Order), and such order shall be a Final Order.

(d) Confirmation Order. The Bankruptcy Court shall have entered the Confirmation Order, and such order shall be a Final Order.

(e) Plan. The Company and all of the other Debtors shall have complied, in all material respects, with the terms of the Plan that are to be performed by the Company and the other Debtors on or prior to the Effective Date and the conditions to the occurrence of the Effective Date set forth in the Plan shall have been satisfied or, with the prior consent of the Requisite Commitment Parties, waived in accordance with the terms thereof.

(f) Rights Offerings. The Rights Offerings shall have been conducted, in all material respects, in accordance with the BCA Approval Order and this Agreement, and the Rights Offerings Expiration Time shall have occurred.

(g) Effective Date. The Effective Date shall have occurred in accordance with the terms and conditions in the Plan and in the Confirmation Order.

(h) Senior Management. A Chief Executive Officer, Chief Financial Officer and General Counsel shall be employed by Reorganized Momentive, either on an interim or permanent basis, each of whom will be an employee solely of Reorganized Momentive and will not be affiliated with or employed by MSC or any competitor of Reorganized Momentive and the selection of whom shall be consistent with the terms set forth in the Term Sheet and otherwise be in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company. The Certificate of Incorporation shall provide that Reorganized Momentive shall not be party to any merger or other business combination transaction (whether effected by way of merger, sale of a majority of the equity, or the sale of all or substantially all of the assets of Reorganized Momentive or its Subsidiaries) (a "**Sale Transaction**") until a permanent Chief Executive Officer has been appointed who has reviewed the proposed terms and conditions of such proposed Sale Transaction.

(i) Registration Rights Agreement; Reorganized Momentive Corporate Documents; SSA Amendment.

(i) The Registration Rights Agreement shall have been executed and delivered by Reorganized Momentive, shall otherwise have become effective with respect to the Commitment Parties and the other parties thereto, and shall be in full force and effect.

(ii) The Reorganized Momentive Corporate Documents shall duly have been approved and adopted and shall be in full force and effect.

(iii) The SSA Amendment shall have been executed by all parties thereto and shall be in full force and effect.

(j) Expense Reimbursement. The Debtors shall have paid all Expense Reimbursement accrued through the Closing Date pursuant to Section 3.3.

(k) Consents. All governmental and third-party notifications, filings, consents, waivers and approvals set forth on Schedule 3 and required for the consummation of the transactions contemplated by this Agreement and the Plan shall have been made or received.

(l) Antitrust Approvals. All waiting periods imposed by any Governmental Entity or Antitrust Authority in connection with the transactions contemplated by this Agreement shall have terminated or expired and all authorizations, approvals, consents or clearances under any Antitrust Laws in connection with the transactions contemplated by this Agreement shall have been obtained.

(m) No Legal Impediment to Issuance. No Law or Order shall have been enacted, adopted or issued by any Governmental Entity that prohibits the implementation of the Plan or the transactions contemplated by this Agreement.

(n) Representations and Warranties.

(i) The representations and warranties of the Debtors contained in Sections 4.9(b), 4.11 and 4.29 shall be true and correct in all respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date (except for such representations and warranties made as of a specified date, which shall be true and correct only as of the specified date).

(ii) The representations and warranties of the Debtors contained in Sections 4.2, 4.3, 4.4, 4.5 and 4.6(b) shall be true and correct in all material respects on and as of the Closing Date after giving effect to the Plan with the same effect as if made on and as of the Closing Date after giving effect to the Plan (except for such representations and warranties made as of a specified date, which shall be true and correct in all material respects only as of the specified date).

(iii) The other representations and warranties of the Debtors contained in this Agreement shall be true and correct (disregarding all materiality or Material Adverse Effect qualifiers) on and as of the Closing Date after giving effect to the Plan with the same effect as if made on and as of the Closing Date after giving effect to the Plan (except for such representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), except where the failure to be so true and correct does not constitute, individually or in the aggregate, a Material Adverse Effect.

(o) Covenants. The Debtors shall have performed and complied, in all material respects, with all of their respective covenants and agreements contained in this Agreement that contemplate, by their terms, performance or compliance prior to the Closing Date.

(p) Material Adverse Effect. Since December 31, 2013, there shall not have occurred, and there shall not exist, any event, development, occurrence or change that constitutes, individually or in the aggregate, a Material Adverse Effect.

(q) Officer's Certificate. The Commitment Parties shall have received on and as of the Closing Date a certificate of the chief executive officer or chief financial officer of the Company confirming that the conditions set forth in Sections 7.1(n), (o), and (p) have been satisfied.

(r) Minimum Liquidity. The amount, determined on a pro forma basis after giving effect to the occurrence of the Effective Date and the transactions contemplated by the Transaction Agreements, of (i) the Emergence Financing Availability, *plus* (ii) Cash of Reorganized Momentive shall be no less than (x) $240,000,000 less (y) the aggregate amount of fees and expenses to be reimbursed with respect to an executive search consultant pursuant to Section 3.3(a)(E).

(s) Put Option. The Put Option shall have been exercised in accordance with Section 2.2.

(t) 1.5 Lien Note Claims. The allowed amount of the 1.5 Lien Note Claims (including with respect to any applicable make-whole claim, prepayment penalty, or Applicable Premium) shall have been determined by Final Order and any settlement with respect to the allowed amount or treatment of the 1.5 Lien Note Claims pursuant to the Plan (including, in either case, with respect to any applicable make-whole claim, prepayment penalty, or Applicable Premium) shall be satisfactory in form, substance and amount to the Requisite Commitment Parties.

(u) First Lien Note Claims. The allowed amount of the First Lien Note Claims (including with respect to any applicable make-whole claim, prepayment penalty, or Applicable Premium) shall have been determined by Final Order and any settlement with respect to the allowed amount or treatment of the First Lien Note Claims pursuant to the Plan (including, in either case, with respect to any applicable make-whole claim, prepayment penalty, or Applicable Premium) shall be satisfactory in form, substance and amount to the Requisite Commitment Parties.

Section 7.2 Waiver of Conditions to Obligations of Commitment Parties. All or any of the conditions set forth in Section 7.1 may only be waived in whole or in part with respect to all Commitment Parties by a written instrument executed by the Requisite Commitment Parties in their sole discretion and if so waived, all Commitment Parties shall be bound by such waiver.

Section 7.3 Conditions to the Obligations of the Debtors. The obligations of the Debtors to consummate the transactions contemplated hereby with any Commitment Party is subject to (unless waived by the Company) the satisfaction of each of the following conditions:

(a) BCA Approval Order; RSA Approval Order. The Bankruptcy Court shall have entered the BCA Approval Order and the RSA Approval Order, and such orders shall be Final Orders.

(b) Plan Solicitation Order. The Bankruptcy Court shall have entered the Plan Solicitation Order, and such order shall be in full force and effect.

(c) BCA Consummation Approval Order. The Bankruptcy Court shall have entered the BCA Consummation Approval Order (which may be the Confirmation Order), and such order shall be a Final Order.

(d) Confirmation Order. The Bankruptcy Court shall have entered the Confirmation Order, and such order shall be a Final Order.

(e) Effective Date. The Effective Date shall have occurred in accordance with the terms and conditions in the Plan and in the Confirmation Order.

(f) Rights Offerings. The Rights Offerings Expiration Time shall have occurred.

(g) Antitrust Approvals. All waiting periods imposed by any Governmental Entity or Antitrust Authority in connection with the transactions contemplated by this Agreement shall have terminated or expired and all authorizations, approvals, consents or clearances under any Antitrust Laws in connection with the transactions contemplated by this Agreement shall have been obtained.

(h) No Legal Impediment to Issuance. No Law or Order shall have been enacted, adopted or issued by any Governmental Entity that prohibits the implementation of the Plan or the transactions contemplated by this Agreement.

(i) Representations and Warranties.

(i) The representations and warranties of such Commitment Party contained in this Agreement that are qualified by "materiality" or "material adverse effect" or words or similar import shall be true and correct in all respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date (except for such representations and warranties made as of a specified date, which shall be true and correct in all respects only as of the specified date).

(ii) The representations and warranties of such Commitment Party contained in this Agreement that are not qualified by "materiality" or "material adverse effect" or words or similar import shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date (except for such representations and warranties made as of a specified date, which shall be true and correct in all material respects only as of the specified date).

(j) Covenants. Such Commitment Party shall have performed and complied, in all material respects, with all of its covenants and agreements contained in this Agreement and in any other document delivered pursuant to this Agreement.

(k) Officer's Certificate. The Company shall have received on and as of the Closing Date a certificate of an executive officer (or equivalent) of such Commitment Party confirming that the conditions set forth in Sections 7.3(i) and (j) have been satisfied.

(l) Put Option. The Put Option shall have been exercised in accordance with Section 2.2.

ARTICLE VIII

INDEMNIFICATION AND CONTRIBUTION

Section 8.1 Indemnification Obligations. Following the entry of the BCA Approval Order, the Company and the other Debtors (the "**Indemnifying Parties**" and each, an "**Indemnifying Party**") shall, jointly and severally, indemnify and hold harmless each Commitment Party and its Affiliates, equity holders, members, partners, general partners, managers and its and their respective Representatives and controlling persons (each, an "**Indemnified Person**") from and against any and all losses, claims, damages, liabilities and costs and expenses (other than Taxes of the Commitment Parties except to the extent otherwise provided for in this Agreement) (collectively, "**Losses**") that any such Indemnified Person may incur or to which any such Indemnified Person may become subject arising out of or in connection with this Agreement, the Plan and the transactions contemplated hereby and thereby, including the Backstop Commitments, the Rights Offerings, the payment of the Commitment Premium or the use of the proceeds of the Rights Offerings, or any claim, challenge, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Person is a party thereto, whether or not such proceedings are brought by the Company, the other Debtors, their respective equity holders, Affiliates, creditors or any other Person, and reimburse each Indemnified Person upon demand for reasonable documented (with such documentation subject to redaction to preserve attorney client and work product privileges) legal or other third-party expenses incurred in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing (including in connection with the enforcement of the indemnification obligations set forth herein), irrespective of whether or not the transactions contemplated by this Agreement or the Plan are consummated or whether or not this Agreement is terminated; provided, that the foregoing indemnity will not, as to any Indemnified Person, apply to Losses (a) as to a Defaulting Commitment Party, its Related Parties or any Indemnified Party related thereto, caused by a Commitment Party Default by such Commitment Party, or (b) to the extent they are found by a final, non-appealable judgment of a court of competent jurisdiction to arise from the bad faith, willful misconduct or gross negligence of such Indemnified Person.

Section 8.2 Indemnification Procedure. Promptly after receipt by an Indemnified Person of notice of the commencement of any claim, challenge, litigation, investigation or proceeding (an "**Indemnified Claim**"), such Indemnified Person will, if a claim is to be made hereunder against the Indemnifying Party in respect thereof, notify the Indemnifying Party in writing of the commencement thereof; provided, that (a) the omission to so notify the Indemnifying Party will not relieve the Indemnifying Party from any liability that it may have hereunder except to the extent it has been materially prejudiced by such failure and (b) the omission to so notify the Indemnifying Party will not relieve the Indemnifying Party from any liability that it may have to such Indemnified Person otherwise than on account of this Article VIII. In case any such Indemnified Claims are brought against any Indemnified Person and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein, and, at its election by providing written notice to such Indemnified Person, the Indemnifying Party will be entitled to assume the defense thereof, with counsel reasonably acceptable to such Indemnified Person; provided, that if the parties

(including any impleaded parties) to any such Indemnified Claims include both such Indemnified Person and the Indemnifying Party and based on advice of such Indemnified Person's counsel there are legal defenses available to such Indemnified Person that are different from or additional to those available to the Indemnifying Party, such Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such Indemnified Claims. Upon receipt of notice from the Indemnifying Party to such Indemnified Person of its election to so assume the defense of such Indemnified Claims with counsel reasonably acceptable to the Indemnified Person, the Indemnifying Party shall not be liable to such Indemnified Person for expenses incurred by such Indemnified Person in connection with the defense thereof or participation therein (other than reasonable costs of investigation) unless (i) such Indemnified Person shall have employed separate counsel (in addition to any local counsel) in connection with the assertion of legal defenses in accordance with the proviso to the immediately preceding sentence (it being understood, however, that the Indemnifying Party shall not be liable for the expenses of more than one separate counsel representing the Indemnified Persons who are parties to such Indemnified Claims (in addition to one local counsel in each jurisdiction in which local counsel is required)), (ii) the Indemnifying Party shall not have employed counsel reasonably acceptable to such Indemnified Person to represent such Indemnified Person within a reasonable time after the Indemnifying Party has received notice of commencement of the Indemnified Claims from, or delivered on behalf of, the Indemnified Person, (iii) after the Indemnifying Party assumes the defense of the Indemnified Claims, the Indemnified Person determines in good faith that the Indemnifying Party has failed or is failing to defend such claim and provides written notice of such determination and the basis for such determination, and such failure is not reasonably cured within ten (10) Business Days of receipt of such notice, or (iv) the Indemnifying Party shall have authorized in writing the employment of counsel for such Indemnified Person. Notwithstanding anything herein to the contrary, the Company and its Subsidiaries shall have sole control over any Tax controversy or Tax audit and shall be permitted to settle any liability for Taxes of the Company and its Subsidiaries.

Section 8.3 Settlement of Indemnified Claims. In connection with any Indemnified Claim for which an Indemnified Person is assuming the defense in accordance with this Article VIII, the Indemnifying Party shall not be liable for any settlement of any Indemnified Claims effected by such Indemnified Person without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed). If any settlement of any Indemnified Claims is consummated with the written consent of the Indemnifying Party or if there is a final judgment for the plaintiff in any such Indemnified Claims, the Indemnifying Party agrees to indemnify and hold harmless each Indemnified Person from and against any and all Losses by reason of such settlement or judgment to the extent such Losses are otherwise subject to indemnification by the Indemnifying Party hereunder in accordance with, and subject to the limitations of, this Article VIII. The Indemnifying Party shall not, without the prior written consent of an Indemnified Person (which consent shall be granted or withheld, conditioned or delayed in the Indemnified Person's sole discretion), effect any settlement of any pending or threatened Indemnified Claims in respect of which indemnity or contribution has been sought hereunder by such Indemnified Person unless (i) such settlement includes an unconditional release of such Indemnified Person in form and substance satisfactory to such Indemnified Person from all liability on the claims that are the subject matter of such

Indemnified Claims and (ii) such settlement does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

Section 8.4 Contribution. If for any reason the foregoing indemnification is unavailable to any Indemnified Person or insufficient to hold it harmless from Losses that are subject to indemnification pursuant to Section 8.1, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Person as a result of such Loss in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnifying Party, on the one hand, and such Indemnified Person, on the other hand, but also the relative fault of the Indemnifying Party, on the one hand, and such Indemnified Person, on the other hand, as well as any relevant equitable considerations. It is hereby agreed that the relative benefits to the Indemnifying Party, on the one hand, and all Indemnified Persons, on the other hand, shall be deemed to be in the same proportion as (a) the total value received or proposed to be received by the Company pursuant to the issuance and sale of the Unsubscribed Shares in the Rights Offerings contemplated by this Agreement and the Plan bears to (b) the Commitment Premium paid or proposed to be paid to the Commitment Parties. The Indemnifying Parties also agree that no Indemnified Person shall have any liability based on their comparative or contributory negligence or otherwise to the Indemnifying Parties, any Person asserting claims on behalf of or in right of any of the Indemnifying Parties, or any other Person in connection with an Indemnified Claim.

Section 8.5 Treatment of Indemnification Payments. All amounts paid by an Indemnifying Party to an Indemnified Person under this Article VIII shall, to the extent permitted by applicable Law, be treated as adjustments to the Purchase Price for all Tax purposes. The provisions of this Article VIII are an integral part of the transactions contemplated by this Agreement and without these provisions the Commitment Parties would not have entered into this Agreement, and the obligations of the Company under this Article VIII shall constitute allowed administrative expenses of the Debtors' estate under Sections 503(b) and 507 of the Bankruptcy Code and are payable without further Order of the Bankruptcy Court, and the Company may comply with the requirements of this Article VIII without further Order of the Bankruptcy Court.

Section 8.6 No Survival. All representations, warranties, covenants and agreements made in this Agreement shall not survive the Closing Date except for covenants and agreements that by their terms are to be satisfied after the Closing Date, which covenants and agreements shall survive until satisfied in accordance with their terms.

ARTICLE IX

TERMINATION

Section 9.1 Consensual Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date by mutual written consent of the Company and the Requisite Commitment Parties.

Section 9.2 Automatic Termination. Except as otherwise provided in this Section 9.2, this Agreement shall terminate automatically without further action or notice by

any Party if any of the following occurs; provided, that, except for Sections 9.2(d), 9.2(f) and 9.2(j), the waiver of which, or extension of any applicable dates in respect of which, is governed by their terms, the Requisite Commitment Parties may waive such termination or extend any applicable dates in accordance with Section 10.7:

(a) the Bankruptcy Court has not entered the BCA Approval Order or the RSA Approval Order on or prior to the date that is sixty (60) days after the Petition Date; provided that such deadline shall be automatically extended to the date that is sixty-seven (67) days after the Petition Date in connection with scheduling a hearing with the Bankruptcy Court;

(b) the Bankruptcy Court has not entered a Final Order, in form and substance mutually satisfactory to the Requisite Commitment Parties and the Company, authorizing the Debtors to enter into the DIP Loans and use cash collateral, on or prior to the date that is sixty (60) days after the Petition Date;

(c) the Bankruptcy Court has not entered the Plan Solicitation Order on or prior to the date that is seventy-five (75) days after the Petition Date;

(d) the SSA Amendment has not been executed by all parties thereto and is not in full force and effect in accordance with its terms on or prior to the date that is seventy-five (75) days after the Petition Date, unless such date is waived or extended by delivery of written notice from the Commitment Parties, other than Apollo, that hold in the aggregate a majority of the Backstop Commitments, by dollar amount, provided by all Commitment Parties other than Apollo;

(e) the Bankruptcy Court has not entered each of the Confirmation Order and the BCA Consummation Approval Order on or prior to the date that is one hundred twenty (120) days after the Petition Date;

(f) the Closing Date has not occurred by 11:59 p.m., New York City time on the date that is one hundred eighty (180) days after the Petition Date (as it may be extended pursuant to this Section 9.2(f) or Section 2.3(a), the "**Outside Date**"), unless prior thereto the Effective Date occurs and the Rights Offerings have been consummated; provided, that (i) the Outside Date may be waived or extended with the prior written consent of the Requisite Commitment Parties; provided, further, if any Commitment Party fails to consent to a waiver or extension of the Outside Date within seven (7) days of a written request being made either by the Company or by any other Commitment Party for such a waiver or extension (which request was made no earlier than the date seven (7) days prior to the Outside Date and has not been withdrawn) and such waiver or extension is duly approved by the Requisite Commitment Parties, such Commitment Party shall be deemed a Non-Consenting Commitment Party who has elected to withdraw from its Backstop Commitment pursuant to Section 6.16 and shall no longer a party to this Agreement or the RSA (and, for the avoidance of doubt, such Commitment Party shall not be entitled to receive any portion of the Commitment Premium); and (ii) this Agreement shall not terminate automatically pursuant to this Section 9.2(f) if the Commitment Parties are then in willful or intentional breach of this Agreement;

(g) any of the BCA Approval Order, RSA Approval Order, BCA Consummation Approval Order, Plan Solicitation Order, Confirmation Order or any Order of the Bankruptcy Court approving the DIP Loans is reversed, stayed, dismissed, vacated, reconsidered or is modified or amended after entry without the prior written consent of the Requisite Commitment Parties;

(h) any of this Agreement, the RSA, DIP Loans, Rights Offerings Procedures, Disclosure Statement, Plan or any documents related to the Plan, including notices, exhibits or appendices, or any of the Definitive Documentation (as defined in the RSA) is amended or modified without the prior written consent of the Requisite Commitment Parties;

(i) the RSA is terminated in accordance with its terms;

(j) any Apollo entity party to the RSA materially breaches its obligations thereunder or one or more of the Consenting Noteholders (as defined in the RSA) materially breaches its obligations under the RSA, such that the Commitment Party or the Commitment Parties not then in breach of the RSA (the "**Non-RSA Breaching Commitment Parties**") at any time hold collectively less than sixty-six and two-thirds percent (66-2/3%) of the principal amount of all Second Lien Notes; provided, that Non-RSA Breaching Commitment Parties providing a majority of the Backstop Commitments provided by all Non-RSA Breaching Commitment Parties may waive such termination by written notice within three (3) days of its occurrence;

(k) the Company or any of the other Debtors file (i) any motion, application or adversary proceeding challenging the validity, enforceability, perfection or priority of or seeking avoidance of the Liens securing the obligations referred to in the Second Lien Indenture or the documents related thereto or, other than as contemplated by the Restructuring, or (ii) any other cause of action against and/or seeking to restrict the rights of holders of Second Lien Notes in their capacity as such, or the prepetition Liens securing the Second Lien Notes (or if the Company or any of the Debtors support any such motion, application or adversary proceeding commenced by any third party or consents to the standing of any such third party);

(l) (i) the Company or the other Debtors shall have breached any representation, warranty, covenant or other agreement made by the Company or the other Debtors in this Agreement or any such representation or warranty shall have become inaccurate and such breach or inaccuracy would, individually or in the aggregate, cause a condition set forth in Sections 7.1(n), 7.1(o) or 7.1(p) not to be satisfied, (ii) the Commitment Parties shall have delivered written notice of such breach or inaccuracy to the Company, (iii) such breach or inaccuracy is not cured by the Company or the other Debtors by the tenth (10th) Business Day after receipt of such notice, and (iv) as a result of such failure to cure, any condition set forth in Sections 7.1(n), 7.1(o) or 7.1(p) is not capable of being satisfied; provided, that, this Agreement shall not terminate automatically pursuant to this Section 9.2(l) if the Commitment Parties are then in willful or intentional breach of this Agreement;

(m) any Law or final and non-appealable Order shall have been enacted, adopted or issued by any Governmental Entity that prohibits the implementation of the Plan or

the Rights Offerings or the transactions contemplated by this Agreement or the other Transaction Agreements;

(n) (i) any of the Chapter 11 Proceedings shall have been dismissed or converted to a chapter 7 case or (ii) a chapter 11 trustee with plenary powers or an examiner with enlarged powers relating to the operation of the businesses of the Debtors beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code shall have been appointed in any of the Chapter 11 Proceedings or the Debtors shall file a motion or other request for such relief;

(o) there shall have occurred any event, development, occurrence or change that, individually, or together with all other Events, has had or would reasonably be expected to have a Material Adverse Effect;

(p) (i) three (3) Business Days after each of the Commitment Parties has received notice in writing (including notice delivered by one of the other Commitment Parties) that the Debtors, directly or indirectly, have taken any action that is inconsistent with, or is intended or is reasonably likely to interfere with or impede or delay consummation of, the RSA, the Restructuring, the transactions embodied in the Term Sheet, the Rights Offerings, this Agreement or the Plan, including, but not limited to, soliciting or causing or allowing any of its Representatives to solicit, encouraging or initiating any offer or proposal from, or entering into any agreement with, any Person concerning any actual or proposed Alternative Transaction, or filing any pleading or document with respect to, or proposing, joining in, or participating in the formation of, any actual or proposed Alternative Transaction; provided, that, any actions permitted to be taken by or on behalf of the Debtors under Section 6.18 shall not give rise to a termination of this Agreement pursuant to this clause (i), (ii) the Bankruptcy Court approves or authorizes an Alternative Transaction at the request of any party in interest or (iii) the Company or any of its Subsidiaries enters into any Contract or written agreement in principle providing for the consummation of any Alternative Transaction (such Contract or written agreement in principle, an "**Alternative Transaction Agreement**"); or

(q) (i) a DIP Loan Event of Default has occurred and is continuing unwaived or not subject to a forbearance for more than three (3) Business Days, (ii) an acceleration of the obligations or termination of commitments under either of the DIP Loans, (iii) the termination or revocation or other challenge of any interim or final debtor in possession financing and/or cash collateral Order entered in the Chapter 11 Proceedings or (iv) a modification or amendment of any interim or final debtor in possession financing and/or cash collateral Order entered in the Chapter 11 Proceedings that is not satisfactory, in their sole discretion, to the Requisite Commitment Parties.

Section 9.3 Termination by the Company. This Agreement may be terminated by the Company upon written notice to each Commitment Party if:

(a) the Closing Date has not occurred by the Outside Date (as the same may be extended pursuant to Section 9.2(f) or Section 2.3(a)), unless prior thereto the Effective Date occurs and the Rights Offerings have been consummated; provided, that the Company shall not have the right to terminate this Agreement pursuant to this Section 9.3(a) if it is then in willful or intentional breach of this Agreement;

(b) any Apollo entity party to the RSA materially breaches its obligations thereunder or one or more of the Consenting Noteholders (as defined in the RSA) materially breaches its obligations under the RSA, such that the Non-RSA Breaching Commitment Parties at any time hold collectively less than sixty-six and two-thirds percent (66-2/3%) of the principal amount of all Second Lien Notes;

(c) any Law or final and non-appealable Order shall have been enacted, adopted or issued by any Governmental Entity that prohibits the implementation of the Plan or the Rights Offerings or the transactions contemplated by this Agreement or the other Transaction Agreements;

(d) subject to the right of the Commitment Parties to arrange a Commitment Party Replacement in accordance with Section 2.3(a), (i) any Commitment Party shall have breached any representation, warranty, covenant or other agreement made by such Commitment Party in this Agreement or any such representation or warranty shall have become inaccurate and such breach or inaccuracy would, individually or in the aggregate, cause a condition set forth in Section 7.3(h) or Section 7.3(i) not to be satisfied, (ii) the Company shall have delivered written notice of such breach or inaccuracy to such Commitment Party, (iii) such breach or inaccuracy is not cured by such Commitment Party by the tenth (10th) Business Day after receipt of such notice, and (iv) as a result of such failure to cure, any condition set forth in Section 7.3(h) or Section 7.3(i) is not capable of being satisfied; provided, that the Company shall not have the right to terminate this Agreement pursuant to this Section 9.3(d) if it is then in willful or intentional breach of this Agreement; or

(e) the Company or any of its Subsidiaries enters into any Alternative Transaction Agreement or the Bankruptcy Court approves or authorizes an Alternative Transaction at the request of the Company or any of its Subsidiaries; provided, that the Company may only terminate this Agreement pursuant to this Section 9.3(e) if the Company has not breached any of its obligations under Section 6.18 and, concurrently with such termination, the Company pays the Commitment Premium pursuant to Section 9.4(b)(ii)

Section 9.4 Effect of Termination.

(a) Upon termination of this Agreement pursuant to this Article IX, this Agreement shall forthwith become void and there shall be no further obligations or liabilities on the part of the Parties; provided, that (i) the obligations of the Debtors to pay the Expense Reimbursement pursuant to Article III, to satisfy their indemnification obligations pursuant to Article VIII and to pay the Commitment Premium pursuant to this Section 9.4(b) shall survive the termination of this Agreement and shall remain in full force and effect, in each case, until such obligations have been satisfied, (ii) the provisions set forth in this Section 9.4, Section 6.18(c) and Article X shall survive the termination of this Agreement in accordance with their terms and (iii) subject to Section 10.10, nothing in this Section 9.4 shall relieve any Party from liability for its gross negligence or any willful or intentional breach of this Agreement. For purposes of this Agreement, "**willful or intentional breach**" shall mean a breach of this Agreement that is a consequence of an act undertaken by the breaching party with the knowledge that the taking of such act would, or would reasonably be expected to, cause a breach of this Agreement.

(b) The Debtors shall make payments to the Commitment Parties or their designees based upon their respective Backstop Commitment Percentages on the date of payment, by wire transfer of immediately available funds to such accounts as the Requisite Commitment Parties may designate, if this Agreement is terminated as follows:

(i) automatically pursuant to Section 9.2(l) or 9.2(p), then the Company shall pay the Commitment Premium, in cash, on or prior to the second (2nd) Business Day following such termination;

(ii) if the Company shall terminate this Agreement pursuant to Section 9.3(e), then the Company shall pay the Commitment Premium, in cash, concurrently with such termination; and

(iii) if this Agreement shall be terminated automatically pursuant to Section 9.2 (other than clauses (j), (m) and (p) of Section 9.2), or by the Company pursuant to Section 9.3(a), and, within twelve (12) months after the date of such termination, any of the Debtors executes a definitive agreement with respect to, or consummates, an Alternative Transaction, or the Bankruptcy Court approves or authorizes an Alternative Transaction, then the Company shall pay the Commitment Premium, in cash, on or prior to the second (2nd) Business Day following such execution or consummation.

To the extent that all amounts due in respect of the Commitment Premium pursuant to this Section 9.4(b) have actually been paid by the Debtors to the Commitment Parties in connection with a termination of this Agreement, the Commitment Parties shall not have any additional recourse against the Debtors for any obligations or liabilities relating to or arising from this Agreement, except for liability for gross negligence or willful or intentional breach of this Agreement pursuant to Section 9.4(a). Except as set forth in this Section 9.4(b), the Commitment Premium shall not be payable upon the termination of this Agreement.

ARTICLE X

GENERAL PROVISIONS

Section 10.1 Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed given if delivered personally, sent via electronic facsimile (with confirmation), mailed by registered or certified mail (return receipt requested) or delivered by an express courier (with confirmation) to the Parties at the following addresses (or at such other address for a Party as may be specified by like notice):

(a) If to the Company or MPM:

Momentive Performance Materials Holdings Inc.
260 Hudson River Road
Waterford, New York 12188

Facsimile: (614) 225-4127
Attention: Douglas A. Johns

with a copy (which shall not constitute notice) to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019
Facsimile: (212) 728-8111
Attention: Matthew Feldman
Cristopher Greer

(b) If to the Commitment Parties (or to any of them) or any other Person to which notice is to be delivered hereunder, to the address set forth opposite each such Commitment Party's name on Schedule 4.

Section 10.2 Assignment; Third Party Beneficiaries. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned by any Party (whether by operation of Law or otherwise) without the prior written consent of the Company and the Requisite Commitment Parties, other than an assignment by a Commitment Party expressly permitted by Section 2.3, 2.6 or 6.7 and any purported assignment in violation of this Section 10.2 shall be void *ab initio.* Except as provided in Section 6.18(c) with respect to agents under the Second Lien Indenture and Article VIII with respect to the Indemnified Persons, this Agreement (including the documents and instruments referred to in this Agreement) is not intended to and does not confer upon any Person any rights or remedies under this Agreement other than the Parties.

Section 10.3 Prior Negotiations; Entire Agreement.

(a) This Agreement (including the agreements attached as Exhibits to and the documents and instruments referred to in this Agreement) constitutes the entire agreement of the Parties and supersedes all prior agreements, arrangements or understandings, whether written or oral, among the Parties with respect to the subject matter of this Agreement, except that the Parties hereto acknowledge that any confidentiality agreements heretofore executed among the Parties and the RSA (including the Term Sheet) will each continue in full force and effect.

(b) Notwithstanding anything to the contrary in the Plan (including any amendments, supplements or modifications thereto) or the Confirmation Order (and any amendments, supplements or modifications thereto) or an affirmative vote to accept the Plan submitted by any Commitment Party, nothing contained in the Plan (including any amendments, supplements or modifications thereto) or Confirmation Order (including any amendments, supplements or modifications thereto) shall alter, amend or modify the rights of the Commitment Parties under this Agreement unless such alteration, amendment or modification has been made in accordance with Section 10.7.

Section 10.4 Governing Law; Venue. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH (A) THE LAWS OF THE

STATE OF NEW YORK WITHOUT REGARD FOR ANY CONFLICTS OF LAW PRINCIPLES THAT WOULD APPLY THE LAWS OF ANY OTHER JURISDICTION, AND (B) TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE. THE PARTIES CONSENT AND AGREE THAT ANY ACTION TO ENFORCE THIS AGREEMENT OR ANY DISPUTE, WHETHER SUCH DISPUTES ARISE IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE AGREEMENTS, INSTRUMENTS AND DOCUMENTS CONTEMPLATED HEREBY SHALL BE BROUGHT EXCLUSIVELY IN THE BANKRUPTCY COURT (OR, SOLELY TO THE EXTENT THE BANKRUPTCY COURT DECLINES JURISDICTION OVER SUCH ACTION OR DISPUTE, IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK OR ANY NEW YORK STATE COURT SITTING IN NEW YORK CITY). THE PARTIES CONSENT TO AND AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT. EACH OF THE PARTIES HEREBY WAIVES AND AGREES NOT TO ASSERT IN ANY SUCH DISPUTE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY CLAIM THAT (I) SUCH PARTY IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE BANKRUPTCY COURT, (II) SUCH PARTY OR SUCH PARTY'S PROPERTY IS IMMUNE FROM ANY LEGAL PROCESS ISSUED BY THE BANKRUPTCY COURT OR (III) ANY LITIGATION OR OTHER PROCEEDING COMMENCED IN THE BANKRUPTCY COURT IS BROUGHT IN AN INCONVENIENT FORUM. THE PARTIES HEREBY AGREE THAT MAILING OF PROCESS OR OTHER PAPERS IN CONNECTION WITH ANY SUCH ACTION OR PROCEEDING TO AN ADDRESS PROVIDED IN WRITING BY THE RECIPIENT OF SUCH MAILING, OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY LAW, SHALL BE VALID AND SUFFICIENT SERVICE THEREOF AND HEREBY WAIVE ANY OBJECTIONS TO SERVICE ACCOMPLISHED IN THE MANNER HEREIN PROVIDED.

Section 10.5 Waiver of Jury Trial. EACH PARTY HEREBY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY JURISDICTION IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE AMONG THE PARTIES UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE.

Section 10.6 Counterparts. This Agreement may be executed in any number of counterparts, all of which will be considered one and the same agreement and will become effective when counterparts have been signed by each of the Parties and delivered to each other Party (including via facsimile or other electronic transmission), it being understood that each Party need not sign the same counterpart.

Section 10.7 Waivers and Amendments; Rights Cumulative; Consent. This Agreement may be amended, restated, modified or changed only by a written instrument signed by the Company and the Requisite Commitment Parties; provided, that (a) any Commitment Party's prior written consent shall be required for any amendment that would, directly or indirectly: (i) modify such Commitment Party's Backstop Commitment Percentage, (ii) increase the Purchase Price to be paid in respect of the Unsubscribed Shares, or (iii) have a materially adverse and disproportionate effect on such Commitment Party and (b) the prior written consent of Apollo and each Commitment Party that was an original signatory hereto that is still a Commitment Party as of such date of amendment shall be required for any amendment to the definition of "Requisite Commitment Parties." Notwithstanding the foregoing, Schedule 1

shall be revised as necessary without requiring a written instrument signed by the Company and the Requisite Commitment Parties to reflect changes in the composition of the Backstop Parties and Backstop Commitment Percentages as a result of Transfers permitted in accordance with the terms and conditions of this Agreement. The terms and conditions of this Agreement (other than the conditions set forth in Sections 7.1 and 7.3, the waiver of which shall be governed solely by Article VII, and the termination events set forth in each of Sections 9.2(d), 9.2(f) and 9.2(j), the waiver of which shall be governed by their respective terms) may be waived (A) by the Debtors only by a written instrument executed by the Company and (B) by the Requisite Commitment Parties only by a written instrument executed by the Requisite Commitment Parties. No delay on the part of any Party in exercising any right, power or privilege pursuant to this Agreement will operate as a waiver thereof, nor will any waiver on the part of any Party of any right, power or privilege pursuant to this Agreement, nor will any single or partial exercise of any right, power or privilege pursuant to this Agreement, preclude any other or further exercise thereof or the exercise of any other right, power or privilege pursuant to this Agreement.

Section 10.8 Headings. The headings in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

Section 10.9 Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to an injunction or injunctions without the necessity of posting a bond to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof, in addition to any other remedy to which they are entitled at law or in equity. Unless otherwise expressly stated in this Agreement, no right or remedy described or provided in this Agreement is intended to be exclusive or to preclude a Party from pursuing other rights and remedies to the extent available under this Agreement, at law or in equity.

Section 10.10 Damages. Notwithstanding anything to the contrary in this Agreement, none of the Parties will be liable for, and none of the Parties shall claim or seek to recover, any punitive, special, indirect or consequential damages or damages for lost profits.

Section 10.11 No Reliance. No Commitment Party or any of its Related Parties shall have any duties or obligations to the other Commitment Parties in respect of this Agreement, the Plan or the transactions contemplated hereby or thereby, except those expressly set forth herein. Without limiting the generality of the foregoing, (a) no Commitment Party or any of its Related Parties shall be subject to any fiduciary or other implied duties to the other Commitment Parties, (b) no Commitment Party or any of its Related Parties shall have any duty to take any discretionary action or exercise any discretionary powers on behalf of any other Commitment Party, (c) no Commitment Party or any of its Related Parties shall have any duty to the other Commitment Parties to obtain, through the exercise of diligence or otherwise, to investigate, confirm, or disclose to the other Commitment Parties any information relating to the Company or any of its Subsidiaries that may have been communicated to or obtained by such Commitment Party or any of its Affiliates in any capacity, (d) no Commitment Party may rely, and confirms that it has not relied, on any due diligence investigation that any other Commitment

Party or any Person acting on behalf of such other Commitment Party may have conducted with respect to the Company or any of its Affiliates or any of their respective securities, and (e) each Commitment Party acknowledges that no other Commitment Party is acting as a placement agent, initial purchaser, underwriter, broker or finder with respect to its Unsubscribed Shares or Backstop Commitment Percentage of its Backstop Commitment.

Section 10.12 Publicity. At all times prior to the Closing Date or the earlier termination of this Agreement in accordance with its terms, the Company and the Commitment Parties shall consult with each other prior to issuing any press releases (and provide each other a reasonable opportunity to review and comment upon such release) or otherwise making public announcements with respect to the transactions contemplated by this Agreement, it being understood that nothing in this Section 10.12 shall prohibit any Party from filing any motions or other pleadings or documents with the Bankruptcy Court in connection with the Chapter 11 Proceedings.

Section 10.13 Settlement Discussions. This Agreement and the transactions contemplated herein are part of a proposed settlement of a dispute between the Parties. Nothing herein shall be deemed an admission of any kind. Pursuant to Section 408 of the U.S. Federal Rule of Evidence and any applicable state rules of evidence, this Agreement and all negotiations relating thereto shall not be admissible into evidence in any Legal Proceeding, except to the extent filed with, or disclosed to, the Bankruptcy Court in connection with the Chapter 11 Proceedings (other than a Legal Proceeding to approve or enforce the terms of this Agreement).

Section 10.14 Euro Denominated Notes. For purposes of this Agreement, the principal amount of any Second Lien Notes or Votable Claims that are denominated in Euros shall be considered to be a dollar amount calculated by applying the spot exchange rate quoted in the *Wall Street Journal* for converting Euros into dollars on April 11, 2014.

