

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

	:	Chapter 11
In re:	:	
	:	Case No. 17-12307 (BLS)
M & G USA CORPORATION, <i>et al.</i> , ¹	:	(Jointly Administered)
	:	
Debtors.	:	Bidding Procedures Hearing Date:
	:	December 11, 2017 at 1:00 p.m. (prevailing Eastern Time)
	:	Bidding Procedures Objection Deadline:
	:	November 30, 2017 at 4:00 p.m. (prevailing Eastern Time)

**MOTION OF THE DEBTORS FOR ENTRY OF ORDERS
(I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR MORE STALKING HORSE PURCHASE AGREEMENTS AND TO PROVIDE BID PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES AND (E) SCHEDULING A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF;
(II)(A) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") move the Court pursuant to sections 105(a), 363 and 365 of title 11 of the U.S. Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the

¹ The Debtors are the following twelve entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): M & G USA Corporation (3449), M & G Resins USA, LLC (3236), M & G Polymers USA, LLC (7593), M&G Finance Corporation (4230), M&G Waters USA, LLC (2195), Mossi & Ghisolfi International S.à r.l. (1270), M&G Chemicals S.A. (N/A), M&G Capital S.à r.l. (7812), M & G USA Holding, LLC (3451), Chemtex International Inc. (7695), Chemtex Far East, Ltd. (2062) and Indo American Investments, Inc. (9208). The Debtors' noticing address in these chapter 11 cases is 450 Gears Road, Suite 240, Houston, Texas 77067.

District of Delaware (the "Local Rules"), for entry of an order substantially in the form attached hereto as Exhibit A (the "Bidding Procedures Order"):

- (i) approving the proposed procedures attached as Exhibit 1 to the Bidding Procedures Order (the "Bidding Procedures") to be used in connection with the sale (the "Sale") of certain of the Debtors' assets (the "Assets");
- (ii) authorizing the Debtors to enter into one or more asset purchase agreements (each, an "Asset Purchase Agreement") with one or more potential bidders, including one or more Asset Purchase Agreements with one or more "stalking horse" bidders (each, a "Stalking Horse Agreement," each such bidder, a "Stalking Horse Bidder" and each such bid, a "Stalking Horse Bid"), and to provide certain bid protections (the "Bid Protections") to any Stalking Horse Bidder in connection therewith;
- (iii) scheduling an auction of the Assets (the "Auction") and a final hearing for approval of the sale(s) of the Assets (the "Sale Hearing");
- (iv) approving the form and manner of notice of the Bidding Procedures, the Auction and the Sale Hearing;
- (v) authorizing certain procedures related to the Debtors' assumption and assignment of executory contracts and unexpired leases (the "Assumption and Assignment Procedures") in connection with any Sale; and
- (vi) granting related relief.

The Debtors also move the Court, pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006 and Local Rule 6004-1, for entry of one or more orders in substantially the form attached hereto as Exhibit B (the "Sale Order"):

- (i) authorizing the sale of the Assets to one or more Successful Bidders (as defined below) at the Auction free and clear of all liens, claims, interests and encumbrances (each such sale, a "Sale Transaction");
- (ii) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection therewith; and
- (iii) granting related relief.

In support of this Motion, the Debtors submit the *Declaration of Dennis Stogsdill in Support of First Day Pleadings* (the "First Day Declaration") [Docket No. 3] and the Declaration of Neil

Augustine attached hereto as Exhibit C (the "Augustine Declaration") and respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. General Background

2. On October 24, 2017 (the "Polymers Petition Date"), Debtor M&G Polymers USA, LLC ("M&G Polymers") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code and, thereafter, on October 30, 2017 (the "Petition Date"), each of the other Debtors commenced chapter 11 cases before this Court (together with the chapter 11 case of M&G Polymers, the "Cases"). The Debtors are continuing in possession of their properties and are managing their businesses, as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On November 13, 2017, the United States Trustee for the District of Delaware appointed an official committee of unsecured creditors (the "Committee") in these Cases. Additional information regarding the Debtors and these Cases, including the Debtors' businesses, corporate structure and financial condition, is set forth in the First Day Declaration, incorporated herein by reference.

B. The Debtors' Marketing Efforts

3. As described in further detail in the First Day Declaration and the DIP Motion,² in the period leading up to the Petition Date, the Debtors were primarily focused on addressing

² *Motion for Entry of Interim and Final Orders to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 363 and 364; (2) Grant Liens and Superpriority*

severe liquidity constraints resulting from the construction of a vertically integrated PTA/PET³ plant in Corpus Christi, Texas (the "Corpus Christi Plant"), as well as their related efforts to obtain a \$100 million in debtor in possession financing ("DIP Financing") in order to commence these Cases and ultimately consummate a Sale of the Assets under the protections of the Bankruptcy Code. The DIP Financing was provided on an interim basis to certain of the Debtors, each of which is an Obligor (as defined in the DIP Motion).

4. Prior to the Petition Date, the Debtors, together with their investment banker Rothschild Inc. ("Rothschild"), engaged in discussions with certain interested parties regarding the purchase of some or all of the Assets. In addition, the Debtors began taking steps necessary to enable such parties to conduct due diligence and to prepare for a more comprehensive post-petition marketing process. *See* Augustine Decl. ¶ 10. Rothschild has established a virtual data room to facilitate interested parties' due diligence, has developed a "teaser" to gauge potential purchaser interest and is preparing a confidential information memorandum for interested parties. *Id.* Following the Petition Date, Rothschild has continued to contact potential purchasers and seek to have those potential purchasers that express interest in the Debtors' Assets enter into confidentiality agreements with the Debtors and begin conducting due diligence. *Id.* During the pendency of this Motion, the Debtors will continue with their marketing efforts, in compliance

Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief, [Docket No. 14] (the "DIP Motion").

³ As set forth in the First Day Declaration, the Debtors, together with the non-Debtor direct and indirect subsidiaries of M&G Chemicals S.A., are one of the largest producers of polyethylene terephthalate ("PET") resin for packaging applications in the world. PET is a plastic polymer produced principally from purified terephthalic acid ("PTA") and monoethylene glycol, and is used to manufacture plastic bottles and other packaging for the beverage, food and personal care industries.

with the terms of the DIP Financing, to ensure that the Sale process can be completed expeditiously and yield a value-maximizing result for the Debtors' stakeholders. *Id.*

5. The Bidding Procedures reflect a two-step marketing process. In the first round, interested parties will have the opportunity to submit preliminary indications of interest by the Proposal Deadline (as defined below). After affording prospective interested parties additional time to conduct due diligence, the second round of the Sale process will culminate with the Final Bid Deadline (as defined below), by which date interested parties must submit a final, binding bid in order to qualify, subject to the Bidding Procedures, for participation in the Auction.

C. The Need for a Timely Process

6. The Debtors propose to conduct the Sale process and Auction on the following timeline:⁴

December 11, 2017 at 1:00 p.m. (prevailing Eastern Time)	Hearing to consider entry of the Bidding Procedures Order
No later than five business days after entry of the Bidding Procedures Order	Deadline for Debtors to file Assumption and Assignment Notice
5:00 p.m. (prevailing Eastern Time) on the date that is 14 days after filing of the Assumption and Assignment Notice	Deadline to file Cure Objections
January 16, 2018, at 5:00 p.m. (prevailing Eastern Time)	Proposal Deadline
February 23, 2018, at 11:59 p.m. (prevailing Eastern Time)⁵	Final Bid Deadline
February 26, 2018, at 5:00 p.m. (prevailing Eastern Time)	Deadline for objections to the applicable Sale Transaction(s) other than Cure Objections and Adequate Assurance Objections

⁴ Capitalized terms used in this table but not previously defined have the meaning given to such terms later in this Motion.

