

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:

HAVERHILL CHEMICALS LLC,  
  
DEBTOR.

§  
§  
§  
§  
§  
§

CASE NO. 15-34918  
  
(Chapter 11)

**NOTICE OF REDLINE VERSION OF  
COMBINED DISCLOSURE STATEMENT AND PLAN**

PLEASE TAKE NOTICE THAT on February 15, 2015, Haverhill Chemicals LLC (the “Debtor”) and the Official Committee of Unsecured Creditors appointed in the above-referenced case (the “Committee”) filed the *Joint Combined Disclosure Statement and Plan of Liquidation of Haverhill Chemicals LLC and the Official Committee of Unsecured Creditors* [Docket No. 244] (the “Original Combined Disclosure Statement and Plan”).

PLEASE TAKE FURTHER NOTICE THAT on February 24, 2016, the Debtor and the Committee filed the *First Amended Joint Combined Disclosure Statement and Plan of Liquidation of Haverhill Chemicals LLC and the Official Committee of Unsecured Creditors* [Docket No. 251] (the “Amended Combined Disclosure Statement and Plan”).

PLEASE TAKE FURTHER NOTICE THAT attached hereto is a redline comparing the changes from the Original Combined Disclosure Statement and Plan against the Amended Combined Disclosure Statement and Plan.

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Dated: February 24, 2016

Respectfully submitted,

DIAMOND McCARTHY LLP

By: /s/ Charles M. Rubio

Kyung S. Lee

TBA No. 12128400

klee@diamondmccarthy.com

(713) 333-5125

Charles M. Rubio

TBA No. 24083768

crubio@diamondmccarthy.com

(713) 333-5127

909 Fannin, Suite 1500

Houston, Texas 77010

(713) 333-5100 Telephone

(713) 333-5195 Facsimile

ATTORNEYS FOR HAVERHILL  
CHEMICALS LLC, DEBTOR AND  
DEBTOR-IN-POSSESSION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and served upon all parties receiving notice pursuant to the CM/ECF system on February 24, 2016.

/s/ Charles M. Rubio

Charles M. Rubio

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>IN RE:</b>	§	
	§	
<b>HAVERHILL CHEMICALS LLC,</b>	§	<b>CASE NO. 15-34918</b>
	§	<b>CHAPTER 11</b>
	§	
<b>Debtor(s).</b>	§	<b>Marvin Isgur</b>

**FIRST AMENDED JOINT COMBINED DISCLOSURE STATEMENT AND  
PLAN OF LIQUIDATION OF HAVERHILL CHEMICALS LLC AND  
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

**DIAMOND MCCARTHY LLP**

Kyung S. Lee  
TBA No. 12128400  
klee@diamondmccarthy.com  
Charles Rubio  
TBA No. 24083768  
crubio@diamondmccarthy.com  
William Hotze  
TBA No. 24087754  
whotze@diamondmccarthy.com  
909 Fannin, Suite 1500  
Houston, Texas 77010  
Telephone: (713) 333-5100  
Facsimile: (713) 333-5195

*Counsel to the Debtor and Debtor in Possession*

**HALPERIN BATTAGLIA BENZIJA, LLP**

Alan D. Halperin, Esq.  
Julie Dyas Goldberg, Esq.  
40 Wall Street, 37<sup>th</sup> Floor  
New York, New York 10005  
Phone: (212) 765-9100; Fax: (212) 765-0964  
ahalperin@halperinlaw.net  
jgoldberg@halperinlaw.net

*Counsel to the Official Committee of Unsecured Creditors*

Dated: February ~~15~~, 24, 2016

**PLEASE READ THIS COMBINED DISCLOSURE STATEMENT AND PLAN OF LIQUIDATION CAREFULLY. THIS DOCUMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN OF LIQUIDATION WHICH IS ENCLOSED WITHIN THIS COMBINED DOCUMENT. THE DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS BELIEVE THAT ACCEPTANCE OF THE PLAN OF LIQUIDATION IS IN THE BEST INTEREST OF THE DEBTOR AND ITS CREDITORS AND PROVIDES THE HIGHEST AND MOST EXPEDITIOUS RECOVERIES TO HOLDERS OF ALLOWED CLAIMS AGAINST THE DEBTOR**

Haverhill Chemicals LLC (“Haverhill” or the “Debtor”) and the Official Committee of Unsecured Creditors appointed in the above-referenced case (the “Committee”), respectfully ~~submits~~submit this first amended joint combined-~~joint~~ disclosure statement and plan of liquidation (the “Plan and Disclosure Statement”) pursuant to §§ 1125 and 1129 of Title 11 of the United States Code, as amended (the “Bankruptcy Code”). The Plan and Disclosure Statement amends and replaces the original version filed with the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”) at docket number 244 in the above-referenced case.

I.

**DESCRIPTION OF THE PLAN AND DISCLOSURE STATEMENT**

The purpose of this Plan and Disclosure Statement is to provide creditors and equity holders of the Debtor with adequate information to enable them to make an informed judgment concerning the method by which the Debtor plans to liquidate. The Plan and Disclosure Statement contains the exclusive and final statement of the rights of the Debtor, its creditors, equity holders and other interested parties, and sets forth what (if anything) each of those groups will receive and how they will receive it. It is strongly recommended that the Plan and Disclosure Statement be read in its entirety. If the Bankruptcy Court confirms the Plan and Disclosure Statement, it will become binding on the Debtor, all creditors, equity holders and other interested parties.

You are also urged to read the contents of the Plan and Disclosure Statement in order to determine what rights you may have to vote on or object to the method by which the Debtor plans to liquidate and before making any decision on any such course of action. Particular attention should be directed to the provisions of the Plan and Disclosure Statement affecting or impairing your rights as they existed before the institution of this case. Please note, however, that this document cannot tell you everything about your rights. For instance, this Plan and Disclosure Statement cannot and does not provide a complete description of the financial status of the Debtor, all of the applicable provisions of the Bankruptcy Code, or other matters that may be deemed significant by creditors and other parties in interest. You are also encouraged to consult with your lawyers and/or advisors as you review and consider the Plan and Disclosure Statement to enable you to obtain more specific advice on how the Debtor’s actions will affect you.

Creditors whose claims are impaired have the right to vote to accept or reject the Plan and Disclosure Statement. Generally speaking, a claim or interest is impaired if the legal, contractual or equitable rights of the holder of the claim or interest is altered by the Plan and Disclosure Statement.

A class of creditors accepts the Plan and Disclosure Statement when creditors holding two-thirds in amount of such class and more than one-half in number of the claims in such class who actually cast their ballots votes to accept the Plan and Disclosure Statement.