Section 10.15 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement, and notwithstanding the fact that certain of the Parties may be partnerships or limited liability companies, each Party covenants, agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any Party's Affiliates, or any of such Party's Affiliates' or respective Related Parties in each case other than the Parties to this Agreement and each of their respective successors and permitted assignees under this Agreement, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable Law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any of the Related Parties, as such, for any obligation or liability of any Party under this Agreement or any documents or instruments delivered in connection herewith for any claim based on, in respect of or by reason of such obligations or liabilities or their creation; provided, however, nothing in this Section 10.15 shall relieve or otherwise limit the liability of any Party hereto or any of their respective successors or permitted assigns for any breach or violation of its obligations under this Agreement or such other documents or instruments. For the avoidance of doubt, prior to the Effective Date, none of the Parties will have any recourse, be entitled to

commence any proceeding or make any claim under this Agreement or in connection with the transactions contemplated hereby except against any of the Parties or their respective successors and permitted assigns, as applicable.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the Parties have duly executed this Backstop Commitment Agreement as of the date first above written.

MOMENTIVE PERFORMANCE MATERIALS HOLDINGS INC.

By: William Carter

William Carter
Chief Financial Officer, Executive Vice President and Director

MOMENTIVE PERFORMANCE MATERIALS INC.

By: William Carter

William Carter
Chief Financial Officer, Executive Vice President and Director

EURO VI (BC) S.à r.l

By: _____

Name: Laurie D. Medley
Title: Authorized Person

ARES SSF RIOPELLE, L.P.

By: ASSF RIOPELLE MANAGEMENT, LLC
Its: Manager

By: ARES MANAGEMENT LLC
Its: Sole Member

By: _____
Name:
Title:

ARES SPECIAL SITUATIONS FUND III, L.P.

By: ASSF MANAGEMENT III, L.P.
Its: General Partner

By: ASSF OPERATING MANAGER III, LLC
Its: General Partner

By: _____
Name:
Title:

TRANSATLANTIC REINSURANCE COMPANY

By: ARES ASIP VII MANAGEMENT, L.P.
Its: Portfolio Manager

By: ARES ASIP VII GP, LLC
Its: General Partner

By: _____
Name:
Title:

RSUI INDEMNITY COMPANY

By: ARES ASIP VII MANAGEMENT, L.P.
Its: Portfolio Manager

By: ARES ASIP VII GP, LLC
Its: General Partner

By: _____
Name:
Title:

ASIP (HOLDCO) IV S.À.R.L.

By: ASIP OPERATING MANAGER IV, LLC
Its: Investment Manager

By: ARES MANAGEMENT LLC
Its: Sole Member

By: _____
Name:
Title:

ARES SENIOR LOAN TRUST

By: ARES SENIOR LOAN TRUST MANAGEMENT, L.P.
Its: Investment Adviser

By: ARES SENIOR LOAN TRUST MANAGEMENT, LLC
Its: General Partner

By: _____
Name:
Title:

ARES MULTI-STRATEGY CREDIT FUND V (H), L.P.

By: ARES MSCF V (H) MANAGEMENT LLC
Its: Manager

By: _____
Name:
Title:

PPF NOMINEE 1 B.V.

By: ARES MANAGEMENT LIMITED
Its: Portfolio Manager

By: _____
Name:
Title:

WELLPOINT, INC.

By: ARES WLP MANAGEMENT GP, LLC
Its: General Partner

By: ARES WLP MANAGEMENT, L.P.
Its: Investment Manager

By: _____
Name:
Title:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION PENSION PLAN TRUST FUND

By: AELIS X MANAGEMENT L.P.
Its: Investment Counsel

By: AELIS X MANAGE, EMT GP, LLC
Its: General Partner

By: _____
Name:
Title:

ARISTEIA HORIZONS L.P.

By: ARISTEIA CAPITAL, LLC
Its: Investment Manager

By: _____
Name: Andrew B. David
Title: General Counsel

William R. Techar
Manager
Aristeia Capital, L.L.C.

WINDERMERE IRELAND FUND PLC

By: ARISTEIA CAPITAL, LLC
Its: Investment Manager

By: _____
Name: Andrew B. David
Title: General Counsel

William R. Techar
Manager
Aristeia Capital, L.L.C.

COMPASS TSMA LP

By: ARISTEIA CAPITAL, LLC
Its: Investment Manager

By: _____
Name: Andrew B. David
Title: General Counsel

William R. Techar
Manager
Aristeia Capital, L.L.C.

COMPASS ESMA LP

By: ARISTEIA CAPITAL, LLC
Its: Investment Manager

By: _____
Name: Andrew B. David
Title: General Counsel

William R. Techar
Manager
Aristeia Capital, L.L.C.

DOUBLE BLACK DIAMOND OFFSHORE LTD.

By: Carlson Capital, L.P.
Its: Investment Adviser

By: Asgard Investment Corp. II
Its: General Partner

By: _____
Name: Clint D. Carlson
Title: President

BLACK DIAMOND OFFSHORE LTD.

By: Carlson Capital, L.P.
Its: Investment Adviser

By: Asgard Investment Corp. II
Its: General Partner

By: _____
Name: Clint D. Carlson
Title: President

GSO AIGUILLE DES GRANDS MONTETS FUND I LP
By: GSO Capital Partners LP as Attorney-in-Fact

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO AIGUILLE DES GRANDS MONTETS FUND II LP
By: GSO Capital Partners LP as Attorney-in-Fact

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO AIGUILLE DES GRANDS MONTETS FUND III LP
By: GSO Capital Partners LP as Attorney-in-Fact

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO CREDIT-A PARTNERS LP
By: GSO Capital Partners LP, its Investment Manager

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO PALMETTO OPPORTUNISTIC INVESTMENT PARTNERS LP
By: GSO Capital Partners LP, as Investment Manager

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

FS GLOBAL CREDIT OPPORTUNITIES FUND
By: GSO Capital Partners LP as Sub-Adviser

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO COASTLINE CREDIT PARTNERS LP
By: GSO Capital Partners LP, its Investment Manager

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

STEAMBOAT CREDIT OPPORTUNITIES MASTER FUND LP
By: GSO Capital Partners LP, its Investment Manager

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO SPECIAL SITUATIONS FUND LP
By: GSO Capital Partners LP, its investment advisor

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

GSO SPECIAL SITUATIONS OVERSEAS MASTER FUND LTD.
By: GSO Capital Partners LP, its investment advisor

By: _____
Name: Marisa J. Beeney
Title: Authorized Signatory

OCM OPPS MTIV HOLDINGS, LLC

By: OAKTREE FUND GP, LLC
Its: Manager

By: OAKTREE FUND GP I, L.P.
Its: Manager

By: _____
Name: Kenneth Liang
Title: Authorized Signatory

By: _____
Name: Mahesh Balakrishnan
Title: Authorized Signatory

LMA SPC FOR AND ON BEHALF OF THE
MAP 98 SEGREGATED PORTFOLIO
By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

OCEANA MASTER FUND LTD

By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

PENTWATER CREDIT OPPORTUNITIES MASTER
FUND LTD.

By:
Its:

By: _____
Name:
Title: Neal Nenadovic
Chief Financial Officer
Pentwater Capital Management LP

PENTWATER EQUITY OPPORTUNITIES MASTER
FUND LTD.

By:
Its:

Neal Nenadovic
Chief Financial Officer
Pentwater Capital Management LP

PENTWATER EVENT DRIVEN CAYMAN FUND LIMITED

By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

PENTWATER EVENT EQUITY REFLECTION FUND

By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

PENTWATER MERGER ARITRAGE MASTER FUND LTD

By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

PWCM MASTER FUND LTD

By:
Its:

By: _____
Name: Neal Nenadovic
Title: Chief Financial Officer
Pentwater Capital Management LP

THIRD AVENUE FOCUSED CREDIT FUND, THIRD AVENUE HIGH YIELD CREDIT FUND, THIRD AVENUE VALUE INCOME FUND, LP, JURA LIMITED, AND MANULIFE GLOBAL FOCUSED BALANCE FUND

By: THIRD AVENUE MANAGEMENT LLC
Its: Investment Advisor

By: _____
Name: W. James Hall
Title: General Counsel

COMPANY DISCLOSURE SCHEDULES

TO

BACKSTOP COMMITMENT AGREEMENT

AMONG

MOMENTIVE PERFORMANCE MATERIALS HOLDINGS INC.,

MOMENTIVE PERFORMANCE MATERIALS INC.

AND

THE COMMITMENT PARTIES PARTY HERETO

Dated as of May 9, 2014

The contents of these Company Disclosure Schedules include exceptions to the representations, warranties and covenants contained in Article IV of, and information to be disclosed pursuant to, the Backstop Commitment Agreement, dated as of May 9, 2014, by and among Momentive Performance Materials Holdings Inc., Momentive Performance Materials Inc. and the Commitment Parties party thereto (the "Agreement"). Capitalized terms used in these Company Disclosure Schedules but not defined herein shall have the meanings ascribed to them in the Agreement.

Section and subsection references in these Company Disclosure Schedules are references to the corresponding sections and subsections of the Agreement to which the disclosed exception or information relates and are included for convenience only and are not intended to limit the effect of the disclosures or information contained in these Company Disclosure Schedules or to expand the scope of the information required to be disclosed. Any disclosure or information with respect to any section or subsection of these Company Disclosure Schedules shall be deemed to be disclosed for purposes of all other sections and subsections of these Company Disclosure Schedules to the extent that such disclosure is made in such a way as to make the relevance of such disclosure or information to such other sections and subsections reasonably apparent on its face.

These Company Disclosure Schedules and the disclosures and information contained therein shall not be deemed to expand in any way the scope or effect of any of the representations, warranties and covenants contained in the Agreement. To the extent that any representation, warranty or covenant contained in the Agreement is limited or qualified by the materiality of the matters to which the representation, warranty or covenant is given, the inclusion of any matter in these Company Disclosure Schedules does not constitute a

determination by the Company or any of its Subsidiaries that such matters are material. Nor in such cases where a representation, warranty, covenant or condition precedent is limited or qualified by the materiality of the matters to which the representation, warranty or covenant is given shall the disclosure of any matter in these Company Disclosure Schedules imply that any other, undisclosed matter having a greater value or other significance is material.

Nothing in these Company Disclosure Schedules constitutes an admission of liability or obligation of the Company or any of its Subsidiaries to any third party, nor an admission against the interests of the Company or any of its Subsidiaries.

Section 1.1

Permited Liens

1. Liens securing the indebtedness set forth on the following table:

Legal Entity	**Type**	**USD Equivalent, as of December 31, 2013**
Momentive Performance Materials (Nantong) Co. Ltd.	Fixed Asset Loan	$15 million
Momentive Performance Materials (Nantong) Co. Ltd.	Various Working Capital Loans	$24 million
Momentive Performance Materials (India) Private Limited	Medium Term Loan	$1 million
Momentive Performance Materials (India) Private Limited	Indian Buyers Credit	$5 million

2. Liens set forth on the following table[1]:

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
Momentive Performance Materials Holdings Inc.	**DE**	200664209813	12/4/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility) *
		20112761933	07/19/11	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113241281	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434397	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573865	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613307	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573758	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)

[1] The Parties acknowledge that (a) as of the date of the Agreement, the Liens denoted with an "*" are not currently anticipated to survive the Effective Date under the current draft of the Plan, (b) the Plan, and thus the treatment of the Liens listed in this Section 1.1, is subject to change from and after the date of the Agreement in accordance with the terms and conditions of the Agreement and the other Transaction Agreements, and (c) neither the Company nor any of its Subsidiaries is making any representation or warranty regarding the survival or termination of the Liens listed in this Section 1.1.

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
Momentive Performance Materials Inc.	**DE**	33079145	11/21/2003	UCC-1	GELCO CORPORATION DBA GE FLEET SERVICES	2004 Ford F450
		20080428647	2/5/2008	AMEND	GELCO CORPORATION DBA GE FLEET SERVICES	See above
		20083791967	11/12/2008	CONT	GELCO CORPORATION DBA GE FLEET SERVICES	See above
		20133307262	08/23/2013	CONT	GELCO CORPORATION DBA GE FLEET SERVICES	See above
		200664210092	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20112761974	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113240648	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434405	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573998	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131614016	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20081793734	5/23/2008	UCC-1	DELL FINANCIAL SERVICES L.L.C.	All computer equipment and peripherals financed under and described in the Master Lease Agreement
		20130900044	3/8/2013	CONT	DELL FINANCIAL SERVICES L.L.C.	See above
		20083052402	9/9/2008	UCC-1	CISCO SYSTEMS CAPITAL CORPORATION	All equipment (manufactured by Cisco Systems, Inc., its affiliates and others) and related claims, books and records and software
		20133393379	8/29/2013	CONT	CISCO SYSTEMS CAPITAL CORPORATION	See above
		20083393269	10/7/2008	UCC-1	PACKAGING CORPORATION OF AMERICA	All corrugated shipping containers delivered to 340 O'Neill Dr. Hebron, OH 43205
		20132526524	7/1/2013	CONT	PACKAGING CORPORATION OF AMERICA	See above
		20091482725	5/11/2009	UCC-1	COACTIV CAPITAL PARTNERS, INC.	Equipment
		20091482758	5/11/2009	UCC-1	COACTIV CAPITAL PARTNERS, INC.	Equipment

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20112267360	6/14/2011	UCC-1	GELCO CORPORATION DBA GE FLEET SERVICES	2006 Make Toyota Model 7FGU25; Forklift, log $7272668, GE unit #26045, VIN #83072
		20112839234	7/22/2011	UCC-1	GELCO CORPORATION DBA GE FLEET SERVICES	2006 Make Ford Model E350 14 ft Rockport Aluminum Van Body with Tommygate 89-169 Railgate platform, log #7294020, GE unit #26300, VIN # 1FDWE35L86DA92181
		20120280125	1/24/2012	UCC-1	PPG INDUSTRIES, INC.	All inventories and goods sold by PPG to the Debtor under all agreements between PPG and the Debtor.
		20133394070	08/30/2013	AMEND	AXIALL CORPORATION	See above (name change)
		20122028878	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076678	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124433894	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077353	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20131573915	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
		20134638178	11/25/2013	UCC-1	CHG-MERIDIAN USA CORPP.	All equipment leased or financed pursuant to that certain Master Equipment Lease No. 8384 effective as of August 17, 2010
Momentive Performance Materials Worldwide Inc.	**DE**	64210175	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20112761941	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113241059	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434660	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573964	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131614065	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20122028977	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20132076983	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124434348	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077106	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573899	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Momentive Performance Materials Quartz, Inc.	**DE**	64210233	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		64563821	12/28/2006	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20112761834	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113241596	08/22/2011	AMEND	JP MORGAN CHASE BANK, N.A.	See above
		20124434520	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20131573907	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613356	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20102476186	07/16/2010	UCC-1	WELLS FARGO BANK, N.A.	Clark forklift CST-15 S/N 031369
		20122028902	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20124433928	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20131573766	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Momentive Performance Materials USA Inc.	**DE**	64210274	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20112761883	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113240580	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20124434652	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573949	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613992	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20072822343	7/26/2007	UCC-1	GENERAL ELECTRIC CAPITAL CORPORATION	All equipment and related items in any Lease Schedule subject to that certain Master Lease Agreement No. 8334163
		20121845843	5/14/2012	AMEND	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20121845884	5/14/2012	CONT	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20074113816	10/22/2007	UCC-1	GENERAL ELECTRIC CAPITAL CORPORATION	Equipment and other assets listed on attached annex
		20122729434	7/16/2012	CONT	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20122729459	7/16/2012	AMEND	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20080040814	12/31/2007	UCC-1	GENERAL ELECTRIC CAPITAL CORPORATION	Equipment and other assets described on attached annex

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20123915768	10/11/2012	CONT	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20123915834	10/11/2012	AMEND	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20080331056	1/22/2008	UCC-1	GENERAL ELECTRIC CAPITALCORPORATION	Equipment and other assets described on attached annex
		20124689354	12/5/2012	CONT	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20124690444	12/5/2012	AMEND	GENERAL ELECTRIC CAPITAL CORPORATION	See above
		20090644614	2/27/2009	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	New Toyota Forklift Model: 7FBEU15, Serial Number: 7FBEU15-20235 and battery
		20090702651	3/5/2009	UCC-1	PPG INDUSTRIES, INC.	All inventories sold and/or goods in transit sold by PPG to the Debtor under all agreements between PPG and the Debtor.
		20133394096	8/30/2013	AMEND	AXIALL CORPORATION	See above (name change)
		20090975786	3/27/2009	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 7FGCU55, S/N: 7FGCU55-70285
		20091291423	4/23/2009	UCC-1	THE DOW CHEMICAL COMPANY	Consignment Product: Isopropanol 99%

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20091291456	4/23/2009	UCC-1	THE DOW CHEMICAL COMPANY	Consignment Product: Methyl Chloride
		20091545539	5/15/2009	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 7FGCU55, S/N: 7FGCU55-70303
		20093644553	11/13/2009	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-26529
		20093773097	11/24/2009	UCC-1	TOYOTA MATERIAL HANDLINGCORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-20511
		20093774822	11/24/2009	AMEND	TOYOTA MOTOR CREDIT CORPORATION	See above
		20093862999	12/3/2009	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 7FBEU15, S/N: 7FBEU15-20867 Toyota Forklift Model: 7FGCU25, S/N: 7FGCU25-99292
		20101844095	5/26/2010	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-27500
		20102280869	6/30/2010	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-28489; Cascade Dum Dumper S/N: 1089044-T1
		20102798936	8/11/2010	UCC-1	SOMERSET LEASING CORP. IV	Hyster H120FT Forklift

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20102888661	8/18/2010	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 7FGCU25, S/N: 7FGCU25-70481
		20103202466	9/14/2010	UCC-1	CHG-MERIDIAN U.S. FINANCE, LTD.	Various computer equipment leased pursuant to Equipment Schedule #001 to Master Lease #8384
		20110386279	1/10/2011	AMEND	CHG-MERIDIAN U.S. FINANCE, LTD.	Added various computer equipment leased pursuant to Equipment Schedule 001 to Master Lease #8384
		20103352394	9/27/2010	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 7FBEU15, S/N: 7FBEU15-21714
		20110268584	1/25/2011	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-31384
		20110645278	2/22/2011	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-31803
		20110854482	3/8/2011	UCC-1	US CAPITAL EQUIPMENT LEASING, INC.	All present and future goods leased pursuant to the Master Equipment Lease Agreement dated July 14, 2010
		20111117376	3/25/2011	ASSIGN	US Capital Equipment Leasing, Inc	Material handling equipment, fork trucks and other assets leased under Equipment schedule No. US1202-001, US1201-002 and US 1201-003 to Master Equipment Lease Agreement, dated as of July 14, 2010

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20111300733	4/7/2011	ASSIGN	SOMERSET CAPITAL GROUP, LTD.	Full assignment
		20111070690	3/23/2011	UCC-1	SOMERSET LEASING CORP. VI	Equipment leased under Equipment Schedule No. 14 to the Master Lease Agreement dated July 9, 2010 - MCW040-E Yale 4, Motorized Hand Trucks
		20111070708	3/23/2011	UCC-1	SOMERSET LEASING CORP. VI	Equipment leased under Equipment Schedule No. 15 to the Master Lease Agreement dated July 9, 2010 - 42" forks, industrial batteries and chargers
		20111070716	3/23/2011	UCC-1	SOMERSET LEASING CORP. VI	Equipment leased under Equipment Schedule No. 16 to the Master Lease Agreement dated July 9, 2010 - Low lift walkie pallet truck and freight shipping
		20111116238	3/25/2011	UCC-1	SOMERSET CAPITAL GROUP, LTD.	Material equipment, fork trucks and other assets under Lease Schedule Nos. US1202-001, US1202-002 and US1202-003 to Master Equipment Lease Agreement dated July 14, 2010
		20111247322	4/5/2011	UCC-1	SOMERSET LEASING CORP. VI	Equipment leased under Equipment Schedule No. 11 to the Master Lease Agreement dated July 9, 2010 - Forklifts

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20111434474	4/18/2011	UCC-1	SOMERSET CAPITAL GROUP, LTD.	Equipment leased under Equipment Schedule No. 17 to the Master Lease Agreement dated July 9, 2010 - Caterpillar Forks
		20111824138	5/13/2011	UCC-1	SOMERSET LEASING CORP. I	Equipment leased under Equipment Schedule No. 13 to the Master Lease Agreement dated July 9, 2010Yard tractors
		20112467721	6/28/2011	UCC-1	SOMERSET LEASING CORP. I	Equipment leased under Equipment Schedule No. 19 to the Master Lease Agreement dated July 9, 2010 - Batteries and chargers
		20135163655	12/30/2013	ASSIGN	SQN ECHO, LLC	Full assignment
		20113152983	7/25/2011	UCC-1	Lift Lease & Finance Corp., Ltd.	Equipment leased under Equipment Schedule No. 008 to the Master Lease Agreement dated January 10, 2011 - Forklift, batteries and chargers
		20113154732	7/25/2011	UCC-1	Lift Lease & Finance Corp., Ltd.	Equipment leased under Equipment Schedule No. 005 to the Master Lease Agreement dated January 10, 2011 - Forklifts, batteries and chargers
		20113155028	7/25/2011	UCC-1	Lift Lease & Finance Corp., Ltd.	Equipment leased under Equipment Schedule No. 002 to the Master Lease Agreement dated January 10, 2011 - Forklifts

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20113155168	7/25/2011	UCC-1	Lift Lease & Finance Corp., Ltd.	Equipment leased under Equipment Schedule No. 007 to the Master Lease Agreement dated January 10, 2011 - Forklift, batteries and chargers
		20113501916	9/13/2011	UCC-1	SOMERSET LEASING CORP. VII	Equipment leased under Equipment Schedule No. 12 to the Master Lease Agreement dated July 9, 2010 – Forks, forklifts
		20113616649	9/12/2011	UCC-1	EVERGREEN RESOURCES LLC	Equipment leased under Equipment Schedule No. 001 to the Lease Agreement No. 120 dated January 10, 2011 – Walkie Trucks
		20114013978	10/18/2011	UCC-1	SOMERSET CAPITAL GROUP, LTD.	Equipment leased under Equipment Schedule No. 18 to the Master Lease Agreement dated July 9, 2010 – Battery, forklift
		20114043330	10/20/2011	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota forklift
		20114133859	10/17/2011	UCC-1	EVERGREEN RESOURCES LLC	Equipment leased under Equipment Schedule No. 009 to the Lease Agreement No. 120 dated January 10, 2011 - forklifts

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20114300474	11/8/2011	UCC-1	SOMERSET LEASING CORP. I	Equipment leased under Equipment Schedule No. 20 to the Master Lease Agreement dated July 9, 2010 – Batteries, forklifts
		20114633189	12/5/2011	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota reach truck and charger
		20114933928	12/22/2011	UCC-1	SOMERSET LEASING CORP. XI	Equipment leased under Equipment Schedule No. 21 to the Master Lease Agreement dated July 9, 2010 – battery and forklift
		20121081456	3/21/2012	ASSIGN	SOMERSET LEASING CORP. XI	Full assignment
		20120121196	1/3/2012	UCC-1	EVERGREEN RESOURCES LLC	Equipment leased under Equipment Schedule No. 010 to the Master Lease Agreement dated January 10, 2011 - forklift
		20121137449	3/26/2012	UCC-1	SOMERSET LEASING CORP. XI	Equipment leased under Equipment Schedule No. 22 to the Master Lease Agreement dated July 9, 2010 – freight and battery
		20123241603	8/21/2012	ASSIGN	SOMERSET LEASING CORP. VIII	Full assignment

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20121222795	3/30/2012	UCC-1	SOMERSET LEASING CORP. VI	Equipment leased under Equipment Schedule No. 8 to the Master Lease Agreement dated July 9, 2010 – battery and forks
		20121781915	5/8/2012	UCC-1	SOMERSET LEASING CORP. XI	Equipment leased under Equipment Schedule No. 23 to the Master Lease Agreement dated July 9, 2010 – battery chargers
		20123303882	8/24/2012	ASSIGN	SOMERSET LEASING CORP. VIII	Full assignment
		20122028969	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076850	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20122414854	6/12/2012	UCC-1	EVERGREEN RESOURCES LLC	Equipment leased under Equipment Schedule No. 011 to the Master Lease Agreement dated January 10, 2011 - forklift
		20123308626	8/16/2012	UCC-1	EVERGREEN RESOURCES LLC	Equipment leased under Equipment Schedule No. 012 to the Master Lease Agreement dated January 10, 2011 - forklift

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20123733823	09/27/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	General intangibles, goods, inventory and other collateral that is secured by the Mortgage, dated as of September 21, 2012 (for 703 South Street, New Smryna Beach, FL 32168) that does not constitute real property or fixtures (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132295039	06/14/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124028934	10/18/2012	UCC-1	Somerset Leasing Corp. V	Equipment leased under Equipment Schedule No. 25 to the Master Lease Agreement dated July 9, 2010 – batteries and forklifts
		20124178986	10/31/2012	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota forklifts SN: 7FBEU20-21340; 7FBEU20-21344
		20124434306	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077213	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124687341	12/5/2012	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota Forklift Model: 8FGCU25, S/N: 8FGCU25-43508

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20130224502	1/17/2013	UCC-1	TOYOTA MOTOR CREDIT CORPORATION	Toyota forklifts SN: 7FBEU15-24869
		20130244955	1/18/2013	UCC-1	Somerset Capital Group, Ltd.	Equipment leased under Equipment Schedule No. 27 to the Master Lease Agreement dated July 9, 2010 – walkie pallet truck
		20130320334	1/24/2013	UCC-1	Somerset Leasing Corp. V	Equipment leased under Equipment Schedule No. 24 to the Master Lease Agreement dated July 9, 2010 – battery builders
		20130690959	2/21/2013	UCC-1	Somerset Leasing Corp. VIII	Equipment leased under Equipment Schedule No. 28 to the Master Lease Agreement dated July 9, 2010 – Viking 2008 Trackmobile Railcar Mover SN 986-0908
		20135163671	12/30/2013	ASSIGN	SQN ECHO, LLC	Full assignment
		20130751082	2/26/2013	UCC-1	Toyota Motor Credit Corporation	Toyota forklifts SN: 7FBEU15-25034
		20131052530	03/19/2013	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	General intangibles, goods, inventory and other collateral that is secured by the Mortgage, dated as of March 15, 2013 (related to the Indenture dated as of November 5, 2010) that does not constitute real property or fixtures (in connection with the Second Lien Notes) *

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20131052621	03/19/2013	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	General intangibles, goods, inventory and other collateral that is secured by the Mortgage, dated as of March 15, 2013 (related to the Indenture dated as of October 25, 2012) that does not constitute real property or fixtures (in connection with the pre-petition 1st lien $1.1B 8.875% Notes) *
		20132295229	06/14/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131118448	3/22/2013	UCC-1	Somerset Leasing Corp. V	Equipment leased under Equipment Schedule No. 24A to the Master Lease Agreement dated July 9, 2010 – forklift
		20131256677	4/2/2013	UCC-1	Somerset Leasing Corp. VIII	Equipment leased under Equipment Schedule No. 26 to the Master Lease Agreement dated July 9, 2010 – battery builders
		20131387837	4/11/2013	AMEND	Somerset Leasing Corp. VIII	Restated collateral - equipment leased under Equipment Schedule No. 26 to the Master Lease Agreement dated July 9, 2010 – yale walkie counterbalanced truck and exide batteries

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20131573881	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
		20133856292	10/2/2013	UCC-1	Toyota Motor Credit Corporation	SV2632D SN: SV2632D-739095
		20135059887	12/20/2013	UCC-1	MPM AR LLC	Collateral related to that certain Contribution Agreement, dated as of May 10, 2011
Juniper Bond Holdings I LLC	**DE**	20080034858	01/03/2008	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20123129386	08/14/2012	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20123681055	09/25/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434132	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573741	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613281	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20122028480	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132075548	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124433522	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077635	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573725	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Juniper Bond Holdings II LLC	**DE**	20080035137	01/03/2008	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20123031525	08/07/2012	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20123723030	09/27/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20124434256	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573675	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613331	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20122028589	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132075761	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124433704	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077593	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573683	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
Juniper Bond Holdings III LLC	**DE**	20080035194	01/03/2008	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20123031574	08/07/2012	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20123723055	09/27/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434322	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573642	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613349	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20122028688	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076140	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124433753	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20132077569	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573659	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Juniper Bond Holdings IV LLC	**DE**	20080035319	01/03/2008	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20123031467	08/07/2012	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20124434371	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573717	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613315	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20122028803	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076306	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20124433787	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077544	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573709	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Momentive Performance Materials China SPV Inc.	**DE**	20064210456	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20112761602	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113241000	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20124434389	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573808	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613299	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20122028852	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076389	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124433878	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077429	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573733	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)
Momentive Performance Materials South America Inc.	**DE**	20064210399	12/04/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		20112761792	07/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		20113240606	08/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		20124434603	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131573923	04/24/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20131613984	04/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		20122028936	05/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		20132076751	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20124434280	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		20132077296	05/31/2013	AMEND	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	See above
		20131573873	04/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
MPM Silicones, LLC	**NY**	200612040956189	12/4/2006	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition GE Cash Flow Facility and the pre-petition 1st lien $1.1B 8.875% Notes) *
		200612150992037	12/15/2006	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		201107195776979	7/19/2011	CONT	JPMORGAN CHASE BANK, N.A.	See above
		201108225910948	8/22/2011	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		201211160646342	11/16/2012	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		201304250222617	4/25/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		201304290227552	4/29/2013	AMEND	JPMORGAN CHASE BANK, N.A.	See above
		201001150026377	1/15/2010	UCC-1	UNIPEX SOLUTIONS CANADA INC.	All of the methanol quality described in Schedule A pursuant to the Contract of Supply of Methanol dated January 1, 2010

Debtor	State	File Number	File Date	File Type	Secured Party	Description of Collateral
		201203270171531	3/27/2012	UCC-1	GLOBE METALLURGICAL, INC.	All of the silicon metal of the quality described in Schedule A pursuant to Purchase Agreement dated January 1, 2012
		201205250296561	5/25/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition 1.5 Lien $250MM 10% Notes) *
		201211160646025	11/16/2012	UCC-1	THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.	All personal property (in connection with the pre-petition Second Lien Notes) *
		201304240221586	4/24/2013	UCC-1	JPMORGAN CHASE BANK, N.A.	All assets (in connection with the pre-petition ABL Facility)

Section 4.1

Organization and Qualification

N/A

Section 4.2

Corporate Power and Authority

N/A

Section 4.3

Execution and Delivery; Enforceability

N/A

Section 4.4

Authorized and Issued Capital Stock

N/A

Section 4.5

Issuance

N/A

Section 4.6

No Conflict

1. Pursuant to that Global Sales Agreement NA4424, dated as of January 1, 2012, by and between The Dow Chemical Company ("Dow") and MPM, Dow is entitled to terminate the agreement (and all related "Supplementary Agreements") immediately upon written notice to MPM upon any of the following events: (a) the insolvency of MPM, MPM suffering or committing any act of insolvency, or the inability of MPM to pay its debts, (b) MPM's bankruptcy or liquidation (whether voluntary or involuntary) or the appointment for MPM of a receiver or liquidator, and (c) a change in control or dissolution of MPM ("change in control" is not defined).

2. Pursuant to that Supplier Purchase Agreement (Packaging), dated as of January 1, 2009, by and between Fischbach USA Inc. ("Fischbach") and MPM, certain obligations are triggered in the event that MPM is "sold to another entity." Specifically, (i) the agreement and all provisions therein survive the sale and become the responsibility, and inure to the benefit, of the buyer/new owner of MPM, (ii) MPM must notify Fischbach of the potential sale and purchase of MPM at least 45 days prior to the closing of the sale, (iii) the buyer/new owner of MPM shall be advised by MPM of this provision in writing (in the transaction agreement to the extent practical) at least 45 days prior to the closing of the sale, and (iv) the buyer/new owner of MPM shall agree to honor all provisions and assume all of MPM's obligations under the agreement.

3. Various Contracts to which one or more Debtors is a party (and to which no Subsidiary of the Company that is not a Debtor is a party) contain provisions that apply in the event of a bankruptcy or similar filing, insolvency, entry into a plan of reorganization or similar event. By virtue of such provisions, the commencement of the Chapter 11 Proceedings and/or the adoption and effectiveness of the Plan and the transactions contemplated thereby would conflict with, result in a breach, modification or violation of, constitute a default under, result in the acceleration of or the creation of a Lien under, or cause any payment or consent to be required under, such Contracts. Some or all of these provisions may or may not be enforceable under the Bankruptcy Code or under other applicable Law.

Section 4.7

Consents and Approvals

N/A

Section 4.8

Arm's-Length

N/A

Section 4.9

Financial Statements

N/A

Section 4.10

Company SEC Documents and Disclosure Statement

N/A

Section 4.11

Absence of Certain Changes

N/A

Section 4.12

No Violation; Compliance with Laws

1. See Section 4.19 of these Company Disclosure Schedules.

Section 4.13

Legal Proceedings

1. See Section 4.19 and Section 4.20 of these Company Disclosure Schedules.

Section 4.14

Labor Relations

N/A

Section 4.15

Intellectual Property

N/A

Section 4.16

Title to Real and Personal Property

N/A

Section 4.17

No Undisclosed Relationships

N/A

Section 4.18

Licenses and Permits

N/A

Section 4.19

Environmental

Actual and alleged environmental violations were identified by the Company at the Company's facility in Waterford, New York with respect to air quality and hazardous waste regulations. The Company has been cooperating with the New York State Department of Environmental Conservation (the "NYSDEC") in addressing these actual and alleged violations. Although the Company believes that the costs and potential penalties associated with these actual and alleged violations will not have a material adverse impact on its business, these issues may result in administrative and/or civil enforcement by the State of New York and resolution of such enforcement actions will likely require payment of a monetary penalty and/or the imposition of other civil sanctions.

In 2008, the NYSDEC issued a notice of violation alleging certain failures to comply with the State and federal regulatory requirements governing the treatment of hazardous waste and the operation of the hazardous waste incinerators at the Company's Waterford, New York, facility. Subsequently, in the second quarter of 2009, the USEPA and the U.S. Department of Justice sought, through search warrant and subpoena, additional information related to the alleged noncompliances. The Company is cooperating with the State and federal authorities. Although the Company believes that the costs and potential penalties associated with these violations will not have a material adverse impact on its business, these investigations may result in administrative, civil and/or criminal enforcement by the State of New York and/or the United States and resolution of such enforcement actions will likely require payment of a monetary penalty and/or the imposition of other civil and/or criminal sanctions.

In February 2012, the Italian regional environmental agency assessed an administrative penalty against the directors of the Company's Italian subsidiary in connection with allegations that the Company's Termoli, Italy facility violated certain hazardous waste record keeping and reporting requirements during the period from November 2010 to July 2011. In accordance with agency policies, the Company settled the matter by paying €175,667 in April 2012. The agency has also alleged that the Company's Termoli, Italy facility has violated certain hazardous waste storage and disposal requirements. Although the Company believes that the costs and potential penalties associated with these violations will not have a material adverse impact on its business, these allegations may be the subject of further enforcement actions, including criminal enforcement.

The Company has identified the presence of polychlorinated biphenyls (PCBs) in the soil in certain locations at its Sistersville, West Virginia facility. The Company believes this soil contamination is the result of historic operations by a prior owner (Union Carbide). The Company filed an action in the United States District Court for the Northern District of New York on December 30, 2011 against the prior owner seeking reimbursement of response costs arising from this contamination.

The Company is also involved in other remediation actions to clean up soil and/or groundwater contamination as required by federal and state laws at several of its manufacturing facilities and offsite landfills. Liabilities for remediation costs for these actions have been

estimated in accordance with generally accepted accounting practices. As of December 31, 2013 and 2012, the Company had recognized obligations of $6 million for these remediation costs, including $3.9 million for cleanup at the Company's Waterford, New York, facility, $1.2 million at the Company's Sistersville, West Virginia facility and $166,000 at the Company's former Eulis, Texas facility. In addition, the cost to operate the groundwater remediation system at the Waterford, New York facility is expected to be $15 million and is to be paid over the next 50 years.

In addition, in the normal course of our business, the Company is required to provide financial assurances for contingent future costs associated with certain hazardous waste management and remedial activities. Pursuant to financial assurance requirements set forth in state hazardous waste permit regulations applicable to the Company's manufacturing facilities in Waterford, New York and Sistersville, West Virginia, the Company has provided letters of credit in the following amounts: $25.3 million for closure and post-closure care for the Waterford and Sistersville facilities; and $10 million (annual aggregate) for accidental occurrences at the Waterford and Sistersville facilities. The Company is currently in discussions with the NYSDEC regarding the renewal of the Waterford facility's hazardous waste permit. In connection with the renewal, the NYSDEC may increase the financial assurances that the Company is required to provide for this facility, which may result in a material increase in the amount of letters of credit or other assurance that the Company must deliver.

Section 4.20

Tax Returns

The following Tax related claims/assessments are currently pending:

	Entity	**Relevant Tax Period**	**Jurisdiction / Governmental Authority**	**Brief Description of Matter**
1.	MPM Specialties Srl	2003FY	Italy / Tax Court of Campobasso	On 10/14/08, MPM received a tax assessment under which the Revenue Agency assessed the fiscal deductibility of interest expenses accounted for and reported by MPM for €2,148,250.56 in FY2003. MPM appealed and the Provincial Tax Commission of Campobass resolved in favor of MPM. The Revenue Agency appealed on 3/7/2011. A hearing is pending.
2.	MPM Specialties Srl	2004FY	Italy / Tax Court of Campobasso	On 12/2/09, MPM received a deed of assessment under which the Revenue Agency (i) disregarded the fiscal deductibility of interest expenses accounted for and reported by MPM for €5,102,484.59 in FY2004, (ii) disregarded the non-deductibility of amortization of intangible assets amounting to € 8,267,340.25, (iii) objected to non-documented costs for €1,800.00 and unreported VAT payable amounting to €362,876.02, (iv) assessed higher IRES (income tax) of €1,413,840.00, higher IRAP (community tax) of €568,294.00, higher VAT of €362,518.00 and sanctions of €2,709,950. MPM appealed and the Tax Court of Campobasso resolved in favor of MPM. The decision was appealed by the Revenue Agency on 7/1/13 and MPM filed a notice of rebuttal on 10/15/13. A hearing is pending.

