

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
THE FLINTKOTE COMPANY and FLINTKOTE MINES LIMITED,)	Case No. 04-11300 (MFW)
)	(Jointly Administered)
)	
Debtors.)	Related to Docket Nos. 3826, 4547,
)	5183, 5317, 5873, 6207, 6580, 6668, 7324
)	

**PLAN SUPPLEMENT TO AMENDED JOINT PLAN OF REORGANIZATION IN
RESPECT OF THE FLINTKOTE COMPANY AND FLINTKOTE MINES LIMITED
(AS MODIFIED FEBRUARY 9, 2015)**

To avoid confusion over what constitutes the operative versions of various plan-related documents, the Plan Proponents¹ hereby file this comprehensive Plan Supplement. The Plan Supplement fully supersedes the Prior Plan Supplement² and Amendments. Any documents included in the Prior Plan Supplement or the Amendments but not included herein shall not constitute Plan Documents.

The Plan Supplement comprises (i) previously-submitted exhibits that have been amended to include (a) certain non-material modifications resulting from the passage of time and/or from modifications embodied in the Plan (Exhibits 1-7); or (b) modifications to reflect a settlement reached with one of the Debtors' Asbestos Insurance Companies (Exhibit 8); (ii)

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the *Amended Joint Plan of Reorganization In Respect Of The Flintkote Company And Flintkote Mines Limited (As Modified February 9, 2015)* [D.I. 8706] (the "Plan").

² On November 18, 2008, the Debtors filed the *Plan Supplement to Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited* (Docket No. 3826) (the "Prior Plan Supplement"). Since then, the Debtors have filed eight (8) amendments to the Prior Plan Supplement [D.I. 4547], [D.I. 5183], [D.I. 5317], [D.I. 5873], [D.I. 6207], [D.I. 6580], [D.I. 6668] (the "First Amendment", the "Second Amendment", the "Third Amendment", the "Fourth Amendment", the "Fifth Amendment" the "Sixth Amendment", the "Seventh Amendment", and the "Eighth Amendment", respectively, and collectively, the "Amendments").

previously-submitted exhibits that remain unchanged (Exhibits 9-11); and (iii) new exhibits not previously filed with the Court (Exhibits 12-13). These documents are discussed in further detail below. Contemporaneously herewith, the Debtors are also filing a *Notice of Filing Blacklined Changes to Plan Supplement*, which contains exhibits showing the differences between Exhibits 1-8 hereto and the versions of these documents that were filed previously in these Chapter 11 Cases.

Amended and Restated Bylaws

Attached hereto as Exhibit 1 are the Amended and Restated Bylaws of The Flintkote Company (the “Bylaws”), a prior version of which was filed with the Court as part of the Prior Plan Supplement on November 18, 2008 [D.I. 3826]. The attached Bylaws have been amended to incorporate certain non-material modifications reflecting the passage of time.

Amended and Restated Certificate of Incorporation

Attached hereto as Exhibit 2 is the Amended and Restated Certificate of Incorporation for The Flintkote Company (the “Certificate of Incorporation”), a prior version of which was filed with the Court as part of the Prior Plan Supplement on November 18, 2008 [D.I. 3826]. The Certificate of Incorporation has been amended to incorporate certain non-material modifications reflecting the passage of time.

Initial Members of Trust Advisory Committee

Attached hereto as Exhibit 3 is the list of Initial Members of the Trust Advisory Committee for The Flintkote Company Asbestos Personal Injury Trust (the “Trust”), a prior version of which was filed with the Court as part of the Prior Plan Supplement on November 18, 2008 [D.I. 3826]. The list has been modified by further action of the Asbestos Claimants

Committee pursuant to Section 4.3.1 of the Plan.³

Trust Agreement

Attached hereto as Exhibit 4 is the Asbestos Personal Injury Trust Agreement (the "Trust Agreement"), a prior version of which was filed with the Court as Exhibit A to the Plan on February 9, 2015 [D.I. 8706]. The Trust Agreement has been modified to reflect the above-referenced changes to the list of Initial Members of the Trust Advisory Committee for the Trust.

Trust Services Agreement

Attached hereto as Exhibit 5 is the Trust Services Agreement between The Flintkote Company and the Trust (the "Trust Services Agreement"), a prior version of which was filed with the Court as part of the Third Amendment on September 16, 2010 [D.I. 5317]. The Trust Services Agreement has been amended to incorporate certain non-material modifications reflecting the passage of time and modifications to the Prior Plan embodied in the Plan.

Form of Employment Agreement for David J. Gordon

Attached hereto as Exhibit 6 is the form of post-Effective Date employment agreement for David J. Gordon (the "Gordon Employment Agreement"), a prior version of which was filed with the Court as part of the Third Amendment on September 16, 2010 [D.I.

³ Section 4.3.1. of the Plan provides:

The Trust Advisory Committee shall be established pursuant to the Trust Agreement. The Trust Advisory Committee shall have six (6) members and shall have the functions, duties and rights provided in the Trust Agreement. The Asbestos Claimants Committee has selected the six (6) initial members of the Trust Advisory Committee, and they are identified in the Trust Agreement.