In this case, the Plan and Disclosure Statement contains four (4) classes of claims and one (1) class of interests. The Plan and Disclosure Statement impairs holders of Classes 1 and 4 Claims and Class 5 Interests. Class 5 Interests receive no distribution under the Plan and Disclosure Statement and are, thus, deemed to reject the Plan and Disclosure Statement. **Accordingly, votes will be solicited from Classes 1 and 4 only.**

**IN THE OPINION OF THE DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, THE TREATMENT OF CREDITORS AND INTEREST HOLDERS UNDER THE PLAN CONTEMPLATES A GREATER RECOVERY THAN IS LIKELY TO BE ACHIEVED UNDER ANY OTHER ALTERNATIVE FOR THE LIQUIDATION OF THE DEBTOR UNDER CHAPTER 11 OF THE BANKRUPTCY CODE OR UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. ACCORDINGLY, THE DEBTOR AND THE COMMITTEE BELIEVE THAT CONFIRMATION OF THE PLAN AND DISCLOSURE STATEMENT IS IN THE BEST INTERESTS OF THE DEBTOR'S CREDITORS AND INTEREST HOLDERS AND RECOMMEND THAT ALL HOLDERS OF CLAIMS VOTE TO ACCEPT THE PLAN.**

The following materials are included with this Plan and Disclosure Statement:

1. A copy of an order (the “Disclosure Statement Order”) that establishes: (a) the date by which objections to confirmation of the Plan and Disclosure Statement must be served and filed, (b) the date by which all votes with respect to the Plan and Disclosure Statement must be cast, (c) the date of the hearing in the Bankruptcy Court to consider confirmation of the Plan and Disclosure Statement, and (d) other relevant information; and
2. A Ballot for holders of Claims to vote with respect to the Plan and Disclosure Statement.

The adequacy of the disclosures in this Plan and Disclosure Statement was approved by the Bankruptcy Court by the Disclosure Statement Order on February [\_\_\_], 2016 after notice and hearing pursuant to § 1125 of the Bankruptcy Code. The Bankruptcy Court found that the information contained herein is of the kind, and is sufficiently detailed, to enable a hypothetical, reasonable investor typical of the class being solicited to make an informed judgment concerning the Plan and Disclosure Statement. **HOWEVER, THE BANKRUPTCY COURT HAS NOT CONFIRMED THE PLAN AND DISCLOSURE STATEMENT, NOR IS THIS DOCUMENT OR THE DISCLOSURE STATEMENT ORDER TO BE CONSTRUED AS APPROVAL OR ENDORSEMENT OF THE PLAN AND DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT.**

As stated in the Disclosure Statement Order, the Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan and Disclosure Statement for March [\_\_\_], 2016 at [\_\_\_]:00 [\_\_\_].m.

(the “Confirmation Hearing”). Holders of claims and interests, as well as other parties in interest, may attend this hearing. Objections to confirmation of the Plan and Disclosure Statement, if any, must be in writing and filed with the Bankruptcy Court and served, so as to be received no later than 5:00 p.m. on March [\_\_\_], 2016, upon all of the following parties:

Diamond McCarthy LLP  
Counsel to Haverhill Chemicals LLC  
909 Fannin, Suite 1500  
Houston, Texas 77010  
Attn: Kyung S. Lee  
Charles Rubio  
William Hotze

Halperin Battaglia Benzija, LLP  
Counsel to the Official Committee of Unsecured Creditors  
40 Wall Street, 37th Floor  
New York, New York 10005  
Attn: Alan D. Halperin  
Julie Dyas Goldberg

[Bryan Cave LLP](#)  
[Counsel for the Agent](#)  
[211 North Broadway, Suite 3600](#)  
[St. Louis, MO 63102](#)  
Attn: [David Unseth](#)

[Office of the United States Trustee](#)  
[515 Rusk](#)  
[Houston, Texas 77002](#)  
Attn: [Nancy Holley](#)

All Ballots must be completed in full and signed to be counted in the tabulation of the votes and must be received no later than 5:00 p.m. on March [\_\_\_], 2016 by:

Diamond McCarthy LLP  
Counsel to Haverhill Chemicals LLC  
909 Fannin, Suite 1500  
Houston, Texas 77010  
Attn: Kyung S. Lee  
Charles Rubio  
William Hotze

This document contains a description of the assets, liabilities and affairs of the Debtor, a description and analysis of the plan by which the Debtor intends to liquidate (the “Plan”), and an analysis of alternatives to the Plan.

*A. Representations/Limitations*

**NO PERSON IS AUTHORIZED BY THE DEBTOR IN CONNECTION WITH THE PLAN AND DISCLOSURE STATEMENT OR THE SOLICITATION OF VOTES THEREON TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS DOCUMENT AND THE EXHIBITS ANNEXED HERETO OR INCORPORATED HEREIN BY REFERENCE OR REFERRED TO HEREIN, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTOR.**

**THE INFORMATION CONTAINED HEREIN HAS BEEN PREPARED BY THE DEBTOR AND THE COMMITTEE IN GOOD FAITH, BASED UPON UNAUDITED INFORMATION AVAILABLE TO THE DEBTOR AS OF THE DATE HEREOF. ALTHOUGH THE DEBTOR AND THE COMMITTEE HAVE USED BEST EFFORTS TO ENSURE THAT SUCH INFORMATION IS ACCURATE, THE INFORMATION CONTAINED HEREIN IS UNAUDITED. THE DEBTOR AND THE COMMITTEE BELIEVE THAT THIS PLAN AND DISCLOSURE STATEMENT COMPLIES WITH THE REQUIREMENTS OF THE BANKRUPTCY CODE.**

**THE STATEMENTS CONTAINED IN THIS PLAN AND DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND DELIVERY OF THIS PLAN AND DISCLOSURE STATEMENT SHALL NOT CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SET FORTH HEREIN SINCE THE DATE OF THIS DOCUMENT AND THE DATE THE MATERIALS RELIED UPON IN PREPARATION OF THIS PLAN AND DISCLOSURE STATEMENT WERE COMPILED.**

**THIS DOCUMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN, AND NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS AGAINST OR AN INTEREST IN THE DEBTOR.**

**FAILURE BY A CREDITOR OR INTEREST HOLDER TO TIMELY CAST A BALLOT OR FILE AN OBJECTION TO CONFIRMATION OF THE PLAN AND DISCLOSURE STATEMENT IN ACCORDANCE WITH THE DISCLOSURE STATEMENT ORDER AND THE BANKRUPTCY CODE SHALL CONSTITUTE AN AGREEMENT BY SILENCE TO ACCEPT THE TERMS CONTAINED IN THE PLAN AND DISCLOSURE STATEMENT.**

**THIS PLAN AND DISCLOSURE STATEMENT PROVIDES FOR INJUNCTIVE RELIEF AS TO THE DEBTOR. THE PERMANENT INJUNCTIONS SET FORTH IN THE PLAN AND DISCLOSURE STATEMENT WILL APPLY TO HOLDERS OF ANY CLAIM, INTEREST, LIEN, ENCUMBRANCE OR DEBT, WHETHER SECURED OR**

**UNSECURED, GRANTED PRIORITY STATUS, INCLUDING PRIORITY TAX (FEDERAL OR STATE), NON-PRIORITY UNSECURED CLAIM OR ANY INTEREST IN THE DEBTOR. CREDITORS AND INTEREST HOLDERS WILL BE BOUND BY THIS INJUNCTIVE PROVISION UNLESS CREDITORS TIMELY FILE OBJECTIONS IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THE DISCLOSURE STATEMENT ORDER OR HEREIN AND APPEAR AT THE CONFIRMATION HEARING, TO PROSECUTE ANY OBJECTION.**

**THE DEBTOR AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS URGE ALL HOLDERS OF CLAIMS TO ACCEPT THE PLAN.**

*B. Definitions*

Though certain terms are defined throughout the Plan and Disclosure Statement itself, the following defined terms have the meanings ascribed to them below:

“Claims Objection Deadline” shall be April 1, 2017, subject to further extension by the Bankruptcy Court for cause.