	Entity	Relevant Tax Period	Jurisdiction / Governmental Authority	Brief Description of Matter
3.	MPM Specialties Srl	2005FY	Italy / Tax Court of Campobasso	On 12/2/09, MPM received a deed of assessment under which the Revenue Agency (i) assessed the fiscal deductibility of interest expenses accounted for and reported by MPM for €4,927,465.32 in FY2005, (ii) assessed the non-deductibility of amortization of intangible assets amounting to €4,596,641.18, and (iii) objected to non-documented costs of €41,608.46 and VAT of €347,715.25. The Revenue Agency has therefore assessed higher IRES (income tax) equaling €1,485,659, higher IRAP (community tax) equaling €406,543.00, VAT equaling €347,715.00 and penalties of €3,342,732.75. MPM appealed and the Tax Court of Campobasso resolved in favor of MPM. The decision was appealed by the Revenue Agency on 7/1/13 and MPM filed a notice of rebuttal on 10/15/13. A hearing is pending.
4.	MPM Specialties Srl	2006FY	Italy / Tax Court of Campobasso	On 12/12/11, MPM received a notice of assessment for tax year 2006 under which the Revenue Agency (i) assessed the fiscal deductibility of interest expenses accounted for and reported by MPM for €1,238,176.00 in TY2006, (ii) assessed extraordinary expenses (penalties) paid for the early extinction of a loan granted by GE Central Europe LCC for €5,167,938.98, (iii) assessed non-deductibility of amortization of intangible assets amounting to €4,542,346.00, (iv) assessed share of substitute tax amounting to €872,665.00. MPM appealed and the Tax Court of Campobasso resolved in favor of MPM. The decision was appealed by the Revenue Agency on 7/1/13 and MPM filed its rebuttal on 10/15/13. A hearing is pending.

	Entity	Relevant Tax Period	Jurisdiction / Governmental Authority	Brief Description of Matter
5.	MPM Specialties Srl	2007FY	Italy / Tax Court of Campobasso	On 12/20/11, MPM received two notices of assessment for tax year 2007 on IRES (Income Tax) and IRAP (Community Tax), under which the Revenue Agency (i) assessed non-deductibility of amortization of intangible assets amounting to €4,542,346.00; (ii) assessed share of substitute tax amounting to €872,665.00; (iii) alleged operating loss improperly utilized €3,124,512.00; (iv) total assessed IRES €2,818,043.00, (v) sanctions of €2,818,043.00; and (vi) assessed higher IRAP for €284,288, and sanctions of €284,288,00. MPM appealed and the Tax Court of Campobasso resolved in favor of MPM. The decision was appealed by the Revenue Agency on 7/1/13 and MPM filed its rebuttal on 10/15/13. A hearing is pending.
6.	MPM Specialties Srl	2008FY	Italy / Tax Court of Campobasso	On 11/20-21/13, MPM Italy received two notices of assessment for tax year 2008 on IRES (Income Tax) and IRAP (Community Tax) + VAT, under which Termoli Revenue Agency assessed: (i) non-deductibility of amortization of intangible assets amounting to €4,592,346; (ii) share of substitute tax amounted to €872,665; (iii) costs improperly deducted as refer to servicer rendered in other years than 2008 €92,785.16; (iv) operating loss improperly utilized €8,043,368 - Total assessed IRES (€3,740,491), and sanctions for €3,740,491. IRAP: based on IRES points (i), (ii) and (iii) above, the Revenue Agency assessed higher IRAP of €267,916, VAT assessed at €8,186, interest up to 11/30/13 at €1,327, and total sanctions for €362,251,35, of which €77,963 are related to Tolling invoices issued to MPM GmbH. MPM Italy appealed on 1/16/14. A hearing is pending.

	Entity	Relevant Tax Period	Jurisdiction / Governmental Authority	Brief Description of Matter
7.	MPM GmbH	2008FY	Italy / Tax Court of Campobasso	On 12/13/13 and 12/20/13, MPM GmbH received an assessment for VAT for FY2008 in direct connection of the IRAP and VAT assessment issued to MPM Italy for 2008. The Pescara Revenue Agency assessed VAT amounting to €311,991, sanctions of €389,987,50 and interest up to 2/28/14 of €53,273. The original filing due date was 2/11/14 but has been extended by 90 days while MPM and the taxing authority attempt to resolve the matter. If no resolution is made, MPM GmbH can still appeal the assessment.
8.	MPM Suisse Sarl	2006FY	Italy / Tax Court of Campobasso	MPM received a tax assessment on 5/13/09 for the 2006FY, under which the Termoli Revenue Agency claimed higher VAT (€258,548.00) plus interests and sanctions for the incorrect INTRA reporting filing (total claim amounted to €267.836,00). MPM appealed and the Tax Court of Campobasso resolved in favor of MPM. The decision was appealed by the Revenue Agency and MPM submitted a defence deed. A hearing is pending.
9.	Momentive Performance Materials (India) Private Limited	2009-2010FY	India / Dispute Resolution Panel / The Depurty Commission of Income	MPM received a notice of intent to assess on 3/11/14 from the Deputy Commissioner of Income under section 144(3) r.w.s. 144C of the Income-tax Act, 1961. On April 9, 2014, Momentive notified the Dispute Resolution Panel of its objections to the notice of intent and requesting an early hearing on the matter. The total adjustment amount at issue is estimated to be less than $300,000.

Section 4.21

Employee Benefit Plans

1. The Momentive Performance Materials Inc. Pension Plan, as amended and restated effective January 1, 2013, is underfunded (by approximately $40.6 million at December 31, 2013).

2. MPM maintains Other Postretirement Benefit Plans for its employees. These are unfunded and the December 31, 2013 accumulated post-retirement benefit obligation was $81 million.

3. The Company's non-U.S. defined benefit pension plans are underfunded by approximately $132 million. The Company's defined benefit pension plans in Germany are underfunded (by approximately $94.4 million at December 31, 2013). The Company's defined benefit pension plan in Japan is underfunded (by approximately $32.8 million at December 31, 2013).

4. The MSC U.S. Pension Plan is underfunded (by approximately $38 million at December 31, 2013).

Section 4.22

Internal Control Over Financial Reporting

N/A

Section 4.23

Disclosure Controls and Procedures

N/A

Section 4.24

Material Contracts

N/A

Section 4.25

No Unlawful Payments

N/A

Section 4.26

Compliance with Money Laundering Laws

N/A

Section 4.27

Compliance with Sanctions Laws

N/A

Section 4.28

No Broker's Fees

N/A

Section 4.29

Takeover Statutes

N/A

Section 4.30

Investment Company Act

N/A

Section 4.31

Insurance

N/A

Section 4.32

Intermediate HoldCo and Top HoldCo Corporate Power and Authority

N/A

Section 4.33

Authorized and Issued Capital Stock of Top HoldCo

N/A

Section 6.3

Conduct of Business

1. The Company[2] will negotiate the terms and conditions of the collective bargaining agreement between the Company and Local 698-C of the International Chemical Workers Union Council of the United Food and Commercial Workers prior to the agreement's expiration on July 23, 2014. The negotiations will cover issues relating to wages, health, welfare and retirement benefits and operational issues. The Company anticipates that it will reach an amicable agreement with the Union as it has in prior negotiations.

2. Potential investment in Chinese joint venture of no greater than $10 million in cash and assets in the aggregate.

3. Settlement of the Company's claim in Germany against Bosch.

4. Amendment to Xinan JV Agreement specifically relating to the Company's future investments in the JV.

5. Amendments to the Momentive Performance Materials Holdings LLC 2012 Long-Term Cash Incentive Plan solely to the extent they pertain to employees of MSC or any of its Subsidiaries.

6. Waste water treatment project at the Company's Sistersville, West Virginia facility.

7. Licensing project in Silanes.

8. Transactions in the ordinary course of business and consistent with past practices contemplated by and conducted in accordance with the agreements and arrangements with GE and Apollo (and/or their respective Affiliates) described in Item 13 of the Annual Report on Form 10-K for the year ended December 31, 2013 that MPM filed on April 11, 2014.

9. Transactions under the Trademark Use Agreement, dated on or about October 10, 2013, by and among Zhenjiang Momentive Union Specialty Chemicals Ltd. ("JV"), Momentive Union Specialty Chemicals Ltd. ("JV HoldCo"), MSC, MPM and certain other parties named therein, pursuant to which the JV is permitted to use certain intellectual property rights associated with and related to the word "Momentive" that are owned by MPM.

10. Transactions under an Agency Agreement by and among Momentive Specialty Chemicals GmbH and Momentive Performance Materials GmbH relating to the

[2] References in this Section 6.3 to the "Company" mean the Company and/or its applicable Subsidiaries.

manufacture and sale of certain products having polyurethane foam applications.

DRAFT

FIRST AMENDMENT TO BACKSTOP COMMITMENT AGREEMENT

This FIRST AMENDMENT TO BACKSTOP COMMITMENT AGREEMENT (this "**Amendment**") is made and entered into as of June [__], 2014, by and among Momentive Performance Materials Holdings Inc. (as a debtor in possession and a reorganized debtor, as applicable, the "**Company**") and Momentive Performance Materials Inc. (as a debtor in possession and a reorganized debtor, as applicable, "**MPM**") on behalf of themselves and the other Debtors, on the one hand, and the undersigned Commitment Parties, on the other hand (collectively, the "**Amending Commitment Parties**" and, together with the Company and MPM, the "**Amendment Parties**").

WHEREAS, reference is made to the Backstop Commitment Agreement, dated as of May 9, 2014 (as such agreement may be amended, restated, supplemented or otherwise modified from time to time, the "**BCA**") by and among the Company, MPM and the Commitment Parties thereto;

WHEREAS, the Parties entered into the BCA in connection with the Restructuring Support Agreement, effective as of April 13, 2014 (as such agreement may be amended, restated, supplemented or otherwise modified from time to time, the "**RSA**");

WHEREAS, the RSA and BCA contemplate a restructuring of the Debtors to be implemented through a chapter 11 plan consistent with the terms and conditions of the RSA and the Term Sheet attached thereto (such chapter 11 plan of reorganization, the "**Plan**");

WHEREAS, in accordance with the RSA and the BCA, on April 13, 2014, each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "**Bankruptcy Code**"), in the United States Bankruptcy Court for the Southern District of New York, White Plains (the "**Bankruptcy Court**"); and

WHEREAS, the Company, MPM and the Amending Commitment Parties wish to amend the BCA.

NOW, THEREFORE, in consideration of the mutual promises contained herein, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Amendment Parties hereby agree as follows:

1. Capitalized Terms. Capitalized terms used but not defined in this Amendment have the meanings ascribed to such terms in the BCA.

2. Amendment.

   a. The definition of "Purchase Price" is hereby restated to read as follows:

      "**Purchase Price**" means $17.28.

   b. The definition of "Selected Economic Terms" is hereby restated to read as

follows:

"**Selected Economic Terms**" means, collectively, the definition of Purchase Price and the terms of Section 3.1.

c. The first sentence of Section 3.1 of the BCA is hereby restated to read as follows:

Subject to Section 3.2, as consideration for the Put Option, the Backstop Commitment and the other agreements of the Commitment Parties in this Agreement, the Debtors shall pay or cause to be paid a nonrefundable aggregate premium in an amount equal to $30,000,000, which represents 5.0% of the Rights Offerings Amount (without application of the discount to equity value that was used to calculate the Purchase Price in accordance with the Term Sheet), payable in accordance with Section 3.2, to the Commitment Parties (including any Replacing Commitment Party, but excluding any Defaulting Commitment Party) or their designees based upon their respective Backstop Commitment Percentages at the time the payment is made (the "**Commitment Premium**").

d. The third sentence of Section 3.2 of the BCA is hereby restated to read as follows:

MPM shall satisfy its obligation to pay the Commitment Premium on the Closing Date by issuing 1,475,652 additional shares of New Common Stock out of the Total Outstanding Shares to the Commitment Parties in lieu of any cash payment; provided, that if the Closing does not occur, the Commitment Premium shall be payable in cash and only to the extent provided in Section 9.4.

e. Clause (ii) of Section 4.4(a) is hereby restated to read as follows:

(ii) the outstanding capital stock of MPM will consist of a number of issued and outstanding shares of New Common Stock equal to the number of Total Outstanding Shares,

f. Clause (ii) of Section 4.33(a) is hereby restated to read as follows:

(ii) the outstanding capital stock of Top HoldCo will consist of a number of issued and outstanding shares of Top HoldCo Common Stock equal to the number of Total Outstanding Shares plus any shares issued after the Effective Date in accordance with the new management incentive plan in accordance with the Term Sheet,

g. Section 6.18(d) of the BCA is hereby deleted in its entirety.

h. Section 7.1 of the BCA is hereby amended to include a new subclause (v) as set forth below:

(v) Interest on General Unsecured Claims. The Debtors' good faith

estimate (in consultation with the Commitment Parties and the Creditors' Committee (as defined in the Plan)) of the ultimate amount of interest payable pursuant to Section 5.7(a) of the Plan to holders of General Unsecured Claims (as defined in the Plan) which will ultimately be Allowed (as defined in the Plan) shall equal no more than $400,000.

i. Section 8.1 of the BCA is hereby restated to read as follows:

Section 8.1 Indemnification Obligations. Following the entry of the BCA Approval Order, the Company and the other Debtors (the "**Indemnifying Parties**" and each, an "**Indemnifying Party**") shall, jointly and severally, indemnify and hold harmless each Commitment Party and its Affiliates, equity holders, members, partners, general partners, managers and its and their respective Representatives and controlling persons (each, an "**Indemnified Person**") from and against any and all losses, claims, damages, liabilities and costs and expenses (other than Taxes of the Commitment Parties except to the extent otherwise provided for in this Agreement) (collectively, "**Losses**") that any such Indemnified Person may incur or to which any such Indemnified Person may become subject arising out of or in connection with this Agreement, the RSA, the Chapter 11 Proceedings, the Intercreditor Litigation or any other similar claims, including any arising under or in connection with, or otherwise related to, the Second Lien Intercreditor Agreement and any related litigation, the Plan and the transactions contemplated hereby and thereby, including the Backstop Commitments, the Rights Offerings, the payment of the Commitment Premium or the use of the proceeds of the Rights Offerings, or any claim, challenge, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Person is a party thereto, whether or not such proceedings are brought by the Company, the other Debtors, their respective equity holders, Affiliates, creditors or any other Person, and reimburse each Indemnified Person upon demand for reasonable documented (with such documentation subject to redaction to preserve attorney client and work product privileges) legal or other third-party expenses incurred in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing (including in connection with the enforcement of the indemnification obligations set forth herein), irrespective of whether or not the transactions contemplated by this Agreement or the Plan are consummated or whether or not this Agreement is terminated; provided, that the foregoing indemnity will not, as to any Indemnified Person, apply to Losses (a) as to a Defaulting Commitment Party, its Related Parties or any Indemnified Party related thereto, caused by a Commitment Party Default by such Commitment Party, or (b) to the extent they are found by a final, non-appealable judgment of a court of competent jurisdiction to arise from the bad faith, willful misconduct or gross negligence of, or breach of fiduciary duty by, such Indemnified Person.

"**Intercreditor Litigation**" means the litigation commenced on June 19, 2014, by BOKF, NA, in the Supreme Court of the State of New York, County of New York against, among others JPMorgan Chase Bank, N.A., and certain holders of Second Lien Notes.

"**Second Lien Intercreditor Agreement**" means that certain intercreditor agreement dated November 16, 2012, to which JPMorgan Chase Bank, N.A. (or any successor agent), and MPM are parties.

j. The following sentence is hereby added at the end of Section 8.6 of the BCA:

For the avoidance of doubt, the covenants set forth in this Article VIII shall survive the Closing Date and shall remain in full force and effect thereafter.

k. Sections 9.2(a), (d) and (e) of the BCA are hereby restated to read as follows:

(a) the Bankruptcy Court has not entered the BCA Approval Order or the RSA Approval Order prior to 11:59 p.m., New York City time on June 24, 2014;

(d) the Requisite Commitment Parties, MSC and the Company (or counsel acting on their behalf) have not agreed in writing to the form of SSA Amendment on or prior to the date that is set by the Bankruptcy Court as the deadline for ballots to be received in connection with voting to accept or reject the Plan, unless such date is waived or extended by delivery of written notice from the Commitment Parties, other than Apollo, that hold in the aggregate a majority of the Backstop Commitments, by dollar amount, provided by all Commitment Parties other than Apollo;

(e) the Bankruptcy Court has not entered each of the Confirmation Order and the BCA Consummation Approval Order prior to 11:59 p.m., New York City time on September 14, 2014;

l. Section 9.4(b)(iii) of the BCA is hereby amended by adding the following sentence at the end of such sentence:

Notwithstanding the foregoing, any Commitment Party that has not acted in good faith in connection with the negotiations regarding the SSA Amendment shall not be entitled to receive payment of its pro rata share of the Commitment Premium pursuant to this Section 9.4 arising from the termination of this Agreement pursuant to Section 9.2(d), and such pro rata share of the Commitment Premium shall be retained by the Company and shall not be payable to any of the other Commitment Parties.

m. The following sentence is hereby added at the end of Section 9.4:

For the avoidance of doubt, no Commitment Premium shall be payable pursuant

to this Section 9.4 in the event this Agreement is terminated automatically pursuant to Section 9.2 solely because the economic terms of the Replacement Notes required by the Bankruptcy Court are not satisfactory to the Requisite Commitment Parties.

"**Replacement Notes**" means the replacement securities to be received by the holders of those certain 8.875% First-Priority Senior Secured Notes due 2020 and those certain 10% Senior Secured Notes due 2020 pursuant to the Plan.

3. Waiver of Termination Event. The Commitment Parties hereby waive any occurrence of the termination event set forth in Section 9.2(a) of the BCA occurring prior to execution of this Amendment.

4. Amending Creditors' Representations and Warranties. Each undersigned Amending Commitment Party, severally but not jointly, represents, warrants, and acknowledges that (i) such Amending Commitment Party has the power and authority to execute, deliver, and perform its obligations under this Amendment, and to consummate the transactions contemplated herein, (ii) the execution, delivery, and performance by such Amending Commitment Party under this Amendment and the consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of the Amending Commitment Party, and (iii) this Amendment has been duly executed and delivered by the Amending Commitment Party and constitutes the legal, valid, and binding agreement of such Amending Commitment Party and is enforceable against such Amending Commitment Party in accordance with its terms.

5. Company's Representations and Warranties. The Company hereby represents, warrants, and acknowledges that (i) each of the Company and MPM has the power and authority to execute, deliver, and perform its obligations under this Amendment, and to consummate the transactions contemplated herein, (ii) the execution, delivery, and performance by each of the Company and MPM under this Amendment and the consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of the Company and MPM, and (iii) this Amendment has been duly executed and delivered by each of the Company and MPM and constitutes the legal, valid, and binding agreement of the Company and MPM and is enforceable against the Company and MPM in accordance with its terms.

6. Modification; Full Force and Effect. Except as expressly modified and superseded by this Amendment, the terms and provisions of the BCA are and shall continue in full force and effect.

7. Other Miscellaneous Terms. The provisions of Article X (Miscellaneous) of the BCA shall apply *mutatis mutandis* to this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the Amending Parties have caused this FIRST AMENDMENT TO BACKSTOP COMMITMENT AGREEMENT to be duly executed as of the date above written.

MOMENTIVE PERFORMANCE MATERIALS HOLDINGS INC.

By: _____
Name:
Title:

MOMENTIVE PERFORMANCE MATERIALS INC.

By: _____
Name:
Title:

[AMENDING COMMITMENT PARTY]

By: _____
Name:
Title:

EXHIBIT B

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Kenneth H. Eckstein
Adam C. Rogoff
Stephen D. Zide
Anupama Yerramalli
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000

Proposed Counsel for the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
GENCO SHIPPING & TRADING LIMITED, et al.,	:	Case No.
Debtors.	:	Joint Administration Pending

MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING THE ASSUMPTION OF THE RESTRUCTURING SUPPORT AGREEMENT; (B) APPROVING PAYMENT OF THE TERMINATION FEE; AND (C) GRANTING RELATED RELIEF

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Genco Shipping & Trading Limited ("**Genco**") and certain of its direct and indirect subsidiaries, as chapter 11 debtors and debtors in possession (each a "**Debtor**" and collectively the "**Debtors**"[1] or the "**Company**") in the above-referenced chapter 11 cases (the "**Chapter 11**

[1] The Debtors and, if applicable, the last four digits of their taxpayer identification numbers are as follows: Genco Shipping & Trading Limited (9758), Genco Investments LLC, Genco Management (USA) LLC (3865), Genco RE Investments LLC, Genco Ship Management LLC (7604), Genco Acheron Limited (9293), Genco Aquitaine Limited (8217), Genco Ardennes Limited (8215), Genco Augustus Limited (3622), Genco Auvergne Limited (8233), Genco Avra Limited (5557), Genco Bay Limited (5558), Genco Beauty Limited (9761), Genco Bourgogne Limited (8236), Genco Brittany Limited (8237), Genco Carrier Limited (9763), Genco Cavalier LLC (9764), Genco Challenger Limited (6074), Genco Champion Limited (6073), Genco Charger Limited (6072), Genco Claudius Limited (3620), Genco Commodus Limited (3619), Genco Constantine Limited (3617), Genco Explorer Limited (9764), Genco Hadrian Limited (3608), Genco Hunter Limited (6158), Genco Knight Limited (9773), Genco Languedoc Limited (8238), Genco Leader Limited (9774), Genco Loire Limited (8239), Genco London Limited (3610), Genco Lorraine Limited (8242), Genco Mare Limited (5641), Genco Marine Limited (9775), Genco Maximus Limited (3613),

Cases"), hereby file this motion (this "**Motion**") for entry of an order in substantially the form annexed hereto as **Exhibit A** (the "**Proposed Order**") (a) authorizing the Debtors to assume the Restructuring Support Agreement, dated as of April 3, 2014 (the "**Restructuring Support Agreement**" or "**RSA**"),[2] attached hereto as **Exhibit B**, by and among the Debtors, the overwhelming majority of its 2007 Facility Lenders, the $253 Million Facility Lenders and the $100 Million Facility Lenders (together, the "**Supporting Lenders**"), and the majority of the holders of the 5.0% Convertible Notes ("**Supporting Noteholders**"), (b) approving the terms and conditions of the Termination Fee solely in the event that the RSA is terminated to pursue an "Alternative Transaction," and (c) granting such other relief as is just and proper. In support of the Motion, the Company relies upon the Declaration of John C. Wobensmith Pursuant to Local Bankruptcy Rule 1007-2 and in Support of the First Day Motions and Applications (the "**First Day Declaration**"), and respectfully represents as follows:

PRELIMINARY STATEMENT

1. After months of extensive, arms-length and multi-party negotiations, the Debtors entered into the RSA with its secured lenders under all three of its prepetition secured credit facilities – who collectively have claims in excess of $1.3 billion – and an ad hoc group of the Debtors' largest unsecured creditor constituency, the Convertible Notes. The RSA establishes the framework and support for a prepackaged plan of reorganization (the "**Prepack Plan**") that

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Genco Muse Limited (5276), Genco Normandy Limited (8243), Genco Ocean Limited (5645), Genco Picardy Limited (8244), Genco Pioneer Limited (9767), Genco Predator Limited (6075), Genco Progress Limited (9776), Genco Prosperity Limited (9777), Genco Provence Limited (8246), Genco Pyrenees Limited (8599), Genco Raptor LLC (9767), Genco Reliance Limited (9768), Genco Rhone Limited (8248), Genco Spirit Limited (5650), Genco Success Limited (9769), Genco Sugar Limited (9778), Genco Surprise Limited (9385), Genco Thunder LLC (9769), Genco Tiberius Limited (3614), Genco Titus Limited (3615), Genco Vigour Limited (9770), Genco Warrior Limited (6076), and Genco Wisdom Limited (9771). The Debtors' business address is 299 Park Avenue, New York, NY 10171. Neither Baltic Trading Limited nor its subsidiaries are Debtors.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Restructuring Support Agreement.

will dramatically deleverage the Company's significant financial obligations and provide immediate new liquidity through a fully back stopped $100 million rights offering. With the overwhelming support of all of its creditor constituencies, the RSA paves the way for a settlement that allows the Company to exit chapter 11 expeditiously—and thereby preserve business operations—and provides the best available opportunity for the Company to maximize value for the estates. Importantly, the RSA is supported by substantially all of the holders (over 98%) of claims outstanding under the 2007 Credit Facility, 100% of claims outstanding under the $253 Million Credit Facility, 100% of claims outstanding under the $100 Million Credit Facility, and the majority (over 82%) of the claims outstanding under the Convertible Notes, in each case measured by principal amount outstanding. The assumption of the RSA ensures that the agreement that forms the foundation for a consensual restructuring continues to be valid and enforceable against all signatories and continues to provide the Debtors with the benefits they bargained for thereunder, including a deleveraged balance sheet, amended ongoing credit facilities, and an opportunity for all stakeholders to maximize recoveries while permitting the Debtors' global businesses to proceed swiftly towards confirmation and emergence from bankruptcy as a healthier and more viable competitor.

2. In accordance with the terms of the RSA, the Company and the Supporting Creditors finalized the terms of the Prepack Plan and the accompanying disclosure statement prior to filing the Chapter 11 Cases, and commenced solicitation of votes on the Prepack Plan from creditors entitled to vote on April 16, 2014.

3. As noted, the Prepack Plan (which was contemplated by the RSA) (i) eliminates approximately $1.2 billion of the Company's debt, (ii) provides the Company with $100 million of additional new money liquidity through a fully-backstopped rights offering (the

"**Rights Offering**"), and (iii) extends the maturity dates of the Company's $253 Million Facility and the $100 Million Facility. In exchange for the conversion of 100% of their debt to equity, the lenders under the 2007 Credit Facility will receive 81.1% of Reorganized Genco's equity and the right to participate in 80% of the Rights Offering (backstopped by certain of the Supporting 2007 Facility Lenders), and eligible holders of the Convertible Notes will receive 8.4% of the Reorganized Company's equity and the right to participate in up to 20% of the Rights Offering (backstopped by certain of the Supporting Noteholders). Through foregoing value otherwise distributable to senior or other creditors, the settlement embodied in the RSA allows for all other allowed general unsecured claims to be reinstated and paid in the ordinary course, and provides for existing equity to receive of warrants in exchange for the surrender or cancellation of their equity interests, from the consideration that would otherwise be distributed to the lenders under the 2007 Credit Facility and holders of the Convertible Notes. The distribution to equity holders, negotiated at the request of the Company, allows for *all* stakeholders to participate in the Debtor's restructuring and financial recovery. Proposing a pre-packaged plan and restructuring with overwhelming support from its major creditor constituencies at the outset of these cases allows the Company to avoid any negative consequences that would result from a "free fall" into bankruptcy. It also allows the Company to accomplish a dramatic deleveraging that it could not otherwise impose, even in bankruptcy, upon the 2007 Facility Lenders.

4. The RSA not only requires the Supporting Creditors to vote in favor of the Prepack Plan, but it prohibits such parties from opposing confirmation or the approval of the disclosure statement. The RSA contains a reasonable "fiduciary out" allowing the Company to continue exercising its fiduciary duties throughout the cases, including, in consideration for the Termination Fee, allowing the Company to receive, review, and negotiate unsolicited alternative

transactions. This provision was the subject of extensive negotiation and ensures that, while not permitting the Company to affirmatively shop itself, the Debtors were permitted to fully evaluate any unsolicited bids they receive without being required to terminate the RSA and sacrifice the numerous benefits to all stakeholders from that agreement.

5. The Prepack Plan, for which the RSA guarantees support, presents the best available alternative for exiting chapter 11 expeditiously in a manner that preserves value for all stakeholders. Importantly, a protracted bankruptcy process resulting from a non-consensual restructuring could have significant impacts on the Company's operations, including as a result of the deterioration of trade terms, customers withholding payment, and the threat of arrested Vessels, among other operational disruptions, each of which could result in a loss of revenues for the Company. The consummation of the Prepack Plan on the terms and timetable established by the RSA will avoid the vast majority of these concerns, thereby maintaining and maximizing stakeholder value.

6. In sum, the Company's assumption of the RSA is a sound exercise of its business judgment.

BACKGROUND, JURISDICTION, AND VENUE

7. On the date hereof (the "**Petition Date**"), the Company filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Company continues to manage and operate its businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases.

8. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The statutory predicates for the relief requested herein are sections 105(a) and 365 of the Bankruptcy Code and Rule 6006 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") Rule 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the "**Local Rules**").

THE COMPANY'S BUSINESS AND RESTRUCTURING EFFORTS

I. General Background

11. With a fleet of fifty-three (53) vessels (each a "**Vessel**") having a carrying capacity of approximately 3,810,000 deadweight tons traversing the globe, the Company is one of the world's largest drybulk shippers. Operating in over 1,000 ports of call located in over 110 countries, including in the Far East, South and Central America, Europe, West Africa, and the United States, the Company charters its sizable fleet worldwide to third-party customers through fixed-rate and spot-market related time charters, the latter of which makes the Company's revenues susceptible to rate fluctuations in the drybulk shipping market. Along with their thirty-three (33) direct employees based out of the Company's global (and only) headquarters in Manhattan, New York, the Company relies upon third-party technical ship managers to crew, manage, supply and maintain the Vessels.

12. Substantially all of the Company's liabilities consist of funded debt (i.e., non-trade debt and derivative liability). As of the date hereof, the Company had over $1.3 billion outstanding under its secured and unsecured debt facilities, comprised of the following: (a) a $1.377 billion senior secured credit facility with Wilmington Trust, National Association as successor administrative agent and successor collateral agent, which matures on July 20, 2017 (as amended, the "**2007 Credit Facility**"); (b) a $100 million senior secured credit facility with Crédit Agricole Corporate and Investment Bank, as agent and security trustee, which matures on August 17, 2017 (as amended, the "**$100 Million Credit Facility**"); (c) a $253 million senior

secured credit facility with Deutsche Bank Luxembourg S.A. as agent, which matures on August 14, 2015 (as amended, the "**$253 Million Credit Facility**," together with the 2007 Credit Facility and the $100 Million Credit Facility, the "**Credit Facilities**"); and (d) $125 million of unsecured 5% Convertible Senior Notes due 2015 (the "**Convertible Notes**") under an indenture dated July 27, 2010, with the Bank of New York Mellon as indenture trustee. The Vessels – which constitute substantially all of the Company's tangible material assets – are pledged under the Credit Facilities pursuant to the terms of the applicable credit and security documents relating to such facilities.

13. As described in the First Day Declaration, in the months prior to the Petition Date, the Company evaluated, in consultation with its advisors, options to restructure the Company's liabilities and deleverage its balance sheet while increasing liquidity through a new capital investment. The Company engaged in extensive discussions and negotiations with representatives of the prepetition agents and the majority of the lenders under each of the Credit Facilities, as well as an ad hoc group of holders of Convertible Notes, on the terms of a consensual restructuring.

14. Additional factual background regarding the Company, including its business operations, capital and debt structure, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the First Day Declaration.

II. The Restructuring Support Agreement[3]

15. On April 3, 2014, the Company entered into the RSA with the Supporting Lenders and the Supporting Noteholders. The RSA provides for the Company to solicit acceptances for the Prepack Plan discussed above, which facilitates a global settlement with the

[3] The summary of the RSA as set forth herein is provided for illustrative purposes only and is qualified in its entirety by reference to the RSA. In the event of any inconsistency between this summary and the RSA, the RSA shall control in all respects.

Supporting Creditors, allows for the Company's global operations to remain unaffected by the financial restructuring and, in exchange for proceeding on an expeditious basis, provides a recovery to all stakeholders, including equity holders, through a voluntary reallocation of value.

16. The Company distributed the Prepack Plan and Disclosure Statement for the Prepack Plan to those holders of impaired claims entitled to vote, and after receiving acceptances from the requisite amount of holders of Allowed Claims in the Credit Facilities, the Company commenced these Chapter 11 Cases. The Company will continue to accept votes postpetition on the Prepack Plan from the Convertible Noteholders, while moving towards confirmation of the Prepack Plan and emergence from Chapter 11 in accordance with the consensual milestones in the RSA.

17. The transactions contemplated by the RSA and the Prepack Plan position the Company to be a successful enterprise going forward.

18. *Obligations of the Parties*. Under the RSA, the Company is obligated to: (i) support and use commercially reasonable efforts to complete the Restructuring contemplated under the RSA; (ii) take no action that is inconsistent with the RSA, the Restructuring Term Sheet, the Prepack Plan, or that would cause unreasonable delays; (iii) not to support any other plan or transaction (subject to provisions regarding the Company's fiduciary duties); (iv) to pay the reasonable and documented fees and expenses of certain advisors to (A) the Supporting Noteholders, so long as they are bound by the RSA, and (B) the Supporting Lenders in the manner, and to the extent, provided for in the Cash Collateral Order (as defined below); and (v) to take no action which would be reasonably expected to breach the RSA or interfere with the Restructuring. See RSA § 2(a). In turn, the Supporting Creditors have customary plan support obligations. Among other things, the Supporting Creditors are obligated to: (i) support approval

of the Prepack Plan, Disclosure Statement, and the Restructuring; (ii) timely vote to accept the Prepack Plan (including any plan releases) and not later withdraw or change their vote; (iii) take no actions in opposition to the Prepack Plan or the solicitation of the Prepack Plan; (iv) waive and release any rights to exercise remedies against any collateral of the Company in connection with the applicable Debt Instrument or otherwise applicable non-bankruptcy law as of the effective date of the Prepack Plan (except as otherwise provided for in the Prepack Plan); and (v) take no action, under or relating to the applicable Debt Instrument or otherwise, against the Company or any collateral that constitutes an enforcement action or remedy. Id. § 2(b).

19. In addition, as part of the settlement embodied in the RSA, the Company obtained the agreement for the consensual use of "cash collateral" pursuant to the terms of a proposed order (the "**Cash Collateral Order**"). Under the RSA, each of the Supporting Creditors is obligated to support approval of, and not object to, the entry of the Cash Collateral Order.

20. Subject to certain exceptions, upon entry into the RSA, the Supporting Creditors are not authorized to sell, transfer, assign, or otherwise dispose of their claims or interests, unless transferring such claims or interests to another Supporting Creditor or an entity that otherwise agrees to be bound by the terms of the RSA. Any transfer made in violation of the RSA will be null and void and of no force or effect. See id. § 5.

21. *Termination of the RSA*. The RSA may be terminated at any time by the mutual written agreement of the Company and the Required Supporting Creditors. In addition, the RSA will terminate *automatically* if: (i) an order denying confirmation of the Prepack Plan is entered; (ii) the confirmation order is reversed or vacated; (iii) the RSA is found to be unenforceable; or (iv) the effective date of the Prepack Plan occurs. Id. § 11(a).

22. The Company may terminate the RSA on five (5) days' notice following:

(i) a material breach by any Supporting Creditor of its obligations under the RSA having a material adverse impact on confirmation or consummation of the Prepack Plan;

(ii) a determination by the Company's board of directors that (A) continued pursuit of the Prepack Plan is inconsistent with its fiduciary duties or (B) an unsolicited proposal for an Alternative Transaction received by the Company is likely to be more favorable than the Restructuring and continued support of the Restructuring is inconsistent with the Company's fiduciary duties; or

(iii) a governmental authority's issuance of an injunction, judgment, decree, charge, ruling, or order preventing consummation of a material portion of the Restructuring.

23. The RSA may be terminated by two-thirds of the Supporting Creditors of a particular Debt Instrument (the "**Required Supporting Creditors**") on five (5) days' notice after the occurrence of any of the following events:

(i) The Definitive Documents filed by the Company include terms that are inconsistent with the Restructuring Term Sheet and are not otherwise acceptable;

(ii) A breach by the Company of its material obligations under the RSA;

(iii) If the Company (A) withdraws the Prepack Plan, (B) publicly announces its intention not to support the Prepack Plan, (C) files a motion seeking the approval of an Alternative Transaction, or (D) agrees to pursue an Alternative Transaction, or announces its intent to do so;

(iv) If the Company seeks to sell material assets without the consent of the Supporting Creditors in accordance with the terms of the RSA;

(v) Failing to meet a Milestone which has not been waived or extended;

(vi) The Company seeks, or the Bankruptcy Court orders, dismissal or conversion of the cases to chapter 7, or the appointment of a trustee or examiner in the Chapter 11 Cases;

(vii) The Company loses plan exclusivity;

(viii) Any Definitive Documents contain provisions that alter the treatment of the Noteholders under the RSA absent their consent;

(ix) A governmental authority issues an injunction, judgment, decree, charge, ruling, or order preventing consummation of a material portion of the Restructuring that cannot be remedied by the Company;

(x) A "Termination Event" occurs under the Cash Collateral Order; or

(xi) A court of competent jurisdiction or other competent authority issues an order restricting or preventing the Restructuring.

24. Any individual Supporting Creditor also has the right to terminate the RSA, as to itself only, if the Prepack Plan does not become effective by August 1, 2014. Any such termination by an individual Supporting Creditor, however, will not affect the rights or obligations of any other party bound by the RSA.

25. In addition, the RSA will automatically terminate with respect to the Supporting 2007 Facility Lenders five (5) business days after the occurrence of any of the termination events for the Required Supporting Creditors (other than (i), (ii) and (viii), above), unless it is otherwise cured or waived in writing by the Required Supporting 2007 Facility Lenders. If any Definitive Documents include terms inconsistent with the RSA or are not otherwise acceptable to certain of the 2007 Facility Lenders, the RSA will automatically terminate with respect to the Supporting 2007 Facility Lenders five (5) days after notice by at least three (3) Supporting Facility Lenders that collectively hold one-third in aggregate principal amount outstanding under the 2007 Credit Facility.

26. Under the RSA, the Company agreed to comply with certain Milestones to meet the Parties' expectation of expeditious Chapter 11 Cases, as follows:

(i) Solicitation of votes from the voting classes must commence by April 16, 2014;

(ii) the Company must have commenced the Chapter 11 Cases and filed this Motion five days thereafter (i.e., by April 21, 2014);

(iii) the Cash Collateral Order will be approved (i) on an interim basis, by the fifth business day after the Petition Date (i.e., April 28, 2014) and (ii) on a final basis, by the forty-fifth day after the Petition Date (i.e., June 5, 2014);

(iv) the Company Parties' assumption of the RSA must be approved by the firth business day after the Petition Date (i.e., April 28, 2014);

(v) the order approving the Disclosure Statement and confirming the Prepack Plan must be approved by the forty-fifth day after the Petition Date (i.e., June 5, 2014); or

(vi) the effective date of the Prepack Plan must occur by must occur by the later of (x) ten days following confirmation of the Prepack Plan (i.e., June 15, 2014), (y) completion of the Rights Offering, or (z) notice from the respective lenders that the conditions to the closing of the Company's exit financing have been satisfied or waived.