⁵ Subject to Debtors' limited extension right set forth in Section V of the Bidding Procedures.

February 28, 2018, at a time to be determined	Auction, to be held at the offices of Jones Day, 250 Vesey Street, New York, New York 10281
March 2, 2018, at noon (prevailing Eastern Time)	Deadline to file Adequate Assurance Objections
March 5, 2018, at 5:00 p.m. (prevailing Eastern Time)	Deadline to file the replies in connection with the applicable Sale Transaction(s)
March 6, 2018, as determined by, and subject to the availability of, the Court	Proposed hearing to approve proposed Sale Transaction(s)

7. The Debtors believe that conducting the Sale process within the time periods set forth above and in accordance with the Bidding Procedures is reasonable and will provide parties with sufficient time and information necessary to formulate and submit bids to purchase the Assets. In formulating the procedures and time periods, the Debtors balanced the need to provide an adequate period for potential purchasers to conduct due diligence and submit bids on the Assets on a fully informed basis with the Debtors' need to quickly and efficiently sell their Assets while they have sufficient funding to do so. *See* Augustine Decl. ¶ 13. Furthermore, the proposed timeline will provide potential bidders with ample time (more than three months) to review the comprehensive materials made available by the Debtors and their advisors. *See Id.* ¶ 15.

8. Completion of the Sale process in a timely manner will also maximize the value of the Assets. The terms of the Obligors' DIP Financing require the Obligors to adhere to certain milestones related to the Sale process. The proposed dates governing the Sale process are within the milestones required under the DIP Financing. The Obligors' failure to adhere to these milestones is an event of default under the DIP Financing, which could cause the DIP Lender (as defined in the DIP Motion) to exercise its rights and remedies thereunder and/or the Obligors to

run out of the funding they need to preserve the Corpus Christi Plant and their other Assets. *Id.* at ¶ 13.

9. In addition to the DIP milestones, the Debtors have significant business and financial imperatives to move quickly to protect and preserve value. Even with the DIP Financing, the Debtors are not currently operating their plants or otherwise generating revenue, and they continue to incur expenses every day. Therefore, it is in the Debtors' best interests and the interests of their stakeholders to pursue an expeditious Sale process. In formulating the proposed Sale timeline, the Debtors have considered their liquidity needs and their ability to maintain their facilities and corporate functions and pay employees during the Sale process. The Debtors' proposed Sale timeline is designed to maximize value, while at the same time limit needless expenditures and the incurrence of administrative expenses, which may risk a liquidity shortfall that could frustrate their restructuring efforts. The Debtors have determined, in their business judgment, that a reasonable marketing period, as reflected in the proposed timeline, will allow the Debtors to devote funds to maintain their facilities and corporate functions, as well as to continue to pay their remaining employees, and offers the estates the best chance of maintaining value and maximizing returns to creditors. *See* Augustine Decl. ¶ 14. Accordingly, the Debtors have determined that pursuing the Sale process and Auction in the manner and with the procedures proposed is in the best interest of the Debtors' estates and their creditors.

D. The Proposed Form Sale Order

10. The Debtors have prepared the proposed form Sale Order, which is attached hereto as Exhibit B and will be provided to all prospective bidders in connection with the Sale of the Assets. As set forth in further detail below and in the Bidding Procedures, potential bidders will be required to submit to the Debtors a modified proposed Sale order, revised to reflect the

terms of their respective bids. In accordance with Rule 6004-1(b)(iv) of the Local Rules, the material terms of the proposed Sale Order are set forth in the following table:⁶

<p>Use of Proceeds <i>Del. Bankr. L.R. 6004-1(b)(iv)(H)</i></p>	<p>All sale proceeds from the DIP Collateral and the Pre-Petition Collateral shall be distributed in accordance with the terms of the Final DIP Order and the DIP Loan Documents, including without limitation (a) distributions to be made at Closing to the DIP Lender, the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party, in accordance with the terms of the DIP Loan Documents, the Final DIP Order, including paragraphs B(vii), B(viii) and 13 of the Final DIP Order, and (b) the transfer to be made at Closing by the CC Selling Parties into an escrow account not subject to the control of the DIP Agent, the DIP Lender, the Pre-Petition First Lien Lender, the Pre-Petition Second Lien Secured Party or any party that purports to have a validly, perfected security interest in any of the Debtors' deposit accounts or cash (the "<u>Carve-Out Account</u>") of the sale proceeds from the Pre-Petition Collateral in an amount equal to the Sale Professional Fees Amounts, Sale Excess Fees Hold-Back Amounts (to the extent applicable and in accordance with the order of priorities set forth in the Final DIP Order) and Sale Excess Fee Amounts (to the extent applicable and in accordance with the order of priorities set forth in the Final DIP Order), in each case in this clause (b), as authorized pursuant to paragraph 13 of the Final DIP Order; <u>provided</u> that any excess amounts remaining in the Carve-Out Account shall be governed by and distributed in accordance with the Final DIP Order and the DIP Loan Documents. Sale Order ¶¶ 7, 26.⁷</p>
<p>Record Retention <i>Del. Bankr. L.R. 6004-1(b)(iv)(J)</i></p>	<p>The Debtors shall retain originals or copies of all hard documents and data and information that constitute Assets and any other document, data or information stored on or in servers, backup devices, mobile devices, electronic storage devices, or miscellaneous IT equipment, in each case, that constitutes Assets, currently in the Debtors' possession, custody, or control pertaining to pending or threatened litigation or necessary to administer these Cases. Sale Order ¶ 40.</p>
<p>Successor Liability <i>Del. Bankr. L.R. 6004-1(b)(iv)(L)</i></p>	<p>The Purchaser shall incur no successor liability with respect to the purchased Assets. Sale Order ¶¶ CC, 7, 11-12, 14-18, 29.</p>
<p>Relief from Bankruptcy Rule 6004(h) Stay <i>Del. Bankr. L.R. 6004-1(b)(iv)(O)</i></p>	<p>The Debtors seek relief from the fourteen-day stay imposed by Bankruptcy Rule 6004(h) with respect to the effectiveness of the Sale Order. Sale Order ¶¶ M, 39.</p>
<p>Credit Bidding <i>Del. Bankr. L.R. 6004-1(b)(iv)(N)</i></p>	<p>Pursuant to the Bidding Procedures, and as set forth in more detail below, a person or entity holding a perfected security interest in the Debtors' assets may seek to credit bid some or all of their claims that are not subject to a</p>

⁶ This summary is qualified, in its entirety by the provisions of the proposed Sale Order. Capitalized terms used in this table but not previously defined have the meaning given to such terms later in this Motion or in the Sale Order, as applicable.

⁷ This summary and all related Sale Order provisions are qualified in their entirety to the terms of the DIP Orders and the DIP Loan Documents.