“Confirmation Date” means the date that the Confirmation Order is entered by the Bankruptcy Court in the Chapter 11 Case.

“Confirmation Order” means the Order of the Bankruptcy Court confirming this Plan and Disclosure Statement pursuant to Section 1129 of the Bankruptcy Code.

“Distribution Trust” means the trust established under the Plan and Disclosure Statement as of the Effective Date to hold the Distribution Trust Assets for the benefit of the beneficiaries designated under this Plan and Disclosure Statement.

“Distribution Trust Agreement” means the trust agreement establishing the Liquidating Trust, which shall be (a) filed on the docket in the Chapter 11 Case not less than three business days prior to the Confirmation Hearing, (b) approved in the Confirmation Order, and (c) entered into by the Debtor, the Oversight Committee and the Plan Administrator on the Effective Date. The Distribution Trust Agreement shall contain only those terms that are consistent with the terms of this Plan and Disclosure Statement or that are otherwise acceptable to the Debtor, the Committee, and the Lenders.

“Distribution Trust Assets” means the Distribution Trust Seed Money, the Litigation Claims (or proceeds thereof) and any other assets contributed to the Distribution Trust on behalf of the beneficiaries of the Distribution Trust designated under this Plan and Disclosure Statement.

“Distribution Trust Seed Money” means (A) cash held by the Debtor on the Effective Date equal to the amount necessary to satisfy all allowed administrative and priority claims (other than administrative claims of Professionals) in accordance with this Plan and Disclosure Statement; *provided further* that such amount shall not exceed \$431,918; and (B) fifty percent (50%) of the



remaining cash (i.e., cash not included in (A) above) held by the Debtor on the Effective Date up to \$50,000.

“Effective Date” means the date on which all of the conditions to the consummation of this Plan and Disclosure Statement contained in Section VI.M herein have been satisfied or waived as provided in Section VI.M herein and is the effective date of this Plan and Disclosure Statement.

“Litigation Claims” means the following claims and causes of action of the estate in which the Lenders have first-priority perfected security interests, but are being contributed to the Distribution Trust with the consent of the Lenders for use in accordance with this Plan and Disclosure Statement: (i) all claims and causes of action of the Debtor arising out of or relating to the transactions contemplated by or completed in connection with that certain Asset Sale and Purchase Agreement dated August 15, 2011, between Haverhill and Sunoco, Inc. (R&M) and the other documents, agreements, and instruments contemplated thereby or executed in connection therewith, except to the extent such claims and causes of action were sold to ALTIVIA Petrochemicals, LLC (“ALTIVIA”) in accordance with that certain Asset Purchase Agreement, dated September 18, 2015 by and between the Debtor and ALTIVIA (the “Purchase Agreement”), as such sale was approved by the Bankruptcy Court pursuant to the *Order Approving Sale of Substantially All of Debtor’s Assets and Assumption and Assignment of Contracts and Leases* [Docket No. 144] (the “Sale Order”); (ii) all claims and causes of action of the Debtor and its affiliates against Middough Engineering and/or its affiliates; (iii) all class action claims and causes of action in which the Debtor is entitled to participate as plaintiff or beneficiary; and (iv) all other claims or causes of action of the Debtor.

“Oversight Committee” means the three (3) person board consisting of three (3) members appointed by the Committee, which shall have the rights, duties and obligations set forth in the Distribution Trust Agreement.

“Petition Date” means September 18, 2015, the date on which the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code.

“Plan Administrator” means the person appointed to administer the Distribution Trust with the rights, duties and obligations set forth in the Distribution Trust Agreement, subject to the authority of the Oversight Committee. As of the Effective Date, the Plan Administrator shall be Goradia Capital LLC.

“Professionals” means any professionals employed in the Chapter 11 Case pursuant to sections 327 or 1103 of the Bankruptcy Code or otherwise and any professionals seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to section 503(b)(4) of the Bankruptcy Code.

## II.

### **BACKGROUND**

#### ***A. The Debtor's Business and Pre-Petition Financing Facility***

A group of investors formed the Debtor in November 2011 to acquire Sunoco, Inc.'s ("Sunoco") chemical manufacturing facility located on six hundred acres near the banks of the Ohio River in Haverhill, Ohio (the "Haverhill Plant"). Goradia Capital LLC assisted the investors in the management of the Debtor. The Haverhill Plant was first constructed in 1961 and, as of the Petition Date, had two phenol production lines and a downstream Bisphenol A ("BPA") line, making the Debtor the only merchant phenol producer with an onsite BPA unit in North America.

Prior to the Petition Date, the Debtor operated the Haverhill Plant with a workforce of approximately one hundred and seventy-three (173) employees. Immediately before the Petition Date, the Debtor reduced its workforce to fifty-three employees and one independent contractor.

The Debtor's business was funded by a pre-petition credit facility. Bank of America, N.A., as Administrative Agent (the "Agent") for the parties identified as "Lenders" (collectively, the "Lenders"), the Lenders, and the Debtor are parties to a Credit Agreement, dated as of October 31, 2011, as amended by First Amendment to Credit Agreement and Waiver dated as of April 29, 2013, Second Amendment to Credit Agreement dated as of April 17, 2014, and Third Amendment to Credit Agreement dated as of July 10, 2014 (as amended, the "Credit Agreement"), pursuant to which the Lenders made the following credit facility available to the Debtor (the "Credit Facility"): (i) a revolving credit facility in the original maximum principal amount of \$70,000,000 (the "Revolving Credit Facility"); and (ii) a term loan in the original maximum principal amount of \$75,000,000 (the "Term Loan").

More information about the Debtor's pre-petition business can be found in the *Declaration of Thomas M. Wells in Support of Chapter 11 Petition and First Day Pleadings* (Docket No. 16 the "Wells Declaration").

#### ***B. Events Leading to the Commencement of the Case***

The Debtor took over operations of the Haverhill Plant in late 2011 with plans to implement technology and efficiency improvements while positioning itself to profit from forecasted greater chemical product demand as the post-recession economy improved. In 2012, the Debtor began implementing its strategies, but faced delays and setbacks in realizing efficiency and cost benefits as a result of operating problems with the assets acquired. As a result, the Debtor incurred large capital costs relating to the Haverhill Plant and suffered significant lost production.