27. While the Parties agreed to support approval of the Prepack Plan, the RSA does not constitute a solicitation for votes to approve the Prepack Plan in contravention of applicable non-bankruptcy law or section 1125(b) of the Bankruptcy Code. As acknowledged in the RSA, any obligation to vote in favor of the Prepack Plan is expressly conditioned on the receipt of the Prepack Plan and a copy of an accompanying disclosure statement that complies with applicable non-bankruptcy law. See RSA § 4.

28. *Company's Fiduciary Duties*. Importantly, the RSA does not vitiate the Company's fiduciary duties in administering the Chapter 11 Cases. Indeed, the RSA allows the Company to receive (but not solicit) alternative proposals from creditors or third parties, and provide due diligence, discuss, and/or analyze such alternative transactions prior to confirmation while still remaining bound by the terms of the RSA.

29. Specifically, the RSA provides:

> For the avoidance of doubt, and notwithstanding any provisions to the contrary herein but subject to the remainder of this paragraph, ***in order to fulfill the Company Parties' fiduciary obligations, the Company may receive (but not solicit) proposals or offers for Alternative Transactions from other parties and negotiate, provide due diligence, discuss, and/or analyze such Alternative Transactions received without breaching or terminating this Agreement***; provided that the Company shall provide a copy of any written offer or proposal (and notice of any oral offer or proposal) for an Alternative Transaction received to the legal counsel to and the financial advisors to the Supporting Creditors within one (1) business day of the Company's or its advisors' receipt of such offer or proposal.

RSA § 11 (emphasis added).

30. *Termination Fee*. As noted above, the broad scope of the right to consider unsolicited offers was heavily negotiated among the parties to allow the Company to receive (but not solicit) and thereafter negotiate offers for an Alternative Transaction without being required to terminate the RSA and lose the benefits therefrom. In consideration of the Supporting 2007 Facility Lenders and the Convertible Noteholders' commitments under the RSA to voluntarily and dramatically deleverage the Company and provide $100 million of new capital – which, in turn, provides a benchmark for the analysis of any other alternatives received – the Company agreed to provide for a termination fee to be owed to the Supporting 2007 Facility Lenders and the Supporting Noteholders in the aggregate amount of $26.5 million, plus expense reimbursements owing under the RSA (the "**Termination Fee**"), *solely* in the event the RSA is terminated to allow the Company to pursue an Alternative Transaction, and such Alternative Transaction is actually consummated. If ultimately payable, each Supporting 2007 Facility Lender or Supporting Noteholder will receive their pro rata share of the Termination Fee, based on the amount of their holdings of claims under the 2007 Credit Facility and Convertible Notes as against the aggregate amount of 2007 Credit Facility Claims and Convertible Notes held by all Supporting Creditors.

31. The Termination Fee will be treated as an administrative expense, and will serve as the sole and exclusive remedy of the Supporting 2007 Facility Lenders and Convertible Noteholders under the RSA in the event it is owed. In addition, the Termination Fee will *not* be paid unless and until an Alternative Transaction is consummated. The Termination Fee is approximately 2.2% of the capital commitment being provided by the Supporting 2007 Facility Lenders and Supporting Noteholders under the RSA for backstopping the $100 million of new equity and the conversion of over $1.2 billion of debt into equity of Reorganized Genco.

RELIEF REQUESTED

32. By this motion, the Company seeks the entry of an order (a) authorizing the Company to assume the RSA, (b) approving the terms and conditions of the Termination Fee, and (c) granting such other relief as is just and proper.

BASIS FOR RELIEF REQUESTED

I. Assumption of the Restructuring Support Agreement Falls within the Company's Sound Business Judgment

33. The Company's entry into the RSA is an exercise of sound business judgment. This Court should authorize the Company to assume the RSA. Section 365(a) of the Bankruptcy Code provides, in relevant part, that a debtor, "subject to the court's approval, may assume or reject an executory contract or an unexpired lease." 11 U.S.C. § 365(a); see also Univ. Med. Ctr. v. Sullivan (In re Univ. Med. Ctr.), 973 F.2d 1065, 1075 (3d Cir. 1992). The assumption of a contract by a debtor is subject to review under the business judgment standard. See In re Federated Dep't Stores, Inc., 131 B.R. 808, 811 (S.D. Ohio 1991) ("Courts traditionally have applied the business judgment standard in determining whether to authorize the rejection of executory contracts and unexpired leases"). If a debtor's business judgment has been reasonably exercised, a court should approve the assumption or rejection of the executory contract or unexpired lease. See, e.g., NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984); Grp. of Institutional Investors v. Chicago M. St. P. & P.R.R. Co., 318 U.S. 523, 551 (1943); In re Mkt. Square Inn, Inc., 978 F.2d 116, 121 (3d Cir. 1992) (holding that the "resolution of . . . assumption or rejection will be a matter of business judgment").

34. The business judgment rule shields a debtor's management from second-guessing by the courts. See In re Johns-Manville Corp., 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("[T]he Code favors the continued operation of a business by a debtor and a presumption

of reasonableness attaches to a debtor's management decisions."). Once a debtor articulates a valid business justification, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.'" In re Integrated Res., Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting Smith v. Van Gorkom, 488 A.2d 858, 872 (Del. 1985)).

35. In applying the "business judgment" standard, debtors are usually given significant discretion when requesting to assume or reject an executory contract or unexpired lease. See In re Riodizio, Inc., 204 B.R. 417, 424 (Bankr. S.D.N.Y. 1997) ("[A] court will ordinarily defer to the business judgment of the debtor's management"); In re Chipwich, Inc., 54 B.R. 427, 430-31 (Bankr. S.D.N.Y. 1985) (finding that a court should not interfere with a debtor's decision to assume or reject "absent a showing of bad faith or abuse of business discretion"). Further, the "business judgment" standard merely requires the debtors to establish that the requested assumption will benefit the estate. See Westbury Real Estate Ventures, Inc. v. Bradlees, Inc. (In re Bradlees Stores, Inc.), 194 B.R. 555, 558 n.1 (Bankr. S.D.N.Y. 1996) ("the court must examine the contract and circumstances and apply its best 'business judgment' to determine if the assumption or rejection would be beneficial or burdensome to the estate").

36. Indeed, Courts in this and other jurisdictions have approved the assumption of prepetition plan support agreements. See, e.g., In re TBS Shipping Svcs., Inc., No. 12-22224 (RDD) (Bankr. S.D.N.Y. Feb. 28, 2012) [Dkt. No. 80]; In re Jobson Med. Info. Holdings, LLC, No. 12-10434 (SHL) (Bankr. S.D.N.Y. Feb. 25, 2012) [Dkt. No. 51]; In re Am. Media, Inc., No. 10-16140 (MG) (Bankr. S.D.N.Y. Nov. 29, 2010) [Dkt. No. 73]. See also In re

Nextmedia Grp., Inc., No. 09-14463 (PJW) (Bankr. D. Del. Jan. 22, 2010) [Dkt. No. 126]; In re The Newark Grp., No. 10-27694-(NLW) (Bankr. D.N.J. June 30, 2010) [Dkt. No. 119].

37. Assumption of the RSA satisfies the business judgment test. The RSA is the result of extensive, arms'-length negotiations between the Company and the Supporting Creditors, with all parties represented by sophisticated counsel. The terms of the RSA reflect significant concessions from all signatory parties. The agreement embodied by the RSA has the support of the lenders holding over 98% of the claims under the 2007 Credit Facility, 100% of the lenders under the $253 Million Credit Facility and the $100 Million Credit Facility, and the Convertible Noteholders holding in excess of 82% of the Convertible Note Claims. In addition, the enhanced liquidity resulting from the secured lenders' consent to the Company's use of cash collateral without a protracted, expensive, and ultimately uncertain contested legal proceeding, in and of itself constitutes significant consideration that will enhance the estates and preserve the Company's going-concern value. Accordingly, the consensual restructuring facilitated by the RSA allows the Company to deleverage its balance sheet, maximize its enterprise value on a going-forward basis, and provide a meaningful recovery to all of the Company's stakeholders, including holders of equity interests, and payment in full to the Company's trade creditors. The Company also negotiated and obtained a "fiduciary out," and the ability to receive (and thereafter review and negotiate) unsolicited proposals of Alternative Transactions, thereby preserving third parties' rights to propose alternative restructurings, to the benefit of creditors and the estates.

38. The Company believes that an expeditious prosecution of, and emergence from, the Chapter 11 Cases with the support of its senior secured lenders and its largest unsecured creditor constituency under the RSA is essential to preserve the value of the estates

and avoid unnecessary administrative expenses from a prolonged process. Without the support of the Supporting Creditors, the Company would have been forced to file these cases as a "free fall" bankruptcy, resulting in additional costs, complications, and potentially significant delay, each of which would reduce recoveries under the Prepack Plan. More specifically, the business disruptions resulting from a non-consensual, protracted bankruptcy process include the potential for the arrest of Vessels which, in turn, prohibit Vessels from docking, force the Company to "off hire" with its charter parties, and result in a loss of revenues, among other potential damages—all of which are disruptive to operations and could have a significant negative impact on the value of the estates. By garnering overwhelming creditor support prior to the Petition Date through the execution of the RSA, the Company likely will avoid these potential complications, and the consummation of the Prepack Plan contemplated by the RSA will ensure that the value of the estates is preserved during the expedited chapter 11 process.

39. Given the significant benefits to be gleaned from a consensual transaction, the Company determined, in the exercise of its reasonable business judgment, that entering into the RSA was in the best interest of the estates.

II. Approval of the Terms and Conditions of the Termination Fee is Appropriate

40. In exchange for the significant concessions made by the Supporting 2007 Facility Lenders and Supporting Noteholders (together, the "**Supporting Parties**") under the Prepack Plan and the benefits that plan provides to the estate, the RSA provides for the payment of a Termination Fee to the Supporting Parties if the RSA is terminated to allow the Company to pursue an Alternative Transaction that is actually consummated. The Termination Fee represents a reasonable exercise of the Debtors' business judgment for several reasons. First, the Prepack Plan provides for the conversion of approximately $1.2 billion of prepetition debt into equity, as well as the agreement to backstop a $100 million Rights Offering pursuant to an equity

commitment agreement (the parties providing such commitment, collectively, the "**Backstop Parties**")—each of which directly enhances the value of the estate and recoveries to creditors. Second, the RSA contains a "fiduciary out" (RSA § 11(b)(ii)) and permits the Company to receive unsolicited alternative proposals prior to confirmation of the Prepack Plan. Id. § 11(b). Third, the Prepack Plan contemplates a distribution to equity holders of warrants in exchange for the surrender or cancellation of their equity interests from amounts that would otherwise be distributed to the Prepetition 2007 Facility Lenders and the Convertible Noteholders. Fourth, the amount of the 2.2% Termination Fee was reasonable and appropriate under the circumstances. Accordingly, the Company seeks this Court's authority to pay the Termination Fee, if and when it becomes payable on the terms described above and in the RSA.

41. Section 363 of the Bankruptcy Code provides that, after notice and a hearing, the debtor "may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(l). If the Company determines to, and does, consummate an Alternative Transaction such that the Termination Fee would become due and payable, this payment would constitute a use of property of the estate outside the ordinary course of business.

42. Approval of break-up fees or termination fees, expense reimbursements, and other forms of bidding protections in connection with in- and out-of-court transactions and restructuring proposals is well-established. With these protections a debtor is able to ensure an investment by, or transaction with, a contractually committed investor at a price the debtor believes to be fair, while retaining the ability to obtain an enhanced recovery in the event it receives a superior proposal.

43. Historically, bankruptcy courts apply the business judgment rule when approving break-up fees or termination fees. As discussed above, the business judgment rule discourages judicial second-guessing of the actions of a corporation's board of directors taken in good faith and in the exercise of honest judgment. See, e.g., In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1992) (holding that bidding incentives (such as break-up fees) may "be legitimately necessary to convince a 'white knight' to enter the bidding by providing some form of compensation for the risks it is undertaking") (citation omitted); In re Marrose Corp., Nos. 89 B 12171-12179 (CB), 1992 WL 33848, at *5 (Bankr. S.D.N.Y. Feb. 15, 1992) ("[Bidding incentives] are meant to compensate the potential acquirer who serves as a catalyst or 'stalking horse' which attracts more favorable offers"). In considering break-up fees and termination fees, bankruptcy courts generally consider: (a) whether the relationship of the parties who negotiated the fee is tainted by self-dealing or manipulation; (b) whether the fee hampers, rather than encourages, alternative proposals; and (c) whether the amount of the fee is unreasonable relative to the proposed investment. See Integrated Resources, 147 B.R. at 657. Accord In re Metaldyne Corp., 409 B.R. 661, 670 (Bankr. S.D.N.Y. 2009). Each of these factors supports approval of the Termination Fee.

44. The Company agreed to the Termination Fee in good faith and following arms'-length negotiations with the Supporting 2007 Facility Lenders and the Supporting Noteholders. After considering numerous restructuring alternatives and transactions, the Company determined that the transactions embodied within the RSA and Prepack Plan provide a feasible basis for a restructuring. In the absence of the agreed-upon concessions in the RSA and Prepack Plan, including the backstop of the $100 million Rights Offering by the Backstop Parties

and the Supporting Parties' consent to the conversion of all of their prepetition debt to equity, recoveries for the Company's constituents would be significantly depleted.

45. The Termination Fee is also an integral part of the rights negotiated to be reserved by the Company under the RSA and preservation of going-concern value. The Company not only obtained standard "fiduciary out" language in the RSA, but maintained the ability to receive and negotiate alternative restructuring proposals from third parties leading up to confirmation. The result of the continued ability to negotiate unsolicited alternative restructuring proposals received from third parties is the ability to proceed expeditiously with a Prepack Plan while allowing the opportunity for any unsolicited proposals or offers to be considered. In the Company's business judgment, providing for a Termination Fee in exchange for the concessions made by the Supporting Parties and negotiated terms under the RSA was fair, reasonable, and justified under the circumstances. Importantly, the Company will only be obligated to pay the Termination Fee in the event that the RSA is terminated to allow the Company to pursue an Alternative Transaction that is actually consummated.

46. Moreover, the amount of the Termination Fee is reasonable and customary given the size and type of this transaction. The Supporting 2007 Facility Lenders are committed to invest $80 million in the Company, in addition to agreeing to a $1.05 billion debt-for-equity exchange. In addition, the Supporting Noteholders are committed to invest $20 million in the Company, in addition to agreeing to a $125 million debt-for-equity exchange. Accordingly, the proposed Termination Fee of $26.5 million is approximately 2.2% of the committed amount of over $1.2 billion.

47. Numerous bankruptcy courts, including those in this District, have approved break-up fees or termination fees in amounts similar to the proposed Termination Fee

as reasonable and consistent with the type and range of protections typically approved in connection with a transaction. See, e.g., In re HMX Acquisition Corp., No. 12-14300 (ALG) (Bankr. S.D.N.Y. Nov. 29, 2012) (approving break-up fee of approximately 3.0% of the purchase price); In re Cabrini Med. Ctr., No. 09-14398 (AJG) (Bankr. S.D.N.Y. Dec. 30, 2009) (approving a break-up fee of 3.75% of $80 million sale); In re Tronox Inc., No. 09-10156 (ALG) (Bankr. S.D.N.Y. Sept. 23, 2009) (approving a break-up fee and expense reimbursement totaling 3.7% of total purchase price); In re Metaldyne Corp., 409 B.R. at 670 (approving a break-up fee and expense reimbursement of less than 3% of total purchase price as falling "within the range of what courts in this jurisdiction have found to be acceptable break-up fees"); In re BearingPoint, Inc., No. 09-10691 (REG) (Bankr. S.D.N.Y. Apr. 7, 2009) (approving a break-up fee of 3% of a $350 million sale); In re Silicon Graphics, Inc., No. 09-11701 (MG) (Bankr. S.D.N.Y. Apr. 3, 2009) (approving a break-up fee and expense reimbursement totaling approximately 6% of total purchase price); In re Magellan Health Servs., Inc., No. 03-40515 (PCB) (Bankr. S.D.N.Y. Apr. 7, 2003) (approving discrete termination and commitment fees of 2% and 3%, respectively, in connection with a $30-$50 million equity commitment); In re Integrated Res., Inc., 147 B.R. at 662 (approving termination fee of 3.2% of the $190 million out-of-pocket costs for $565 million sale). The payment of a termination fee is warranted where, as here, the non-debtor party is offering significant consideration to the estate – which it is not otherwise required to provide – and the debtors obtain the ability to preserve that value as a benchmark while other unsolicited offers may be evaluated. This is the hallmark of any breakup fee or termination fee: preservation of value and certainty for the debtor in the face of uncertainty by the non-debtor committing party.

48. Based on the foregoing, the Company respectfully submits that the Termination Fee is necessary and appropriate, is in the best interests of the estates and creditors, and should be approved.

NOTICE

49. No trustee, examiner, or creditors' committee has been appointed in the Chapter 11 Cases. Notice of this Motion has been given to: (a) the Office of the U.S. Trustee for the Southern District of New York; (b) counsel to Wilmington Trust, National Association, solely in its capacity as successor administrative and successor collateral agent under the 2007 Credit Facility; (c) counsel to (i) Crédit Agricole Corporate & Investment Bank, as agent and as security trustee under the $100 Million Credit Facility and (ii) Deutsche Bank Luxembourg S.A., as agent and Deutsche Bank AG Filiale Deutschlandgeschäft, as security agent and bookrunner under the $253 Million Credit Facility; (d) the indenture trustee for the Convertible Notes, The Bank of New York Mellon; (e) counsel for the Supporting Noteholders; (f) the holders of the forty (40) largest unsecured claims against the Company on a consolidated basis; (g) the Internal Revenue Service; (h) the United States Attorney for the Southern District of New York; (i) the United States Securities and Exchange Commission; and (j) any such other party entitled to notice pursuant to Local Bankruptcy Rule for the Southern District of New York 9013-1(b). The Company submits that no other or further notice need be given.

NO PRIOR REQUEST

50. No previous request for the relief sought herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Company respectfully requests that the Court enter an order granting the relief requested herein and such other or further relief as is just and proper.

Dated: New York, New York
April 21, 2014

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Adam C. Rogoff
Kenneth H. Eckstein
Adam C. Rogoff
Stephen D. Zide
Anupama Yerramalli
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000
Proposed Counsel for the Debtors and Debtors in Possession

EXHIBIT 1

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
GENCO SHIPPING & TRADING LIMITED, et al.,	:	Case No.
Debtors.	:	Joint Administration Pending

ORDER GRANTING THE MOTION FOR AN ORDER (A) AUTHORIZING THE ASSUMPTION OF THE RESTRUCTURING SUPPORT AGREEMENT, (B) APPROVING PAYMENT OF THE TERMINATION FEE AND (C) GRANTING RELATED RELIEF

Upon consideration of the motion (the "**Motion**")[1] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**" or the "**Company**") for entry of an order (a) authorizing the assumption of the Restructuring Support Agreement by and among the Company and certain of its 2007 Facility Lenders, $253 Million Facility Lenders, $100 Million Facility Lenders, and Convertible Noteholders, (b) approving the terms and conditions of the Termination Fee as set forth in the Restructuring Support Agreement, and (c) granting such other relief as is just and proper, and upon the First Day Declaration; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated January 31, 2012 (Preska, Acting C.J.); and it appearing that venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this proceeding on the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and sufficient notice of the Motion having been given; and it appearing that no

[1] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Prepack Plan, as applicable.

other or further notice need be provided; and the Court having found that the relief requested in the Motion is in the best interests of the estates, creditors, and other parties-in-interest; and the Court having found that each of the parties to the RSA have acted in good faith in entering into the Agreement; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED to the extent set forth below.

2. The Company is authorized to assume the RSA and the RSA shall be assumed as of the date hereof.

3. The RSA shall be binding and enforceable against the Debtors and the Supporting Creditors in accordance with its terms.

4. The failure to describe specifically or include any particular provision of the RSA or any exhibits attached thereto in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the RSA be assumed by the Company in its entirety, as modified herein.

5. The RSA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto, solely in accordance with the terms thereof, without further order of the Court.

6. The Parties are granted all rights and remedies provided to them under the RSA.

7. The RSA shall be solely for the benefit of the parties thereto and no other person or entity shall be a third-party beneficiary hereof. No entity, other than the Parties to the RSA and the Company, shall have any right to seek or enforce specific performance of the RSA.

8. Notwithstanding anything to the contrary herein, the Company's obligations under the RSA (including without limitation the obligations of the Company's

directors and officers) are subject at all times to the fulfillment of their respective fiduciary duties as provided for in the RSA.

9. The Termination Fee is hereby authorized and approved on the terms and conditions set forth in the RSA.

10. Pursuant to sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code, the Termination Fee, to the extent it becomes due and payable, shall constitute an administrative expense in the Chapter 11 Cases.

11. No default exists under the RSA and, therefore, the Company is not required to satisfy the requirements of Bankruptcy Code section 365(b)(1). Accordingly, the Company is not required to: (a) cure, or provide adequate assurance that the Company will promptly cure, any default under the RSA; (b) compensate, or provide adequate assurance that the Company will promptly compensate, the parties to the RSA for any actual pecuniary loss resulting from any default; or (c) provide adequate assurance of future performance of the RSA.

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice and the requirements of the Bankruptcy Rules and the Local Bankruptcy Rules are satisfied by such notice.

13. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

14. The automatic stay set forth in section 362 of the Bankruptcy Code is modified, to the extent necessary, to permit the delivery of the notice of termination of the RSA and the termination of the RSA, if applicable, pursuant to its terms.

15. The Company is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, and such actions shall not

constitute a solicitation of acceptances or rejections of a plan pursuant to section 1125 of the Bankruptcy Code.

16. This Court shall retain jurisdiction with respect to all matters arising or related to the implementation of this Order.

Dated: _____, 2014
New York, New York

_____
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 2

Restructuring Support Agreement

Execution Version
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RESTRUCTURING SUPPORT AGREEMENT

This Restructuring Support Agreement (the "Agreement") is entered into as of the Effective Date (as defined below) by and among (i) Genco Shipping & Trading Limited ("Genco") and certain of its subsidiaries listed on Schedule 1 hereto (the "Genco Subsidiaries" and, together with Genco, the "Company"), (ii) the undersigned lenders under the 2007 Facility (as defined below) (the "Supporting 2007 Facility Lenders"), (iii) the undersigned lenders under the $253 Million Facility (as defined below) (the "Supporting $253 Million Facility Lenders"), (iv) the undersigned lenders under the $100 Million Facility (as defined below) (the "Supporting $100 Million Facility Lenders" and together with the Supporting 2007 Facility Lenders and the Supporting $253 Million Facility Lenders, the "Supporting Lenders"); and (v) the undersigned holders of, or investment manager for holders of, the Convertible Notes (as defined below) (the "Supporting Noteholders," and together with the Supporting Lenders, the "Supporting Creditors"). Each of the Company, the Supporting Creditors, and each other person that becomes a party to this Agreement in accordance with its terms shall be referred to herein individually as a "Party" and collectively as the "Parties."

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WHEREAS, the Company entered into that certain Credit Agreement, dated as of July 20, 2007 (as amended to date, the "2007 Credit Agreement"), by and among Genco as borrower, the banks and other financial institutions named therein as lenders, Wilmington Trust, N.A., as successor administrative and successor collateral agent (the "2007 Facility Agent"), and the other mandated lead arranger and bookrunner parties thereto, by which the lenders made available to Genco a senior secured credit facility in the amount of $1,377,000,000 (as amended, the "2007 Facility");

WHEREAS, the Company entered into that certain Loan Agreement, dated as of August 20, 2010 (as amended to date, the "$253 Million Loan Agreement"), for a loan not exceeding $253 million, among Genco as borrower, the banks and financial institutions named therein as lenders, BNP Paribas, Credit Agricole Corporate and Investment Bank, DVB Bank SE, Deutsche Bank AG Filiale Deutschlandgeschaft, Skandinaviska Enskilda Banken AB (publ) as mandated lead arrangers, BNP Paribas, Credit Agricole Corporate and Investment Bank, DVB Bank SE, Deutsche Bank AG, Skandinaviska Enskilda Banken AB (publ) as swap providers, and Deutsche Bank Luxembourg S.A. as agent for the lenders (the "$253 Million Facility Agent") and Deutsche Bank AG Filiale Deutschlandgeschaft as security agent (the "$253 Million Facility Security Agent") (as amended, the "$253 Million Facility");

WHEREAS, the Company entered into that certain Loan Agreement, dated as of August 12, 2010 (as amended to date, the "$100 Million Loan Agreement"), for a loan facility of up to $100 million among Genco as borrower, Genco Ocean Limited and the other companies named therein as guarantors, the banks and financial institutions named therein as lenders, and Credit Agricole Corporate and Investment Bank as agent and security trustee (the "$100 Million Facility Agent" and together with the 2007 Facility Agent, the $253 Million Facility Agent, and the $253 Million Facility Security Agent, the

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"Prepetition Agents") (as amended, the "$100 Million Facility," together with the 2007 Facility and the $253 Million Facility, the "Credit Facilities"));

WHEREAS, the Company issued 5.00% Convertible Senior Notes due August 15, 2015 (the "Convertible Notes") pursuant to that certain First Supplemental Indenture, dated as of July 27, 2010, between Genco as issuer and The Bank of New York Mellon (the "Indenture Trustee") as trustee (as amended, the "Indenture" and, together with the 2007 Credit Agreement, the $253 Million Loan Agreement, the $100 Million Loan Agreement, and the Convertible Notes, the "Debt Instruments");

WHEREAS, the Parties have negotiated in good faith at arm's-length and agreed to support a restructuring of the Company's capital structure and financial obligations (the "Restructuring") that is mutually acceptable to the Company and the Supporting Creditors subject to and consistent with the terms and conditions set forth in this Agreement and the Restructuring Term Sheet attached hereto as Exhibit A (the "Restructuring Term Sheet");

WHEREAS, it is contemplated that Genco and, unless all creditors in respect of the Credit Facilities vote in favor of the Plan prior to the Petition Date (as defined below), the Genco Subsidiaries will commence a voluntary bankruptcy case (the "Chapter 11 Case") under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") (each entity filing a Chapter 11 Case, a "Company Party");

WHEREAS, each Party desires that the Restructuring be implemented through a prepackaged chapter 11 plan of reorganization filed in the Chapter 11 Cases implementing the terms and conditions of the Restructuring Term Sheet (such chapter 11 plan of reorganization, the "Plan"), consistent with this Agreement and otherwise in form and substance mutually acceptable to the Company and the Required Supporting Creditors (as defined below) as provided in section 1(b) of this Agreement;

WHEREAS, the Company has obtained the agreement for the consensual use of "cash collateral" pursuant to the terms and conditions of an interim and final order to be entered by the Bankruptcy Court (each, a "Cash Collateral Order") consistent with the form of order attached hereto as Exhibit B (the "Form of Cash Collateral Order") or otherwise in form and substance mutually acceptable to the Company, the Required Supporting 2007 Facility Lenders (as defined below), the Required Supporting $253 Million Facility Lenders (as defined below), the Required Supporting $100 Million Facility Lenders (as defined below), and the Prepetition Agents, and which changes (if any) will be made in consultation with the Supporting Noteholders;

WHEREAS, certain of the Supporting 2007 Facility Lenders and the Supporting Noteholders have agreed to backstop a $100 million rights offering to be offered by Genco in accordance with the terms and conditions specified in this Agreement and the Restructuring Term Sheet; and

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NOW, THEREFORE, in consideration of the recitals stated above and the premises and mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the Parties agree as follows:

1. ***Definitive Documentation and Exhibits.***

(a) Incorporation of the Exhibits. The Restructuring Term Sheet, the Form of Cash Collateral Order, and the Transferee Acknowledgment (each as defined herein) (collectively, the "Exhibits") are expressly incorporated herein by reference and are made part of this Agreement. References to "the Agreement," "this Agreement," "herein," or "hereof" include this Agreement and each of the Exhibits. In the event the terms and conditions as set forth in the Exhibits and this Agreement are inconsistent, the terms and conditions as set forth in this Agreement shall govern.

(b) Definitive Documents. All (i) documents (other than motions or pleadings) implementing, achieving, and relating to the Restructuring, including, without limitation, the Plan, a disclosure statement describing the Plan (the "Disclosure Statement"), the plan supplement and its exhibits, solicitation procedures, commitment agreements, exit financing agreements or related documents, organizational and governance documents (including, without limitation, the organizational and governance documents for the reorganized Company), shareholder and member related agreements, or other related transactional or corporate documents (including, without limitation, any agreements and documents described in the Restructuring Term Sheet and the Exhibits thereto), (ii) the motions or pleadings seeking approval or confirmation of any of the foregoing transactional or corporate documents, including the motion to approve the Disclosure Statement, confirm the Plan, ratify the solicitation procedures, and scheduling a joint hearing, and (iii) the orders approving the Company's assumption of this Agreement and approving the Disclosure Statement, ratifying the solicitation procedures, confirming the Plan, and scheduling a joint hearing (items (i)-(iii), collectively, the "Definitive Documents"), shall be consistent with this Agreement and the Restructuring Term Sheet in all respects. The Definitive Documents shall be negotiated in good faith by the Company and the applicable Required Supporting Creditors. The Definitive Documents with respect to items (i) and (iii) shall be mutually acceptable to the Company and the Required Supporting 2007 Facility Lenders and with respect to item (ii) above, shall be reasonably acceptable to the Required Supporting 2007 Facility Lenders. The Definitive Documents with respect to items (i), (ii) and (iii) solely with respect to any term in any Definitive Document that will affect their respective economic interests, shall be mutually acceptable to the Company, the Required Supporting $253 Million Facility Lenders (as defined below) and the Required Supporting $100 Million Facility Lenders (as defined below). The Definitive Documents with respect to item (iii), the Plan, the Disclosure Statement, and the plan supplement documents[1] (excluding, if applicable,

[1] The plan supplements shall consist of the following documents: the documentation for the management incentive plan, the documentation for the New Genco Warrants, the documentation for the exit financing facilities, the charters and bylaws for the reorganized Company, the equity commitment agreement, the registration rights agreement, any new employment contracts for

registration rights agreements, new employment contracts for management of the reorganized Company, schedule(s) of contracts to be rejected pursuant to the Plan, the schedule of directors and officers for the reorganized Company, and schedule(s) of retained causes of action) shall be reasonably acceptable to the Required Supporting Noteholders and all other Definitive Documents shall be negotiated in consultation with the Supporting Noteholders. Notwithstanding anything to the contrary in this paragraph, absent the prior consent of the Required Supporting Noteholders (as defined below), no Definitive Document shall alter the treatment of the Required Supporting Noteholders specified in the Restructuring Term Sheet.

(c) The Parties shall use their reasonable best efforts to negotiate and execute all Definitive Documents reasonably necessary or otherwise required to commence solicitation for the Plan as promptly as possible following the Effective Date of this Agreement and, in any case, no later than April 13, 2014. The Parties shall use their reasonable best efforts to, if applicable, provide each other with drafts of and consent to Definitive Documents in a timely manner so as to permit the Company to comply with its obligations under the Milestones.

2. ***Restructuring and Related Support.***

(a) *The Company's Obligations.* For so long as this Agreement has not been terminated in accordance with its terms, the Company covenants and agrees:

(i) To support and use commercially reasonable efforts to (A) complete the Restructuring and all transactions contemplated under this Agreement, including, without limitation, those described in the Restructuring Term Sheet (and once filed, the Plan) in accordance with the deadlines specified in the milestones set forth in section 8 below (collectively, as the same may be modified in accordance with the terms of this Agreement, the "Milestones"), (B) take any and all reasonably necessary actions in furtherance of the Restructuring and the transactions contemplated under this Agreement, including, without limitation, as set forth in the Restructuring Term Sheet (and once filed, the Plan), and (C) obtain any and all required regulatory and/or third-party approvals necessary to consummate the Restructuring;

(ii) To take no action that is inconsistent with this Agreement, the Restructuring Term Sheet, or the Plan, or that would unreasonably delay approval of the Disclosure Statement, the Cash Collateral Order, or the solicitation procedures, or confirmation of the Plan; including soliciting or causing or allowing any of their agents or representatives to solicit any agreements relating to any chapter 11 plan or restructuring transaction (including, for the avoidance of doubt, a transaction premised on an asset sale under section 363 of the Bankruptcy Code) other than the Restructuring (an "Alternative Transaction");

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management of the reorganized Company, schedule(s) of contracts to be rejected pursuant to the Plan, the schedule of directors and officers for the reorganized Company, and schedule(s) of retained causes of action.

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(iii) To not directly or indirectly (A) join in, support, or vote for any alternative plan or transaction, including, without limitation, express support in writing of, or enter into any form of plan support agreement with respect to, any alternative plan or restructuring, or (B) take any action to alter, delay, or impede approval of the Disclosure Statement and confirmation and consummation of the Plan and any related documents;

(iv) To (A) pay the reasonable and documented fees and expenses of Akin Gump Strauss Hauer & Feld LLP and Jefferies LLC in accordance with the applicable fee letter, as incurred by the Supporting Noteholders between the Effective Date and the earlier of (x) the termination of this Agreement with respect to the Supporting Noteholders in accordance with the terms hereof and (y) the effective date of the Plan and (B) pay the fees and expenses incurred by the Supporting Lenders in the manner, and to the extent, provided for in the Cash Collateral Order; and

(v) To not, nor encourage any other person or entity to, take any action which would, or would reasonably be expected to, breach or be inconsistent with this Agreement or delay, impede, appeal, or take any other negative action, directly or indirectly, to interfere with the acceptance or implementation of the Restructuring.

Notwithstanding anything to the contrary contained in this Agreement, the Company's obligations hereunder (including without limitation the obligations of the Company Parties' directors and officers) are subject at all times to the fulfillment of their respective fiduciary duties; provided, that any action with respect thereto that results in a Termination Event (as defined below) shall be subject to the provisions set forth in section 11 hereof.

(b) *The Supporting Creditors' Obligations.* Each Supporting Creditor (severally and not jointly) covenants and agrees to perform and comply with the following obligations (including in its capacity as an owner, manager, or holder of any interest in a Debt Instrument) for so long as (x) the Supporting Creditor controls an interest in a Debt Instrument; (y) this Agreement has not been terminated in accordance with its terms with respect to each Debt Instrument that such Supporting Creditor holds; and (z) such Supporting Creditor has not terminated this Agreement pursuant to section 11(g) hereof:

(i) Each Supporting Creditor shall (A) timely vote to accept the Plan and not thereafter withdraw or change such vote, and (B) to the extent such election is available, not elect on its ballot to preserve claims, if any, that each Supporting Creditor may own or control that may be affected by any releases expressly contemplated by the Plan;

(ii) Each Supporting Creditor shall (A) support approval of the Disclosure Statement, the Cash Collateral Order, and the solicitation procedures and confirmation of the Plan, (B) neither oppose nor object to the Disclosure Statement, the Plan, the Cash Collateral Order, or the solicitation procedures, (C) neither join in nor support any objection to the Disclosure Statement, the Cash Collateral Order, the

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solicitation procedures, or the Plan, or (D) otherwise commence any proceeding to oppose or alter any of the terms of the Plan or any other document filed by Genco in connection with the confirmation of the Plan;

(iii) Each Supporting Creditor shall use commercially reasonable efforts to execute any document and give any notice, order, instruction, or direction necessary or reasonably requested by the Company to support, facilitate, implement, or consummate or otherwise give effect to the Restructuring;

(iv) Each Supporting Creditor shall use commercially reasonable efforts to support, consent, and take other actions in connection with the Restructuring and the Chapter 11 Case and any other actions or proceedings related to the Chapter 11 Case (including, without limitation, proceedings in non-U.S. jurisdictions) to the extent consistent with the Restructuring Term Sheet (and once filed, the Plan) or as reasonably requested by the Company to facilitate, implement, consummate, or otherwise give effect to the Restructuring, including, without limitation any motion filed by Genco or any Genco Subsidiary seeking a temporary restraining order and/or injunction to stay proceedings against Genco or any Genco Subsidiary;

(v) Other than as provided in the Restructuring Term Sheet (and once filed, the Plan), each Supporting Creditor shall, as of the effective date of the Plan, waive and release any rights to exercise remedies against any collateral of Genco or any Genco Subsidiary in connection with the applicable Debt Instrument or otherwise, applicable non-bankruptcy law, or applicable non-U.S. insolvency law in any jurisdiction;

(vi) Other than as provided in the Restructuring Term Sheet (and once filed, the Plan) each Supporting Creditor shall not take or instruct the taking of, under or relating to the applicable Debt Instrument or otherwise, any action against or in respect of Genco or any Genco Subsidiary or any collateral provided by Genco or any Genco Subsidiary that constitutes or would constitute an enforcement action or remedy;

(vii) To not directly or indirectly (A) join in, support, or vote for any alternative plan or transaction, including, without limitation, express support in writing of, or enter into any form of plan support agreement with respect to, any alternative plan or restructuring, or (B) take any action to alter, delay, or impede approval of the Disclosure Statement and confirmation and consummation of the Plan and any related documents; and

(viii) To not, nor encourage any other person or entity to, take any action which would, or would reasonably be expected to, breach or be inconsistent with this Agreement or delay, impede, appeal, or take any other negative action, directly or indirectly, to interfere with the acceptance or implementation of the Restructuring.

For the avoidance of doubt, nothing in this Agreement will (A) prohibit instruction to the Prepetition Agents to take or not to take any action relating to the maintenance, protection and preservation of their security interests, and liens on collateral under the

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Debt Instruments and related security documents; (B) prohibit the Prepetition Agents from taking any action relating to the maintenance, protection and preservation of such security interests and liens; (C) prohibit the Prepetition Agents or the Supporting Creditors from objecting to any motion or pleading filed with the Bankruptcy Court seeking approval to use cash collateral inconsistent with the terms of this Agreement; (D) limit the rights of the Parties under the applicable Debt Instruments or related security documents, and/or applicable law to appear and participate as a party in interest in any matter to be adjudicated in any case under the Bankruptcy Code (or otherwise) concerning the Company (including, without limitation, the Supporting Creditors' rights to oppose, challenge, or credit bid in connection with a sale under section 363 of the Bankruptcy Code in the event that this Agreement is terminated in accordance with its terms), so long as such appearance and the positions advocated in connection therewith are not inconsistent with this Agreement; (E) prohibit the Prepetition Agents or any Supporting Creditor or any of their respective officers or representatives from appearing as a party in interest (i) in any matter to be adjudicated in the Chapter 11 Case provided any positions taken by such party are not inconsistent with this Agreement or (ii) in proceedings for the purpose of contesting whether any matter or fact is or results in a breach of, or is inconsistent with, this Agreement; or (F) prohibit the Indenture Trustee from filing a proof of claim, if required.

3. ***Withdrawal of Plan Support.*** Each Supporting Creditor shall not withdraw or revoke (a) its support of the Restructuring Term Sheet (and once filed, the Plan) pursuant to this Agreement, and (b) any properly solicited vote to accept the Plan, in each case, unless this Agreement has been terminated in accordance with its terms, or, with respect to subparagraph 3(a) only, such Supporting Creditor is no longer subject to this Agreement.