	<i>bona fide</i> dispute for their respective collateral. Bidding Procedures § VI.A.5.
<p>Good Faith Deposit <i>Del. Bankr. L.R. 6004-1(b)(iv)(F)</i></p>	<p>Any Good Faith Deposit that is not returned to the Successful Bidder or Backup Bidder, as applicable shall become DIP Collateral; <u>provided</u> that in the event that (a) the Successful Bidder does not close the Sale Transaction and there is no Backup Bidder or (b) each of the Successful Bidder and the Backup Bidder does not close the Sale Transaction, the Debtors shall be authorized to transfer cash comprising the necessary portion of such Good Faith Deposit into the Carve-Out Account and to pay, upon approval by the Court of the allowance of such professional fees, the Sale Professional Fees Amounts that are determined to be owing to those professionals retained by the Obligors (as defined in the DIP Loan Agreement) whose retention is approved by the Court pursuant to any one or more of sections 327, 363 and 1103 of the Bankruptcy Code. Any amounts deposited to fund the Carve-Out Account shall reduce any obligation under the DIP Loan and/or the Final DIP Order to fund the Carve-Out Account and/or to pay the Sale Professional Fees Amounts on an equal dollar basis, and shall not constitute DIP Collateral, except that the DIP Lender shall retain security interests in any residual interests in the Carve-Out Account available following satisfaction in full of all obligations benefitting from the Carve Out, and shall receive distributions on account of such residual interests. Sale Order ¶¶ 6, 27.</p> <p>Pursuant to the Bidding Procedures, and as set forth in more detail below, each Qualified Bid must be accompanied by a Good Faith Deposit in the form of cash in the amount set forth in the Bidding Procedures, plus, to the extent applicable, the Incremental Deposit Amount. Bidding Procedures §§ VI.A.7.</p>

RELIEF REQUESTED

11. By this Motion, pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Bankruptcy Rules and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules, the Debtors request that the Court:

- (a) enter the Bidding Procedures Order:
 - (i) approving the Bidding Procedures substantially in the form attached as Exhibit 1 to the Bidding Procedures Order;
 - (ii) scheduling the Auction for **February 28, 2018, at a time to be determined**;
 - (iii) scheduling the Sale Hearing for **March 6, 2018**, as determined by, and subject to the availability of, the Court;
 - (iv) authorizing and approving the (A) notice to each non-Debtor counterparty (each, a "Counterparty") to an executory contract or unexpired lease (collectively, the "Contracts") of the Debtors'

proposed cure amounts (the "Cure Costs"), substantially in the form attached to the Bidding Procedures Order as Exhibit 2 (the "Assumption and Assignment Notice"), (B) procedures and deadlines for asserting Cure Objections and Adequate Assurance Objections (as such terms are defined below) and (C) Assumption and Assignment Procedures;

(v) authorizing and approving the notice of the Auction and Sale Hearing, substantially in the form attached to the Bidding Procedures Order as Exhibit 3 (the "Sale Notice"); and

(vi) authorizing the Debtors to publish an abridged form of the Sale Notice in the *Wall Street Journal*, *Plastics News* and/or *Corpus Christi Caller-Times* (the "Publication Notice"); and

(b) enter one or more Sale Orders:

(i) authorizing the sale of the Assets (or a portion thereof) free and clear of all liens, claims, interests, and encumbrances, with liens to attach to the proceeds of such Sale Transaction(s);

(ii) authorizing the assumption and assignment of the Proposed Assumed Contracts (as defined below); and

(iii) granting related relief.

BIDDING PROCEDURES

A. Overview⁸

12. The Bidding Procedures are intended to provide for a fair, timely and competitive sale process consistent with the timeline of these Cases. Because the Bidding Procedures are attached to the proposed Bidding Procedures Order as Exhibit 1, they are not stated herein in their entirety. However, pursuant to Local Rule 6004-1, certain key terms of the Bidding Procedures are highlighted below:

⁸ This summary is qualified, in its entirety by the provisions of the Bidding Procedures and the Bidding Procedures Order. Unless otherwise set forth in this summary, capitalized terms used within this summary have the meanings given to such terms in the Bidding Procedures.

<p style="text-align: center;">Assets</p>	<p>The Assets subject to the Bidding Procedures include:</p> <ul style="list-style-type: none"> • the Debtors' entire right, title and interest in and to their Corpus Christi Plant and related assets (together, the "<u>Corpus Christi Assets</u>"); • the Debtors' entire right, title and interest in and to their desalination equipment and boilers situated at or in the vicinity of the Corpus Christi Plant (the "<u>Desalination Assets</u>"); • the Debtors' entire right, title and interest in and to their intellectual property other than the intellectual property of M & G Polymers USA, LLC's (the "<u>IP Assets</u>"); • M & G Polymers USA, LLC's entire right, title and interest in and to their intellectual property (the "<u>Polymers IP Assets</u>"); • M & G Polymers USA, LLC's entire right, title and interest in and to their research and development facility located in Sharon Center, Ohio (the "<u>Sharon R&D Assets</u>"); and • M & G Polymers USA, LLC's entire right, title and interest in and to their manufacturing facility located in Apple Grove, West Virginia and related assets (the "<u>Apple Grove Plant</u>"). <p>The Assets owned by M & G Polymers USA, LLC will remain available for sale pursuant to these procedures so long as the Debtors have sufficient funding to maintain such assets through the closing of any sale of such assets. Consistent with Section IX of the Bidding Procedures, the Debtors may seek expedited approval of a Stalking Horse Agreement, Sale Transaction or otherwise proceed on an alternative sale timeline or with alternate sales procedures (including dispensing with an Auction) than those set forth in the Bidding Procedures, in each case, with respect to any of the Assets owned by M & G Polymers USA, LLC.</p> <p>A Prospective Bidder may bid on all or any combination of the Corpus Christi Assets, the Desalination Assets, the IP Assets, the Polymers IP Assets, the Sharon R&D Assets, and the Apple Grove Plant, subject to the conditions set forth herein.</p>
<p style="text-align: center;">Proposal Deadline</p>	<p>Prospective interested parties will be requested to submit written preliminary indications of interest (each, a "<u>Proposal</u>") to the Bid Notice Parties at any time but by no later than January 16, 2018 at 5:00 p.m. (prevailing Eastern Time) (the "<u>Proposal Deadline</u>") and otherwise in compliance with the Bidding Procedures. The receipt of Proposals by the Proposal Deadline will assist the Debtors in promptly identifying potential Stalking Horse Bidder(s). The DIP Lender and Pre-Petition First Lien Lender are not required to submit a Proposal in order to be a Qualified Bidder.</p>
<p style="text-align: center;">Proposal Requirements</p>	<p>Proposals must contain the following information:</p> <ul style="list-style-type: none"> • <u>Identity of Purchaser and its Affiliates</u>: A Proposal must specify the identity of the purchaser, including the legal entity that would acquire all or part of the Assets, the ultimate holding company, the identity of all key shareholders and any relevant history and/or experience in the industry. A Proposal must confirm that the prospective interested party is acting as a principal and not as an agent or broker for any other party. A Proposal must also disclose whether the prospective interested party or any of its representatives has, or within the last 24 months has had, any commercial relationship or dealings with the Debtors or any of their affiliated or associated entities and their respective directors and officers or any of the Debtors' prepetition secured lenders, and, if so, disclose in reasonable detail information about such relationship and/or dealings.