By 2013, these ongoing hurdles and high capital expenditures hindered the Debtor's ability to meet its obligations under its Credit Facility, leading to negotiations with the Lenders and equity holders to restructure and recapitalize the Debtor. However, in 2014, the petroleum market's

unexpected, dramatic and prolonged drop led to a drop in prices for a large part of the Debtor's products which compounded the operating problems and loss of production.

In an effort to solve the financial difficulties facing the Debtor in 2014 and early 2015, the Debtor explored various opportunities for restructuring its business and operations. The Debtor attempted to refinance the Credit Facility with alternative lending sources. However, continued adverse market conditions, anticipated high capital expenditures, and depressed asset values discouraged other lenders from extending credit on the Debtor's assets.

The Debtor worked with its existing equity interest holders for a recapitalization of the business through a new \$10 million equity investment. During these negotiations, the United States Environmental Protection Agency ("EPA") notified the Debtor of a planned environmental inspection and audit of the Haverhill Plant.

Based on industry experience, such EPA inspections take months to complete, divert extensive management and employee resources, interfere with production and potentially result in required capital intensive projects. The planned EPA inspection created significant uncertainty for the equity owners and another set of delays and obstacles to its restructuring and turnaround efforts. In light of these factors, discussions for injection of new equity funding to the Debtor fell through.

Following acceleration of the Credit Facility on June 2, 2015, the Debtor and the Lenders engaged in extensive negotiations regarding the terms for the Debtor's use of the Lenders' cash collateral to process the Debtor's remaining cumene inventory, with the understanding that the Debtor may be required to begin an orderly shutdown of the Haverhill Plant. Following continued negotiations, the Debtor and the Lenders entered into a series of forbearance agreements through the Petition Date. The forbearance agreements permitted the Debtor to idle the Haverhill Plant – as opposed to a complete shutdown – while the Debtor located a purchaser for the Haverhill Plant.

More information about the Debtor's pre-petition marketing of the Haverhill Plant can be found in the Wells Declaration.

### **III.**

#### **THE CHAPTER 11 CASE**

##### ***A. Commencement of Bankruptcy Case***

On September 18, 2015, the Debtor filed a voluntary petition for relief (the "Chapter 11 Case") under Chapter 11 of the Bankruptcy Code, with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court"). The Debtor continues to administer its assets as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

On September 29, 2015, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”). The members of the Committee are: (i) Marathon Petroleum Company LP; (ii) Pritchard Electric Co.; and (iii) CB&I Stone & Webster Construction Inc.

***B. Debtor’s Use of Cash Collateral***

On the Petition Date, the Debtor filed its *Emergency Motion for an Interim Order (A) Authorizing Use of Cash Collateral Pursuant to Section 363(c) of the Bankruptcy Code and Granting Adequate Protection, and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001* [Docket No. 12] (the “Cash Collateral Motion”). In the Cash Collateral Motion, the Debtor acknowledged that computed as of September 18, 2015, the Debtor was liable to the Agent, on behalf of the Lenders, for the Prepetition Indebtedness (as defined in the Cash Collateral Motion) in the aggregate amount of at least \$44,077,700.94.

The Agent, on behalf of the Lenders, has consented to the use of cash collateral throughout the pendency of the Chapter 11 Case in accordance with the budget (as amended from time to time, the “Budget”) approved pursuant to the *Final Order Authorizing the Use of Cash Collateral Pursuant to Section 363(c) of the Bankruptcy Code and Granting Adequate Protection*, dated October 7, 2015 [Docket No. 82] (as amended from time to time, the “Final Cash Collateral Order”). The Budget currently expires on April 3, 2016.

Additional information regarding the Debtor’s pre-petition financing facility, post-petition use of cash collateral, and the Lenders’ liens on substantially all of the Debtor’s assets can be found, among other places, in the Final Cash Collateral Order.

***C. Asset Sale***

On July 3, 2015, Haverhill, with the consent of the Lenders, engaged Balmoral Advisors, LLC (“Balmoral”) to spearhead Haverhill’s efforts to find a buyer for the Haverhill Plant. Exigent circumstances required Balmoral to run a highly focused marketing process based on the limited liquidity available to Haverhill to continue to operate the Haverhill Plant and other business constraints.

After consideration of various other transactions, as described in the Debtor’s *Emergency Motion for*

*(I) an Order Approving (A) Bid Procedures, (B) Sale Notice, (C) Assumption and Assignment Procedures, (D) Bid Protections, and (E) Scheduling Objection Deadlines, Auction and Sale Hearing, and (II) an Order Approving Sale of Substantially All of Debtor's Assets and Assumption and Assignment of Contracts and Leases [Docket No. 14] (the "Sale Motion), on or about September 18, 2015, ALTIVIA and Haverhill executed the Purchase Agreement, subject to higher and better offers.*

The sale of substantially all of the Debtor's assets to ALTIVIA was approved by the Bankruptcy Court by the Sale Order.

The sale of the Haverhill Plant to ALTIVIA generated net cash proceeds of approximately \$2 million, all of which constituted cash collateral of the Lenders.

#### ***D. The Debtor's Schedules and the Establishment of the Claims Bar Date***

On October 2, 2015, the Debtor filed its schedules of assets and liabilities and statement of financial affairs [Docket Nos. 74, 75, 102] (as amended, collectively, the "Schedules"). The Schedules set forth the various claims against the estate as well as other information pertaining to transactions to which the Debtor was a party prior to the Petition Date.

The Bankruptcy Court established January 18, 2016 (the "General Bar Date") as the deadline for non-governmental entities to file proofs of claim, with March 16, 2016 being the deadline for governmental entities to file proofs of claim in accordance with Federal Rule of Bankruptcy Procedure 3002. The Bankruptcy Court also established December 23, 2015 (the "Administrative Bar Date") as the date by which all persons alleging entitlement to an administrative claim had to file a motion requesting allowance of such claim.

### **IV.**

#### **SUMMARY OF TREATMENT OF CLAIMS AND ESTIMATED RECOVERIES**

##### ***A. Introduction***

The formulation of a chapter 11 plan is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the holders of claims against and interests in a debtor's estate. A chapter 11 plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of the debtor's assets. In either event, upon confirmation of the plan, it becomes binding on the debtor and all of its creditors and equity holders, and the prior obligations owed by the debtor to such parties are compromised and exchanged for the treatments specified in the plan. If all classes of claims and equity interests accept a plan, the bankruptcy court may confirm the plan if the bankruptcy court independently determines that the requirements of section 1129(a) of the Bankruptcy Code have been satisfied.

Chapter 11 of the Bankruptcy Code does not require that each holder of a claim or interest in a particular class vote in favor of a chapter 11 plan in order for the bankruptcy court to determine that the class has accepted the plan. Rather, a class of claims will be deemed to have accepted the plan if

the bankruptcy court determines that the plan has been accepted by more than a majority in number and at least two-thirds in amount of those claims actually voting in such class. Only the holders of claims who actually vote will be counted as either accepting or rejecting the plan.