4. ***Acknowledgements.*** Each Party acknowledges that (a) no securities of the Company are being offered or sold hereby and this Agreement neither constitutes an offer to sell nor a solicitation of an offer to buy any securities of the Company and (b) that this Agreement is not, and shall not be deemed to be, a solicitation of a vote for the acceptance of the Plan pursuant to section 1125 of the Bankruptcy Code.

5. ***Limitations on Transfer of Interests in the Debt Instruments.***

(a) Each Supporting Creditor shall not (i) sell, transfer, assign, pledge, grant a participation interest in, or otherwise dispose of, directly or indirectly, its right, title, or interest in respect of any of such Supporting Creditor's interest in a Debt Instrument, or any other claim against the Company, in whole or in part, or (ii) grant any proxies, deposit any of such Supporting Creditor's interests in a Debt Instrument, or any other claim against the Company, into a voting trust, or enter into a voting agreement with respect to any such interest (collectively, the actions described in clauses (i) and (ii), a "Transfer"), unless such Transfer is to another Supporting Creditor or any other entity that first agrees in writing to be bound by the terms of this Agreement by executing and delivering to Genco (and, with respect to claims under the 2007 Facility, the $253 Million Facility, or $100 Million Facility, with a copy to the agent under the applicable facility) a transferee acknowledgment substantially in the form attached hereto as Exhibit C (the

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"Transferee Acknowledgment"). With respect to Debt Instruments, and any other claim against the Company, held by the relevant transferee upon consummation of a Transfer, such transferee is deemed to make all of the representations and warranties of a Supporting Creditor set forth in section 12 of this Agreement. Upon compliance with the foregoing, the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement solely to the extent of such transferred rights and obligations but shall otherwise remain party to this Agreement as a Supporting Creditor with respect to any interest in a Debt Instrument or other claim not so transferred. Any Transfer made in violation of this section 5 shall be deemed null and void and of no force or effect, regardless of any prior notice provided to Genco, and shall not create any obligation or liability of the Company to the purported transferee (it being understood that the putative transferor shall continue to be bound by the terms and conditions set forth in this Agreement).

(b) Notwithstanding the foregoing, (i) a Supporting Creditor may Transfer any claim to an entity that is acting in its capacity as a Qualified Marketmaker (defined below) (a "Qualified Transfer") without the requirement that the Qualified Marketmaker be or become a Supporting Creditor, provided that such Qualified Transfer shall only be valid if the Qualified Marketmaker subsequently Transfers such claim to a transferee that is a Supporting Creditor (or becomes a Supporting Creditor at the time of the Transfer pursuant to a Transferee Acknowledgment) either (A) prior to the voting record date for the Plan (the "Voting Record Date"), if the Qualified Transfer is made prior to the Voting Record Date, or (B) after the Voting Record Date, if the Qualified Transfer is made after the Voting Record Date, and (ii) if a Supporting Creditor, acting in its capacity as a Qualified Marketmaker, acquires a claim from a holder of claims that is not a Supporting Creditor, it may Transfer such claim without the requirement that the transferee be or become a Supporting Creditor. For purposes hereof, a "Qualified Marketmaker" shall mean an entity that (a) holds itself out to the market as standing ready in the ordinary course of its business to purchase from customers and sell to customers claims against the Company (including debt securities or other debt) or enter with customers into long and short positions in claims against the Company (including debt securities or other debt), in its capacity as a dealer or market maker in such claims and (b) is in fact regularly in the business of making a market in claims against issuers or borrowers (including debt securities or other debt).

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6. ***Further Acquisition of Indebtedness, Claims, and Interests.*** This Agreement shall in no way be construed to preclude any Supporting Creditor or any of its affiliates from acquiring additional interests in the Debt Instruments or any other claim against or equity interest in the Company. Any such additional interests in the Debt Instruments or any other claims shall automatically be subject to the terms of this Agreement and such acquiring Supporting Creditor shall promptly (and, in no event later than five (5) business days) inform Genco of such acquisition of claims; provided, however, in no event shall this sentence apply to any affiliate of the Supporting Creditors listed on Schedule 2 to this Agreement other than an affiliate that is a Supporting Creditor.

7. ***Effectiveness of the Agreement.***

(a) This Agreement shall become effective as to the Company and each individual Supporting Creditor upon the execution and delivery of counterpart signature pages to this Agreement by and among (i) Supporting Lenders holdings claims equal to at least 66 2/3% of the aggregate principal outstanding under each of the 2007 Facility, the $253 Million Facility, and the $100 Million Facility, (ii) Supporting Noteholders holding claims equal to at least 66 2/3% of the aggregate principal outstanding under the Convertible Notes, and (iii) the Company (such date, the "Effective Date").

(b) For purposes of this Agreement, the term (i) "Required Supporting 2007 Facility Lenders" shall mean Supporting 2007 Facility Lenders owning more than 66 2/3% of the aggregate principal outstanding under the 2007 Facility held by the Supporting 2007 Facility Lenders, (ii) "Required Supporting $253 Million Facility Lenders" shall mean Supporting $253 Million Facility Lenders owning more than 66 2/3% of aggregate principal outstanding under the $253 Million Facility held by the Supporting $253 Million Facility Lenders, (iii) "Required Supporting $100 Million Facility Lenders" shall mean Supporting $100 Million Facility Lenders owning more than 66 2/3% of aggregate principal outstanding under the $100 Million Facility held by the Supporting $100 Million Facility Lenders, (iv) "Required Supporting Noteholders" shall mean 66 2/3%, measured by claim size, of the Supporting Noteholders who are (A) not Supporting Lenders on the Effective Date and (B) members of the ad hoc group of Noteholders represented by Akin, Gump, Strauss, Hauer & Feld LLP and (v) "Required Supporting Creditors" means (A) with respect to the 2007 Facility, the Required Supporting 2007 Facility Lenders, (B) with respect to the $253 Million Facility, the Required Supporting $253 Million Facility Lenders, (C) with respect to the $100 Million Facility, the Required Supporting $100 Million Facility Lenders, and (D) with respect to the Convertible Notes and the Indenture, the Required Supporting Noteholders.

8. ***Milestones.*** The Company Parties will comply with the following Milestones within the periods specified herein, unless otherwise agreed in writing with the Required Supporting 2007 Facility Lenders, the Required Supporting $253 Million Facility Lenders, the Required Supporting $100 Million Facility Lenders, and Required Supporting Noteholders:

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(a) solicitation of the 2007 Facility Lenders, the $235 Million Facility Lenders, the $100 Million Facility Lenders, and the holders of 5.00% Convertible Senior Notes due August 15, 2015 (the "Convertible Notes") pursuant to that certain First Supplemental Indenture, dated as of July 15, 2007, between Genco as issuer and The Bank of New York Mellon as trustee (such date, the "Solicitation Commencement Date") regarding the Plan shall begin on or before April 16, 2014;

(b) voluntary petition(s) in the Bankruptcy Court and motions seeking approval of the Plan, the Disclosure Statement, and the solicitation procedures shall be filed (such date, the "Petition Date") on or before the fifth calendar day after the Solicitation Commencement Date;

(c) the Cash Collateral Order shall have been approved (i) on an interim basis, on or before the fifth business day after the Petition Date and (ii) on a final basis, on or before the forty-fifth day after the Petition Date;

(d) the order approving the assumption of this Agreement shall have been approved on or before the fifth business day after the Petition Date;

(e) the order approving the Disclosure Statement and the solicitation procedures and confirming the Plan shall be entered (such date, the "Confirmation Date") on or before the forty-fifth day after the Petition Date; and

(f) the effective date of the Plan shall occur on or before the later of (i) 10 days following the Confirmation Date, (ii) completion of the Rights Offering (as defined in the Restructuring Term Sheet), or (iii) notice from the respective lenders that the conditions to the closing of the New $253 Million Facility and New $100 Million Facility (each as defined in the Restructuring Term Sheet) have been satisfied or waived.

9. ***Enforceability.*** Each of the Parties acknowledges and agrees that this Agreement is being executed in connection with negotiations concerning the Restructuring and in contemplation of the potential commencement of the Chapter 11 Case, and the rights granted in this Agreement are enforceable by each signatory hereto without approval of the Bankruptcy Court.

10. ***Further Assurances.*** From and after the date hereof, each of Parties agrees to execute and deliver all such agreements, instruments, and documents and to take all such further actions as the Parties may reasonably deem necessary from time to time to carry out the intent and purpose of this Agreement and the Plan, and to consummate the transactions contemplated thereby.

11. ***Termination.***

(a) *Automatic Termination*. This Agreement shall terminate automatically upon the occurrence of any of the following events (each such event, along with the events described in subsections (b), (c), (d), and (e), a "Termination Event"):

(i) an order denying confirmation of the Plan is entered;

(ii) an order confirming the Plan is reversed or vacated;

(iii) any court of competent jurisdiction has entered a final, non-appealable judgment or order declaring this Agreement to be unenforceable; or

(iv) occurrence of the effective date of the Plan.

(b) *The Company's Right to Terminate*. The Company may, in its sole discretion, terminate this Agreement as to all Parties upon five (5) days' prior written notice to the Supporting Creditors setting forth the basis for termination, delivered in accordance with this Agreement, following the occurrence of any of the following events:

(i) a material breach by any Supporting Creditor of any of its obligations under this Agreement that would reasonably be expected to have a material adverse impact on confirmation or consummation of the Plan, provided that such breach may be cured during the five-day notice period;

(ii) the Company's board(s) of directors determines, in good faith and upon the advice of its advisors, in its sole discretion, that (A) continued pursuit of the Restructuring is inconsistent with its fiduciary duties or (B) having received an unsolicited proposal or offer for an Alternative Transaction, that such Alternative Transaction is likely to be more favorable than the Restructuring and that continued support of the Restructuring pursuant to this Agreement would be inconsistent with its fiduciary obligations; or

(iii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any injunction, judgment, decree, charge, ruling, or order preventing consummation of a material portion of the Restructuring;

provided, that upon a termination of this Agreement pursuant to section 11(b)(ii), (x) all obligations of each Supporting Creditor hereunder shall immediately terminate without further action or notice by such Supporting Creditor, and (y) the Company (and its directors, officers, employees, advisors, subsidiaries, and representatives) shall not have or incur any liability under this Agreement or otherwise on account of such termination.

For the avoidance of doubt, and notwithstanding any provisions to the contrary herein but subject to the remainder of this paragraph, in order to fulfill the Company Parties' fiduciary obligations, the Company may receive (but not solicit) proposals or offers for Alternative Transactions from other parties and negotiate, provide due diligence, discuss, and/or analyze such Alternative Transactions received without breaching or terminating this Agreement; provided that the Company shall provide a copy of any written offer or proposal (and notice of any oral offer or proposal) for an Alternative Transaction received to the legal counsel to and the financial advisors to the Supporting Creditors

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within one (1) business day of the Company Parties' or their advisors' receipt of such offer or proposal.

(c) *The Supporting Creditors' Right to Terminate*. This Agreement may be terminated upon five days' prior written notice (the "Notice Period") to Genco setting forth the basis for termination, delivered in accordance with this Agreement by the parties identified below, following the occurrence of any of the following events:

(i) by any Required Supporting Creditors solely in respect of its Debt Instrument, if the Definitive Documents and any amendments, modifications, or supplements thereto filed by the Company include terms that are inconsistent with the Restructuring Term Sheet and are not otherwise acceptable to the Required Supporting Creditors in respect of the applicable Debt Instrument as provided in section 1(b) hereof, provided that such filing was not modified or withdrawn during the Notice Period;

(ii) by any Required Supporting Creditors solely in respect of its Debt Instrument, if the Company has breached any of its material obligations under this Agreement, and such breach remains uncured during the Notice Period;

(iii) by any Required Supporting Creditors solely in respect of its Debt Instrument, if the Company has (A) withdrawn the Plan, (B) publicly announced their intention not to support the Plan, (C) filed a motion with the Bankruptcy Court seeking the approval of an alternative plan or transaction, or (D) agreed (including, for the avoidance of doubt, as evidenced by a term sheet, letter of intent, or similar document) or publicly announced its intent to pursue an Alternative Transaction;

(iv) by any Required Supporting Creditors solely in respect of its Debt Instrument, if the Company seeks to sell any material assets without the prior written consent of the applicable Required Supporting Creditors in respect of the applicable Debt Instrument as provided in section 1(b) hereof;

(v) by any Required Supporting Creditors solely in respect of its Debt Instrument, in the event that the Company fails to meet a Milestone, which has not been waived or extended consistent with section 8 hereof;

(vi) by any Required Supporting Creditors solely in respect of its Debt Instrument, upon the filing by the Company of any motion or other request for relief seeking to (A) voluntarily dismiss the Chapter 11 Case, (B) convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, or (C) appoint a trustee or examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Chapter 11 Case;

(vii) by the Required Supporting Creditors solely in respect of a Debt Instrument, if a Company Party loses the exclusive right to file and/or solicit acceptance of a chapter 11 plan;

(viii) by the Required Supporting Noteholders if a Definitive Document alters the treatment of the Noteholders specified in the Restructuring Term Sheet and the Required Supporting Noteholders have not consented to such Definitive Document;

(ix) by any Required Supporting Creditors solely in respect of its Debt Instrument, upon the entry of an order by the Bankruptcy Court, which order is not subject to a stay of its effectiveness pending appeal, (A) dismissing the Chapter 11 Case, (B) converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, (C) appointing a trustee or examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Chapter 11 Case; or (D) the effect of which would render the Plan incapable of consummation on the terms set forth herein;

(x) by any Required Supporting Creditors solely in respect of its Debt Instrument, upon a Termination Event under the Cash Collateral Order; or

(xi) by any Required Supporting Creditors solely in respect of its Debt Instrument, if any court of competent jurisdiction or other competent governmental or regulatory authority shall have issued an order, which order is not subject to a stay of its effectiveness pending appeal, making illegal or otherwise restricting, preventing, or prohibiting the Restructuring in a manner that cannot be reasonably remedied by Genco.

Notwithstanding anything to the contrary herein, following the commencement of the Chapter 11 Case and unless and until there is an unstayed order of the Bankruptcy Court providing that the giving of notice under and/or termination of this Agreement in accordance with its terms is not prohibited by the automatic stay, the occurrence of each of the Termination Events in subsection (c) above shall result in an automatic termination of this Agreement, to the extent the Required Supporting Creditors would otherwise have the ability to terminate this Agreement in accordance with subsection (c) above, three (3) business days following such occurrence unless waived in writing by the Required Supporting Creditors.

(d) *The Supporting 2007 Facility Lender Terminations*.

(i) Notwithstanding anything to the contrary in subsection (c) above, this Agreement shall automatically terminate with respect to the Supporting 2007 Facility Lenders five (5) business days following the occurrence of any of the following events, unless such event is cured or waived in writing by the Required Supporting 2007 Facility Lenders during such five (5) business day period:

A. the Company has (w) withdrawn the Plan, (x) publicly announced their intention not to support the Plan, (y) filed a motion with the Bankruptcy Court seeking the approval of an alternative plan or transaction, or (z) agreed (including, for the avoidance of doubt, as evidenced by a term sheet, letter of intent, or similar document)

or publicly announced its intent to pursue an Alternative Transaction;

B. the Company seeks to sell any material assets without the prior written consent of the applicable Required Supporting Creditors in respect of the applicable Debt Instrument as provided in section 1(b) hereof;

C. the Company fails to meet a Milestone, which has not been waived or extended consistent with section 8 hereof;

D. the filing by the Company of any motion or other request for relief seeking to (x) voluntarily dismiss the Chapter 11 Case, (y) convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, or (z) appoint a trustee or examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Chapter 11 Case;

E. a Company Party loses the exclusive right to file and/or solicit acceptance of a chapter 11 plan;

F. entry of an order by the Bankruptcy Court, which order is not subject to a stay of its effectiveness pending appeal, (w) dismissing the Chapter 11 Case, (x) converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, (y) appointing a trustee or examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Chapter 11 Case; or (z) the effect of which would render the Plan incapable of consummation on the terms set forth herein;

G. a Termination Event under the Cash Collateral Order; or

H. any court of competent jurisdiction or other competent governmental or regulatory authority shall have issued an order, which order is not subject to a stay of its effectiveness pending appeal, making illegal or otherwise restricting, preventing, or prohibiting the Restructuring in a manner that cannot be reasonably remedied by Genco.

(ii) Notwithstanding anything to the contrary in subsection (c) above, upon a notice given by Supporting 2007 Facility Lenders that (x) own more than 33 1/3% of the aggregate principal outstanding under the 2007 Facility held by the Supporting 2007 Facility Lenders and (y) consisting of at least three (3) Supporting 2007 Facility Lenders (counting all affiliated and managed funds as one Supporting 2007

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Facility Lender)[2] (collectively, the "Nonconsenting 2007 Facility Lenders") to Genco and the 2007 Facility Agent of the occurrence of the event below, this Agreement shall automatically terminate with respect to the Supporting 2007 Facility Lenders five (5) business days following the giving of such notice, unless such event is cured by the Company or waived in writing by the Required Supporting 2007 Facility Lenders, such waiver to be provided by the 2007 Facility Agent during such five (5) business days:

A. if the Definitive Documents and any amendments, modifications, or supplements thereto filed by the Company include terms that are inconsistent with the Restructuring Term Sheet and are not otherwise acceptable to the Nonconsenting 2007 Facility Lenders, provided that such filing was not modified or withdrawn during the Notice Period.

(e) *Mutual Termination.* This Agreement and the obligations of the Company and the Supporting Creditors in respect of a particular Debt Instrument may be terminated by mutual written agreement of the Company and the Required Supporting Creditors in respect of such Debt Instrument.

(f) *Termination Fee*

(i) If this Agreement is terminated pursuant to sections 11(b)(ii) or 11(c)(iii), and the Company consummates an Alternative Transaction, the Company shall pay to the Supporting 2007 Facility Lenders and Supporting Noteholders a termination fee equal to $26,500,000 plus any expense reimbursements owing under this Agreement (collectively, the "Termination Fee"), in cash via wire transfer or other treatment acceptable to the applicable Supporting 2007 Facility Lender or Supporting Noteholder for their pro rata share of the Termination Fee (based on the amount of their holdings of claims under the 2007 Facility and Convertible Notes as against the aggregate amount of 2007 Facility claims and Convertible Notes held by all Supporting Creditors); provided, that in such event, other than the Termination Fee, notwithstanding anything to the contrary contained in this Agreement, the Company (and its directors, officers, employees, representatives, and advisors) shall not have or incur any liability to the Supporting 2007 Facility Lenders or Supporting Noteholders under this Agreement on account of such termination.

(ii) The Termination Fee shall constitute an administrative expense obligation of the Company pursuant to sections 503 and 1129(a)(4) of the Bankruptcy Code, or otherwise.

(iii) Notwithstanding anything to the contrary herein, if the Termination Fee is owed pursuant to this section, such fee shall constitute the sole and

[2] If there are fewer than five (5) Supporting 2007 Facility Lenders (counting all affiliated and managed funds as one Supporting 2007 Facility Lender), then such notice need only be given by two (2) Supporting 2007 Facility Lenders (counting all affiliated and managed funds as one Supporting 2007 Facility Lender).

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exclusive remedy of the Supporting 2007 Facility Lenders and the Required Supporting Noteholders, respectively, on account of the termination of this Agreement.

(g) *Outside Date.* Any individual Supporting Creditor shall have the right to terminate this Agreement, as to itself only, if the effective date of the Plan shall not have occurred by August 1, 2014. In the event a Supporting Creditor terminates pursuant to this paragraph 11(g), such termination shall be effective as to such Supporting Creditor only and shall not affect any the rights or obligations of any other party to this Agreement.

(h) *Effect of Termination.*

(i) Upon termination of this Agreement by the Company, all obligations hereunder of the Company and the Supporting Creditors shall terminate and shall be of no further force and effect.

(ii) Upon termination by the Required Supporting Creditors in respect of a particular Debt Instrument, all obligations hereunder between, on the one hand, the Supporting Creditors in respect of such Debt Instrument and, on the other, Genco and other Supporting Creditors shall terminate and shall be of no further force and effect. Any and all consents and ballots tendered by the Supporting Creditors whose obligations to Genco have been terminated, as applicable, prior to such termination shall be deemed, for all purposes, automatically to be null and void *ab initio*, shall not be considered or otherwise used in any manner by the Parties in connection with the Plan and this Agreement or otherwise and such consents or ballots may be changed or resubmitted regardless of whether the applicable voting deadline has passed (without the need to seek a court order or consent from the Company allowing such change or resubmission).

(iii) For the avoidance of doubt, the Parties agree that it shall not be a violation of the automatic stay provisions set forth in section 362 of the Bankruptcy Code, to the extent applicable, to deliver notice of termination of the Agreement pursuant to its terms. Nothing in this section 10(e)(iii) shall prejudice any Party's right to assert that termination was not proper under the terms of this Agreement.

(iv) Notwithstanding anything to the contrary contained herein, any claim for breach of this Agreement shall survive termination and all rights and remedies with respect to such claims shall be neither waived nor prejudiced in any way by termination of this Agreement. Termination shall not relieve any Party from liability for its breach or non-performance of its obligations hereunder prior the date of termination.

12. ***The Supporting Creditors' Representations and Warranties.*** To induce the Company to enter into and perform their obligations under this Agreement, each Supporting Creditor, severally but not jointly, represents, warrants, and acknowledges as follows:

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(a) *Authority*. (i) The Supporting Creditor is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization, and has all the requisite corporate, partnership, or other power and authority to execute, deliver, and perform their obligations under this Agreement, and to consummate the transactions contemplated herein; and (ii) the execution, delivery, and performance by the Supporting Creditor of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all necessary action (corporate, partnership, or otherwise) on the part of the Supporting Creditor and no other proceedings on the part of the Supporting Creditors are necessary to authorize and approve this Agreement or any of the transactions contemplated herein.

(b) *Validity*. This Agreement has been duly executed and delivered by the Supporting Creditor and constitutes the legal, valid, and binding agreement of the Supporting Creditor, enforceable against the Supporting Creditor in accordance with its terms.

(c) *No Conflict*. The execution, delivery, and performance by the Supporting Creditor (when such performance is due) of this Agreement does not and shall not (i) violate any provision of law, rule, or regulation applicable to it or, in the case of an entity, any of its subsidiaries or its or their certificates of incorporation or bylaws or other organizational documents, or (ii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it, or, applicable, any of its subsidiaries is a party.

(d) *Authorization of Governmental Authorities and Creditors*. No action by (including any authorization, consent, or approval), in respect of, or filing with, any governmental authority is required for, or in connection with, the valid and lawful authorization, execution, delivery, and performance by the Supporting Creditor pursuant to this Agreement.

(e) *No Reliance*. The Supporting Creditor (i) is a sophisticated party with respect to the subject matter of this Agreement, (ii) has been represented and advised by legal counsel in connection with this Agreement, (iii) has adequate information concerning the matters that are the subject of this Agreement, and (iv) has independently and without reliance upon the Company or any officer, employee, agent, or representative thereof, and based on such information as the Supporting Creditor has deemed appropriate, made its own analysis and decision to enter into this Agreement, except that the Supporting Creditor has relied upon the Company's express representations, warranties, and covenants in this Agreement, and the Supporting Creditor acknowledges that it has entered into this Agreement voluntarily and of its own choice and not under coercion or duress.

(f) *Title*. The Supporting Creditor is the legal or beneficial holder of, and has all necessary authority (including authority to bind any other legal or beneficial holder) with respect to the debt outstanding under the Debt Instruments in the aggregate principal amount set forth in Exhibit D (and in the case of a nominee, it has due and proper authorization to act on behalf of, and to bind, the beneficial owner of such Debt

Instruments). The Supporting Creditor's interest in the Debt Instrument is free and clear of any pledge, lien, security interest, charge, claim, equity, option, proxy, voting restriction, right of first refusal, or other limitation on disposition or encumbrances of any kind that would adversely affect in any way the Supporting Creditor's performance of its obligations contained in this Agreement at the time such obligations are required to be performed.

13. ***The Company's Representations and Warranties.*** In order to induce the Supporting Creditors to enter into and perform their obligations under this Agreement, the Company hereby represents, warrants, and acknowledges as follows:

(a) *Authority*. The Company (i) has the power and authority to execute, deliver, and perform its obligations under this Agreement, and to consummate the transactions contemplated herein and (ii) the execution, delivery, and performance by the Company under this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of the Company Party.

(b) *Validity*. This Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, and binding agreement of the Company, enforceable against the Company in accordance with its terms.

(c) *No Conflict*. The execution, delivery, and performance by the Company (when such performance is due) of this Agreement does not and shall not (i) violate any provision of law, rule, or regulation applicable to it or, in the case of an entity, any of its subsidiaries or its or their certificates of incorporation or bylaws or other organizational documents, or (ii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under its certificate of incorporation or by-laws (or other organizational documents).

(d) *Authorization of Governmental Authorities*. No action by (including any authorization, consent, or approval), in respect of, or filing with, any governmental authority is required for, or in connection with, the valid and lawful authorization, execution, delivery, and performance by the Company of this Agreement; provided that, notwithstanding anything in this section to the contrary, the Restructuring (and the authority of the Company to consummate the Restructuring, including without limitation, the Plan and related Definitive Documents) shall be subject to approval by the Bankruptcy Court in the Chapter 11 Case.

(e) *No Reliance*. The Company (i) is a sophisticated party with respect to the matters that are the subject of this Agreement, (ii) has had the opportunity to be represented and advised by legal counsel in connection with this Agreement, (iii) has adequate information concerning the matters that are the subject of this Agreement, and (iv) has independently and without reliance upon the Supporting Creditors, and based on such information as the Company has deemed appropriate, made its own analysis and decision to enter into this Agreement, except that the Company has relied upon the Supporting Creditors' express representations, warranties and covenants in this

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Agreement, which it enters, or as to which it acknowledges and agrees, voluntarily and of its own choice and not under coercion or duress.

14. ***Certain Additional Chapter 11 Related Matters.*** Except as otherwise required pursuant to paragraph 1(b) of this Agreement, Genco shall provide draft copies of the "first day" motions to counsel for the Supporting Creditors and the Prepetition Agents, if reasonably practicable, at least two (2) days prior to the date when Genco intends to file any such pleading, motion, or other document (and, if not reasonably practicable, as soon as reasonably practicable prior to filing) and shall consult in good faith with such counsel regarding the substance of any such proposed filing with the Bankruptcy Court.

15. ***Governing Law; Jurisdiction.***

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY CONFLICTS OF LAW PROVISION WHICH WOULD REQUIRE THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION.

(b) By its execution and delivery of this Agreement, each of the Parties hereto irrevocably and unconditionally agrees for itself that any legal action, suit, or proceeding against it with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit, or proceeding, shall be brought, to the extent possible, in either the United States District Court for the Southern District of New York or any New York State court sitting in New York City or following the Petition Date, the Bankruptcy Court (the "Chosen Courts"). By execution and delivery of this Agreement, each of the Parties irrevocably accepts and submits itself to the exclusive jurisdiction of the Chosen Courts, generally and unconditionally, with respect to any such action, suit, or proceeding, and waives any objection it may have to venue or the convenience of the forum.

16. ***Entire Agreement.*** This Agreement (including, for the avoidance of doubt, the Exhibits) constitute the entire agreement with respect to the Restructuring and supersedes all prior and contemporaneous agreements, representations, warranties, terms sheets, proposals, and understandings of the Parties, whether oral, written, or implied, as to the subject matter hereof; provided, however, that any confidentiality agreement, waiver, indemnity letter, or working fee letter executed by a Supporting Creditor and the Company shall survive this Agreement and shall remain in full force and effect in accordance with its terms.

17. ***Required Supporting Lenders.*** Notwithstanding anything to the contrary in this Agreement, the Required Supporting Creditors with respect to a Debt Instrument (other than the Convertible Notes and the Indenture) shall not exercise any rights conferred upon them in this Agreement if the exercise of such rights would have disproportionate adverse effect on the rights of a particular Supporting Lender pursuant to such Debt Instrument under this Agreement, in which case, the agreement in writing of

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such affected Supporting Lender shall be required for the Required Supporting Creditors under the applicable Debt Instrument to exercise such rights.

18. ***Amendment or Waiver.*** Except as otherwise specifically provided herein, this Agreement may not be modified, waived, amended, or supplemented unless such modification, waiver, amendment, or supplement is in writing and has been signed by the Company and the Required Supporting Creditors in respect of each Debt Instrument that is affected by such modification, waiver, amendment, or supplement; provided that any amendment to section 11(g) of this Agreement shall require the consent of each Supporting Creditor. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall any waiver be deemed a continuing waiver (unless such waiver expressly provides otherwise).

19. ***Specific Performance; Remedies Cumulative.*** This Agreement is intended as a binding commitment enforceable in accordance with its terms. Each Party acknowledges and agrees that the exact nature and extent of damages resulting from a breach of this Agreement are uncertain at the time of entering into this Agreement and that any such breach of this Agreement would result in damages that would be difficult to determine with certainty. It is understood and agreed that money damages would not be a sufficient remedy for any such breach of this Agreement, and that any non-breaching Party shall be entitled to obtain specific performance and injunctive relief as remedies for any such breach, and each Party further agrees to waive, and to cause each of their representatives to waive, any requirement for the securing or posting of any bond in connection with requesting such remedy. Such remedies shall not be deemed to be the exclusive remedies for the breach of this Agreement by any Party or its representatives. All rights, powers, and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any right, power, or remedy by any Party hereto shall not preclude the simultaneous or later exercise of any other such right, power, or remedy hereunder.

20. ***Construction.*** This Agreement constitutes a fully negotiated agreement among commercially sophisticated parties and therefore shall not be construed or interpreted for or against any Party, and any rule or maxim of construction to such effect shall not apply to this Agreement.

21. ***Receipt of Information; Representation by Counsel.*** Each Party acknowledges that it has received adequate information to enter into this Agreement and that it has been represented by counsel in connection with this Agreement and the transactions contemplated herein. Accordingly, any rule of law or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived.

22. ***Binding Effect; Successor and Assigns.*** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors, assigns,

heirs, transferees, executors, administrators, and representatives, in each case solely as such parties are permitted under this Agreement.

23. ***Counterparts.*** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement. The signatures of all of the Parties need not appear on the same counterpart. Delivery of an executed signature page of this Agreement by facsimile or electronic mail shall be effective as delivery of a manually executed signature page of this Agreement.

24. ***Headings; Schedules and Exhibits.*** The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof. References to sections, unless otherwise indicated, are references to sections of this Agreement.

25. ***Severability and Construction.*** If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect if the essential terms and conditions of this Agreement for each Party remain valid, binding, and enforceable.

26. ***Waiver of Jury Trial.*** EACH OF THE PARTIES HERETO HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION THEREWITH OR IN RESPECT OF ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN), OR ACTION OF ANY PARTY OR ARISING OUT OF ANY EXERCISE BY ANY PARTY OF ITS RIGHTS UNDER THIS AGREEMENT OR IN ANY WAY RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY (INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT AND WITH RESPECT TO ANY CLAIM OR DEFENSE ASSERTING THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER OF RIGHT TO TRIAL BY JURY IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF THE PARTIES HERETO IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 26 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER. THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT.

27. ***Notices.*** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the Party to be notified, (b) when sent by confirmed electronic mail if sent during normal business hours of the recipient, and if not so confirmed, then on the

next business day, (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

To the Company at:

Genco Shipping & Trading Limited
299 Park Avenue, 12th Floor
New York, New York 10171
Attn: John C. Wobensmith, Chief Financial Officer

With a copy (which shall not constitute notice) to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of Americas
New York, New York 10036
Attn: Kenneth H. Eckstein, Adam Rogoff, and Stephen Zide
keckstein@kramerlevin.com, arogoff@kramerlevin.com, and
szide@kramerlevin.com

To the Supporting 2007 Facility Lenders at:

The address set forth on each such Supporting 2007 Facility Lender's signature page (or as directed by any transferee thereof), as the case may be.

With a copy (which shall not constitute notice) to counsel to the 2007 Facility Agent:

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, New York 10005
Attn: Dennis F. Dunne, Samuel A. Khalil, and Michael W. Price
ddunne@milbank.com, skhalil@milbank.com, and mprice@milbank.com

To the Supporting $253 Million Facility Lenders at:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attn: Alan W. Kornberg and Elizabeth McColm
akornberg@paulweiss.com and emccolm@paulweiss.com

To the Supporting $100 Million Facility Lenders at:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attn: Alan W. Kornberg and Elizabeth McColm
akornberg@paulweiss.com and emccolm@paulweiss.com

To the Supporting Noteholders at:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
Bank of America Tower
New York, New York 10036
Attn: Michael S. Stamer and Sarah Link Schultz
mstamer@akingump.com and sschultz@akingump.com

or to such other address as may have been furnished by a Party to each of the other Parties by notice given in accordance with the requirements set forth above.

28. ***Consideration.*** The Company and each Supporting Creditor hereby acknowledge that no consideration, other than that specifically described in this Agreement, shall be due or paid to the Supporting Creditor for its agreement to vote to accept the Plan in accordance with the terms and conditions of this Agreement, other than the Company's representations, warranties, and agreement to use commercially reasonable efforts to seek to effectuate and consummate the Restructuring and the Plan.

29. ***No Third-Party Beneficiaries.*** This Agreement shall be solely for the benefit of the Parties hereto (or any other party that may become a party to this Agreement pursuant to section 5 of this Agreement) and no other person or entity shall be a third-party beneficiary hereof.

30. ***No Waiver of Participation and Reservation of Rights.*** Except as expressly provided in this Agreement and in any amendment among the parties, nothing herein is intended to, or does, in any manner waive, limit, impair, or restrict the ability of each of the Parties to protect and preserve its rights, remedies, and interests, including, without limitation, its claims against any of the other Parties (or their respective affiliates or subsidiaries). If the transactions contemplated by this Agreement are not

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consummated, or if this Agreement is terminated for any reason, the Parties fully reserve any and all of their rights, remedies, or interests.

31. ***No Admissions.*** This Agreement shall in no event be construed as or be deemed to be evidence of an admission or concession on the part of any Party of any claim or fault or liability or damages whatsoever. Each of the Parties denies any and all wrongdoing or liability of any kind and does not concede any infirmity in the claims or defenses which it has asserted or could assert. No Party shall have, by reason of this Agreement, a fiduciary relationship in respect of any other Party or any person or entity, and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon any Party any obligations in respect of this Agreement except as expressly set forth herein. This Agreement and the Restructuring are part of a proposed settlement of a dispute among the Parties. Pursuant to Federal Rule of Evidence 408 and any applicable state rules of evidence, this Agreement and all negotiations relating thereto shall not be admissible into evidence in any proceeding other than a proceeding involving enforcement of the terms of this Agreement.

32. ***Public Disclosure of Agreement.*** The Company may, in its discretion, disclose this Agreement (including the signature pages hereto) in a press release or public filing; provided, however, that the Company shall not disclose to any person, other than legal, accounting, financial and other advisors to the Company, the principal amount or percentage of indebtedness or claims held by any Supporting Creditor or any of its respective subsidiaries or affiliates, unless such information is or becomes publicly available other than by the Company's breach of this section 32 or such information is required to be disclosed by law, rule, regulation, legal, judicial or administrative process, subpoena, or court order, or by a governmental, regulatory, or self-regulatory authority, or similar body. For the avoidance of doubt, the Company shall be permitted to disclose at any time the aggregate amount of claims held by any class of Supporting Creditors.

[*The remainder of this page is intentionally left blank.*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

GENCO SHIPPING & TRADING LIMITED

By: _____
Name: John C. Wobensmith
Title: Chief Financial Officer

GENCO ACHERON LIMITED
GENCO BEAUTY LIMITED
GENCO KNIGHT LIMITED
GENCO LEADER LIMITED
GENCO MUSE LIMITED
GENCO VIGOUR LIMITED
GENCO CARRIER LIMITED
GENCO PROSPERITY LIMITED
GENCO SUCCESS LIMITED
GENCO WISDOM LIMITED
GENCO MARINE LIMITED
GENCO EXPLORER LIMITED
GENCO PIONEER LIMITED
GENCO PROGRESS LIMITED
GENCO RELIANCE LIMITED
GENCO SURPRISE LIMITED
GENCO SUGAR LIMITED
GENCO AUGUSTUS LIMITED
GENCO TIBERIUS LIMITED
GENCO LONDON LIMITED
GENCO TITUS LIMITED
GENCO CONSTANTINE LIMITED
GENCO HADRIAN LIMITED
GENCO COMMODUS LIMITED
GENCO MAXIMUS LIMITED
GENCO CLAUDIUS LIMITED

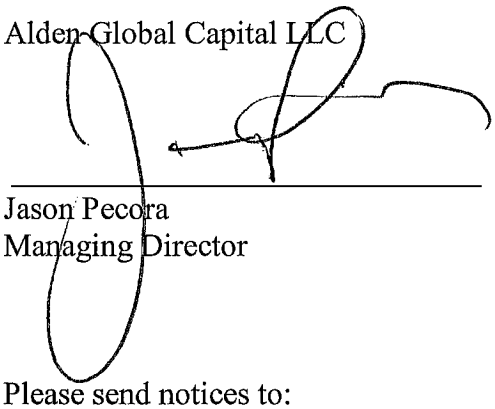
GENCO CHALLENGER LIMITED
GENCO CHAMPION LIMITED
GENCO CHARGER LIMITED
GENCO HUNTER LIMITED
GENCO PREDATOR LIMITED
GENCO WARRIOR LIMITED
GENCO BAY LIMITED
GENCO OCEAN LIMITED
GENCO AVRA LIMITED
GENCO MARE LIMITED
GENCO SPIRIT LIMITED
GENCO LORRAINE LIMITED
GENCO PYRENEES LIMITED
GENCO LOIRE LIMITED
GENCO CLAUDIUS LIMITED
GENCO BOURGOGNE LIMITED
GENCO PICARDY LIMITED
GENCO AQUITAINE LIMITED
GENCO NORMANDY LIMITED
GENCO AUVERGNE LIMITED
GENCO PROVENCE LIMITED
GENCO ARDENNES LIMITED
GENCO BRITTANY LIMITED
GENCO LANGUEDOC LIMITED
GENCO RHONE LIMITED
GENCO INVESTMENTS LLC
GENCO MANAGEMENT (USA) LLC
GENCO SHIP MANAGEMENT LLC
GENCO RE INVESTMENTS LLC

By: _____
Name: John C. Wobensmith
Title: Chief Financial Officer

GENCO CAVALIER LLC
GENCO RAPTOR LLC
GENCO THUNDER LLC

By: _____
Name: John C. Wobensmith
Title: Manager

Alden Global Capital LLC



Jason Pecora
Managing Director

Please send notices to:

Alden Global Capital on Behalf of the Funds
885 Third Avenue
34th Floor
New York, NY 10022

APOLLO SPECIAL OPPORTUNITIES MANAGED ACCOUNT, L.P., as Lender

BY: APOLLO SOMA ADVISORS, L.P., its general partner

BY: APOLLO SOMA CAPITAL MANAGEMENT, LLC, its general partner

By: _____
Name: Joseph D. Glatt
Title: Vice President

AES (LUX) S.A R.L., as Lender

BY: APOLLO EUROPEAN STRATEGIC MANAGEMENT, L.P., its investment manager

BY: APOLLO EUROPEAN STRATEGIC MANAGEMENT GP, LLC, its general partner

By: _____
Name: Joseph D. Glatt
Title: Vice President

AEC (LUX) S.A R.L., as Lender

BY: APOLLO EUROPEAN CREDIT MANAGEMENT, L.P., its investment manager

BY: APOLLO EUROPEAN CREDIT MANAGEMENT GP, LLC, its general partner

By: _____
Name: Joseph D. Glatt
Title: Vice President

APOLLO CENTRE STREET PARTNERSHIP, L.P., as Lender

BY: APOLLO CENTRE STREET MANAGEMENT, LLC, its investment manager

By: _____
Name: Joseph D. Glatt
Title: Vice President

ANS U.S. HOLDINGS LTD, as Lender

BY: APOLLO SK STRATEGIC ADVISORS, LLC, its sole director

By: _____
Name: Joseph D. Glatt
Title: Vice President

APOLLO CREDIT OPPORTUNITY FUND III LP, as Lender

BY: APOLLO CREDIT OPPORTUNITY ADVISORS III LP, its general partner

BY: APOLLO CREDIT OPPORTUNITY ADVISORS III GP LLC, its general partner

By: _____
Name: Joseph D. Glatt
Title: Vice President

APOLLO FRANKLIN PARTNERSHIP, L.P.,
as Lender

BY: APOLLO FRANKLIN ADVISORS (APO DC), L.P., its general partner

BY: APOLLO FRANKLIN ADVISORS (APO DC-GP), LLC, its general partner

By: _____
Name: Joseph D. Glatt
Title: Vice President

APOLLO ZEUS STRATEGIC INVESTMENTS, L.P., as Lender

BY: APOLLO ZEUS STRATEGIC MANAGEMENT, LLC, its investment manager

By: _____
Name: Joseph D. Glatt
Title: Vice President

Please send notices to:

Bill Schwartz
Apollo Capital Management, L.P.
9 West 57th Street, 37th Floor
New York, NY 10019

[INSERT NAME OF SUPPORTING CREDITOR]

By: [signature]
Name: William M. Kelly
Title: Chief Operating Officer
Panning Capital Management, LP, as Investment Manager for Panning Master Fund, LP

Please send notices to:

Panning Capital Management, LP
510 Madison Ave, 24th Fl
New York, NY 10022

Schedule D

Supporting Creditor Holdings by Debt Instrument

[Supporting Creditor Signature Page to Restructuring Support Agreement]

CCP Credit Acquisition Holdings, L.L.C.,

Centerbridge Special Credit Partners II, L.P.