- **Proposed Sale Transaction:** A Proposal must include the terms of the proposed Sale Transaction, including, but not limited to:
 - the Assets included in the Proposed Sale Transaction;
 - total purchase price and form of consideration for the proposed Sale Transaction and, if bidding on more than one Asset, an allocation of the total purchase price among those Assets; provided, however, that no such allocation shall be required for Assets subject to a Credit Bid except to the extent that the underlying Proposal that includes such Credit Bid proposes the purchase of Assets that are subject to another lender's valid, perfected senior lien securing funded debt obligations, in which case the Proposal must identify the means of satisfying or otherwise resolving or assuming such obligations;
 - a description of any significant assumptions on which the Proposal has been based;
 - structure, terms and conditions of the proposed Sale Transaction;
 - evidence of financial wherewithal to close the proposed Sale Transaction, including the prospective interested party's cash balances as of the most recent month end, availability under existing credit facilities or guarantee and/or equity commitment letter from a credit worthy affiliate entity; and
 - other economic matters to the extent material to the proposed Sale Transaction.
- **Due Diligence:** A Proposal must include a description of the due diligence the prospective interested party needs to conduct, including a list of any due diligence items the prospective interested party needs to review or confirm in order for it to enter into a definitive agreement.
- **Material Conditions:** A Proposal must list any other material conditions to which the consummation of the proposed Sale Transaction would be subject.
- **Sources of Financing:** A Proposal must include an indication (with as much specificity as possible) of expected sources of funds (including the amounts of debt and equity financing necessary to fund the Sale Transaction together with the indications from any third party sources of their commitment to provide such funds) and the steps required (and anticipated timing) to obtain definitive funding commitments. If the purchaser will be a newly formed entity, the Proposal must identify the entity or entities that will provide backstops in the form of a guarantee and/or equity commitment letter and describe the nature of such arrangement(s).
- **Required Approvals & Timing:** A Proposal must include a description of the level of review, authorization and approval within the prospective interested party's organization that the potential Sale Transaction has received to date and an indication of any anticipated need (and associated timing) for further corporate, shareholder, or regulatory authorization, approvals and waivers and any other material conditions or time constraints related to closing. In addition, a Proposal must provide an estimate of the aggregate timing required to secure any necessary financing, complete due diligence and obtain any necessary approvals to close a Sale Transaction. Finally, a Proposal must provide information on the prospective interested party's existing involvement and/or extent of production capacity it owns or operates in the North American and global markets for PTA or PET.
- **Pre-Closing Funding:** A Proposal must (i) state the prospective interested party's ability and willingness to fund the Debtors' Cases from March 31, 2018 through the closing of a Sale Transaction and (ii) disclose in reasonable detail the proposed structure and material terms of such financing (such as a proposed

	<p>refinancing of the DIP Financing, providing incremental financing on a junior basis, etc., in each case subject to obtaining the necessary approvals and consents).</p> <ul style="list-style-type: none"> • Prior Investments or Acquisitions: A Proposal must include a description of material investments or acquisitions that the prospective interested party has completed over the last five years as further evidence of its capability to close the Sale Transaction in a timely fashion. • Advisors: A Proposal must include a list of all financial, legal and other advisors that a prospective interested party has retained or plans to retain in connection with the Sale Transaction. • Contacts: A Proposal must provide a list of contacts (including mailing and e-mail addresses and phone numbers) who would be involved in further due diligence and with whom the Bid Notice Parties may discuss the Proposal, including individuals employed by any prospective interested party and any of its financial and legal advisors. <p>The Debtors will in their reasonable discretion, and in consultation with the Consultation Parties, determine compliance with the foregoing.</p>
<p>Final Bid Deadline</p>	<p>Any person or entity that desires to participate in the Auction (each, a "<u>Prospective Bidder</u>") must submit its final, binding bid on applicable Assets (a "<u>Final Bid</u>") on or before February 23, 2018 at 11:59 p.m. (prevailing Eastern Time) (the "<u>Final Bid Deadline</u>") in writing to the Bid Notice Parties and otherwise in compliance with the Bidding Procedures; <u>provided</u> that the Debtors shall have the discretion to the extend in writing the Final Bid Deadline for any Prospective Bidder so long as such extended deadline does not exceed the applicable milestone for such deadline under the DIP Loan Agreement (as defined in the DIP Orders). Any bid received after the Final Bid Deadline will not constitute a Qualified Bid.</p>
<p>Diligence</p>	<p>To be eligible to participate in the bidding process, a Prospective Bidder must first deliver (i) an executed confidentiality agreement, in form and substance satisfactory to the Debtors, (ii) • a statement and other factual support demonstrating to the Debtors' reasonable satisfaction in the exercise of their reasonable business judgment that the Prospective Bidder has a bona fide interest in purchasing the Assets, and (iii) preliminary proof by the Prospective Bidder of its financial capacity to close a proposed Sale Transaction, which may include current unaudited or verified financial statements of, or verified financial commitments obtained by, the Prospective Bidder (or, if the Prospective Bidder is an entity formed for the purpose of acquiring the property to be sold, the party that will bear liability for a breach), the adequacy of which the Debtors and its advisors will determine; <u>provided</u> that such proof shall not be required to the extent that the Prospective Bidder's financial capacity is reasonably known to the Debtors' investment banker Upon execution of a valid confidentiality agreement, any Prospective Bidder identified by the Debtors as reasonably likely to be a Qualified Bidder (as defined below) that wishes to conduct due diligence on the Assets may be granted access to information regarding the Assets; <u>provided</u> that, if any Prospective Bidder is (or is affiliated with) a competitor of the Debtors, the Debtors will not be required to disclose to such Prospective Bidder any trade secrets or proprietary information, as determined by the Debtors' in their sole discretion, unless the confidentiality agreement executed by such Prospective Bidder is satisfactory to the Debtors to ensure that such trade secrets or proprietary information will not be used for an improper purpose or to gain an unfair competitive advantage. If the Debtors determine at any time that a Prospective Bidder is not reasonably likely to qualify as a Qualified Bidder or fails to become a Qualified Bidder, then such Prospective Bidder shall not be entitled to receive further due diligence access or non-public information and all information provided by the Debtors prior to such time will be returned to the Debtors or destroyed in accordance with the terms of the applicable confidentiality agreement.</p>