Plan § 4.3.1. Further, the Trust Agreement (as defined herein) provides that "[t]he initial members of the TAC are those individuals selected by the Asbestos Claimants Committee, identified on the signature page hereof and confirmed as the initial members of the TAC by the Bankruptcy Court pursuant to the Confirmation Order." Trust Services Agreement § 6.1(a).

5317]. The Gordon Employment Agreement has been amended to incorporate certain non-material modifications reflecting the passage of time.

Post-Effective Date Balance Sheet

Attached hereto as Exhibit 7 is the projected post-Effective Date balance sheet for Reorganized Flintkote (the "Pro Forma Balance Sheet"), a prior version of which was submitted into evidence as Plan Proponents' Confirmation Exhibit 74 in connection with the 2010 trial on confirmation of the Prior Plan. *See* [D.I. 5454] (transcript of October 25, 2010 confirmation hearing) at 172:19-172:23; [D.I. 6145] Ex. D (Plan Proponents' Supplemental Exhibit List) at 21.

The Pro Forma Balance Sheet has been updated to reflect certain changes in Flintkote's asset profile since 2010, as well as to reflect Flintkote's receipt on the Effective Date of its allocated share of two percent (2%) of the Net DRL Recovery, which has been provided for under all versions of the Plan.

List of Settling Asbestos Insurance Companies

Attached hereto as Exhibit 8 is a further amended version of the List of Settling Asbestos Insurance Companies previously filed as Exhibit A to the Eighth Amendment.

The List of Settling Asbestos Insurance Companies has been updated to include the "Travelers Releasees" as defined in the "Settlement Agreement, Policy Buyback and Mutual Release by and among The Flintkote Company, Flintkote Mines Limited, and Travelers Casualty and Surety Company" approved by the Order Approving Settlement Agreement, Policy Buyback, and Mutual Release between Debtors and Travelers [D.I. 8898] (the "Approval Order"), to the extent of any entities contained in such definition at the time such Approval Order was entered. The Approval Order became final on June 10, 2015.

Amended and Restated Executive Consulting Agreement

Attached hereto as Exhibit 9 is the (the “Plant Consulting Agreement”), which was previously filed as part of the Fourth Amendment on May 11, 2011 [D.I. 5873]. All services and payments contemplated under the Plant Consulting Agreement have been completed – the parties have no remaining obligations thereunder.

The Plant Consulting Agreement has not been further modified since the filing of the Fourth Amendment, but is included here as documented evidence, for purposes of confirmation, of Flintkote’s consulting and executive management services business, which Flintkote is continuing to develop.

Initial Board of Directors

Attached hereto as Exhibit 10 and Exhibit 11, respectively, are the initial Board of Directors for Reorganized Flintkote (as defined under the Plan) and the curriculum vitae of W. Howard Morris (who has been designated by the Asbestos Claimants Committee to sit on the Board of Directors for Reorganized Flintkote),⁴ both of which were previously filed as part of the Sixth Amendment on February 10, 2012 [D.I. 6580].

These documents have not been further modified since the filing of the Sixth Amendment, but are included here because they are required disclosures under 11 U.S.C. § 1129(a)(5)(A)(i).

⁴ The other members of the Board of Directors are (i) David J. Gordon, who has served as the President and Chief Executive Officer of Flintkote throughout these Chapter 11 Cases, and whose experience is further detailed in the Disclosure Statement [D.I. 3433] at 12-14; and (ii) James J. McMonagle, who has served as the Future Claimants Representative throughout these Chapter 11 Cases, and whose experience is further detailed in the Declaration of James J. McMonagle in Support of Confirmation of the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited (As Modified February 9, 2015) [D.I. 8951].

Updated Insider Compensation Disclosures

Attached hereto as Exhibit 12 are updated disclosures regarding the roles and material terms of post-Effective Date compensation for Eric Bower, John Bay, and Don Oliver (the “Updated Insider Compensation Disclosures”), which are required disclosures under 11 U.S.C. § 1129(a)(5). The staffing changes underpinning this exhibit were previously disclosed the Plan Proponents’ Brief in Support of Confirmation of the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited (As Modified February 9, 2015) [D.I. 8954].

In light of Bay’s and Bower’s change in employment status from the date the Debtors previously disclosed Bay’s and Bower’s post-Effective Date employment terms as part of the Third Amendment filed on September 16, 2010 [D.I. 5317], as well as Oliver’s becoming an officer of Flintkote as disclosed in the Debtors’ Motion for an Order Pursuant to 11 U.S.C. §§ 105(a) and 363 Authorizing Entry into Separation and Consulting Agreement with Eric Bower and Increasing Monthly Fee Cap as to Financial Management Services filed on July 30, 2012 [D.I. 6973], which was approved by order of the Court on August 14, 2012 [D.I. 7008], the Debtors have included the Updated Insider Compensation Disclosures in the Plan Supplement to reflect these individuals’ updated roles and material post-Effective Date compensation terms.

Merger Agreement

Attached hereto as Exhibit 13 is the *Agreement and Plan of Merger* providing for the terms, conditions and process of the Merger of Mines with and into Flintkote, as provided by Section 10.3 of the Plan.

Dated: Wilmington, Delaware
July 27, 2015

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