CCP II Acquisition Holdings, LLC

By: _____
Name: Bao Truong
Title: Senior Managing Director

Please send notices to:

Attn: Bank Debt Operations Team
Centerbridge Partners, L.P.
375 Park Avenue, 12th Floor
New York, NY 10152
Email: creditadmin@centerbridge.com

MIDTOWN ACQUISITIONS L.P.,

By: Midtown Acquisitions GP LLC, its General Partner

By: _____
Name:
Title: Manager

Please send notices to:

65 East 55th Street, 19th Floor | New York, NY 10022

SOLUS ALTERNATIVE ASSET MANAGEMENT LP,

On behalf of certain funds and managed accounts

By: Christopher A. Pucillo / by SJB w/ permission
Name: Christopher A. Pucillo
Title: Chief Investment Officer

Please send notices to:

Solus Alternative Asset Management LP
410 Park Avenue
New York, NY 10022
Att'n: Tom Higbie
thigbie@soluslp.com
Att'n: Stephen Blauner
sblauner@soluslp.com

SOL Loan Funding LLC

By: Lauri Pool
Name: Lauri Pool
Title: Associate Director

Please send notices to:

SOL Loan Funding LLC

ULT Loan Funding 1 LLC

By: Lauri Pool
Name: Lauri Pool
Title: Associate Director

Please send notices to:

ULT Loan Funding 1 LLC

BNP PARIBAS

By: _____
Name: PAUL BARNES
Title: M.D.

By: _____
Name: Delphine KAMBOU
Title:

Please send notices to:

16, Rue de Hanovre
75078 PARIS CEDEX 02
France

Fax: +33(0)1 42 98 43 55
Attention: Paul BARNES

SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)

By: _____

Name: Olof Kajerdt

Title: Arne Juell-Skielse

Please send notices to:

Skandinaviska Enskilda Banken AB (publ)
Shipping Finance, KA3
Kungsträdgårdsgatan 8
106 40 Stockholm
Sweden
Fax: +46 8 678 02 06
Attention: Arne Juell-Skielse

DVB BANK SE

By: _____
Name: TARUN GULATI
Title: SENIOR VICE PRESIDENT

DVB BANK SE

By: _____
Name: I. Monheimius
Title: SR. Vice President

Please send notices to:

DVB Bank SE
Platz der Republik 6
D-60325 Frankfurt-am-Main
Germany
Fax: +49 69 9750 4875
Attention: Shipping Loans Administration Department

DEUTSCHE BANK AG FILIALE DEUTSCHLANDGESCHÄFT

By: _____
Name: SEEFELD, KERSTIN
Title: Director

BASTIAN BÜHMERT DIRECTOR

Please send notices to:

Deutsche Bank AG Filiale Deutschlandgeschäft
Adolphsplatz 7, 20457 Hamburg,
Germany
Fax: +49 40 3701 4550
Attention: Dirk Niedereichholz

CREDIT INDUSTRIEL ET COMMERCIAL

By: Adrienne Molloy
Name: Adrienne Molloy
Title: Vice President

By:
Name: Marcus Edward
Title: Managing Director

Please send notices to:

Andrew McKuin
Credit Industriel et Commercial
520 Madison Avenue
New York, NY 10022

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

By: _____
Name: Jerome Salle
Title: Director

By: _____
Name: Eden Rahman
Title: Associate

Please send notices to:

Crédit Agricole Corporate and Investment Bank
9, quai du President Paul Doumer
92920 Paris la Defense
France
Fax: +33 1 41 89 29 87
Attention: Shipping Department

with a copy to

Crédit Agricole Corporate and Investment Bank, New York
Ship Finance Department
1301 Avenue of the Americas
New York, NY 10019
Attention: Jerome Duval / Michael Choina
Tel: 212-261-4039 / 212-261-7363
Fax: +1 917 849 6377
Email: jerome.duval@ca-cib.com / michael.choina@ca-cib.com

WILFRID ADVISORS AG

By: _____
Name: Nicholas W. Walsh
Title: President

Please send notices to:

Wilfrid Global Opportunity Fund LP

c/o Wilfrid Aubrey LLC

405 Lexington Avenue Suite #3503

New York, NY 10174

KAYNE ANDERSON CAPITAL ADVISORS, L.P.,
ON BEHALF OF ITSELF AND FUNDS AND ACCOUNTS UNDER
MANAGEMENT WHO ARE CONTROLLED AFFILIATES

By: _____
Name: Michael Schimmel
Title: Portfolio Manager

Please send notices to:

Michael Schimmel
Email: mschimmel@kaynecapital.com

Fidelity Securities Fund: Fidelity Leveraged Company Stock Fund

By: _____

Name: Joseph Zambello

Title: Deputy Treasurer

Fidelity Advisor Series I: Fidelity Advisor Leveraged Company Stock Fund

By: _____

Name: Joseph Zambello

Title: Deputy Treasurer

JLP STRESSED CREDIT FUND LP

By: Phoenix Investment Adviser LLC, its Investment Manager

By: _____
Name: ROBERT YOUREE
Title: CFO

Please send notices to:

Phoenix Investment Adviser LLC
Attn: Alex Duncan
420 Lexington Avenue, Suite 2040
New York, NY 10170
aduncan@phoenixinvadv.com

cc: Jeffrey Schultz
jschultz@phoenixinvadv.com

JLP CREDIT OPPORTUNITY MASTER FUND LTD.

By: Phoenix Investment Adviser LLC, its Investment Manager

By: _____
Name: ROBERT YONEE
Title: CFO

Please send notices to:

Phoenix Investment Adviser LLC
Attn: Alex Duncan
420 Lexington Avenue, Suite 2040
New York, NY 10170
aduncan@phoenixinvadv.com

cc: Jeffrey Schultz
jschultz@phoenixinvadv.com

ADVANTAGE OPPORTUNITIES FUND, L.P.

By: 
Name: Irvin Schlussel
Title: Managing Partner

Please send notices to:

Merrill Lynch Pierce Fenner, & Smith, Incorporated

By: 

Name: Jonathan M Barnes
Title: Vice President

Please send notices to:

Bank of America, N.A.
214 North Tryon Street
NC1-027-15-01
Charlotte, North Carolina 28255
Attn: Servicing Team TLC004
Tel: 980.388.8943
Fax: 704.409.0154
bas.infomanager@bankofamerica.com

Stone Lion Portfolio L.P.
By: Stone Lion Capital Partners L.P.,
Its Investment Manager

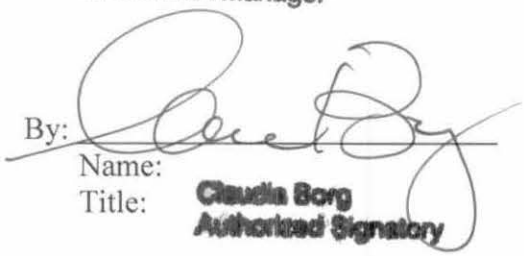
By: _____
Name:
Title:

Claudia Borg
General Counsel

Please send notices to:

Claudia Borg
c/o Stone Lion Capital Partners L.P.
555 Fifth Avenue, 18th Floor
New York, NY 10017
cborg@stonelioncapital.com

Permal Stone Lion Fund Ltd.
By: Stone Lion Capital Partners L.P.,
Investment Manager

By: 
Name: **Claudia Borg**
Title: **Authorized Signatory**

Please send notices to:

Claudia Borg
c/o Stone Lion Capital Partners L.P.
555 Fifth Avenue, 18th Floor
New York, NY 10017
cborg@stonelioncapital.com

P&S Credit Management, L.P.

By: _____
Name: James Palmisciano
Title: Chief Investment Officer

Please send notices to:

Gracie Asset Management
Attn: James Palmisciano
399 Park Avenue, 6th Floor
New York, NY 10022

Credit Value Partners, LP, for funds and accounts under management

By: Credit Value Partners, LP, as investment manager

By: _____
Name: DONALD POLLARD
Title: MANAGING PARTNER

Please send notices to:

Ryan Eckert
Credit Value Partners, LP
49 W. Putnam Ave.
Greenwich, CT 06830
P: (212)-493-4465
M: (860)-690-8409
E: reckert@cvp7.com

BANK OF AMERICA, N.A.

By: 

Name: Jonathan M Barnes
Title: Vice President

Please send notices to:

Bank of America, N.A.
214 North Tryon Street
NC1-027-15-01
Charlotte, North Carolina 28255
Attn: Servicing Team TLC004
Tel: 980.388.8943
Fax: 704.409.0154
bas.infomanager@bankofamerica.com

NEW GENERATION ADVISORS, LLC

By: _____
Name: Johan D. Goedkoop
Title: Vice President

Please send notices to:

Johan D. Goedkoop
New Generation Advisors, LLC
49 Union Street
Manchester, MA 01944
T: 978.704.6202
daan@turnarounds.com

SPCP GROUP, LLC

By: _____
Name: David Steinmetz
Title: Authorized Signatory

Please send notices to:

SPCP Group, LLC
2 Greenwich Plaza
1st Floor
Greenwich, CT 06830
Attn: Adam DePanfilis
Phone: 203-542-4407
Fax: 201-719-2157
Email: 12017192157@tls.ldsprod.com

Scoggin LLC as Investment Advisor on behalf of;

Scoggin Capital Management II LLC and

Scoggin International Fund Ltd.

By: _____
Name: Dev Chodry
Title: Co-Chief Investment Officer for Scoggin LLC

Please send notices to:

Nicole Kramer
Scoggin LLC
660 Madison Ave.
New York, N.Y. 10065
nkramer@scogcap.com

Old Bellows Partners L.P. as Investment Advisor on behalf of;

Scoggin Worldwide Fund Ltd and as sub-advisor to the

J.Goldman Master Fund L.P.

By: _____
Name: Dev Chodry
Title: Managing Member of the General Partner of Old Bellows Partners L.P.

Please send notices to:

Nicole Kramer
Scoggin LLC
660 Madison Ave.
New York, N.Y. 10065
nkramer@scogcap.com

Onex Debt Opportunity Fund, Ltd.

By: Onex Credit Partners, LLC., its investment manager

OCP Investment Trust

By: Onex Credit Partners, LLC., its manager

By: _____
Name: Michael Gelblat
Title: CEO

Please send notices to:

SGutman@onexcredit.com
KConnors@onexcredit.com
NTorraco@onexcredit.com
MGelblat@onexcredit.com

VENOR CAPITAL MASTER FUND LTD.
By: Venor Capital Management LP
Its: Investment Manager

By: _____
Name: Michael J. Wartell
Title: Co-Chief Investment Officer

Please send notices to:

Venor Capital Master Fund Ltd.
c/o Venor Capital Management LP
7 Times Square, Suite 4303
New York, NY 10036
(212) 703-2100
mwartell@venorcapital.com
jkrautmann@venorcapital.com
jroth@venorcapital.com

MAP 139 SEGREGATED PORTFOLIO OF LMA SPC
By: Venor Capital Management LP
Its: Investment Adviser

By: _____
Name: Michael J. Wartell
Title: Co-Chief Investment Officer

Please send notices to:

MAP 139 Segregated Portfolio of LMA SPC
c/o Venor Capital Management LP
7 Times Square, Suite 4303
New York, NY 10036
(212) 703-2100
mwartell@venorcapital.com
jkrautmann@venorcapital.com
jroth@venorcapital.com

By its execution of this agreement, the Distressed Debt Trading Desk of Citigroup Financial Products Inc. (the "Distressed Desk") binds only itself and not Citigroup Financial Products Inc., Citigroup Inc., or any of their respective desks (other than the Distressed Desk), business units, subsidiaries or affiliates (including any desk or business unit thereof). Moreover, the Distressed Desk shall have no obligation to cause Citigroup Financial Products Inc. or any of its affiliates or desks to take or to refrain from taking any action, provided, however, that Citigroup Financial Products Inc. shall be responsible for ensuring that the Distressed Desk complies with its obligations hereunder.

The Distressed Debt Trading Desk of Citigroup Financial Products Inc.

By: _____
Name: Brian S. Broyles
Title: Authorized Signatory

Please send notices to:

Citigroup Financial Products Inc.
c/o Citibank, N.A.
1615 Brett Road Ops III
New Castle, DE 19720
Brian Blessing / Brian Broyles
Telephone Number: 302-324-6660 / 302-894-6175
Facsimile Number: 212-994-1591
E-Mail Address: brian.m.blessing@citi.com / brian.broyles@citi.com

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date first written above.

[JOINING PARTY]

By: _____
Name:

Title:

Holdings: _____

[SUPPORTING CREDITOR]

By: _____
Name: Jason Pecora
Title: Managing director

Holdings: $12,044,427

Acknowledged:

Genco Shipping & Trading Limited

By: _____
Name:
Title:

Genco Acheron Limited
Genco Beauty Limited
Genco Knight Limited
Genco Leader Limited
Genco Muse Limited
Genco Vigour Limited
Genco Carrier Limited
Genco Prosperity Limited
Genco Success Limited
Genco Wisdom Limited
Genco Marine Limited
Genco Explorer Limited

STRATEGIC VALUE SPECIAL SITUATIONS MASTER FUND II, L.P.

By: SVP Special Situations II LLC, its Investment Manager

By: _____
Name: Lewis Schwartz
Title: Chief Financial Officer

Please send notices to:

Albert K. Shin
Managing Director
Strategic Value Partners, LLC
100 West Putnam Avenue
Greenwich, CT 06830
ashin@svpglobal.com

John Brantl
Strategic Value Partners (UK) LLP
5 Savile Row, Mayfair, London W1S 3PD
jbrantl@svpglobal.co.uk

Vitaliy Ardislamov
Strategic Value Partners (UK) LLP
5 Savile Row, Mayfair, London W1S 3PD
vardislamov@svpglobal.co.uk

STRATEGIC VALUE MASTER FUND, LTD.

By: Strategic Value Partners, LLC, its Investment Manager

By: _____
Name: Lewis Schwartz
Title: Chief Financial Officer

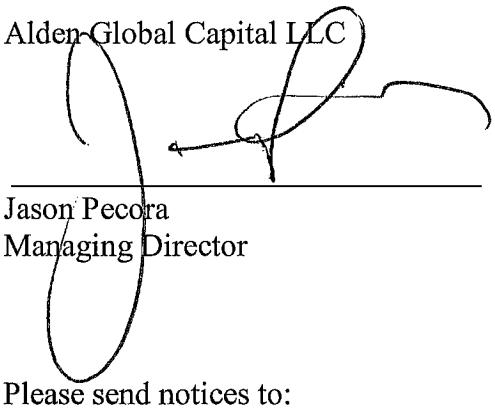
Please send notices to:

Albert K. Shin
Managing Director
Strategic Value Partners, LLC
100 West Putnam Avenue
Greenwich, CT 06830
ashin@svpglobal.com

John Brantl
Strategic Value Partners (UK) LLP
5 Savile Row, Mayfair, London W1S 3PD
jbrantl@svpglobal.co.uk

Vitaliy Ardislamov
Strategic Value Partners (UK) LLP
5 Savile Row, Mayfair, London W1S 3PD
vardislamov@svpglobal.co.uk

Alden Global Capital LLC



Jason Pecora
Managing Director

Please send notices to:

Alden Global Capital on Behalf of the Funds
885 Third Avenue
34th Floor
New York, NY 10022

Schedule 1

Genco Subsidiaries

1. Genco Acheron Limited
2. Genco Beauty Limited
3. Genco Knight Limited
4. Genco Leader Limited
5. Genco Muse Limited
6. Genco Vigour Limited
7. Genco Carrier Limited
8. Genco Prosperity Limited
9. Genco Success Limited
10. Genco Wisdom Limited
11. Genco Marine Limited
12. Genco Explorer Limited
13. Genco Pioneer Limited
14. Genco Progress Limited
15. Genco Reliance Limited
16. Genco Surprise Limited
17. Genco Sugar Limited
18. Genco Augustus Limited
19. Genco Tiberius Limited
20. Genco London Limited
21. Genco Titus Limited
22. Genco Constantine Limited
23. Genco Hadrian Limited
24. Genco Commodus Limited
25. Genco Maximus Limited
26. Genco Claudius Limited
27. Genco Challenger Limited
28. Genco Champion Limited
29. Genco Charger Limited
30. Genco Hunter Limited
31. Genco Predator Limited
32. Genco Warrior Limited
33. Genco Bay Limited
34. Genco Ocean Limited
35. Genco Avra Limited
36. Genco Mare Limited
37. Genco Spirit Limited
38. Genco Lorraine Limited
39. Genco Pyrenees Limited
40. Genco Loire Limited
41. Genco Bourgogne Limited
42. Genco Picardy Limited

43. Genco Aquitaine Limited
44. Genco Normandy Limited
45. Genco Auvergne Limited
46. Genco Provence Limited
47. Genco Ardennes Limited
48. Genco Brittany Limited
49. Genco Languedoc Limited
50. Genco Rhone Limited
51. Genco Investments LLC
52. Genco Management (USA) LLC
53. Genco Ship Management LLC
54. Genco RE Investments LLC
55. Genco Raptor LLC
56. Genco Cavalier LLC
57. Genco Thunder LLC

Schedule 2

[To Be Redacted**]**

Exhibit A

Restructuring Term Sheet

Execution Version
Confidential

GENCO SHIPPING AND TRADING LIMITED
RESTRUCTURING TERM SHEET

APRIL 3, 2014

This term sheet (the "Restructuring Term Sheet") sets forth the principal terms of a financial restructuring (the "Restructuring") of the existing debt and other obligations of the Company (as defined herein). Subject in all respects to the terms of the Restructuring Support Agreement to which this Restructuring Term Sheet will be attached (the "Restructuring Support Agreement"), the Restructuring will be consummated through a case or cases under chapter 11 (the "Chapter 11 Case(s)") of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). This Restructuring Term Sheet has the support of the Supporting Creditors, as set forth in the Restructuring Support Agreement. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement, provided that any reference to Required Supporting Creditors in respect to a Debt Instrument shall only be applicable to the extent that such Required Supporting Creditors have not terminated the Restructuring Support Agreement with respect to such Debt Instrument.

THIS RESTRUCTURING TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN OF REORGANIZATION, IT BEING UNDERSTOOD THAT SUCH A SOLICITATION, IF ANY, ONLY WILL BE MADE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY AND/OR OTHER APPLICABLE LAWS.

THE TRANSACTIONS DESCRIBED HEREIN WILL BE SUBJECT TO THE COMPLETION OF DEFINITIVE DOCUMENTS INCORPORATING THE TERMS SET FORTH HEREIN AND THE CLOSING OF ANY TRANSACTION SHALL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH DEFINITIVE DOCUMENTS.[1]

The Parties	
Company	Genco Shipping & Trading Limited ("Genco") and those of its subsidiaries set forth on Schedule 1 to the Restructuring Support Agreement, shall be collectively referred to as the "Company". Genco, and those of its direct and indirect subsidiaries that file chapter 11 cases, shall each be referred to as the "Debtors" or the "Company Parties."
2007 Facility Lenders	Those lenders (collectively, the "2007 Facility Lenders") under that certain Credit Agreement, dated as of July 20, 2007 (as amended to date, the "2007 Credit Agreement"), by and among Genco as borrower, the banks and other financial institutions named therein as lenders, Wilmington Trust, N.A., as successor administrative and successor collateral agent (the "2007 Facility Agent"), and the other mandated lead arranger and bookrunner parties thereto, by which the lenders made available to Genco a senior secured credit facility in the amount of $1,377,000,000 (as amended, the "2007 Facility"). As of the date hereof, $1,055,911,525.00

[1] For the avoidance of doubt, approval of the Definitive Documents shall be subject to the terms of section 1(b) of the Restructuring Support Agreement.

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	of the principal amount remains outstanding under the 2007 Facility, plus the 1.25% facility fee payable pursuant to the Amendment and Supplement No. 6 to the 2007 Credit Agreement and accrued and unpaid interest.
$253 Million Facility Lenders	Those lenders (collectively, the "$253 Million Facility Lenders") under that certain Loan Agreement, dated as of August 20, 2010 (as amended to date, the "$253 Million Loan Agreement"), for a loan not exceeding $253 million, among Genco as borrower, the banks and financial institutions named therein as lenders, BNP Paribas, Credit Agricole Corporate and Investment Bank, DVB Bank SE, Deutsche Bank AG Filiale Deutschlandgeschaft, and Skandinaviska Enskilda Banken AB (publ) as mandated lead arrangers, BNP Paribas, Credit Agricole Corporate and Investment Bank, DVB Bank SE, Deutsche Bank AG, and Skandinaviska Enskilda Banken AB (publ) as swap providers, and Deutsche Bank Luxembourg S.A. as agent for the lenders (the "$253 Million Facility Agent") and Deutsche Bank AG Filiale Deutschlandgeschaft as security agent (the "$253 Million Facility Security Agent") (as amended, the "$253 Million Facility"). As of the date hereof, $175,718,000.00 of the principal amount remains outstanding under the $253 Million Facility.
$100 Million Facility Lenders	Those lenders (collectively, the "$100 Million Facility Lenders") under that certain Loan Agreement, dated as of August 12, 2010 (as amended to date, the "$100 Million Loan Agreement"), for a loan facility of up to $100 million by and among Genco as borrower, Genco Ocean Limited and the other companies named therein as guarantors, the banks and financial institutions named therein as lenders, and Credit Agricole Corporate and Investment Bank as agent and security trustee (the "$100 Million Facility Agent" and, together with the 2007 Facility Agent, the $253 Million Facility Agent and the $253 Million Facility Security Agent, the "Prepetition Agents") (as amended, the "$100 Million Facility"). As of the date hereof, $73,561,132.60 of the principal amount remains outstanding under the $100 Million Facility.
Interest Rate Swap Counterparty	DNB Bank ASA (f/k/a DnB Nor Bank ASA), as counterparty under that certain ISDA Master Agreement (the "Interest Rate Swap Counterparty") as well as an interest rate swap on September 7, 2005 (the "Swap"), which provides a hedge against the three month LIBOR interest rate risk at a swap rate of 4.485% on a notional amount of $106.233 million, with an expiration date of July 29, 2015. The Swap is an Interest Rate Protection Agreement (as such term is defined in the 2007 Credit Agreement), which may give rise to claims secured by the collateral securing the 2007 Facility under, and in accordance with the priority scheme set forth in, the 2007 Facility security documents.
Convertible Noteholders	Those holders (collectively, the "Convertible Noteholders") of the 5.00% Convertible Senior Notes due August 15, 2015 issued pursuant to that certain Indenture, dated as of July 27, 2010, between Genco as issuer and The Bank of New York Mellon (the "Indenture Trustee") as trustee (the "Convertible Notes" and the claims thereunder, the "Convertible Note Claims"). As of the date hereof, $125 million of the principal amount

	remains outstanding under the Convertible Notes.
The Restructuring	
Overview	The Plan will provide for, among other things: • a $100.00 million rights offering (the "Rights Offering") for 8.7% of the pro forma equity in Reorganized Genco (the "New Genco Equity"), subject to dilution by the New Genco Warrants (defined below) and the MIP Warrants (defined below). Eligible 2007 Facility Lenders will have the right to participate in up to 80% of the Rights Offering, which portion will be backstopped by the Supporting 2007 Facility Lenders, and eligible Convertible Noteholders will have the right to participate in up to 20% of the Rights Offering, which portion will be backstopped by the Supporting Noteholders; • conversion of the full 2007 Facility into 81.1% of the New Genco Equity (after allocation of MIP Primary Equity), subject to dilution by the New Genco Warrants and the MIP Warrants (the "2007 Equity Conversion"); • refinancing the $253 Million Facility and $100 Million Facility with new senior secured credit facilities or amending the facilities to provide for extended maturity dates through August 2019 and certain other modifications as described more fully below; • payment of the Swap Claim (as defined below) in full through mutually acceptable treatment or other treatment consistent with the Bankruptcy Code; • the unimpairment of all GUC Claims under section 1124 of the Bankruptcy Code, as described more fully below; • the conversion of the Convertible Note Claims into 8.4% of the New Genco Equity (after allocation of MIP Primary Equity), subject to dilution by the New Genco Warrants and the MIP Warrants (the "Note Equity Conversion" and together with the 2007 Equity Conversion, the "Equity Conversion"); and • the cancellation of all Equity Interests, with such Equity Interests receiving 7-year warrants for 6.0% of the New Genco Equity struck at $1,295 million equity valuation (the "New Genco Warrants").
Rights Offering	• The Supporting 2007 Facility Lenders and the Supporting Noteholders shall execute an equity commitment agreement (the "Equity Commitment Agreement") mutually acceptable to each of the Company, the Required Supporting 2007 Facility Lenders, and the Required Supporting Noteholders providing for a backstop of the Rights Offering for 60 days. • Under the Equity Commitment Agreement, the Supporting 2007 Facility Lenders shall backstop 80% of the Rights Offering and the Supporting Noteholders shall backstop 20% of the Rights Offering.

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	• The Equity Commitment Agreement shall provide for reimbursement of the reasonable fees and expenses incurred by the Supporting 2007 Facility Lenders and the Supporting Noteholders, but shall not require a commitment fee. • The Equity Commitment Agreement shall be executed by no later than the Solicitation Commencement Date.
Exit Financing	• The prepetition $253 Million Facility will either be replaced with a new third-party facility, or rolled into an amended credit facility on the same terms as the prepetition $253 Million Facility, other than the modifications set forth on Annex A attached hereto (the "New $253 Million Facility"), and • The prepetition $100 Million Facility will either be replaced with a new third-party facility, or rolled into an amended credit facility on the same terms as the prepetition $100 Million Facility, other than the modifications set forth on Annex B attached hereto (the "New $100 Million Facility"). • For the avoidance of doubt, the proceeds of any new third-party facility entered into by the Company on the Effective Date must be used to pay down the $253 Million Facility and the $100 Million Facility in cash.
Treatment of Claims/Equity Interests	The Plan will provide that each holder of an allowed claim will receive the following on or as soon as practicable after the effective date of the Plan (the "Plan Effective Date"), unless different treatment is agreed to by the holder of such allowed claim and the Company in consultation with the Supporting Creditors: • *Administrative, Priority, and Priority Tax Claims:* Allowed administrative, priority, and tax claims will be satisfied in full, in cash, or otherwise receive treatment consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code. • *2007 Facility Claims:* On the Plan Effective Date, the holders of 2007 Facility Claims shall have an allowed claim in the amount of $1,055,911,525.00 plus accrued interest and fees (including the 1.25% facility fee payable under Amendment and Supplement No. 6 to the 2007 Credit Agreement). Holders of allowed claims under the 2007 Facility (the "2007 Facility Claims") will receive their pro rata share of (i) the 2007 Equity Conversion, and (ii) the right to participate in up to 80% of the Rights Offering (for eligible holders) at a $1,128.5 million valuation. • *$253 Million Facility Claims*: At the Company's option, holders of allowed claims under the $253 Million Facility (the "$253 Million Facility Claims") will be either (i) paid in full, in cash or (ii) receive their pro rata share of the New $253 Million Facility. • *$100 Million Facility Claims*: At the Company's option, holders of allowed claims under the $100 Million Facility (the "$100 Million Facility Claims") will be either (i) paid in full, in cash or (ii) receive

	their pro rata share of the New $100 Million Facility. • *Swap Claim:* On account of the allowed claim arising under the Swap (the "Swap Claim"), the Interest Rate Swap Counterparty shall receive payment in full pursuant to treatment acceptable to the Company, the Required Supporting 2007 Facility Lenders, and the Interest Rate Swap Counterparty, or such other treatment as is consistent with the Bankruptcy Code. • *GUC Claims*: Allowed general unsecured claims against the Debtors (other than the Convertible Note Claims) (collectively, the "GUC Claims") will either be reinstated or otherwise rendered unimpaired under the Plan. • *Convertible Note Claims*: On the Plan Effective Date, the holders of Convertible Note Claims shall have an allowed claim in the amount of $125,000,000, plus accrued interest. Holders of Convertible Notes Claims will receive their pro rata share of (i) the Note Equity Conversion, and (ii) the right to participate in up to 20% of the Rights Offering (for eligible holders) at a $1,128.5 million valuation. • *Intercompany Claims*: At the Debtors' option, with the reasonable consent of the Required Supporting 2007 Facility Lenders, all intercompany claims and interests shall be either reinstated or receive no distribution on account of such claims and interests on the Effective Date. • *Existing Equity*: All existing equity interests (including common stock, preferred stock and any options, warrants or rights to acquire any equity interests) shall be cancelled on the Effective Date. Holders of equity interests will receive the New Genco Warrants under the Plan.
Other Plan Terms	
Conditions to Confirmation	Conditions precedent to Confirmation and/or the occurrence of the Effective Date, each of which may be waived in writing by the Company and the Required Supporting 2007 Facility Lenders, and subject to the consent rights of the Supporting Creditors as provided for in the Restructuring Support Agreement, shall include, without limitation, the following: a) Each of the Plan, Disclosure Statement, plan supplement (including, with respect to any amendments, modifications, supplements and exhibits thereto related to the foregoing) and other Definitive Documents (as applicable) shall be approved consistent with the terms of section 1(b) of the Restructuring Support Agreement; b) The Confirmation Order shall have been entered and not stayed, and shall be approved consistent with the terms of section 1(b) of the Restructuring Support Agreement; c) All actions, documents, certificates, and agreements necessary to implement the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed

	with the applicable government units in accordance with applicable law; d) The Restructuring Support Agreement shall have been assumed; and e) All governmental or other approvals required to effectuate the terms of this Plan shall have been obtained.
Releases and Exculpation	The Plan and Confirmation Order shall provide customary release and exculpation provisions for the benefit of the Debtors, the Supporting 2007 Facility Lenders, the Supporting $253 Million Facility Lenders, the Supporting $100 Million Facility Lenders, the Prepetition Agents, the Supporting Noteholders, the Indenture Trustee, and their respective agents, affiliates, principals, officers, directors, attorneys, financial advisors or other professionals or representatives, each in their capacity as such.
Cancellation of Notes, Instruments, Certificates and Other Documents	On the Plan Effective Date, except to the extent otherwise provided under the Plan, all notes, instruments, certificates, and other documents evidencing claims against or interests in the Debtors shall be cancelled and the obligations of the Debtors related thereto shall be discharged.
Issuance of New Securities; Execution of Plan Documents; Registration Rights	On the Plan Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtors shall issue all securities, notes, instruments, certificates, and other documents required to be issued pursuant to the Plan. It is the intent of the parties that any "securities" as defined in section 2(a)(1) of the Securities Act of 1933 issued under the Plan, except with respect to any entity that is an underwriter, shall be exempt from registration under U.S. state and federal securities laws pursuant to section 1145 of the Bankruptcy Code and the Reorganized Debtors will use their commercially reasonable efforts to utilize section 1145 of the Bankruptcy Code, or to the extent that such exemption is unavailable, shall use their commercially reasonable efforts to utilize any other available exemptions from registration, as applicable. On the Plan Effective Date, the Company and any recipient of shares who (together with its affiliates and related funds) receives 10% or more of the New Genco Equity issued under the Plan or who otherwise reasonably believes that it may be an "affiliate" of Reorganized Genco (such stockholders executing the agreement, the "Registration Rights Parties") will enter into a registration rights agreement. The registration rights agreement shall provide Registration Rights Parties who receive 10% or more of New Genco Equity issued under the Plan with demand and piggyback registration rights. All other shareholders party thereto shall have piggyback registration rights only. The registration rights agreement will also provide that on or before the date that is 90 days after the Plan Effective Date, the Company shall file, and shall thereafter use its reasonable best efforts to cause to be declared effective as promptly as practicable, a Registration Statement on Form S-1 for the registration and sale of the New Genco Equity received by the Registration Rights Parties under the Plan pursuant to the public secondary offering (which offering shall be, if requested by one or more selling Registration Rights Parties holding at least 15% of the outstanding shares held by all Registration

	Rights Parties, an underwritten public offering); provided that the Company shall not be required to file such Registration Statement unless at least the Registration Rights Parties, in the aggregate, choose to include at least 15% of the outstanding shares held by all Registration Rights Parties in such Registration Statement. The registration rights agreement shall contain customary terms and conditions, including, but not limited to, the ability by one or more selling Registration Rights Parties holding a majority of the outstanding shares held by all Registration Rights Parties to waive or postpone the filing of the Registration Statement upon the Company's request and provisions with respect to blackout periods.
Executory Contracts/Unexpired Leases	The Plan will provide that the executory contracts and unexpired leases that are not assumed or rejected as of the Plan Effective Date pursuant to the Plan or a separate motion will be deemed *assumed*.
Management Incentive Plan	The Plan will provide for the establishment of a management equity incentive plan (the "MIP") pursuant to which the directors, officers, and other management of Reorganized Genco will receive the following: (i) 1.8% of the shares of the New Genco Equity (the "MIP Primary Equity"), subject to dilution by the MIP Warrants (as defined below) and the New Genco Warrants, and (ii) the following three tiers of warrants (the "MIP Warrants"): (a) 6-year warrants struck at a $1,618 million equity valuation exercisable for a number of shares equal to 3.5% of the New Genco Equity outstanding (calculated on a fully-diluted basis) as of the Plan Effective Date, (b) 6-year warrants struck at a $1,810 million equity valuation, exercisable for a number of shares equal to 3.5% of the New Genco Equity outstanding (calculated on a fully-diluted basis) as of the Plan Effective Date, and (c) 6-year warrants struck at a $2,195 million equity valuation, exercisable for a number of shares equal to 5.0% of the New Genco Equity outstanding (calculated on a fully-diluted basis) as of the Plan Effective Date. The New Genco Equity issued under the MIP and the MIP Warrants will vest over three years in equal proportions. The holder of any MIP Primary Equity will be entitled to receive all dividends paid with respect to such shares as if such MIP Primary Equity had vested on the grant date (subject to forfeiture by the holder in the event that such grant is terminated prior to vesting unless the administrator of the MIP determines otherwise). The MIP Warrants will be exercisable on a cashless basis and will contain customary anti-dilution provisions (including, but not limited to, dilution as a result of stock-splits, stock dividends, stock buybacks and cash dividends), but will be subject to dilution by future equity issuances including the exercise of subsequent tranches of warrants.
Corporate Governance	The terms and conditions of the new corporate governance documents of the Reorganized Debtors (including the bylaws, certificates of incorporation, among other governance documents) shall be approved in accordance with section 1(b) of the Restructuring Support Agreement. For the avoidance of doubt, the new corporate governance documents shall provide for a requirement that affiliate transactions be approved by a majority of the non-affiliated directors or shares (as the case may be). The Plan will provide that upon the Plan Effective Date, the organizational documents of Reorganized Genco shall not provide for transfer restrictions or limitations, provided, however that such corporate governance

	documents may include (a) customary restrictions intended to ensure that transfers will not violate applicable securities laws (but shall not require a legal opinion from the transferor or transferee unless Reorganized Genco reasonably believes that it may involve a transfer to or from an affiliate) and (b) any transfer restrictions deemed reasonably necessary to preserve, to the maximum extent possible, the value of any net operating losses, credits and other tax attributes, and Reorganized Genco's qualification for exemption under Section 883 of the Internal Revenue Code and the Treasury Regulations promulgated thereunder. The Plan will provide that (a) in the event that Reorganized Genco ceases to be a reporting Company at any time following the Plan Effective Date, then until the date that is 12 months after such event, Reorganized Genco will use commercially reasonable efforts to make the following information available to common stockholders who beneficially own at least 1.0% of the total outstanding shares of Reorganized Genco's common stock (and who provide evidence of such ownership that is reasonably satisfactory to Reorganized Genco), in each case solely to the extent that such information is otherwise available, by posting such information to a secure website or data site to which such stockholders (and potential transferees of such stockholders who affirmatively agree to the terms of a "click through" confidentiality agreement posted by Reorganized Genco on such website or data site) are given access: (i) within 120 days after the end of Reorganized Genco's fiscal year, audited consolidated annual financial statements, and (ii) within 45 days after the end of each of the first three calendar quarters of Reorganized Genco's fiscal year, unaudited quarterly financial statements and (b) until the date that is 12 months after the Plan Effective Date, such provision cannot be amended or modified in any respect without the prior consent of holders of a majority of the outstanding shares of Reorganized Genco's common stock that are held by non-affiliates of Reorganized Genco.
Board of Directors	The initial directors of the New Board shall consist of Peter C. Georgiopoulos and 6 other directors to be disclosed in the plan supplement, including (a) 2 directors selected by Centerbridge Partners, L.P., on behalf of one or more of its affiliated investment funds ("Centerbridge"); provided, that if at any time prior to the Plan Effective Date Centerbridge's aggregate holdings (together with its affiliated funds and managed accounts) would not entitle it to a pro forma allocation of (i) at least 20% but more than 10% of the New Genco Equity, then Centerbridge shall only be entitled to select 1 initial director and the 4 directors referenced in subparagraph (b) shall be increased to 5 and (ii) at least 10% of the New Genco Equity, then Centerbridge shall not be entitled to select any directors and the 4 directors referenced in subparagraph (b) shall be increased to 6 and (b) 4 directors selected by a committee consisting of the following entities that own, manage, direct, or have investment authority with respect to indebtedness under the 2007 Credit Facility: (a) Apollo Management Holdings LP; (b) Centerbridge; (c) Midtown Acquisitions L.P.; (d) Panning Capital Management, LP; and (e) Solus Alternative Asset Management LP (collectively, the "Board Selection Committee"), in consultation with the Company and the

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	Supporting Noteholders, by majority vote, with each member of the Board Selection Committee having one vote with respect to each initial board seat; provided, that in the event that at any time prior to the Plan Effective Date, any member of the Board Selection Committee's aggregate holdings (together with its affiliated funds and managed accounts) under the 2007 Facility and the Convertible Notes would not entitle such member (together with its affiliated funds and managed accounts) to a pro forma allocation of at least 6.25% of the New Genco Equity, such member shall thereupon automatically cease to be a member of the Board Selection Committee.
Management Agreements	The Plan will provide that, on the Plan Effective Date, members of the Debtors' current management team will either (i) continue to be employed under the terms of any existing employment agreements (as assumed) or enter into a new employment agreement on terms no less favorable to such individual than the current employment agreement, or (ii) in the event of a new employment agreement for any member of the management team who is not presently subject to a management agreement, then any such new employment agreement shall be mutually acceptable to the Required Supporting 2007 Facility Lenders and the Debtors, in consultation with the Supporting Noteholders.
Initial Officers	All initial officers of Reorganized Genco shall be disclosed in the plan supplement, shall be mutually acceptable to the Debtors and the Required Supporting 2007 Facility Lenders, and shall include John C. Wobensmith.
Indemnity	The treatment of all of the Company's indemnification provisions currently in place (whether in the bylaws, certificates of incorporation or employment contracts) for the current directors, officers, employees, managing agents, and attorneys, and such current directors and officers respective affiliates will be assumed by the Company.
SEC Registration and Stock Listing	As of the Plan Effective Date, Reorganized Genco will be a reporting company under the Securities Exchange Act and the parties intend that Reorganized Genco will remain a reporting company under the Securities Exchange Act. In the event that, during the one-year period immediately following the Plan Effective Date, Reorganized Genco meets the applicable listing standards, then Reorganized Genco will use commercially reasonable efforts to cause the New Genco Equity to be listed on the New York Stock Exchange or the NASDAQ Stock Market within a reasonable time after the Plan Effective Date.
Tax Issues	The Company, in a manner satisfactory to the Required Supporting 2007 Facility Lenders and after consultation with the Supporting Noteholders, will seek to effectuate the terms and conditions outlined herein in a tax efficient manner.