	The Debtors shall be entitled to revoke due diligence access to any Prospective Bidder that fails to become a Qualified Bidder.
Authority to Enter into Stalking Horse Agreements	The Debtors may, as they deem necessary and appropriate in the prudent exercise of their business judgment, accept one or more Stalking Horse Bids and execute one or more Stalking Horse Agreements with such Stalking Horse Bidder(s), which may be comprised of a Credit Bid (including by the DIP Agent, DIP Lender and/or the Pre-Petition First Lien Lender), in connection with the proposed sale of the Assets and file a motion (each, a " <u>Stalking Horse Motion</u> ") seeking approval of such Stalking Horse Agreement, including any Bid Protections provided therein. Subject to the Court's determination, but no earlier than ten days after filing a Stalking Horse Motion, and no later than the Sale Hearing, the Debtors will seek approval from the Court on an expedited basis of such Stalking Horse Agreement(s) and any Bid Protections contained therein, in accordance with Rule 6004-1 of the Local Rules. The applicable Debtors' entry into a Stalking Horse Agreement and/or provision of Bid Protections to a Stalking Horse Bidder shall be in compliance with the DIP Orders, the DIP Loan Documents (as defined in the DIP Orders) and the Debtors' obligations thereunder.
Qualified Bid Requirements	<p>In order for a Final Bid to qualify as a "<u>Qualified Bid</u>," the Final Bid must be in writing and the Debtors must determine that the Final Bid satisfies the following requirements (and any Prospective Bidder that submits a Qualified Bid satisfying the following requirements shall be a "<u>Qualified Bidder</u>"):</p> <ul style="list-style-type: none"> • <u>Purchased Assets</u>: A Qualified Bid must identify the following: (i) the Assets to be purchased, including any Contracts of the Debtors that would be assumed and assigned in connection with the relevant Sale Transaction (all such Contracts, the "<u>Proposed Assumed Contracts</u>"); (ii) the liabilities, if any, to be assumed, including any debt to be assumed; (iii) the cash purchase price of, and any other consideration offered in connection with, the Final Bid (the "<u>Purchase Price</u>"); <u>provided</u> that, if the Final Bid is for more than one Asset, such bid must also allocate the Purchase Price across the individual Assets; <u>provided, however,</u> that no such allocation shall be required for Assets subject to a Credit Bid except to the extent that the underlying Final Bid that includes such Credit Bid proposes the purchase of Assets that are subject to another lender's valid, perfected senior lien securing funded debt obligations, in which case the Final Bid must identify the means of satisfying or otherwise resolving or assuming such obligations; <u>provided further</u> that, if the Final Bid is for Assets subject to a Stalking Horse Agreement, such Purchase Price must exceed the Stalking Horse Overbid (as defined below); (iv) the proposed form of adequate assurance of future performance of the Qualified Bidder with respect to any Proposed Assumed Contracts, including the legal name of any proposed assignee of a Proposed Assumed Contract, the proposed use of any leased premises and, with respect to the Corpus Christi Assets, the proposed plans and any financing therein, if any, to complete construction of the Corpus Christi Plant; (v) whether the Prospective Bidder intends to operate all or a portion of the Debtors' business as a going concern (as applicable) or to liquidate the applicable Assets; and (vi) whether the Prospective Bidder intends to offer future employment to any of the Debtors' employees. • <u>Identification of Bidder</u>: A Qualified Bid must fully disclose the legal identity of each person or entity bidding for the applicable Assets and otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), participating in (including through license or similar arrangement with respect to the assets to be acquired in connection with such bid) such bid or the Auction in connection with such bid, and the complete terms of any such participation, and must also disclose any past or present connections or agreements with the Debtors, any Stalking Horse Bidder(s), any other known Prospective Bidder or Qualified Bidder, any prepetition secured

	<p>lender and/or any officer or director of the foregoing (including any current or former officer or director of the Debtors).</p> <ul style="list-style-type: none"> • <u>Asset Purchase Agreement</u>: A Qualified Bid for some or all of the Assets must include (i) a duly authorized and executed Asset Purchase Agreement based on the form asset purchase agreement that the Debtors provided to Prospective Bidders and (ii) a proposed sale order based on the proposed Sale Order attached to the Motion as <u>Exhibit D</u>, both modified to reflect such Qualified Bidder's proposed Sale Transaction (including all exhibits and schedules thereto), together with copies marked to show any amendments and modifications to (i) the form asset purchase agreement and (ii) the proposed Sale Order. • <u>Asset Purchase Agreement for Stalking Horse Assets Only</u>: To the extent the Debtors enter into a Stalking Horse Agreement for any of their Assets, a Qualified Bid solely for such Assets must include (i) a duly authorized and executed copy of the Stalking Horse Agreement and (ii) a proposed sale order based on the proposed Sale Order attached to the Motion as <u>Exhibit D</u>, both modified to reflect such Qualified Bidder's proposed Sale Transaction (including all exhibits and schedules thereto), together with copies marked to show any amendments and modifications to (i) the Stalking Horse Agreement and (ii) the proposed Sale Order. • <u>Credit Bidding</u>:⁹ Subject to the satisfaction of the requirements set forth above and in these Bidding Procedures, a bid that includes a credit bid as a portion of the purchase price (each such bid, a "<u>Credit Bid</u>") shall be considered to be a Qualified Bid only if a court of competent jurisdiction has, as of the date of the submission of such bid to the Bid Notice Parties, entered a final, non-appealable order determining the validity, priority, and extent of the claims and liens that form the underlying basis of the Credit Bid, <u>provided, however</u>, that any Credit Bid by any Specified Lender on any Assets on which such Lender has a valid, perfected lien,¹⁰ shall not require the entry of a final, non-appealable order determining the validity, priority, and extent of the claims and liens that form the underlying basis of the Credit Bid. All Credit Bids shall be subject to the Credit Bid Requirements (as defined below). A Credit Bid may be applied only to reduce the cash consideration with respect to the Assets in which the party submitting the Credit Bid holds a security interest. <p>A Qualified Bidder whose Final Bid includes a Credit Bid or who would like to preserve its right to submit a Credit Bid at the Auction, in each case, on any applicable Assets shall deliver to the Debtors at the time of the submission of its Final Bid or, if such Qualified Bidder does not submit a Final Bid, one business</p>
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⁹ Capitalized terms used in this section but not otherwise defined have the meanings given to them in the DIP Motion or the *Interim Order Granting Debtors' Motion to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief*, [Docket No. 62] (the "Interim DIP Order") and the final order approving the relief sought in the DIP Motion (the "Final DIP Order") and, together with the Interim DIP Order, the "DIP Orders"), as applicable.

¹⁰ "Specified Lender" includes: (a) any of the DIP Secured Parties (as defined in the DIP Motion); (b) Banco Inbursa S.A., Institución De Banca Multiple, Grupo Financier, solely in its capacity as Pre-Petition First Lien Lender ("Pre-Petition First Lien Lender"); (c) DAK Americas, LLC, solely in its capacity as the Pre-Petition Second Lien Lender ("DAK"); and (d) Macquarie Investments US Inc., solely in its capacity as collateral agent under that certain \$55.5 million secured credit facility to which M&G Waters USA, LLC is a party.

day before the Auction as a condition precedent to its participation in the Auction (i) a Good Faith Deposit pursuant to Section VI.A.7 of the Bidding Procedures, and (ii)(x) a written commitment to fund into an escrow account established by the Debtors upon the closing of the Sale Transaction (as further described in Section VI.A.6 of the Bidding Procedures) an amount of cash (the "Cash Amount") sufficient to satisfy (1) the estimated Sale Professional Fees, (2) to the extent the Sale Excess Fees are senior to the obligations subject to such Credit Bid, the estimated Sale Excess Fees, and (3) any obligations secured by liens on such CC Assets that are senior to the obligations that are the subject of such Credit Bid (the "Senior Secured Obligations"), as the terms "Sale Professional Fees" and "Sale Excess Fees" would apply under the Final DIP Order either before or after the Carve-Out Trigger Date, as appropriate, and (y) documentary evidence of its financial wherewithal (as of the date of such commitment) to fund the Cash Amount upon the closing of the Sale Transaction (the foregoing requirements set forth in this paragraph, the "Credit Bid Requirements") provided that, to the extent a Sale Transaction is for less than all of the Corpus Christi Assets, the Debtors may permit the commitment described in the immediately preceding clause (ii) to be in an amount in cash that is less than the Cash Amount.