In addition, classes of claims or equity interests that are not “impaired” under a chapter 11 plan are conclusively presumed to have accepted the plan under § 1126(f) of the Bankruptcy Code and, thus, are not entitled to vote. Furthermore, classes that are not to receive or retain any property under the plan are conclusively deemed to have rejected the plan under § 1126(g) of the Bankruptcy Code and are also, therefore, not entitled to vote. Accordingly, from those persons who hold claims or equity interests in an impaired class that receive or retain property are entitled to vote with respect to a plan.

Classes 1 and 4 are impaired under the Plan and holders of claims in Classes 1 and 4 are entitled to vote on this Plan and Disclosure Statement; Class 5 Interests will not receive or retain and property under the plan and the holders of interests in Class 5 are deemed to reject the Plan and Disclosure Statement.

~~(CONTINUED)~~

### ***B. Brief Overview of the Plan Structure***

Subject entirely to the full disclosures made throughout this Plan and Disclosure Statement, the basis of the Debtor's Plan is to liquidate as follows. Pursuant to the Final Cash Collateral Order, the Lenders have been adjudicated to have properly perfected liens and security interests in all of the Debtor's assets, including the Debtor's cash and litigation causes of action. After application of the net cash generated by the sale of substantially all of the Debtor's assets to ALTIVIA, the Lenders are still owed in excess of \$39 million. Thus, without the Lenders' consent, there would be no realistic chance of meaningful recovery for other classes of claims, including allowed administrative, priority and unsecured claims against the Debtor's estate and the Chapter 11 Case would likely be converted to Chapter 7 without confirmation of a plan or any meaningful recovery to any claim holder except the Lenders. However, after extended negotiations among the Debtor, the Committee and the Lenders, the Lenders support confirmation of this Plan and Disclosure Statement, which affords other creditors a meaningful potential for some recovery on their claims.

In order to permit the Debtor and the Committee to pursue confirmation of this Plan and Disclosure Statement, the Lenders consented to a nine-week extension to the Budget (through April 3, 2016), allowing the Debtor to use up to approximately \$175,000 of the Lenders' cash collateral during this nine-week period. This Plan and Disclosure Statement (provided it is confirmed and becomes effective) would authorize the Debtor to contribute up to \$481,918 (i.e., the Distribution Trust Seed Money) of the Lenders' remaining cash collateral to the Distribution Trust, which amounts would then be used to satisfy claims necessary to obtain confirmation of the Plan and Disclosure Statement (i.e. allowed administrative and priority claims) and to fund the Distribution Trust. Additionally, this Plan and Disclosure Statement (provided it is confirmed and becomes effective) contemplates that the Lenders will subordinate their liens on the Litigation Claims to ensure that (i) allowed administrative and priority claims (other than administrative claims of Professionals incurred before the Confirmation Date) are satisfied in accordance with this Plan and Disclosure Statement; and (ii) a distribution of forty percent of the residual Distribution Trust Assets will be paid to holders of allowed Class 4 general unsecured claims.

### ***C. Summary of Debtor's Plan to Liquidate***

The following chart provides a summary of treatment of each class of claims (other than administrative and priority tax claims) and an estimate of the recoveries of each class. The treatment provided in this chart is for informational purposes only.

Class	Estimated Allowed Claims	Treatment	Estimated Recovery to Holders of Allowed Claims
Class 1 – Lenders Secured Claims	\$39,700,000	Impaired – entitled to vote	

			Undetermined <sup>1</sup>
Class 2 – Other Secured Claims	\$0	Unimpaired – not entitled to vote – deemed to accept	100%
Class 3 – Other Priority Claims	\$0	Unimpaired – not entitled to vote – deemed to accept	100%
Class 4 – General Unsecured Claims	\$39,825,557	Impaired – entitled to vote	Undetermined <sup>2</sup>
Class 5 – Membership Interests	n/a	Impaired – deemed to reject – not entitled to vote	Cancelled – no distribution

***D. Treatment of Fees of the United States Trustee, Administrative Claims and Priority Tax Claims***

There are fees payable to the United States Trustee pursuant to 28 U.S.C. §1930(a)(6), which is a non-classified category of Claims. All statutory fees, to the extent unpaid through the Confirmation Date, shall be paid by the Debtor within seven (7) business days after the Confirmation Date. From and after the Confirmation Date through the closing of the Chapter 11 Case, all statutory fees shall be paid by the Debtor (if prior to the Effective Date) or the Plan Administrator (if after the Effective Date).

Except for statutory fees and except to the extent any entity (other than Professionals) entitled to payment of an allowed administrative expense claim agrees to a different treatment, each holder of an allowed administrative expense claim (other than Professionals) shall receive, in full satisfaction of such claim, cash from the Distribution Trust in an amount equal to any unpaid portion of such allowed administrative expense claim within seven (7) business days after the Effective Date or the date that such allowed administrative expense claim becomes an allowed claim, whichever is later.

Except to the extent any entity entitled to payment of an allowed priority tax claim agrees to a different treatment, each holder of an allowed priority tax claim, if any, shall receive in full satisfaction of such claim cash from the Distribution Trust in an amount equal to any unpaid portion of such allowed priority tax claim (as determined in accordance with Section 1129(a)(9)(C)) within

<sup>1</sup> Though Class 1 and Class 4 recoveries cannot be determined as they are wholly contingent upon the Distribution Trust's ability to liquidate the Litigation Claims, the Plan proposes that Class 1 claims will receive 60% and Class 4 claims will receive 40% of the residual Distribution Trust Assets (including the Litigation Claims) remaining after satisfying the claims and expenses required to be paid from the Distribution Trust Assets as specified in this Plan.

<sup>2</sup> See FN 1.



seven (7) business days after the Effective Date and the date that such allowed priority tax claim becomes an allowed claim, whichever is later.

***E. Treatment of Claims and Membership Interests***

**1. Class 1 – Lenders Secured Claims**

Class 1 consists of the Lenders' allowed secured claims, which are impaired by the Plan and Disclosure Statement. Each holder of an allowed Class 1 claim (i.e., each of the Lenders) is entitled to vote to accept or reject the Plan and Disclosure Statement.

On the Effective Date, the Agent, for the benefit of the Lenders, shall receive: (i) payment of all cash held by the Debtor other than the Distribution Trust Seed Money; (ii) unless the Agent elects otherwise prior to the Effective Date, assignment of all rights, title and interest of the Debtor in all remaining Collateral (as defined in the Final Cash Collateral Order), except the Distribution Trust Assets; and (iii) a sixty percent (60%) beneficial interest in the Distribution Trust, which interest shall be reduced proportionately with the Class 4 beneficial interest to accommodate any Allowed Claim Interests granted in the Distribution Trust ; provided, however, that the Agent may elect prior to the Effective Date to have each Lender's pro rata share of this beneficial interest issued directly to each Lender. The Debtor and the Plan Administrator shall also remit to the Agent, for the benefit of the Lenders, all cash received by the Debtor and the Plan Administrator after the Effective Date that does not constitute a Distribution Trust Asset.

**2. Class 2 – Other Secured Claims**

Class 2 consists of other secured claims, if any, which are unimpaired by the Plan and Disclosure Statement. There are no known claims in Class 2. Holders of claims in Class 2 are deemed to have accepted the Plan and Disclosure Statement and are not entitled to vote to accept or reject the Plan and Disclosure Statement.