Annex A

GENCO SHIPPING AND TRADING LIMITED
NEW $253 MILLION FACILITY
ANNEX A TO RESTRUCTURING TERM SHEET[1]

Final Maturity Date	August 31, 2019[2]
Repayment Installments	Quarterly repayment installments in accordance with the terms of the $253 Million Facility, except any repayment(s) missed during the Chapter 11 Cases shall be paid on the effective date of the Plan, which shall be the same date as the effective date of the New $253 Million Facility (as used in this Term Sheet, the "Effective Date").
Financial Covenants (clauses 12.2.1-12.2.5)	(a) The Consolidated Interest Coverage Ratio (clause 12.2.2), Maximum Leverage Ratio (clause 12.2.3) and the Minimum Consolidated Net Worth (clause 12.2.4) shall: (i) be waived during the period between the Effective Date and March 31, 2015 (the "Financial Covenant Holiday"); and (ii) after the Financial Covenant Holiday, be effective as follows (for the avoidance of doubt, the first test will occur on June 30, 2015): (A) Consolidated Interest Coverage Ratio to continue at a minimum of 2.00:1.00;[3] (B) Maximum Leverage Ratio to continue at a maximum of 5.5x; [4] and (C) Minimum Consolidated Net Worth covenant to apply as per clause 12.2.4, except the definition of Minimum Consolidated Net Worth shall be amended as follows: "**Minimum Consolidated Net Worth** shall mean not less than 75% of the Post-Reorganization Equity Value plus 50% of the Net Proceeds received as a result of any new equity issues by the Borrower after the Effective Date." (b) With respect to interest-bearing Consolidated Indebtedness (clause 12.2.5), during the Financial Covenant Holiday, interest-bearing Consolidated Indebtedness to be amended so that it cannot exceed 70% of the aggregate amount of interest-bearing Consolidated Indebtedness plus Consolidated Net Worth. Such covenant shall not apply after the Financial Covenant Holiday. (c) For the avoidance of doubt, the Minimum Liquidity

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Restructuring Term Sheet or the $253 Million Facility, as applicable.
[2] Subject to most favored lender provision as set forth below.
[3] Calculation to be determined and be mutually acceptable.
[4] Calculation to be determined and be mutually acceptable.

	requirement (clause 12.2.1) to remain in effect at all times from and after the Effective Date. (d) New fleet-wide minimum liquidity covenant: New requirement for free cash of at least $750K per vessel for all vessels owned by the Company to be added (with the $750K for each of the 13 vessels pledged as security under the New $253 Million Facility counting toward this calculation). (e) For the avoidance of doubt, the definitions, calculations and methodology in the $253 Million Facility to apply with respect to the financial covenants described above unless otherwise provided herein, except for changes which are mutually acceptable.
Financial Indebtedness	Clause 12.3.10(b): Restriction on Financial Indebtedness in connection with the acquisition of a vessel to continue to apply during the Financial Covenant Holiday. Such restriction not to apply thereafter.
Vessels Required to be Under Fixed Rate Time Charters	Delete clause 12.5.18 requiring at least 4 vessels to be under fixed rate time charters.
Dividends	No dividends by Genco shall be payable during the Financial Covenant Holiday, and thereafter dividends by Genco shall only be payable if the Company is in compliance with the financial covenants and no breach of the financial covenants will result from such dividend payment. Clause 12.3.13(b) shall be modified to reflect that dividends are only permitted if no Default or Event of Default has occurred and is continuing at the time of declaration or payment (clause 12.3.13(b)), with such modifications being acceptable to the Supporting $253 Million Facility Lenders. All limitations based on the Permitted Dividend Amount to be deleted. Delete clause 12.3.13(a)(iv) regarding Capped Call Arrangements.
Interest Rate	LIBOR + 350 bps
Upfront Fee	The lenders under the New $253 Million Facility will receive on the Effective Date an upfront fee of 100 bps and Deutsche Bank Luxembourg S.A., as agent, and Deutsche Bank AG Filiale Deutschlandgeschäft, as security agent (together, and in such capacities, the "DB Term Loan Agents") will receive a structuring fee on the Effective Date as detailed in a separate fee letter, each based on the principal amount of the Loans outstanding immediately prior to effectiveness of the New $253 Million Facility.

Most Favored Lender Provision (clause 12.2.6)	Modify to reflect most favored lender provision applicable to financial covenants and interest margin to be set forth in the New $100 Million Facility or any Additional Facility entered into by the Company. Additional modifications to reflect that this provision is applicable to the maturity dates set forth in the New $100 Million Facility or any new third-party facility entered into by Genco as of the Effective Date. As of the Effective Date, no credit agreement or other debt instrument shall mature prior to the New $253 Million Facility. Delete references to Waiver Period in clause 12.2.6 and any related definitions, including Additional Facility.
Loans or Advances (clause 12.3.12.(b))	Delete clause 12.3.12(b)(iii) regarding loans or advances in connection with any joint venture and/or dry bulk shipping operation.
Second Liens	Release second liens on any collateral securing the New $253 Million Facility.
Other Modifications	Additional modifications to the $253 Million Facility which are necessary, and which shall be in form and substance reasonably acceptable to the Supporting $253 Million Facility Lenders and the Borrower, solely to reflect the occurrence of the Chapter 11 Cases and the terms described herein.

Annex B

GENCO SHIPPING AND TRADING LIMITED
NEW $100 MILLION FACILITY
ANNEX B TO RESTRUCTURING TERM SHEET[1]

Final Maturity Date	August 31, 2019[2]
Repayment Installments	Quarterly repayment installments in accordance with the terms of the $100 Million Facility, except any repayment(s) missed during the Chapter 11 Cases shall be paid on the effective date of the Plan, which shall be the same date as the effective date of the New $100 Million Facility (as used in this Term Sheet, the "Effective Date").
Financial Covenants (clauses 12.2(d)-(f); 10.2(c))	(a) The Minimum Consolidated Interest Coverage Ratio (clause 12.2(e)), Maximum Leverage Ratio (clause 12.2(d)) and the Minimum Consolidated Net Worth (clause 12.2(f)) shall: (i) be waived during the period between the Effective Date and March 31, 2015 (the "Financial Covenant Holiday"); and (ii) after the Financial Covenant Holiday, be effective as follows (for the avoidance of doubt, the first test will occur on June 30, 2015): (A) Minimum Consolidated Interest Coverage Ratio to continue at a minimum of 2.00:1.00;[3] (B) Maximum Leverage Ratio to continue at a maximum of 5.5x[4]; and (C) Minimum Consolidated Net Worth covenant to apply as per clause 12.2(f), except the definition of Minimum Consolidated Net Worth shall be amended as follows: "**Minimum Consolidated Net Worth** shall mean not less than 75% of the Post-Reorganization Equity Value plus 50% of the Net Proceeds received as a result of any new equity issues by the Borrower after the Effective Date." (b) With respect to interest-bearing Consolidated Indebtedness (clause 4(b) of First Amendment to $100 Million Facility), during the Financial Covenant Holiday, interest-bearing Consolidated Indebtedness to be amended so that it cannot exceed 70% of the aggregate amount of interest-bearing Consolidated Indebtedness plus Consolidated Net Worth. Such covenant shall not apply after

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Restructuring Term Sheet or the $100 Million Facility, as appropriate.
[2] Subject to, as of the Effective Date, any new third-party facility not maturing prior to the New $100 Million Facility and the New $253 Million Facility (if any).
[3] Calculation to be determined and mutually acceptable.
[4] Calculation to be determined and mutually acceptable.

	the Financial Covenant Holiday. (c) For the avoidance of doubt, the Minimum Liquidity requirement (clause 10.2(c)) to remain in effect at all times from and after the Effective Date. (d) New fleet-wide minimum liquidity covenant: New requirement for free cash of at least $750K per vessel for all vessels owned by the Company to be added (with the $750K for each of the 5 vessels pledged as security under the New $100 Million Facility counting toward this calculation). (e) For the avoidance of doubt, the definitions, calculations and methodology in the $100 Million Facility to apply with respect to the financial covenants described above unless otherwise provided herein, except for changes which are mutually acceptable.
Financial Indebtedness	Clause 12.2(l): Restriction on Financial Indebtedness in connection with the acquisition of a vessel to continue to apply during the Financial Covenant Holiday. Such restriction not to apply thereafter.
Dividends	No dividends by Genco shall be payable during the Financial Covenant Holiday. Thereafter, revert to existing dividend formulation in $100 Million Facility, except that all limitations based on the Permitted Dividend Amount shall be eliminated. For the avoidance of doubt, after the Financial Covenant Holiday dividends by Genco shall only be payable if the Company is in compliance with the financial covenants and no breach of the financial covenants will result from such dividend payment. Delete clause 12.2(g)(v) regarding Capped Call Arrangements.
Interest Rate	LIBOR + 350 bps
Upfront Fee	The lenders under the New $100 Million Facility will receive on the Effective Date an upfront fee of 100 bps and Credit Agricole Corporate and Investment Bank, as agent and security trustee, will receive a structuring fee on the Effective Date as detailed in a separate fee letter, each based on the principal amount of the Loans outstanding immediately prior to effectiveness of the New $100 Million Facility.
Most Favored Lender Provision	Add most favored lender provision applicable to financial covenants and interest margin, to be set forth in the New $253 Million Facility or any other Additional Facility entered into by the Company. Delete references to “Ratio Suspension Period” or “Amended Facility” in the definition of Additional Facility. For the avoidance of doubt, as of the Effective Date, no credit agreement or other debt instrument shall mature prior to the New $100 Million Facility.

Second Liens	Release of second liens on any collateral securing the New $100 Million Facility.
Other Modifications	Additional modifications to the $100 Million Facility which are necessary, and which shall be in form and substance reasonably acceptable to the Supporting $100 Million Facility Lenders and to the Borrower , solely to reflect the occurrence of the Chapter 11 Cases and the terms described herein.

Exhibit B

Form of Cash Collateral Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
GENCO SHIPPING & TRADING LIMITED, et al.,	:	Case No.
Debtors.	:	[Joint Administration Pending]

INTERIM ORDER (I) AUTHORIZING USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363, (II) GRANTING ADEQUATE PROTECTION TO SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, AND 363, (III) SCHEDULING FINAL HEARING PURSUANT TO BANKRUPTCY RULE 4001(b) AND (IV) GRANTING RELATED RELIEF

Upon the motion of Genco Shipping & Trading Limited and its affiliated debtors, as debtors-in-possession (collectively, the "Debtors"[1]) in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), dated [_____], 2014 (the "Motion"),[2] for an interim order (this "Interim Order") and a final order (a "Final Order," and together with this Interim Order, the

[1] The Debtors and, if applicable, the last four digits of their taxpayer identification numbers are as follows: Genco Shipping & Trading Limited (9758), Genco Investment LLC, Genco Management (USA) LLC (3865), Genco RE Investments LLC, Genco Ship Management LLC (7604), Genco Acheron Limited (9293), Genco Aquitaine Limited (8217), Genco Ardennes Limited (8215), Genco Augustus Limited (3622), Genco Auvergne Limited (8233), Genco Avra Limited (5557), Genco Bay Limited (5558), Genco Beauty Limited (9761), Genco Bourgogne Limited (8236), Genco Brittany Limited (8237), Genco Carrier Limited (9763), Genco Cavalier LLC (9764), Genco Challenger Limited (6074), Genco Champion Limited (6073), Genco Charger Limited (6072), Genco Claudius Limited (3620), Genco Commodus Limited (3619), Genco Constantine Limited (3617), Genco Explorer Limited (9764), Genco Hadrian Limited (3608), Genco Hunter Limited (6158), Genco Knight Limited (9773), Genco Languedoc Limited (8238), Genco Leader Limited (9774), Genco Loire Limited (8239), Genco London Limited (3610), Genco Lorraine Limited (8242), Genco Mare Limited (5641), Genco Marine Limited (9775), Genco Maximus Limited (3613), Genco Muse Limited (5276), Genco Normandy Limited (8243), Genco Ocean Limited (5645), Genco Picardy Limited (8244), Genco Pioneer Limited (9767), Genco Predator Limited (6075), Genco Progress Limited (9776), Genco Prosperity Limited (9777), Genco Provence Limited (8246), Genco Pyrenees Limited (8599), Genco Raptor LLC (9767), Genco Reliance Limited (9768), Genco Rhone Limited (8248), Genco Spirit Limited (5650), Genco Success Limited (9769), Genco Sugar Limited (9778), Genco Surprise Limited (9385), Genco Thunder LLC (9769), Genco Tiberius Limited (3614), Genco Titus Limited (3615), Genco Vigour Limited (9770), Genco Warrior Limited (6076), and Genco Wisdom Limited (9771). The Debtors' business address is 299 Park Avenue, New York, NY 10171. Neither Baltic Trading Limited nor its subsidiaries are Debtors.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

"Cash Collateral Orders") under sections 105, 361, 362, 363, 506(c), 507(b), and 552 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules"), and Rule 4001-2 of the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), and having sought, among other things, the following relief:

(a) authorization of the Debtors' use of property constituting Cash Collateral (as defined below), subject to and pursuant to the terms and conditions set forth in this Interim Order;

(b) the granting of adequate protection on account of the Debtors' use of Cash Collateral and any diminution in value of the Prepetition Secured Parties' (as defined below) respective interests in the Prepetition Collateral (as defined below), subject to and pursuant to the terms and conditions set forth in this Interim Order, to:

i. the 2007 Facility Secured Parties (as defined below) under that certain Credit Agreement, dated as of July 20, 2007 (as amended, restated, supplemented, or otherwise modified, the "2007 Credit Agreement," and collectively with all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, subordination agreements, deeds, instruments, indemnities, indemnity letters, working fee letters, assignments, charges, amendments, and any other agreements delivered pursuant thereto or in connection therewith, including the "Credit Documents" as such term is defined in the 2007 Credit Agreement, the "2007 Facility Documents") by and among Genco Shipping & Trading Limited ("GS&T"), as borrower, the various guarantor parties thereto, as guarantors (the "2007 Facility Guarantors," and

collectively with GS&T, the "2007 Facility Obligors"), the mandated lead arranger and bookrunner parties thereto, the banks and financial institutions party thereto, as lenders (the "2007 Facility Lenders"), and Wilmington Trust, National Association, as successor administrative agent and successor collateral agent (in such capacities, the "2007 Facility Agent," and collectively with the 2007 Facility Lenders and any other "Secured Creditors" (as defined in the 2007 Credit Agreement), the "2007 Facility Secured Parties");

ii. the DB Term Loan Secured Parties (as defined below) under that certain $253,000,000 Secured Loan Agreement, dated August 20, 2010 (as amended, restated, supplemented, or otherwise modified, the "DB Term Loan Agreement," and collectively with all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, subordination agreements, deeds, instruments, indemnities, indemnity letters, working fee letters, assignments, charges, amendments, and any other agreements delivered pursuant thereto or in connection therewith, the "DB Term Loan Documents") by and among GS&T, as borrower, the mandated lead arranger and bookrunner parties thereto, the banks and financial institutions party thereto, as lenders and swap providers (respectively, the "DB Term Loan Lenders" and the "DB Term Loan Swap Providers") and Deutsche Bank Luxembourg S.A., as agent and Deutsche Bank AG Filiale Deutschlandgeschäft, as security agent (together, and in such capacities, the "DB Term Loan Agents," and collectively with the DB Term Loan Lenders and the DB Term Loan Swap Providers, the "DB Term Loan Secured Parties") and the guarantees by certain parties named therein as

guarantors (the "DB Term Loan Guarantors," and collectively with GS&T, the "DB Term Loan Obligors"); and

iii. the CA Term Loan Secured Parties (as defined below) under that certain Loan Agreement, dated as of August 12, 2010 (as amended, restated, supplemented, or otherwise modified, the "CA Term Loan Agreement," and collectively with all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, subordination agreements, deeds, instruments, indemnities, indemnity letters, working fee letters, assignments, charges, amendments, and any other agreements delivered pursuant thereto or in connection therewith, the "CA Term Loan Documents") by and among GS&T, as borrower, the various subsidiary guarantor parties thereto, as guarantors (the "CA Term Loan Guarantors," and collectively with GS&T, the "CA Term Loan Obligors"), the banks and financial institutions party thereto, as lenders (respectively, the "CA Term Loan Lenders") and Credit Agricole Corporate and Investment Bank, as agent and security trustee (in such capacities, the "CA Term Loan Agent," and collectively with the CA Term Loan Lenders, the "CA Term Loan Secured Parties") (the 2007 Facility Secured Parties, the DB Term Loan Secured Parties, and the CA Term Loan Secured Parties, collectively, the "Prepetition Secured Parties") (the CA Term Loan Agent, the DB Term Loan Agent, and the 2007 Facility Agent, the "Prepetition Agents");

(c) approving certain stipulations by the Debtors as set forth in this Interim Order with respect to the 2007 Facility Documents, the DB Term Loan Documents and the CA Term Loan Documents (each as defined below), and the liens and security interests arising therefrom;

(d) subject to entry of the Final Order and to the extent set forth herein and therein, waiving any right to surcharge the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code or other applicable law;

(e) modifying the automatic stay imposed under section 362 of the Bankruptcy Code to the extent necessary to permit the Debtors and the Secured Parties to implement the terms of the Cash Collateral Orders;

(f) scheduling a final hearing (the "Final Hearing") on the Motion no later than the forty-fifth day following entry of this Interim Order to consider entry of the Final Order granting the relief requested in the Motion on a final basis; and

(g) waiving any applicable stay (including under Bankruptcy Rule 6004) and provision for immediate effectiveness of this Interim Order.

Upon due and sufficient notice of the Motion and the interim hearing on the Motion (the "Interim Hearing") having been provided by the Debtors; and the Interim Hearing having been held on [_____], 2014; and after considering all the pleadings filed with this Court; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. § 1408; and upon the record made by the Debtors at the Interim Hearing; and the Court having found and determined that the relief sought in the Motion is necessary to avoid immediate and irreparable harm to the Debtors pending the Final Hearing and is otherwise fair and reasonable and in the best interests of the Debtors, their estates and creditors, and is essential for the continued operation of the Debtors' businesses; all objections, if any, to the entry of this

Interim Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and consideration and good and sufficient cause appearing therefor,

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. Petition Date. On [_____], 2014 (the "Petition Date"), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Court"). On [_____], 2014, this Court entered an order approving the joint administration of the Chapter 11 Cases. The Debtors are continuing in the management and operation of their business and properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner or official committee of unsecured creditors (a "Creditors' Committee," and together with any other statutory committee, the "Committees" and each, a "Committee") has been appointed in these Chapter 11 Cases.

B. Jurisdiction and Venue. This Court has jurisdiction over these proceedings pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Chapter 11 Cases is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Debtors' Stipulations. The Debtors admit, acknowledge, agree and stipulate to the following (collectively, the "Debtors' Stipulations"), subject to the provisions of paragraph 7 of this Interim Order:

1. Description of Prepetition Secured Obligations.

(a) *2007 Credit Facility Obligations.* Prior to the Petition Date, pursuant to the 2007 Credit Agreement and the other 2007 Facility Documents, the 2007

Facility Lenders made available to GS&T as borrower, a senior secured credit facility (the "2007 Facility") in the principal amount of $1,377,000,000. Each of the 2007 Facility Guarantors became party to a Guaranty (as defined in the 2007 Credit Agreement), pursuant to which it provided an unconditional joint and several guaranty of the 2007 Facility Obligations (as defined below) arising under the 2007 Facility Documents. As of the Petition Date, the 2007 Facility Obligors were truly and justly indebted to the 2007 Facility Secured Parties pursuant to the 2007 Facility Documents, without defense, counterclaim, offset, claim or cause of action of any kind, in the aggregate principal amount of not less than (i) $1,055,911,525.00 outstanding under the 2007 Facility, plus (ii) accrued and unpaid interest with respect thereto, fees, costs and expenses (including any attorneys', financial advisors', and other professionals' fees and expenses that are chargeable or reimbursable under 2007 Facility Documents), and all other "Obligations" (as defined in the 2007 Credit Agreement or any security document related thereto) under the 2007 Credit Facility Documents (collectively, the "2007 Facility Obligations").[3]

(b) *DB Term Loan Obligations.* Prior to the Petition Date, pursuant to the DB Term Loan Agreement and the other DB Term Loan Documents, the DB Term Loan Lenders made available to GS&T as borrower, a term loan (the "DB Term Loan") in the principal amount of $253,000,000. Each of the DB

[3] The 2007 Facility Secured Parties include the counterparties to an Interest Rate Protection Agreement (as such term is defined in the 2007 Credit Agreement), which may give rise to claims secured by the 2007 Facility Prepetition Collateral under (and in accordance with the priority scheme set forth in) the 2007 Facility Documents.

Term Loan Guarantors provided an unconditional guarantee of the DB Term Loan Obligations (as defined below) arising under the DB Term Loan Documents. As of the Petition Date, the DB Term Loan Obligors were truly and justly indebted to the DB Term Loan Secured Parties pursuant to the DB Term Loan Documents, without defense, counterclaim, offset, claim or cause of action of any kind, in the aggregate principal amount of not less than (i) $175,718,000.00 outstanding under the DB Term Loan plus (ii) accrued and unpaid interest with respect thereto, fees, costs and expenses (including any attorneys', financial advisors', and other professionals' fees and expenses that are chargeable or reimbursable under the DB Term Loan Documents), and all other obligations under the DB Term Loan Documents (collectively, the "DB Term Loan Obligations").

(c) *CA Term Loan Obligations*. Prior to the Petition Date, pursuant to the CA Term Loan Agreement and the other CA Term Loan Documents, the CA Term Loan Lenders made available to GS&T as borrower, a term loan (the "CA Term Loan") in the principal amount of $100,000,000. Each of the CA Term Loan Guarantors provided an unconditional joint and several guaranty of the CA Term Loan Obligations (as defined below) arising under the CA Term Loan Documents. As of the Petition Date, the CA Term Loan Obligors were truly and justly indebted to the CA Term Loan Secured Parties pursuant to the CA Term Loan Documents, without defense, counterclaim, offset, claim or cause of action of any kind, in the aggregate principal amount of not less than (i) $73,561,132.60 outstanding under the

CA Term Loan plus (ii) accrued and unpaid interest with respect thereto, fees, costs and expenses (including any attorneys', financial advisors', and other professionals' fees and expenses that are chargeable or reimbursable under the CA Term Loan Documents), and all other obligations under the CA Term Loan Documents (collectively, the "CA Term Loan Obligations," and collectively with the 2007 Facility Obligations and the DB Term Loan Obligations, the "Prepetition Secured Obligations").

2. Validity of Prepetition Secured Obligations and Prepetition Loan Documents. The Prepetition Secured Obligations, constitute legal, valid and binding obligations of the 2007 Facility Obligors, the DB Term Loan Obligors and the CA Term Loan Obligors, as applicable (collectively, the "Obligors"). No offsets, defenses, or counterclaims to, or claims or causes of action that could reduce the amount or ranking of, the Prepetition Secured Obligations exist. No portion of the Prepetition Secured Obligations is subject to set-off, avoidance, disallowance, recharacterization, reduction, subordination (whether equitable, contractual, or otherwise), counterclaims, recoupment, cross-claims, defenses or any other challenges under or pursuant to the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity. The 2007 Facility Documents, the DB Term Loan Documents, and the CA Term Loan Documents (collectively, the "Prepetition Loan Documents") are valid and enforceable by each of the Prepetition Secured Parties, as applicable, for the benefit of the Prepetition Secured Parties against each of the applicable Obligors. The Prepetition Secured Obligations constitute allowed claims against the applicable Obligors' estates. As of the Petition Date, no claim of or cause of action held by the

Debtors or their estates exists against any of the Prepetition Secured Parties or their agents, in such capacities, whether arising under applicable state, federal, or foreign law (including, without limitation, any recharacterization, subordination, avoidance, or other claims arising under or pursuant to sections 105, 510, or 542 through 553 of the Bankruptcy Code), or whether arising under or in connection with any of the Prepetition Loan Documents (or the transactions contemplated thereunder), the Prepetition Secured Obligations, or the Prepetition Liens (as defined below).

3. Description of Prepetition Liens and Prepetition Collateral.

(a) Pursuant to and as more particularly described in the 2007 Facility Documents, the 2007 Facility Obligations are secured by, among other things, (i) first priority liens or mortgages on, security interests in, and assignments, charges, or pledges of (the "2007 Facility First Liens"), certain property, including, without limitation, certain cash collateral as defined in section 363 of the Bankruptcy Code (the "Cash Collateral"), vessels owned by the 2007 Facility Obligors, and other "Collateral" as such term is defined in the 2007 Credit Agreement (collectively, the "2007 Facility First Lien Collateral") and (ii) second priority liens or mortgages on, security interests in, and charges or assignments of (the "2007 Facility Second Liens," and collectively with the 2007 Facility First Priority Liens, the "2007 Facility Prepetition Liens"), certain vessels and insurances owned by the DB Term Loan Obligors and the CA Term Loan Obligors, respectively (collectively, the "2007 Facility Second Lien Collateral," and together with the 2007 Facility First Lien Collateral, the "2007 Facility Prepetition Collateral").

(b) Pursuant to and as more particularly described in the DB Term Loan Documents, the DB Term Loan Obligations are secured by first priority liens or mortgages on, security interests in, and assignments, charges, or pledges of (the "DB Term Loan Prepetition Liens"), certain property described in the DB Term Loan Documents, including, without limitation, certain Cash Collateral, and vessels owned by the DB Term Loan Guarantors (collectively, the "DB Term Loan Prepetition Collateral").

(c) Pursuant to and as more particularly described in the CA Term Loan Documents, the CA Term Loan Obligations are secured by first priority liens or mortgages on, security interests in, and assignments, charges, or pledges of (the "CA Term Loan Prepetition Liens," and collectively with the 2007 Facility Prepetition Liens and the DB Term Loan Prepetition Liens, the "Prepetition Liens"), certain property described in the CA Term Loan Documents, including, without limitation, certain Cash Collateral and vessels owned by the CA Term Loan Guarantors (collectively, the "CA Term Loan Prepetition Collateral," and collectively with the 2007 Facility Prepetition Collateral and the CA Prepetition Collateral, the "Prepetition Collateral").

(d) The respective rights to, and priority of security interests with respect to any DB Term Loan Prepetition Collateral that also constitutes 2007 Facility Second Lien Collateral, among (i) the 2007 Facility Secured Parties, on the one hand, and (ii) the DB Term Loan Secured Parties, on the other, are set forth in the Deed of Coordination, dated as of August 1, 2012, among

GS&T, the collateral owners party thereto, Deutsche Bank AG Filiale Deutschlandgeschäft, in its capacity as the "First Mortgagee," and the 2007 Facility Agent, in its capacity as the "Second Mortgagee" (as amended, modified, or otherwise supplemented, the "DB Term Loan Deed of Coordination").

(e) The respective rights to, and priority of security interests with respect to any CA Term Loan Prepetition Collateral that also constitutes 2007 Facility Second Lien Collateral among (i) the 2007 Facility Secured Parties, on the one hand, and (ii) the CA Term Loan Secured Parties, on the other, are set forth in the Deed of Coordination, dated as of August 1, 2012, among GS&T, the collateral owners party thereto, Credit Agricole Corporate and Investment Bank, in its capacity as the "First Mortgagee," and the 2007 Facility Agent, in its capacity as the "Second Mortgagee" (as amended, modified, or otherwise supplemented, the "CA Term Loan Deed of Coordination," and together with the DB Term Loan Deed of Coordination, the "Deeds of Coordination").

4. Validity and Perfection of Prepetition Liens. The Prepetition Liens are (i) valid, binding, perfected and enforceable liens on and security interests in the applicable Prepetition Collateral; (ii) not subject to, pursuant to the Bankruptcy Code or other applicable law (foreign or domestic), avoidance, disallowance, reduction, recharacterization, recovery, subordination (whether equitable, contractual, or otherwise), attachment, offset, counterclaim, defense, "claim" (as defined in the Bankruptcy Code), impairment or any other challenge of any kind by any person or

entity; and (iii) subject and subordinate only to (a) the Carve-Out (as defined below) and (b) valid and enforceable liens and encumbrances in the Prepetition Collateral that were made expressly senior to the applicable Prepetition Secured Parties' liens under the applicable Prepetition Loan Documents, that are valid, perfected, enforceable and non-avoidable as of the Petition Date and that are not subject to avoidance, reduction, disallowance, disgorgement, counterclaim, surcharge, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law ("Permitted Liens"), and each Debtor irrevocably waives, for itself and its estate, any right to challenge or contest in any way the perfection, validation and enforceability of the Prepetition Liens or the validity or enforceability of the Prepetition Secured Obligations and the Prepetition Loan Documents. The Prepetition Liens were granted to the respective Prepetition Secured Parties for fair consideration and reasonably equivalent value, and were granted contemporaneously with the making of loans, commitments, and/or other financial accommodations under the Prepetition Loan Documents.

5. Releases by Debtors. Each of the Debtors and the Debtors' estates, on its own behalf and on behalf of its past, present and future predecessors, successors, heirs, subsidiaries, and assigns (collectively, the "Releasors") shall to the maximum extent permitted by applicable law, unconditionally, irrevocably and fully forever release, remise, acquit, relinquish, irrevocably waive and discharge each of the Prepetition Secured Parties, in such capacities, and each of their respective former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, and predecessors in interest (collectively, the

"Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description that exist on the date hereof relating to any of the Prepetition Loan Documents, or the transactions contemplated under such documents, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, perfection or avoidability of the liens or claims of the Prepetition Secured Parties. The Debtors' acknowledgments, stipulations, waivers, and releases shall be binding on the Debtors and their respective representatives, successors and assigns and, subject to any action timely commenced before the Investigation Termination Date (as defined below), on each of the Debtors' estates and all entities and persons, including any creditors of the Debtors, and each of their respective representatives, successors and assigns, including, without limitation, any trustee or other representative appointed in these Chapter 11 Cases, whether such trustee or representative is appointed under chapter 11 or chapter 7 of the Bankruptcy Code. For the avoidance of doubt, the foregoing release shall not act to release any independent, non-derivative claims of third parties against the Releasees.

6. Indemnification. The Prepetition Secured Parties have acted in good faith, and without negligence or violation of public policy or law, in respect of all actions taken by any of them in connection with or related in any way to negotiating, implementing, documenting or obtaining requisite approvals of the use of Cash Collateral, including in respect of the granting of the Adequate Protection Liens (as defined below), the use of Cash Collateral under this Interim Order, and all documents related to and all transactions contemplated by the foregoing. Accordingly, the Prepetition Secured Parties shall be and hereby are indemnified and held harmless by the Debtors in respect of any claim or liability incurred in respect thereof or in any way related thereto; provided that no such party will be indemnified for any cost, expense or liability to the extent determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such party's bad faith, gross negligence, or willful misconduct. No exception or defense in contract, law or equity exists as to any obligation set forth, as the case may be, in this paragraph C.6 or in the Prepetition Loan Documents to indemnify and/or hold harmless any Prepetition Agent or Prepetition Secured Party, as the case may be, and any such defenses are hereby waived; provided, that any fees and expenses incurred by or on behalf of the Prepetition Secured Parties pursuant to this paragraph shall be paid in accordance with paragraph 4(c) hereof.

D. Approved Budget. Attached hereto as Exhibit A is an initial 13-week cash flow forecast setting forth all projected cash receipts and cash disbursements on a weekly basis (as revised from time-to-time in accordance with paragraph 4.e of this Interim Order, the "Approved Budget"). The Approved Budget is an integral part of this Interim Order and

has been relied upon by the Prepetition Secured Parties in consenting to this Interim Order and to permit the use of the Cash Collateral. The Debtors represent and warrant to the Prepetition Secured Parties and this Court that the Approved Budget includes and contains the Debtors' best estimate of all operational receipts and all operational disbursements, fees, costs, and other expenses that will be payable, incurred and/or accrued by any of the Debtors during the period covered by the Approved Budget and that such operational disbursements, fees, costs, and other expenses will be timely paid in the ordinary course of business pursuant to and in accordance with the Approved Budget unless such operational disbursements, fees, costs, and other expenses are not incurred or otherwise payable. The Debtors further represent that, to the best of their knowledge as of the date hereof, the Approved Budget is achievable and will allow the Debtors to operate in the Chapter 11 Cases and pay postpetition administrative expenses as they come due. The Debtors shall be required to update the Approved Budget and provide to the Prepetition Agents a Budget Variance Report (as defined below) in accordance with the provisions of paragraph 4.e of this Interim Order.

E. Use of Cash Collateral. An immediate and critical need exists for the Debtors to use the Cash Collateral, consistent with the Approved Budget, for (i) working capital purposes; (ii) other general corporate purposes of the Debtors; and (iii) the satisfaction of the costs and expenses of administering the Chapter 11 Cases.

F. Consent by Prepetition Secured Parties. The Prepetition Agents have consented to, conditioned on the entry of this Interim Order, the Debtors' proposed use of Cash Collateral, on the terms and conditions set forth in this Interim Order, and such consent is binding on all Prepetition Secured Parties.

G. Adequate Protection. The adequate protection provided to the Prepetition Secured Parties, as set forth more fully in paragraph 4 of this Interim Order, for the imposition of the automatic stay and any diminution in the value of the Prepetition Secured Parties' interest in the Prepetition Collateral from and after the Petition Date resulting from the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code, the use, sale, or lease of the Prepetition Collateral (including any Cash Collateral) under section 363 of the Bankruptcy Code is consistent with, and authorized by, the Bankruptcy Code and is offered by the Debtors to protect such parties' interests in the Prepetition Collateral in accordance with sections 361, 362, and 363 of the Bankruptcy Code. The adequate protection provided herein and other benefits and privileges contained herein are necessary in order to (i) protect the Prepetition Secured Parties from the diminution of their respective interests in the value of their Prepetition Collateral and (ii) obtain the foregoing consents and agreements.

H. Good Cause Shown; Best Interest. The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and Local Rule 4001-2. Absent entry of this Interim Order, the Debtors' businesses, properties, and estates will be immediately and irreparably harmed. This Court concludes that good cause has been shown and entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing businesses and enhance the Debtors' prospects for a successful reorganization.

I. No Liability to Third Parties. The Debtors stipulate and the Court finds that none of the Prepetition Secured Parties shall (i) have liability to any third party or be deemed

to be in control of the operation of any of the Debtors or to be acting as a "controlling person," "responsible person," "owner or operator, " or "participant" with respect to the operation or management of any of the Debtors (as such term, or any similar terms, are used in the Internal Revenue Code, the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any other Federal, state, or applicable international statute or regulation) or (ii) owe any fiduciary duty to any of the Debtors, their creditors or estates, or shall constitute or be deemed to constitute a joint venture or partnership with any of the Debtors.

J. Section 552(b). Each of the Prepetition Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code. Subject to the Final Hearing and entry of the Final Order, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to proceeds, products, offspring, or profits with respect to any of the Prepetition Collateral (including any charter-hire receipts, earnings, insurance proceeds, or similar payments received by an applicable Obligor after the Petition Date).