For the avoidance of doubt, any Credit Bid by the DIP Agent, the DIP Lender or the Pre-Petition First Lien Lender shall not require payment of any Pre-Petition Second Lien Obligations. Moreover, in the event that the DIP Agent, the DIP Lender or Pre-Petition First Lien Lender submits a Credit Bid comprised of any of their DIP Obligations or Pre-Petition First Lien Obligations, respectively, on any Assets securing such respective obligations, and without limiting any other requirements for approval of any other bid as a higher or better offer or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations), any further bid for the purchase of some or all of the Assets and any Sale of such Assets to a Successful Bidder (other than the DIP Lender or Pre-Petition First Lien Lender) that is approved by the Court must provide for, at the closing of such Sale Transaction, indefeasible cash payments of the DIP Obligations and the Pre-Petition First Lien Obligations to the DIP Lender and the Pre-Petition First Lien Lender, respectively, in at least the dollar amount equivalent of the Credit Bid submitted by the DIP Lender and the Pre-Petition First Lien Lender (as applicable), plus the Sale Professional Fees Amounts and the Sale Excess Fee Amounts (each, as defined in the Final DIP Order) in order for the Successful Bid of such Successful Bidder to be considered as a potentially higher or better bid and/or to be approved by the Court as a Successful Bid, unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable) (the foregoing requirements set forth in this paragraph, the "Credit Bid Overbid Requirements"). In addition, and without limiting any other requirements for approval of such bid as a higher or better bid or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations) any bid by the Pre-Petition Second Lien Secured Party for the Corpus Christi Assets, by Credit Bid or otherwise, shall provide at the closing of the Sale Transaction (a) that the DIP Obligations and the Pre-Petition First Lien Obligations are indefeasibly paid in full in cash to the DIP Lender and the Pre-Petition First Lien Lender, respectively (unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable)) and (b) cash in an amount equal to the Sale Professional Fees Amounts and Sale Excess Fee Amounts, as authorized pursuant to the Final DIP Order, is transferred into an escrow account pursuant to the Final DIP Order.

- Financial Information: A Qualified Bid must include the following: (i) a statement that the Prospective Bidder is financially capable of consummating

the Sale Transaction(s) contemplated by the applicable Asset Purchase Agreement, together with the Prospective Bidder's audited financial statements for the prior two years and pro forma capital structure; (ii) if the bid of a Qualified Bidder includes a Credit Bid pursuant to section 363(k) of the Bankruptcy Code, at the time of the submission of such Qualified Bidder's Final Bid or, if such Qualified Bidder does not submit a Final Bid, one business day before the Auction as a condition precedent to its participation in the Auction, such Qualified Bidder must deliver to the Debtors (a) a written commitment to fund into an escrow account established by the Debtors upon the closing of the Sale Transaction an amount of cash equal to the Cash Amount and (b) documentary evidence of its financial wherewithal as of the date of such commitment to fund upon the closing of the Sale Transaction the Cash Amount plus any remaining balance of the bid after reducing the applicable Purchase Price of the Assets by the amount of the proposed Credit Bid; and (iii)(a) a written commitment by the Prospective Bidder to provide the Debtors with financing to fund the Debtors' Cases from March 31, 2018 through the closing of the Sale Transaction and (b) a writing setting forth in reasonable detail the proposed structure and material terms of such financing (such as a proposed refinancing of the DIP Financing, providing incremental financing on a junior basis, etc., in each case subject to obtaining the necessary approvals and consents).

- Good Faith Deposit. Each Qualified Bid (including a Qualified Bid that includes a Credit Bid) must be accompanied by a good faith deposit (the "Good Faith Deposit") in the form of cash (or other form acceptable to the Debtors in their sole and absolute discretion) in an amount equal to the greater of (a) \$10 million or (b) 10% of the Purchase Price (inclusive of any amount thereof comprising Credit Bid consideration) offered to purchase the applicable Assets (or portion thereof); provided that, with respect to a bid (other than a bid on Assets owned by M & G Polymers USA, LLC) that includes a Credit Bid by the DIP Lender or the Pre-Petition First Lien Lender, the Good Faith Deposit shall equal \$20 million. All Good Faith Deposits shall be held in escrow in a non-interest bearing account identified by the Debtors until no later than five business days after the conclusion of the Auction unless such bidder is selected as the Successful Bidder or as a Backup Bidder (as hereinafter defined) and thereafter returned to the respective Qualified Bidders in accordance with the Bidding Procedures or, in the case of a Stalking Horse Bidder, if any, return of its Good Faith Deposit shall be governed by the Stalking Horse Agreement. The Backup Bidder's Good Faith Deposit shall be returned by the Debtors upon the earlier of (a) three business days after the closing of the Sale Transaction and (b) 75 days from the date of the Sale Hearing. The Debtors reserve the right to increase the Good Faith Deposit for one or more Qualified Bidders (as defined below) (other than any Stalking Horse Bidder's Good Faith Deposit or the DIP Lender or Pre-Petition First Lien Lender's Good Faith Deposit) in their sole and reasonable discretion.
- Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's ability to perform future obligations arising under the contracts and leases proposed in its bid to be assumed by the Debtors and assigned to the Prospective Bidder, in a form that will permit the immediate dissemination of such evidence to the Counterparties to such contracts and leases.
- Representations and Warranties: A Qualified Bid must include the following representations and warranties: (i) expressly state that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtors' businesses and the Assets prior to submitting its bid; and