Except to the extent that a holder of an allowed Class 2 claim agrees to a less favorable or different treatment, on, or as soon as is reasonably practicable after the Effective Date or the date such claim becomes an allowed claim, each holder of a Class 2 claim shall receive a surrender of the collateral securing such claim (to the extent such collateral does not constitute "Collateral" and is not subject to a "Replacement Lien" (each as defined in the Final Cash Collateral Order)).

**3. Class 3 – Other Priority Claims**

Class 3 consists of claims arising under § 507(a) of the Bankruptcy Code, except for any claims arising under § 507(a)(8), i.e. priority tax claims. Class 3 claims, if any, are unimpaired by the Plan and Disclosure Statement. There are no known claims in Class 3. Holders of claims in Class 3 are deemed to have accepted the Plan and Disclosure Statement and are not entitled to vote to accept or reject the Plan and Disclosure Statement.

Except to the extent that a holder of an allowed Class 3 claim agrees to a less favorable or different treatment, on, or as soon as is reasonably practicable after the Effective Date or the date such claim

becomes an allowed claim, each holder of a Class 3 claim shall receive cash in the amount of such claim. To the extent there is insufficient cash to pay the allowed Class 3 claims on the Effective Date, then the holders of such claims shall be paid from the first net proceeds of the Distribution Trust Assets following the satisfaction of all allowed administrative expense claims.

#### **4. Class 4 – General Unsecured Claims**

Class 4 consists of all general unsecured claims, which are impaired by the Plan and Disclosure Statement. Each holder of an allowed Class 4 claim is entitled to vote to accept or reject the Plan and Disclosure Statement. The Lenders' deficiency claim will not be a claim under Class 4, but rather be included in the Lender's Class 1 claim.

On the Effective Date, each holder of a Class 4 claim shall receive a pro rata share of a forty percent (40%) beneficial interest in the Distribution Trust, which interest shall be reduced proportionately with the Class 1 beneficial interest to accommodate any Allowed Claim Interests granted in the Distribution Trust.

#### **5. Class 5 – Membership Interests**

Class 5 consists of all membership interests, which are impaired by the Plan and Disclosure Statement. Because holders of membership interests will receive no distribution under the Plan and Disclosure Statement, Class 5 shall be deemed to have voted to reject the Plan and Disclosure Statement.

On the Effective Date, all membership interests shall be cancelled, deemed terminated, and of no further force and effect, and the holders of membership interest shall not receive or retain and distribution or property on account of such membership interests.

### **V.**

#### **PROVISIONS REGARDING THE DISTRIBUTION TRUST**

##### ***A. Power and Authority of the Oversight Committee***

The Oversight Committee shall, in addition to any powers set forth in other provisions of the Plan and Disclosure Statement, the Confirmation Order, and/or the Distribution Trust Agreement, and subject to delegation of administrative duties to the Plan Administrator, be empowered to (i) effect all actions and execute all agreements and documents necessary to perform its duties under the Plan and Disclosure Statement and Distribution Trust Agreement; (ii) establish disbursement accounts; (iii) make distributions; (iv) object to and settle claims; (v) employ and compensate professional persons to represent it with respect to its responsibilities; (vi) assert any of the Debtor's claims with respect to the Litigation Claims including rights of setoff or other legal or equitable defenses; (vii) exercise such other powers as may be vested in the Oversight Committee by the Plan and Disclosure Statement, the Confirmation Order, and/or the Distribution Trust Agreement. The Distribution Trust Agreement shall grant the Oversight Committee full discretion on how to finance, compromise, and

dispose of the Litigation Claims and the authority to enter into financing or contingency fee arrangements for the Litigation Claims.

***B. The Plan Administrator***

Goradia Capital has been selected by the estate to serve as Plan Administrator upon the Effective Date of the Plan and Disclosure Statement. All compensation for the Plan Administrator, including any professionals retained on account of the Plan Administrator or the Distribution Trust, shall be paid from Distribution Trust Assets. The Plan Administrator shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. The Distribution Trust Agreement shall be filed on the docket not less than three business days prior to the Confirmation Hearing and all beneficiaries of the Distribution Trust shall be deemed to have ratified and become bound by the terms and conditions of the Distribution Trust Agreement as of the Effective Date.

***C. Funding of and Distributions From the Distribution Trust***

On the Effective Date, the Debtor shall transfer to the Distribution Trust: (i) the Distribution Trust Seed Money and (ii) the Litigation Claims, together with such other amount as may be agreed to by the Debtor, the Committee and the Lenders at any time up to the Effective Date. The Confirmation Order shall provide that the Agents' and the Lenders' security interests in the Distribution Trust Seed Money and the Litigation Claims (and proceeds thereof) are subordinated to the rights of the Distribution Trust in and to such property (and proceeds thereof). The Distribution Trust Assets shall be used by the Plan [Agent Administrator](#) in a manner provided for in the Plan and Disclosure Statement and the Distribution Trust Agreement. Distributions by the Plan [Agent Administrator](#) shall be made in accordance with, and as set forth in, the Distribution Trust Agreement. In the event that the Distribution Trust Seed Money is insufficient to pay the full amount of all allowed administrative and priority claims (excluding administrative claims of Professionals incurred prior to the Confirmation Date), the Confirmation Order shall authorize the Debtor and the Committee to (a) grant holders of such claims beneficial interests in the Distribution Trust in full or partial satisfaction of such allowed claims (such interests, the "Allowed Claim Interests"), or (b) make payment of all or any portion of such claims from other Distribution Trust Assets (such payments, the "Allowed Claim Payments").

The Plan Administrator shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Plan Administrator shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, requiring that, as a condition to the receipt of distribution, the holder of an allowed claim complete the appropriate IRS Form W-8 or W-9 as applicable to the holder of each allowed claim. Notwithstanding any other provision herein, each holder of an allowed claim that is to receive a distribution from the Distribution Trust shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by such holder by any governmental unit and no distribution shall be made unless and until such holder has made arrangements to comply with its tax withholding and reporting requirements.

***D. Post-Effective Date Expenses of the Distribution Trust***

As provided for in the Distribution Trust Agreement and upon the approval of a budget by the Oversight Committee, the reasonable fees and expenses incurred by the Distribution Trust on or after the Effective Date, including the reasonable attorney and professional fees and expenses, shall be paid from Distribution Trust Assets without further court order.

***E. Claims Objection Deadline***

The Oversight Committee shall file and serve any object to any claims no later than the Claims Objection Deadline; provided, however, that the Claims Objection Deadline may be extended by the Bankruptcy Court from time to time upon motion and notice by the Oversight Committee for cause.

***F. Unclaimed Distributions***

Distributions to holders of allowed claims shall be made at the address set forth on the respective proof of claim filed by such holder or at the address reflected on the Schedules if no proof of claim was filed. If a distribution is returned to the Distribution Trust as undeliverable, no further distribution shall be made to such holder. Any cash or other unclaimed property distributed by the Distribution Trust shall revert to the Distribution Trust if it is not claimed within three (3) months, including, without limitation, failure of a holder of a claim to cash a distribution check.