K. Notice. The Interim Hearing is being held pursuant to the authorization of Bankruptcy Rule 4001 and S.D.N.Y. Local Bankruptcy Rule 4001-2. Notice of the Interim Hearing and the emergency relief requested in the Motion has been provided to (a) the Office of the United States Trustee for the Southern District of New York; (b) the Debtors' material prepetition secured lenders or any agent therefor; (c) counsel to the Debtors' material prepetition secured lenders; (d) Akin Gump Strauss Hauer & Feld, LLP, as counsel to certain holders of the Debtors' 5.00% Convertible Senior Notes due August 15, 2015 (such holders, the "Supporting Noteholders"); (e) the indenture trustee for the Debtors' convertible notes;

(f) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis; (g) the Internal Revenue Service; (h) the United States Attorney for the Southern District of New York; (i) the U.S. Securities and Exchange Commission; and (j) any such other party entitled to notice pursuant to Local Rule 9013-1(b). Under the circumstances, such notice of the Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rules 4001(b), (c), and (d), and the Local Rules.

Based upon the foregoing, and upon the record made before this Court at the Interim Hearing, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Approval of Interim Order. The Motion is approved on the terms and conditions set forth in this Interim Order. Any objections that have not previously been withdrawn are hereby overruled. This Interim Order shall become effective immediately upon its entry.

2. Authorization to Use Cash Collateral. Pursuant to this Interim Order, the Debtors are authorized on an interim basis to use Cash Collateral for: (i) working capital purposes; (ii) other general corporate purposes of the Debtors; and (iii) the satisfaction of the costs and expenses of administering the Chapter 11 Cases in accordance with the Approved Budget (subject to the Permitted Variances (as defined below)) through and including the Termination Date (as defined below) (the "Cash Collateral Period").

3. Termination Events. Notwithstanding anything contained herein, the authority for use of Cash Collateral under this Interim Order shall terminate (the "Termination Date") upon the earlier to occur of (each of the following, a "Termination Event"): (i) 11:59 p.m. on the forty-fifth day after the Petition Date, to the extent the Final Order (in form and

substance acceptable to the Prepetition Agents) has not been approved by this Court by such date; (ii) five (5) days after notice of the date upon which any Event of Default (as defined below) occurs and is continuing; (iii) the date this Interim Order ceases to be in full force and effect for any reason to the extent the Final Order has not been entered at such time; (iv) the date the Court enters an order dismissing any of the Chapter 11 Cases; (v) the date the Court enters an order converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code; and (vi) the date that any Debtor shall file a motion seeking any modification or extension of this Interim Order without the prior written consent of each of the Prepetition Agents.

4. Prepetition Secured Parties' Adequate Protection. The Prepetition Secured Parties are entitled pursuant to sections 361 and 363(c) of the Bankruptcy Code to adequate protection of their interests in the Prepetition Collateral (including Cash Collateral) for any diminution in the value of the Prepetition Secured Parties' interest in the Prepetition Collateral from and after the Petition Date in any way, including resulting from the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code, or the use, sale, or lease of the Prepetition Collateral (including Cash Collateral) under section 363 of the Bankruptcy Code. The Prepetition Agents, as applicable and on behalf of themselves and for the benefit of the respective Prepetition Secured Parties, are hereby granted, to the extent of any diminution in value of their interests in the Prepetition Collateral from and after the Petition Date, the following:

a. Adequate Protection Liens. To the extent set forth below, valid, binding, enforceable and perfected security interests in and liens upon (the "Adequate Protection Liens") all property, whether now owned or hereafter acquired or existing and wherever located, of each Debtor and each Debtor's "estate" (as created pursuant to section 541(a) of the Bankruptcy

Code), property of any kind or nature whatsoever, real or personal, tangible or intangible, and now existing or hereafter acquired or created, including, without limitation, all cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, accounts receivable, receivables and receivables records, general intangibles, payment intangibles, tax or other refunds, insurance proceeds, letters of credit, contracts, owned real estate, real property leaseholds, vessels, charter-hire receipts, earnings, insurance policies and proceeds, fixtures, deposit accounts, commercial tort claims, securities accounts, instruments, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, real property, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each Debtor, other equity or ownership interests, including equity interests in subsidiaries and non-wholly-owned subsidiaries, money, investment property, and causes of action (other than causes of action arising under sections 502(d), 544, 545, 547, 548, 550 (unless related to an action under 549), 551 (unless related to an action under 549), or 553 of the Bankruptcy Code (the "Avoidance Actions")) and, subject to entry of the Final Order, the proceeds of Avoidance Actions, Cash Collateral, and all cash and non-cash proceeds, rents, products, substitutions, accessions, and profits of any of the collateral described above, documents, vehicles, intellectual property, securities, partnership or membership interests in limited liability companies and capital stock, including, without limitation, the products, proceeds and supporting obligations thereof, whether in existence on the Petition Date or thereafter created, acquired, or arising and wherever located (all such property, other than the Prepetition Collateral in existence immediately prior to the Petition Date and proceeds, rents, products, profits, and offspring of such Prepetition Collateral, being collectively referred to as, the "Postpetition Collateral" and

collectively with the Prepetition Collateral, the "Collateral") without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements, or other agreements;

i. With respect to Collateral of GS&T, Genco Investments LLC, Genco Ship Management LLC, Genco Management (USA) Ltd., and Genco RE Investments LLC (collectively, the "Non-Silo Debtors"), the Adequate Protection Liens shall be granted to all Prepetition Secured Parties on a *pari passu* basis and shall be senior liens, subject only to (A) the Carve-Out (as defined below), (B) Permitted Liens, and (C) Prepetition Liens; provided that the Adequate Protection Liens granted to those Prepetition Secured Parties with Prepetition Liens on the Prepetition Collateral of the Non-Silo Debtors shall be senior to the Adequate Protection Liens granted to the Prepetition Secured Parties who do not hold Prepetition Liens on Prepetition Collateral of the Non-Silo Debtors;

ii. With respect to Collateral of the 2007 Facility Guarantors, the Adequate Protection Liens shall be granted only to the 2007 Facility Secured Parties and shall be senior liens, subject only to (A) the Carve-Out, (B) Permitted Liens, and (C) Prepetition Liens;

iii. With respect to Collateral of the DB Term Loan Guarantors, the Adequate Protection Liens shall be granted only to the DB Term Loan Secured Parties and the 2007 Facility Secured Parties and shall be senior liens, subject only to (A) the Carve-Out, (B) Permitted Liens, and (C) Prepetition Liens; provided that the Adequate Protection Liens granted to the DB Term Loan Secured Parties with respect to the DB

Term Loan Guarantors shall be senior to the Adequate Protection Liens granted to the 2007 Facility Secured Parties;

iv. With respect to Collateral of the CA Term Loan Guarantors, the Adequate Protection Liens shall be granted only to the CA Term Loan Secured Parties and the 2007 Facility Secured Parties and shall be senior liens, subject only to (A) the Carve-Out, (B) Permitted Liens, (C) Prepetition Liens; provided that the Adequate Protection Liens granted to the CA Term Loan Secured Parties with respect to the CA Term Loan Guarantors shall be senior to the Adequate Protection Liens granted to the 2007 Facility Secured Parties; and

v. Subject to entry of the Final Order, the Adequate Protection Liens shall include any lien, and attach to any collateral associated therewith, that is avoided for the benefit of the estate pursuant to section 551 of the Bankruptcy Code;

b. Superpriority Claims. To the extent set forth below, allowed superpriority administrative expense claims pursuant to sections 503(b), 507(a) and 507(b) of the Bankruptcy Code as provided for in section 507(b) of the Bankruptcy Code (the "Superpriority Claim"). Any Superpriority Claims shall be subject to the Carve-Out, and shall be allowed claims against the applicable Debtors (jointly and severally) with priority over any and all administrative expenses and all other claims against such Debtors now existing or hereafter arising, of any kind whatsoever, including, without limitation, all other administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all other administrative expenses or other claims arising under any other provision of the Bankruptcy Code, including, without limitation, sections 105, 326, 327, 328, 330, 331, 503(b), 507(a), 507(b), or 1114 of the Bankruptcy Code, whether or not such expenses or

claims may become secured by a judgment lien or other nonconsensual lien, levy or attachment. Subject to the Final Order, the Superpriority Claims shall be payable from and have recourse to the proceeds of the Avoidance Actions. The allowed Superpriority Claims shall be payable from and have recourse to all unencumbered pre- and post-petition property of the applicable Debtors (subject to the foregoing sentence). Other than the Carve-Out, no cost or expense of administration under sections 105, 503 or 507 of the Bankruptcy Code or otherwise, including any such cost or expense resulting from or arising after the conversion of the any of the Chapter 11 Cases under section 1112 of the Bankruptcy Code, shall be senior to, or *pari passu* with, the Superpriority Claims;

i. With respect to the 2007 Facility Guarantors and their estates, the Superpriority Claims shall be granted only to the 2007 Facility Secured Parties;

ii. With respect to the DB Term Loan Guarantors and their estates, the Superpriority Claims shall be granted only to the DB Term Loan Secured Parties and the 2007 Facility Secured Parties; provided that such Superpriority Claims granted to the DB Term Loan Secured Parties shall be senior to those granted to the 2007 Facility Secured Parties;

iii. With respect to the CA Term Loan Guarantors, the Superpriority Claims shall be granted only to the CA Term Loan Secured Parties and the 2007 Facility Secured Parties; provided that such Superpriority Claims granted to the CA Term Loan Secured Parties respect to the CA Term Loan Guarantors shall be senior to those granted to the 2007 Facility Secured Parties; and

iv. With respect to the Non-Silo Debtors, the Superpriority Claims shall be granted all Prepetition Secured Parties on a *pari passu* basis;

c. Fees and Expenses. Fourteen (14) days following receipt by the Debtors and the United States Trustee of invoices therefor, payment, without further order of, or application to, the Bankruptcy Court or notice to any other party, of all outstanding prepetition and all postpetition reasonable and documented fees and expenses incurred by the Prepetition Agents, including, without limitation,[4]

i. the fees and expenses incurred by (a) Milbank Tweed, Hadley & McCloy LLP ("Milbank"), as counsel to the 2007 Facility Agent, including payment of fees and expenses of Milbank in accordance with the terms set forth in the fee letter dated as of January 7, 2014, (b) Seward & Kissel LLP ("Seward"), as maritime and local counsel to the 2007 Facility Agent, including payment of fees and expenses of Seward in accordance with the terms set forth in the fee letter dated as of February 7, 2013, (c) Houlihan Lokey Capital, Inc., ("Houlihan") as financial advisors to the 2007 Facility Agent, under the engagement letter dated as of January 7, 2013 (including, without limitation, the "Deferred Fee" in accordance with the terms described therein), and (d) any local, maritime, or foreign counsel retained by the 2007 Facility Agent whose services are discrete and not duplicative of the services of any other counsel of the 2007 Facility Agent; and

ii. the fees and expenses incurred under the DB Term Loan Documents or CA Term Loan Documents, including, without limitation, by (a) Paul, Weiss, Rifkind, Wharton & Garrison LLP as counsel to the CA Term Loan Agent and the DB Term Loan Agent, (b) Orrick, Herrington & Sutcliffe LLP, as English counsel to the CA Term Loan Agent, (c) Stephenson Harwood, LLP, as English counsel to the

[4] To the extent any party has an objection to the fees and expenses requested, they shall so advise applicable Prepetition Agent(s). If any such objection is raised and not resolved and/or withdrawn, the parties shall submit any dispute to this Court for adjudication

DB Term Loan Agents, (d) Poles, Tublin, Stratakis & Gonzalez, LLP, as Marshal Islands counsel to the DB Term Loan Agents, and (e) such other maritime or foreign legal advisors that may be retained pursuant to the letter dated as of February 19, 2014 between the CA Term Loan Agent and GS&T and the letter dated as of February 12, 2014 between the DB Term Loan Agents and GS&T, respectively.

d. Interest. The Prepetition Agents (on behalf of the Prepetition Secured Parties) shall receive from the Debtors (x) on the next date on which payment would be due, in the absence of any default, under the applicable Loan Documents, cash payment of all accrued and unpaid interest on the Prepetition Secured Obligations at the non-default rates provided for in the applicable Prepetition Loan Documents, (y) upon entry of this Interim Order, all other accrued and unpaid fees and disbursements (other than legal and advisory fees and expenses, which shall be paid in accordance with paragraph 4.c of this Interim Order) owing to the Prepetition Agents or the Prepetition Secured Parties under the applicable Loan Documents and incurred prior to such date (including fees and disbursements arising before the Petition Date), and (z) thereafter, monthly in arrears, payment in cash of all interest and letter of credit, unused commitment and other fees that had accrued on and after the date of the initial payment provided for in (x) and (y) above, as applicable, at the non-default rate provided for under the applicable Prepetition Loan Documents; provided that default interest and compounded interest shall accrue on the Prepetition Secured Obligations to the extent permitted under applicable law, subject to the right of parties-in-interest to object to the allowance of such amounts.

e. Reporting and Budget Compliance. Every two weeks (beginning with the second full week after the Petition Date), on the third day of such week, the Debtors shall deliver to

the advisors to the Prepetition Agents an updated budget for the prospective 13 week period beginning the week following delivery of such updated budget. The Prepetition Agents shall have until three business days from receipt of such updated budget to reasonably object to such budget. If no Prepetition Agent reasonably objects during such time, such budget shall become the Approved Budget for purposes of this Interim Order. Pending resolution of any objection, the Approved Budget for purposes of this Interim Order shall remain the Approved Budget (including any previously updated Approved Budget). Every two weeks (beginning with the fourth full week after the Petition Date), on the third business day of such week, the Debtors shall deliver to the advisors to the Prepetition Agents and the Supporting Noteholders, a variance report from the previous four week period comparing the actual cash receipts and disbursements of the Debtors with the receipts and disbursements in the Approved Budget (the "Budget Variance Report") with respect to the following line items in the Approved Budget (i) interest expenses over the prior four week period ("Interest Expense"), (ii) general and administrative expenses over the prior four week period ("G&A"), (iii) vessel operating expenses over the prior four week period, with pro forma treatment of costs reasonably expected to be reimbursed by insurance (the "Vessel Operating Expenses"), and (iv) total cash balance, subject to credits for any difference between projected and actual drydock expenses and restructuring costs and the pro forma treatment of costs reasonably expected to be reimbursed by insurance (the "Cash Balance"). The Debtors shall ensure that at no time shall the Budget Variance Report show (w) an unfavorable variance of more than 15% for any Interest Expense or G&A, (x) an unfavorable variance of the greater of $1 million or 15% for actual Vessel Operating Expenses, (y) a Cash Balance less than $22.5 million, or (z) an unfavorable variance of more than $7 million with respect to the Cash Balance ((w)-(z),

collectively, the "Permitted Variance"). The Debtors shall also provide the Prepetition Agents with (a) the monthly financial reporting given to the U.S. Trustee, (b) financial reporting required under (and consistent with the requirements contained in) the Prepetition Loan Documents, and (c) a bi-weekly charter report.

f. Access to Records and Collateral. In addition to, and without limiting, whatever rights to access the Prepetition Secured Parties have under their respective Prepetition Loan Documents, upon reasonable notice, at reasonable times during normal business hours, the Debtors shall permit representatives, agents, and employees of the Prepetition Secured Parties (i) to have access to the Debtors' properties and other Collateral of any Debtor against whom they are granted Adequate Protection Liens or Superpriority Claims under this Interim Order for the purposes of inspection, (ii) to examine the Debtors' books and records, and (iii) to discuss the Debtors' affairs, finances, and condition with the Debtors' officers and financial advisors.

g. Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request additional forms of adequate protection at any time or the rights of the Debtors or any other party to contest such request.

5. Events of Default. The occurrence of any of the following events shall constitute an event of default (collectively, the "Events of Default"):

a. the termination of the prepetition restructuring support agreement entered into by the Debtors and certain consenting creditors dated on or about April 1, 2014 (the "Restructuring Support Agreement") by the Debtors (other than a termination pursuant to section 11(b)(i) of the Restructuring Support Agreement), the Required Supporting 2007 Facility Lenders (as

defined in the Restructuring Support Agreement) (other than a termination pursuant to section 11(d) of the Restructuring Support Agreement), the Required Supporting $253 Million Facility Lenders (as defined in the Restructuring Support Agreement), or the required $100 Million Facility Lenders (as defined in the Restructuring Support Agreement);

b. any Debtor shall have asserted, in a pleading filed with the Court (or another court of competent jurisdiction), a claim or challenge against any of the Prepetition Secured Parties contrary to the Debtors' acknowledgements, stipulations and releases contained herein;

c. the Court shall have entered an order appointing a chapter 11 trustee, responsible officer, or any examiner with enlarged powers relating to the operation of the businesses in the Chapter 11 Cases, unless consented to in writing by the Prepetition Agents;

d. the Court shall have entered an order, which order is not subject to a stay of its effectiveness pending appeal, granting relief from the automatic stay to the holder or holders of any security interest to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any Collateral which has an aggregate value in excess of $5,000,000;

e. the Court shall have entered an order granting relief from the automatic stay to the holder or holders of any security interest to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any Collateral which has an aggregate value in excess of $20,000,000;

f. the Court shall have entered an order (i) reversing, amending, supplementing, vacating, or otherwise modifying this Interim Order without the consent of the Prepetition Agents or (ii) avoiding or requiring repayment of any portion of the payments made pursuant to the terms hereof;

g. five days after notice provided by, as applicable, a Prepetition Agent that the Debtors have failed to make any payment when due under section 4 of this Interim Order and the outstanding payment is not made within such five days;

h. the date on which the Debtors produce a Budget Variance Report that shows that they have failed to comply with the Approved Budget (including any Permitted Variance);

i. the Debtors shall have failed to comply with any other term hereof and the same is not remedied within five (5) business days' notice of such non-compliance by any of the Prepetition Agents;

j. any relevant Debtor materially breaches any covenant or undertaking, after any applicable cure period, relating to the insurance, operation and maintenance of the vessels (including, without limitation, the terms regarding the expropriation, arrest, detention, capture, condemnation, confiscation, requisition, purchase, seizure or forfeiture of, or any taking of title to, the applicable vessels) as specified in the 2007 Facility Documents, the DB Term Loan Documents, or the CA Term Loan Documents;

k. the Debtors shall have filed a motion seeking to create any postpetition liens or security interests other that those granted or permitted pursuant hereto; or

l. the Debtors lose the exclusive right to file and solicit acceptances of a plan of reorganization.

6. Rights and Remedies Upon Event of Default or Termination Event. Upon occurrence of an Event of Default and following the giving of five (5) days' notice to the Debtors, the United States Trustee, the Supporting Noteholders, and the Committee (the "Notice Period") or otherwise immediately upon a Termination Event (other than the Termination Event specified in paragraph 3(ii)), the Prepetition Secured Parties may revoke the Debtors' right, if

any, to use Cash Collateral. Upon occurrence of a Termination Event or an Event of Default and following the giving of seven (7) days' notice (or such shorter notice period as the Court may order due to the exigencies of the situation) to the Debtors, the United States Trustee, the Supporting Noteholders, and the Committee (the "Extended Notice Period"), unless the Court orders otherwise during the Extended Notice Period, the automatic stay pursuant to section 362 of the Bankruptcy Code shall be automatically terminated without further notice or order of the Court, and the Prepetition Secured Parties shall be permitted to exercise all rights and remedies set forth in this Interim Order, and the Prepetition Loan Documents, including without limitation, collecting and applying any proceeds of the Prepetition Collateral in accordance with the terms of this Interim Order and the Prepetition Loan Documents, and as otherwise available at law without further order or application or motion to the Court, and without restriction or restraint by any stay under section 362 or 105 of the Bankruptcy Code. Notwithstanding anything herein to the contrary, the automatic stay pursuant to section 362 of the Bankruptcy Code shall, as of the date hereof, be automatically modified and terminated for the purposes of giving any notice contemplated hereunder, under any of the Prepetition Loan Documents, or under the Restructuring Support Agreement by any party thereto.

7. Effect of Stipulations on Third Parties. The stipulations and admissions contained in this Interim Order, including, without limitation, in paragraph C of this Interim Order, shall be binding upon the Debtors and their affiliates and any of their respective successors (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any Debtor) in all circumstances. The stipulations, releases, waivers, and admissions contained in this Interim Order, including, without limitation, in paragraph C of this Interim Order, shall be binding upon all other parties in interest, including, without limitation, any

Committee and any other person or entity acting (or purporting to act) on behalf of the Debtors' estate, unless and except to the extent that, (i) upon three (3) days' prior written notice to the Debtors and the Prepetition Agents, a party in interest with proper standing granted by order of the Court (or another court of competent jurisdiction) has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein, including, *inter alia*, in paragraph 10) by no later than the date that is 60 days from the entry of the Final Order or such later date as has been agreed to, in writing, by the applicable Prepetition Agent, in its sole discretion (the "Investigation Termination Date"), (A) challenging the validity, enforceability, priority or extent of the Prepetition Obligations or (B) otherwise asserting or prosecuting any action for preferences, fraudulent transfers or conveyances, other avoidance power claims or any other claims, counterclaims or causes of action, objections, contests or defenses to the extent released by the Debtors under paragraph C of this Interim Order (collectively, "Claims and Defenses") against any of the Prepetition Secured Parties or their affiliates, representatives, attorneys or advisors in connection with matters related to the Prepetition Loan Documents or the Prepetition Collateral, and (ii) such challenge or claim in any such timely filed adversary proceeding or contested matter has (A) with respect to the plaintiff, not been dismissed or overruled and (B) with respect to other parties-in-interest, been sustained in a final order; provided that any challenge or claim shall set forth with specificity the basis for such challenge or claim and any challenges or claims not so specified prior to the expiration of the Investigation Termination Date shall be forever deemed waived, released and barred. If no such adversary proceeding or contested matter is timely filed, (x) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense or avoidance, for all purposes in the Chapter 11 Cases and any subsequent chapter 7

case, (y) the liens and security interests securing the Prepetition Obligations shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected, not subject to recharacterization, subordination or avoidance, and (z) the Prepetition Obligations, the liens and security interests securing the Prepetition Obligations, and the Prepetition Secured Parties shall not be subject to any other or further challenge by any party in interest seeking to exercise the rights of any Debtor's estate, including, without limitation any successor thereto (including, without limitation, any chapter 7 or 11 trustee appointed or elected for the Debtor). If any such adversary proceeding or contested matter is timely filed, the stipulations and admissions contained in paragraph C of this Interim Order shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any Committee and on any other person or entity, except to the extent that such findings and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Investigation Termination Date. Nothing in this Interim Order vests or confers on any "person" (as defined in the Bankruptcy Code), including any Committee, standing or authority to bring, pursue, or settle any cause of action belonging to the Debtors or their estates, including, without limitation, Claims and Defenses with respect to the Prepetition Loan Documents or the Prepetition Secured Obligations, and an order of the Court conferring such standing on the Committee or other party-in-interest shall be a prerequisite for the prosecution of Claims and Defenses by the Committee or such other party-in-interest.

8. Carve-Out. The liens, security interests, and superpriority claims granted herein (including the Adequate Protection Lien and any Superpriority Claims), the Prepetition Liens, and any other liens, claims, or interest of any person, shall be subject and subordinate to the Carve-Out. "Carve-Out" shall mean, upon the Termination Date, the sum of (i) all fees

required to be paid to the clerk of the Bankruptcy Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) fees and expenses of up to $75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order or otherwise, all unpaid fees, costs and expenses (the "Professional Fees") incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code or any statutory committee appointed in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (collectively, the "Professional Persons"), before or on the date of delivery by a Prepetition Agent of a Carve-Out Trigger Notice (as defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice (the "Pre-Trigger Date Fees"); and (iv) after the date of delivery of the Carve-Out Trigger Notice (the "Trigger Date"), to the extent incurred after the Trigger Date, the payment of Professional Fees of Professional Persons in an aggregate amount not to exceed $2,500,000 (the amount set forth in this clause (iv) being the "Post Carve-Out Trigger Notice Cap"). For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean notice by the Prepetition Agents to the Debtors, its lead counsel, the United States Trustee, lead counsel to the Supporting Noteholders, and lead counsel for any Committee, delivered upon the occurrence of a Termination Date under the Interim Order, stating that the Post Carve-Out Trigger Notice Cap has been invoked.

9. No proceeds of the Prepetition Collateral or the Carve-Out shall be used for the purpose of: (a) investigating, objecting to, challenging or contesting in any manner, or in raising any defenses to, the amount, validity, extent, perfection, priority or enforceability of the

Prepetition Secured Obligations, or any liens or security interests with respect thereto, or any other rights or interests of any of the Prepetition Secured Parties, whether in their capacity as such or otherwise, including with respect to the Adequate Protection Liens, or in asserting any claims or causes of action against any of the Prepetition Secured Parties (whether in their capacity as such or otherwise), including, without limitation, for lender liability or pursuant to section 105, 510, 544, 547, 548, 549, 550, or 552 of the Bankruptcy Code, applicable non-bankruptcy law or otherwise; or (b) paying any amount on account of any claims arising before the Petition Date unless such payments are approved by an order of this Court; provided that up to $75,000 of Cash Collateral shall be made available to the Creditors' Committee for fees and expenses incurred in connection with any Lien Investigation (the "Committee Investigation Budget"). The Prepetition Secured Parties reserve the right to object to, contest, or otherwise challenge any claim for amounts incurred in connection with such activities (including amounts incurred in connection with a Lien Investigation in excess of the Committee Investigation Budget) on the grounds that such claim shall not be allowed, treated or payable as an administrative expense claim for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

10. No Waiver of Prepetition Secured Parties' Rights; Reservation of Rights. Notwithstanding any provision in this Interim Order to the contrary, this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, any of the Prepetition Secured Parties' rights with respect to any person or entity other than the Debtors or with respect to any other collateral owned or held by any person or entity other than the Debtors. The rights of the Prepetition Secured Parties are expressly reserved and entry of this Interim Order shall be without prejudice to, and does not constitute a waiver, expressly or implicitly, of:

a. the Prepetition Secured Parties' rights under any of the Prepetition Loan Documents;

b. the Prepetition Secured Parties' rights to seek any other or supplemental relief in respect of the Debtors;

c. the Prepetition Secured Parties' rights to seek modification of the grant of adequate protection provided under this Interim Order so as to provide different or additional adequate protection at any time;

d. any of the Prepetition Secured Parties' rights under the Bankruptcy Code or under non-bankruptcy law including, without limitation, to the right to: (i) request modification of the automatic stay of section 362 of the Bankruptcy Code; (ii) request dismissal of the Chapter 11 Cases, conversion of any of the Chapter 11 Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with extended powers; or (iii) propose, subject to section 1121 of the Bankruptcy Code, a chapter 11 plan or plans;

e. any of the Prepetition Secured Parties' unqualified right to credit bid up to the full amount of any remaining Prepetition Obligations in the sale of any Prepetition Collateral or pursuant to (i) section 363 of the Bankruptcy Code, (ii) a plan of reorganization or a plan of liquidation under section 1129 of the Bankruptcy Code, or (iii) a sale or disposition by a chapter 7 trustee for any Debtor under section 725 of the Bankruptcy Code; or

f. any other rights, claims, or privileges (whether legal, equitable, or otherwise) of the Prepetition Secured Parties.

11. Recharacterization. Notwithstanding anything to the contrary herein, if any of the Prepetition Secured Obligations are determined by this Court to be undersecured, the payment of fees and expenses and interest permitted hereunder may be recharacterized and re-credited to the principal balance of such Prepetition Secured Obligations pursuant to further order entered by this Court.

12. Further Relief. Notwithstanding anything to the contrary herein, nothing herein shall limit (i) the Debtors' right to seek authority on a consensual or non-consensual basis, whether before or after a Termination Event or an Event of Default, to use Cash Collateral pursuant to further order of the Bankruptcy Court or (ii) the Prepetition Secured Parties' rights to object to, challenge, or oppose any such relief or to declare an Event of Default or a Termination Event hereunder.

13. Further Assurances. The Debtors shall execute and deliver to the Prepetition Agents all such agreements, financing statements, instruments, and other documents as they may reasonably request to evidence, confirm, validate, or evidence the perfection of the Adequate Protection Liens granted pursuant hereto.

14. 506(c) Waiver. Subject to the entry of a Final Order, except as provided in this Interim Order, no costs or expenses of administration which have been or may be incurred in any of the Chapter 11 Cases at any time shall be charged against any Prepetition Secured Party, any of the Prepetition Secured Obligations, any of their respective claims, or the Collateral pursuant to sections 506(c) or 105(a) of the Bankruptcy Code, or otherwise, without the prior written consent of the affected Prepetition Agent, and no such consent shall be implied from any other action, inaction, or acquiescence by any of the Prepetition Secured Parties or their respective representatives.

15. Restrictions on Granting Postpetition Claims and Liens. Except with respect to the Carve-Out, no claim or lien that is *pari passu* with or senior to the claims and liens of any of the Prepetition Secured Parties shall be offered by any Debtor, or granted, to any other person, except in connection with any financing used to pay in full the claims of the Prepetition

Secured Parties or that would constitute a Permitted Lien with respect to the Debtor against whom such lien is granted.

16. Automatic Effectiveness of Liens. The Adequate Protection Liens shall not be subject to challenge and shall attach and become valid, perfected, enforceable, non-avoidable, and effective by operation of law as of the Petition Date, having the priority set forth in paragraph 4 of this Interim Order, without any further action by the Debtors or the Prepetition Secured Parties and without the necessity of execution by the Debtors, or the filing or recordation, of any financing statements, security agreements, vehicle lien applications, mortgages (including ships' mortgages), filings with the U.S. Patent and Trademark Office, the U.S. Copyright Office, or the Library of Congress, or other documents or the taking of any other actions. If any Prepetition Agent hereafter requests that the Debtors execute and deliver to them financing statements, security agreements, collateral assignments, mortgages, or other instruments and documents considered by such agent to be reasonably necessary or desirable to further evidence the perfection of the Adequate Protection Liens, as applicable, the Debtors are hereby directed to execute and deliver such financing statements, security agreements, mortgages, collateral assignments, instruments, and documents, and the Prepetition Agents are hereby authorized to file or record such documents in their discretion without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of entry of this Interim Order.

17. No Marshaling/Application of Proceeds. In no event shall any of the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Collateral; provided that any Prepetition Secured Party

shall be entitled to seek to apply such marshaling or other similar doctrines with respect to another Prepetition Secured Party.

18. Proofs of Claim. None of the Prepetition Secured Parties shall be required to file proofs of claim in any of the in the Chapter 11 Cases for any Prepetition Secured Claim or any Superpriority Claim or other claim arising in connection with this Interim Order. Notwithstanding any order entered by the Court in relation to the establishment of a bar date, the Prepetition Agents, on behalf of themselves and Prepetition Secured Parties, as applicable, are hereby authorized and entitled, in each of their sole and absolute discretion, but not required, to file (and amend and/or supplement, as each sees fit) a proof of claim and/or aggregate proofs of claim in the Chapter 11 Cases for any such claims; for avoidance of doubt, any such proof of claim may (but is not required to be) filed as one consolidated proof of claim against all of the applicable Debtors, rather than as separate proofs of claim against each such Debtor. Any proof of claim filed by a Prepetition Agent shall be deemed to be in addition to and not in lieu of any other proof of claim that may be filed by any of the respective Prepetition Secured Parties. Any order entered by the Court in relation to the establishment of a bar date for any claim (including without limitation administrative claims) in any of the Chapter 11 Cases shall not apply to the Prepetition Secured Parties.

19. Additional Modification of Stay. To the extent the automatic stay provisions of Section 362 of the Bankruptcy Code would otherwise apply, such provisions are vacated for the limited purposes of permitting the transfer and assignment of any liens, pledges or security interests upon Prepetition Collateral from DNB Bank ASA, New York Branch (f/k/a DNB Nor Bank ASA, New York Branch) to Wilmington Trust, National Association, as

successor administrative agent and successor collateral agent under the 2007 Credit Facility Documents.

20. Binding Effect. Subject to paragraph 7 of this Interim Order, the provisions of this Interim Order shall be binding upon and inure to the benefit of the Prepetition Secured Parties to the extent and as set forth herein, the Debtors, any Committee, and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors). To the extent permitted by applicable law, this Interim Order shall bind any trustee hereafter appointed for the estate of any of the Debtors, whether in these Chapter 11 Cases or in the event of the conversion of any of the Chapter 11 Cases to a liquidation under chapter 7 of the Bankruptcy Code. Such binding effect is an integral part of this Interim Order.

21. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive the entry of any order: (i) confirming any plan of reorganization in any of the Chapter 11 Cases, (ii) converting any of the Chapter 11 Cases to a chapter 7 case, or (iii) dismissing any of the Chapter 11 Cases, and, with respect to the entry of any order as set forth in clause (ii) or (iii) of this paragraph 21, the terms and provisions of this Interim Order as well as the Adequate Protection Liens and Superpriority Claim shall continue in full force and effect notwithstanding the entry of any such order.

22. Effect of Dismissal of Chapter 11 Cases. If any of the Chapter 11 Cases is dismissed, converted, or substantively consolidated, such dismissal, conversion, or substantive consolidation of these Chapter 11 Cases shall not affect the rights of the Prepetition Secured

Parties under this Interim Order, and all of their rights and remedies thereunder shall remain in full force and effect as if the Chapter 11 Cases had not been dismissed, converted, or substantively consolidated. If an order dismissing any of the Chapter 11 Cases is at any time entered, such order shall provide or be deemed to provide (in accordance with Sections 105 and 349 of the Bankruptcy Code) that: (i) subject to paragraph 7 of this Interim Order, the Prepetition Liens, Adequate Protection Liens, and Superpriority Claims granted to and conferred upon the Prepetition Secured Parties shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order (and that such Superpriority Claims shall, notwithstanding such dismissal, remain binding on all interested parties) and (ii) to the greatest extent permitted by applicable law, this Court shall retain jurisdiction, notwithstanding such dismissal, for the purpose of enforcing the Prepetition Liens, Adequate Protection Liens, and Superpriority Claims referred to in this Interim Order.

23. Order Effective. This Interim Order shall be effective as of the date of the signature by the Court.

24. Controlling Effect of Interim Order. To the extent any provision of this Interim Order conflicts or is inconsistent with any provision of the Motion or any prepetition agreement, the provisions of this Interim Order shall control to the extent of such conflict.

25. Final Hearing. The Final Hearing on the Motion shall be heard before the Honorable [_____] on [_____] at [___] [a.m./p.m.] at the United States Bankruptcy Court, 1 Bowling Green, Courtroom [___], New York NY 10005. Any objections shall be filed with the Bankruptcy Court on or before [_____], 2014 at 4:00 p.m., and served upon (i) Adam C. Rogoff, Stephen D. Zide, and Anupama Yerramalli of Kramer Levin Naftalis & Frankel LLP at 1177 Avenue of the Americas, New York, New York, 10036; (ii) Dennis F. Dunne, Samuel A. Khalil,

and Michael W. Price of Milbank, Tweed, Hadley & McCloy LLP at 1 Chase Manhattan Plaza, New York, New York, 10005; (iii) Alan W. Kornberg and Elizabeth McColm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019; and (iv) Michael S. Stamer of Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036 and Sarah Link Schultz of Akin Gump Strauss Hauer & Feld LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas 75201.

Dated: _____, 2014
New York, New York

_____
[_____]
United States Bankruptcy Judge

Exhibit C

Form of Transferee Acknowledgement

Transferee Acknowledgement

This joinder (this "Joinder") to the Restructuring Support Agreement, dated as of the Effective Date, by and among Genco Shipping & Trading Limited ("Genco"), certain affiliates of Genco, and the Supporting Creditors parties thereto (the "Agreement") is executed and delivered by [_____] (the "Joining Party") as of [_____], 2014. Each capitalized term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. ***Agreement to be Bound***. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder as Annex I (as the same has been or may be hereafter amended, restated or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be a "Supporting Creditor" and a "Party" for all purposes under the Agreement.

2. ***Representations and Warranties***. With respect to the aggregate principal amount of debt owed under the applicable Debt Instrument, the Joining Party hereby represents and warrants to each other Party to the Agreement that, as of the date hereof, such Joining Party (a) is the legal or beneficial holder of, and has all necessary authority (including authority to bind any other legal or beneficial holder) with respect to, the debt outstanding under such Debt Instrument in the principal amounts as identified below its name on the signature page hereof, and (b) makes the representations and warranties set forth in section 12 of the Agreement to each other Party.

3. ***Governing Law***. This Joinder shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to any conflicts of law provisions which would require the application of the law of any other jurisdiction.

4. ***Notice***. All notices and other communications given or made pursuant to the Agreement shall be sent to:

To the Joining Party at:

[JOINING PARTY]
[ADDRESS]
Attn:
Facsimile: [FAX]
EMAIL:

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date first written above.

[JOINING PARTY]

By: _____
Name:

Title:

Holdings: _____

[**SUPPORTING CREDITOR**]

By: _____
Name:
Title:

Holdings: _____

Acknowledged:

Genco Shipping & Trading Limited

By: _____
Name:
Title:

Genco Acheron Limited
Genco Beauty Limited
Genco Knight Limited
Genco Leader Limited
Genco Muse Limited
Genco Vigour Limited
Genco Carrier Limited
Genco Prosperity Limited
Genco Success Limited
Genco Wisdom Limited
Genco Marine Limited
Genco Explorer Limited

Genco Pioneer Limited
Genco Progress Limited
Genco Reliance Limited
Genco Surprise Limited
Genco Sugar Limited
Genco Augustus Limited
Genco Tiberius Limited
Genco London Limited
Genco Titus Limited
Genco Constantine Limited
Genco Hadrian Limited
Genco Commodus Limited
Genco Maximus Limited
Genco Claudius Limited
Genco Challenger Limited
Genco Champion Limited
Genco Charger Limited
Genco Hunter Limited
Genco Predator Limited
Genco Warrior Limited
Genco Bay Limited
Genco Ocean Limited
Genco Avra Limited
Genco Mare Limited
Genco Spirit Limited
Genco Lorraine Limited
Genco Pyrenees Limited
Genco Loire Limited
Genco Bourgogne Limited
Genco Picardy Limited
Genco Aquitaine Limited
Genco Normandy Limited
Genco Auvergne Limited
Genco Provence Limited
Genco Ardennes Limited
Genco Brittany Limited
Genco Languedoc Limited
Genco Rhone Limited
Genco Investments LLC
Genco Management (USA) LLC
Genco Ship Management LLC
Genco RE Investments LLC

By: _____
Name:
Title:

Genco Raptor LLC
Genco Cavalier LLC
Genco Thunder LLC

By: _____
Name:
Title:

Annex I

Restructuring Support Agreement

Exhibit D

Holdings of Supporting Creditors

[To be redacted]