	<p>(ii) a statement that the Prospective Bidder has relied solely upon its own independent review, investigation, and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtors' businesses or the applicable Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in a Stalking Horse Agreement or the form asset purchase agreement (as applicable) signed by the Prospective Bidder and ultimately accepted and executed by the Debtors.</p> <ul style="list-style-type: none"> • <u>Authorization</u>: A Qualified Bid must include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of a Final Bid, participation in the Auction and closing of the proposed Sale Transaction(s) in accordance with the terms of the Final Bid and these Bidding Procedures; <u>provided</u> that, if the Prospective Bidder is an entity specially formed for the purpose of effecting the Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtors of the approval by the equity holder(s) of such Prospective Bidder. • <u>Other Requirements</u>: A Qualified Bid shall: (i) state that the bid is binding, not subject to or conditioned on any further due diligence and irrevocable until the selection of the Successful Bid (as defined below) in accordance with these Bidding Procedures; provided that if such Prospective Bidder is selected as the Successful Bidder or Backup Bidder, its bid must remain irrevocable until the earlier of (a) Debtors' consummation of a Sale Transaction with the Successful Bidder and (b) 75 days from the date of the Sale Hearing; (ii) if the bid is for Assets subject to a Stalking Horse Agreement, state that (a) the bid is not subject to conditions more burdensome than those in such Stalking Horse Agreement and (b) the bid is on terms that are determined to be better than the terms of such Stalking Horse Agreement; (iii) expressly state that the Prospective Bidder is committed to closing the proposed Sale Transaction(s) contemplated by the bid as soon as practicable; (iv) except for Bid Protections (as defined in the Bidding Procedures Order) for a potential Stalking Horse Bidder approved by an order of the Court, expressly state and acknowledge that no Prospective Bidder shall be entitled to a break-up fee, termination fee, expense reimbursement, or similar type of "bid protection" in connection with the submission of a bid; (v) expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code in connection with bidding for the applicable Assets and/or participating in the Auction; (vi) not contain any financing contingencies of any kind; (vii) not contain any condition to closing of the proposed Sale Transaction(s) on the receipt of any third party approvals (excluding Court approval and any applicable required governmental and/or regulatory approval); (viii) provide information on the Prospective Bidder's existing involvement and/or extent of production capacity it owns or operates in the North American and global markets for PTA or PET, set forth each regulatory and third-party approval required for the Prospective Bidder to consummate the Sale Transaction and the time period within which the Bidder expects to receive such regulatory or third-party approvals, and state that all necessary filings under applicable regulatory, antitrust and other laws will be made and that payment of the fees associated therewith shall be made by the Prospective Bidder (all such information, "<u>Regulatory Disclosures</u>"); (ix) expressly state that the Prospective Bidder agrees to serve as a backup bidder (a "<u>Backup Bidder</u>") if such bidder's Qualified Bid is selected as the next highest or next best bid after the Successful Bid with respect to the applicable Assets; (x) include contact
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	<p>information for the specific person(s) the Debtors should contact in the event they have any questions about the Prospective Bidder's Final Bid; (xi) be received by the Bid Notice Parties set forth in Section X.A of the Bidding Procedures by the Final Bid Deadline; and (x) certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any of its affiliates) has a direct or indirect interest, unless consented to in writing by the Debtors, and that its bid represents a binding, good faith and bona fide offer to purchase the Assets identified if selected as the Successful Bid or Backup Bid at the Auction.</p>
Disqualification of Final Bids:	<p>The Debtors, in their business judgment and in consultation with the Consultation Parties, reserve the right to reject any Final Bid (other than any Stalking Horse Bid), including without limitation, if such Final Bid: (i) is on terms that are more burdensome or conditional than the terms of any Stalking Horse Agreement; (ii) requires any indemnification of the Prospective Bidder; (iii) is not received by the Final Bid Deadline; (iv) is subject to any contingencies (including representations, warranties, covenants, financing, due diligence and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the applicable Assets; or (v) does not, in the Debtors' determination, include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtors estates or the Auction. Any Final Bid rejected pursuant to this paragraph shall not be deemed to be a Qualified Bid. In the event that any Final Bid is so rejected, the Debtors shall cause the Good Faith Deposit of such Prospective Bidder to be refunded to it within five business days after the Final Bid Deadline.</p>
Selecting Qualified Bidders	<p>The Debtors, in consultation with the Consultation Parties,¹¹ will make a determination regarding which Final Bids qualify as Qualified Bids and as Baseline Bids (as defined below) and shall notify bidders whether they have been selected as Qualified Bidders prior to the Auction.</p>
Bid Protections	<p>Other than the Bid Protections provided to a Stalking Horse Bidder (if any), subject to approval by the Court pursuant to a Stalking Horse Motion, no party submitting a Final Bid, whether or not such Final Bid is determined by the Debtors to qualify as a Qualified Bid, shall be entitled to a break-up fee or expense reimbursement, or any other bid protection, unless such break-up fee, expense reimbursement or other bid protection is approved by the Court.</p> <p>The Debtors are authorized, but not required, to provide customary bid protections to Stalking Horse Bidders, if any, subject to further approval of the Court.</p>

¹¹ The "Consultation Parties" are (a) the DIP Lender and Inbursa and their counsel Cleary Gottlieb Steen & Hamilton LLP and Young Conaway Stargatt & Taylor, LLP; (b) DAK and its counsel Weil, Gotshal & Manges LLP and Morris, Nichols, Arsht & Tunnell LLP; and (c) the Committee and its counsel, Milbank, Tweed, Hadley & McCoy LLP and Cole Schotz P.C.

<p style="text-align: center;">Auction</p>	<p><u>Time and Place</u>: If the Debtors receive more than one Qualified Bid for any of the Assets, the Debtors shall conduct the Auction. The Auction, if required, will be conducted at the offices of Jones Day, 250 Vesey Street, New York, New York 10281 on February 28, 2018, at a time to be determined, or on such other date or at such other location as designated by the Debtors; <u>provided</u> that the Auction shall not be rescheduled for a date that is beyond the outside date or milestone for the Auction set forth in the DIP Loan Documents (as defined in the DIP Orders). If the Debtors receive no more than one Qualified Bid (including any Stalking Horse Bid(s) or Credit Bid by the DIP Agent, the DIP Lender and/or Pre-Petition First Lien Lender) with respect to any of the Assets, the Debtors may determine, in their reasonable discretion, not to hold the Auction for such Assets and instead declare such Qualified Bid as the Successful Bid on such Assets and request at the Sale Hearing (defined below) that the Court approve the applicable Asset Purchase Agreement with the applicable Successful Bidder (including any Stalking Horse Agreement(s) with the applicable Stalking Horse Bidder(s)).</p> <p><u>Transcription</u>. The bidding at the Auction shall be transcribed or videotaped and the Debtors shall maintain a transcript or video of all bids made and announced at the Auction.</p> <p><u>Participants and Attendees</u>: Only Qualified Bidders that have submitted Qualified Bids (including any Stalking Horse Bids) by the Final Bid Deadline are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtors in consultation with the Consultation Parties in accordance with these Bidding Procedures. Qualified Bidders participating in the Auction must appear in person at the Auction or through a duly authorized representative. Subject to the Auction procedures set forth in Section VII.B of the Bidding Procedures, the Auction will be conducted openly and all Qualified Bidders, Specified Lenders and the Consultation Parties are permitted to attend; <u>provided</u> that the Debtors may, in their sole and exclusive discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction.</p> <p>Each Qualified Bidder participating in the Auction will be required to confirm in writing and on the record at the Auction that (i) it has not engaged in any collusion with respect to the submission of any bid or the Auction and (ii) each Qualified Bid it submits at the Auction is a binding, good faith and bona fide offer to purchase the Assets identified in such bid.</p>
<p style="text-align: center;">Baseline Bids</p>	<p>Prior to the commencement of the Auction, the Debtors will provide copies of the Qualified Bid or combination of Qualified Bids that the Debtors determine in their reasonable business judgment, after consultation with the Consultation Parties, to be the highest and/or best Qualified Bid (the "<u>Baseline Bid</u>") to all other Qualified Bidders who have submitted a Qualified Bid prior to the Final Bid Deadline. Bidding at the Auction shall commence at the amount of the Baseline Bid.</p>
<p style="text-align: center;">Minimum Overbid</p>	<p>At each round of bidding, Qualified Bidders may submit successive bids higher than the Leading Bid from the prior round (or the Baseline Bid for the first round), based on and increased in an amount of at least \$1,000,000 or such other amount as the Debtors may determine from the Leading Bid (or Baseline Bid for the first round) for the applicable Assets (each such bid, a "<u>Minimum Overbid</u>"); <u>provided, however</u>, that to the extent that the Baseline Bid includes a Qualified Bid for Assets that are subject to a Stalking Horse Agreement, if any, the bidding for such Assets at the first round of bidding will start at an amount equal to the sum of: (i) the value of the Baseline Bid, (ii) the amount of the Bid Protections, and (iii) the Minimum Overbid amount (each such bid, a "<u>Stalking Horse Overbid</u>"). The Debtors may, in their reasonable discretion, announce increases or reductions to Minimum Overbids or Stalking Horse Overbids at any time during the Auction.</p> <p>Additionally, with the exception of the DIP Lender and the Pre-Petition First Lien Lender, upon a Qualified Bidder's declaration of its bid, it must commit on the record to</p>