**VI.**

**CONFIRMATION REQUIREMENTS AND EFFECT OF CONFIRMATION**

***A. Alternate Plan***

If the Plan and Disclosure Statement is not confirmed, the Debtor, the Committee, or any other party in interest could attempt to formulate a different plan. However, the additional costs, including, among other things, additional professional fees or asserted substantial contribution claims, all of which could constitute administrative claims against the estate, may be so significant that one or more parties could request that the Chapter 11 Case be converted to one under Chapter 7. Moreover, it is unlikely that the Lenders would consent to the use of their cash collateral to cover such administrative expenses. Accordingly, the Debtor and the Committee believe that the Plan and Disclosure Statement enables creditors to realize the very best return under the circumstances.

### ***B. Best Interests Test and Liquidation Analysis***

Section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired claim or interest either (a) accept the Plan and Disclosure Statement or (b) receive or retain under the Plan and Disclosure Statement property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code. A hypothetical Chapter 7 liquidation analysis is attached hereto as **Exhibit A**. Because the majority of the Debtor's assets have already been liquidated to cash, the value of any distributions if the Debtor's Chapter 11 Case were converted to a case under Chapter 7 would be less than the value of distributions under the Plan and Disclosure Statement. This is because conversion to Chapter 7 would require the appointment of a Chapter 7 trustee, and, in turn, such trustee's likely retention of new professionals. The "learning curve" that the trustee and the new professionals would face comes with additional costs to the estate and with a delay in time compared to the distributions under the Plan and Disclosure Statement (and prosecution of causes of action). Additionally, a Chapter 7 trustee would be entitled to statutory fees relating to distributions of the already monetized assets made to creditors.

As a result, Debtor and the Committee believe that the estate would have fewer funds to be distributed in a hypothetical Chapter 7 liquidation than they would if the Plan and Disclosure Statement were confirmed, and therefore holders of claims in all of the impaired classes will recover less than in the hypothetical Chapter 7 case. Additionally, and of particular weight and importance to the liquidation analysis, the Plan and Disclosure Statement contains substantial concessions by the Lenders that the Debtor and the Committee believe results in a greater recovery to other claimants. The Lenders have agreed to: (i) fund the nine-week Budget of approximately \$175,000 out of their cash collateral; (ii) fund the Distribution Trust Seed Money toward satisfaction of allowed administrative and priority claims to allow the Plan and Disclosure Statement to go effective; and (iii) the partial subordination of their perfected security interests in the Litigation Claims to recoveries to other classes of claims, including general unsecured claims, as described more fully below.

Given the financial realities of a Chapter 11 case where the Lenders are undersecured by approximately \$40 million, but for the structure of the Plan and Disclosure Statement and the Lenders' support of and concession to such structure, all claims of lower priority than the Lenders' secured claims would almost certainly receive no recovery on account of their claims. Accordingly, the Debtor and the Committee believe that the "best interests" test of Bankruptcy Code Section 1129 is satisfied.

### ***C. Feasibility***

The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization. Because distributions will be made only to the extent of existing assets or future recoveries of Litigation Claims, the Debtor and the Committee believe the Plan and Disclosure Statement is feasible.

***D. No Unfair Discrimination***

A chapter 11 plan “does not discriminate unfairly” if (a) the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to the legal rights of the non-accepting class, and (b) no class receives payments in excess of that which it is legally entitled to receive for its claims or interests. The Debtor and the Committee believe that under the Plan and Disclosure Statement all impaired classes of claims and interests are treated in a manner that is consistent with the treatment of other classes of claims and interests that are similarly situated, if any, and no class of claims or interests will receive payments or property with an aggregate value greater than the aggregate value of the allowed claims and allowed interests in such class. Accordingly, the Plan and Disclosure Statement does not discriminate unfairly as to any impaired class of claims or interests.

***E. Bar Dates for Professional Fee Claims***

Professionals asserting a fee claim for services rendered before the Effective Date must file and serve on the Plan Administrator and such other entities designated by the Bankruptcy Rules, the Confirmation Order or such other orders of the Bankruptcy Court a final fee application no later than thirty (30) days after the Confirmation Date.

Upon resolution of their final fee applications, Professionals shall pay any unpaid allowed fees and expense reimbursements from the retainers or trust funds held by such Professionals on account of such fees and reimbursements and shall remit any remaining retainer or trust funds to the Debtor immediately thereafter; provided, however, that any such payment of fees and expenses shall be subject to compliance with the Budget and the Final Cash Collateral Order. Allowed fees and expenses reimbursements of Professionals incurred after the Confirmation Date may also be paid from the Distribution Trust Assets as an Allowed Claim Payment.

***F. Treatment of Executory Contracts***

As of the Confirmation Date, all executory contracts that were not specifically assumed or rejected as of the Confirmation Date will be deemed rejected. As part of the asset sale to ALTIVIA, the Debtor assumed and assigned to ALITVIA certain agreements with third parties, with cure costs, if any, to be satisfied in accordance with the terms of the Sale Agreement. Any executory contracts and unexpired leases that have not previously been assumed and assigned or rejected under section 365 of the Bankruptcy Code will be rejected pursuant to the Plan. Each counterparty to an executory contract that has not already been assumed or rejected in the Bankruptcy Case shall be entitled to file, no later than thirty (30) days following the Confirmation Date, a proof of claim for any damages arising from the rejection of the contract pursuant to § 365 of the Bankruptcy Code. The failure of the counterparty to a rejected contract to file a proof of claim within the proscribed time period will forever bar such person from asserting any claim for rejection damages. The filing of any such proof of claim on account of rejection damages will not preclude the estate from objecting to such claim if appropriate.

### ***G. Release of Avoidance Actions***

As of the Confirmation Date, the Debtor on behalf of itself and its estate releases any and all claims, rights and/or causes of action under Chapter 5 of the Bankruptcy Code, any and all claims, rights and/or causes of action under fraudulent conveyance and fraudulent transfer laws, and any and all claims, rights and/or causes of action under non-bankruptcy laws vesting in creditors rights to avoid, rescind, or recover on account of transfers including but not limited to all preference laws.

### ***H. Effect of Confirmation of the Plan and Disclosure Statement***

The Confirmation Order will be the final determination of the rights of all claimants and interest holders to participate in the distributions under the Plan and Disclosure Statement, whether or not (a) a proof of claim or interest is filed, (b) such claim or interest is allowed, or (c) the holder of such claim or interest has accepted the Plan and Disclosure Statement. Because the Plan and Disclosure Statement contemplates the liquidation of the Debtor, the Debtor will not receive a discharge pursuant to section 1141(d) of the Bankruptcy Code.

### ***I. Injunction***

On the Effective Date, except as otherwise provided in the Plan and Disclosure Statement (e.g., Section VI.M of the Plan and Disclosure Statement) or the Confirmation Order, all persons shall be deemed to be bound by the terms of the Plan and Disclosure Statement, including holders of claims or interests not listed on the Schedules, or listed on the Schedules as disputed, unliquidated or contingent, who did not file proofs of claim or interest by the applicable Bar Date, and, to the extent permitted under section 1141(d)(3) of the Bankruptcy Code, will be prohibited from:

- a) commencing or continuing any suit, action or other proceeding of any kind or nature or employing any process against the Debtor, the estate, the Debtor's assets, the Plan Administrator or any direct or indirect successor to the Debtor, or to interfere with the consummation or implementation of this Plan and Disclosure Statement, or the distributions to be made hereunder,
- b) enforcing, levying, attaching, collecting or otherwise recovering by any manner or means, directly or indirectly, any judgment, award, decree or order against the Debtor, the estate or the Debtor's assets or any direct or indirect successor in interest to the Debtor, or any assets or property of such successor,
- c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any lien against the Debtor, the estate or the Debtor's assets, or any direct or indirect successor in interest to the Debtor, or any assets or property of such successor other than as contemplated by the Plan,

- d) except as provided herein, asserting any setoff, right of subrogation or recoupment of any kind, directly or indirectly, against any obligation due the Debtor, the estate or the Debtor's assets, or any direct or indirect successor in interest to the Debtor, or any assets or property of such successor, and
- e) proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of the Plan and Disclosure Statement.

#### ***J. Exculpation***

From and after the Effective Date, to the extent permitted under section 1125(e) of the Bankruptcy Code, the Debtor and the estate, the officers and directors of the Debtor, the Committee and each member thereof, the Plan Administrator, the Agent, the Lenders, and the Debtor's and Committee's Professionals shall neither have nor incur any liability to any Person for any act taken or omitted to be taken in connection with the Chapter 11 Case, including the formulation, preparation, dissemination, implementation, confirmation or approval of the Plan and Disclosure Statement; *provided, however,* that the foregoing provisions (a) shall not affect the liability of any person that otherwise would result from any such act or omission to the extent that act or omission is determined in a final, nonappealable order to have constituted gross negligence or willful misconduct and (b) shall not abrogate any applicable disciplinary rules. Any of the foregoing parties in all respects shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and Disclosure Statement.

#### ***K. Dissolution of the Committee***

On the Effective Date, the Committee, to the extent not previously dissolved, will dissolve, and the members of the Committee and their respective Professionals will cease to have any role arising from or related to the Chapter 11 Case. The Professionals retained by the Committee and the respective members thereof will not be entitled to assert any Claim for fees for any services rendered or expenses incurred after the Effective Date, except for reasonable fees for services rendered, and actual and necessary expenses incurred, in connection with any applications for allowance of compensation and reimbursement of expenses pending on the Effective Date or filed and served after the Effective Date; *provided, however,* that payment of all such fees and expenses shall be subject to compliance with the Budget and the Final Cash Collateral Order.

#### ***L. Miscellaneous Provisions of the Plan***

The Bankruptcy Court will retain jurisdiction over the Chapter 11 Case after the Confirmation Date and until the case is closed for certain specific purposes. For example, the Bankruptcy Court will, among other things, (a) hear and determine any objections to claims, (b) any and all controversies, suits and disputes (c) hear and determine all applications for compensation by Professionals, and (d) enforce the provisions of the Plan and Disclosure Statement.



***M. Effective Date***

All payments and disbursements made by the Debtor (including payments to Professionals) prior to the Effective Date shall be governed in all respects by the Budget and the Final Cash Collateral Order. The Effective Date shall not occur, and this Plan and Disclosure Statement shall not be binding upon any party, unless and until each of the following conditions has been satisfied or waived by agreement of the Debtor, the Agent, and the Lenders:

(i) the Confirmation Order has been entered and has become final and non-appealable;

(ii) the Debtor holds sufficient available cash to fund the Distribution Trust with the Distribution Trust Seed Money;

(iii) the Distribution Trust Seed Money is sufficient to satisfy all allowed administrative and priority claims (other than administrative claims of Professionals) required to be paid from the Distribution Trust Seed Money; and

(iv) the Distribution Trust Agreement has been executed and is acceptable to the Agent and the Lenders.

Upon the occurrence of the Effective Date, (a) the Debtor's use of Cash Collateral (as defined in the Final Cash Collateral Order) shall terminate, and (b) the automatic stay of section 362(a) of the Bankruptcy Code shall be deemed terminated (and the fourteen day stay provided by Bankruptcy Rule 4001(a)(3) shall be deemed waived) without the necessity of any further action by the Agent or any further authorization of the Bankruptcy Court in order to permit the Agent and the Lenders to exercise all rights and remedies with respect to all Collateral other than the Distribution Trust Assets.

The Effective Date shall occur (if ever) by no later than May 30, 2016. In the event that the Effective Date has not occurred by May 30, 2016, then (a) this Plan and Disclosure Statement shall never become binding upon any party, (b) the Debtor's use of Cash Collateral (as defined in the Final Cash Collateral Order) shall terminate, and (c) the automatic stay of section 362(a) of the Bankruptcy Code shall be deemed terminated (and the fourteen day stay provided by Bankruptcy Rule 4001(a)(3) shall be deemed waived) without the necessity of any further action by the Agent or any further authorization of the Bankruptcy Court in order to permit the Agent and the Lenders to exercise all rights and remedies with respect to all Collateral.

**VII.**

**CONCLUSION**

The Debtor and the Committee believe that the Plan and Disclosure Statement is in the best interest of all holders of claims and interests and urges all holders of impaired claims against the Debtor to vote to accept the Plan and Disclosure Statement and to evidence such acceptance by returning their ballots in accordance with the instructions accompanying this document.

Dated: February ~~15~~,24, 2016

**Haverhill Chemicals LLC**  
Debtor and Debtor-in-Possession

By: \_\_\_\_\_  
Thomas Wells  
Vice President

**DIAMOND MCCARTHY LLP**  
Counsel to Haverhill Chemicals LLC

By: /s/ Charles Rubio  
Kyung S. Lee  
TBA No. 12128400  
klee@diamondmccarthy.com  
Charles Rubio  
TBA No. 24083768  
crubio@diamondmccarthy.com  
William Hotze  
TBA No. 24087754  
whotze@diamondmccarthy.com  
909 Fannin, Suite 1500  
Houston, Texas 77010  
Telephone: (713) 333-5100

**HALPERIN BATTAGLIA BENZIJA, LLP**  
Counsel to the Official Committee of Unsecured Creditors

By: /s/ Julie Dyas Goldberg  
Alan D. Halperin, Esq.  
Julie Dyas Goldberg, Esq.  
40 Wall Street - 37th Floor  
New York, New York 10005  
Telephone: (212) 765-9100

**Exhibit A**

Liquidation Analysis

Document comparison by Workshare Compare on Wednesday, February 24, 2016 4:59:43 PM

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Description	#635264v2<imanage> - Haverhill First Amended Combined Plan and DS
Rendering set	Standard

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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	0
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