	<p>pay following the Auction, if such bid were to be the Successful Bid or the Backup Bid, the incremental amount of its Good Faith Deposit calculated based on the increased Purchase Price of such bid (such Good Faith Deposit so increased, the "<u>Incremental Deposit Amount</u>").</p> <p>Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by any bid subsequent to a Baseline Bid, the Debtors will at each round of bidding, give effect to the Bid Protections payable to any Stalking Horse Bidder, if any, under the applicable Stalking Horse Agreement, as well as any additional liabilities to be assumed by a Qualified Bidder and whether they are secured or unsecured and any additional costs that may be imposed on the Debtors. To the extent that a Leading Bid has been accepted entirely or in part because of the addition, deletion or modification of a provision or provisions in the applicable Asset Purchase Agreement, the Debtors will identify such added, deleted or modified provision or provisions and the value thereof.</p>
<p>Leading Bid</p>	<p>After the first round of bidding and between each subsequent round of bidding, the Debtors shall announce, in consultation with the Consultation Parties, the bid that they believe to be the highest or otherwise best offer for the applicable Assets (the "<u>Leading Bid</u>") and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a subsequent bid with full knowledge of the Leading Bid.</p> <p>The Auction may include open bidding in the presence of all other Qualified Bidders. All Qualified Bidders shall have the right to be present for all rounds of bidding and to submit additional bids and make modifications to their proposed Asset Purchase Agreement at the Auction to improve their bids; <u>provided</u> that such bidders comply with Section VII.B.4 of the Bidding Procedures. The Debtors may, in their reasonable business judgment, negotiate with any and all Qualified Bidders participating in the Auction.</p> <p>The Debtors shall have the right to determine, in their reasonable discretion, and in consultation with the Consultation Parties, which bid is the highest or otherwise best bid with respect to the applicable Asset(s) and reject at any time, without liability, any bid that the Debtors deem to be inadequate or insufficient, not in conformity with the requirements of the Bankruptcy Code, Bankruptcy Rules or the Local Rules, these Bidding Procedures (including the Credit Bid Overbid Requirements), any order of the Court or the best interests of the Debtors and their estates.</p> <p>Any Leading Bid made from time to time by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless (i) the Debtors accept a higher or otherwise better bid submitted by another Qualified Bidder during the Auction as a Leading Bid and (ii) such Leading Bid is not selected as the Backup Bid.</p> <p>To the extent not previously provided (which will be determined by the Debtors), a Qualified Bidder submitting a subsequent bid must submit at the Debtors' request, as part of its subsequent bid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors) demonstrating such Qualified Bidder's ability to close the transaction at the Purchase Price contemplated by such subsequent bid.</p>
<p>No Round-Skipping</p>	<p>To remain eligible to participate in the Auction for a particular Asset, in each round of bidding, (i) each Qualified Bidder must submit a bid in such round of bidding that is of a higher value or is a better offer than the immediately preceding bid submitted by a Qualified Bidder in such round of bidding and (ii) to the extent a Qualified Bidder fails to bid such round of bidding or to submit a bid in such round of bidding that is of a higher value or is a better offer than the immediately preceding bid submitted by a Qualified Bidder in such round of bidding, such Qualified Bidder shall be disqualified from continuing to participate in the Auction for such Asset; <u>provided</u> that the Debtors</p>

	<p>may opt to utilize Auction procedures other than the foregoing procedure for any round of bidding.</p> <p>To the extent to the Debtors conduct multiple auctions for different subgroupings of the Assets (each, a "<u>Sub-Auction</u>") and a Qualified Bidder declines to participate in any specific Sub-Auction or Sub-Auctions, or any round of bidding for such specific Sub-Auctions, such Qualified Bidder shall still be permitted to offer a bid in subsequent Sub-Auctions, including bids that include assets subject to a prior Sub-Auction. This includes the right to bid on groupings of Assets that may include specific Assets which were the subject of an earlier Sub-Auction.</p>
Successful Bids	<p>Immediately prior to the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, shall (i) determine, consistent with the Bidding Procedures, which bid constitutes the highest or otherwise best bid(s) for the applicable Asset(s) (each such bid, a "<u>Successful Bid</u>") and (ii) notify all Qualified Bidders at the Auction for the applicable Asset(s) of the identity of the bidder that submitted the Successful Bid (each such bidder, the "<u>Successful Bidder</u>") for such Asset(s) and the amount of the Purchase Price and other material terms of the Successful Bid. As a condition to remaining the Successful Bidder, the Successful Bidder (other than the DIP Lender or the Pre-Petition First Lien Lender) shall wire to the Debtors in immediately available funds the Incremental Deposit Amount, calculated based on the Purchase Price of the Successful Bid, no later than one business day following the date on which the Auction Results Notification is made.</p>
Backup Bids	<p>Immediately prior to the conclusion of the Auction, the Debtors shall (i) determine, in consultation with the Consultation Parties and consistent with these Bidding Procedures, which Qualified Bid is the next highest or otherwise best Qualified Bid for the applicable Assets after the Successful Bid (each such Qualified Bid, a "<u>Backup Bid</u>") and (ii) notify all Qualified Bidders at the Auction for the applicable Asset of the identity of the Backup Bidder and the amount of the Purchase Price and other material terms of the Backup Bid (such notification, together with the notification described in Section VII.C.1 of the Bidding Procedures, the "<u>Auction Results Notification</u>"). As a condition to remaining the Backup Bidder, the Backup Bidder (other than the DIP Lender or the Pre-Petition First Lien Lender) shall wire to the Debtors in immediately available funds the Increased Deposit Amount, calculated based on the Purchase Price of the Backup Bid, no later than one business day following the date on which the Auction Results Notification is made.</p> <p>The Backup Bid remains binding on the Backup Bidder until the earlier of (i) the closing of a Sale Transaction for the applicable Assets pursuant to the Successful Bid and (ii) 75 days after the date of the Sale Hearing. If the Successful Bidder for the applicable Assets fails to consummate a Sale Transaction, the Backup Bidder shall be deemed the new Successful Bidder for the applicable Assets, and the Debtors will be authorized, but not required, to consummate a Sale Transaction for the applicable Assets with the Backup Bidder.</p>
Auction Results	<p>On or before one business day after the Auction, the Debtors shall file with the Court, serve on the Sale Notice Parties and cause to be published on the website maintained by the Debtors' claim and noticing agent, Prime Clerk, LLC located at http://cases.primeclerk.com/mgusa (the "<u>Prime Clerk Website</u>"), the results of the Auction, which shall include (i) a copy of the Successful Bid(s) and Backup Bid(s); and (ii) the identities of the Successful Bidder(s) and Backup Bidder(s).</p>
Modification of Procedures	<p>The Debtors may, in any manner consistent with the Debtors' fiduciary duties and applicable law, modify the rules, procedures and deadlines set forth herein (including, without limitation, extending the Final Bid Deadline, modifying the Qualified Bid Requirements, modifying the procedures for conducting the Auction, rescheduling the Auction or adjourning the Sale Hearing) or adopt new rules, procedures and deadlines or otherwise modify these Bidding Procedures in order to, in their sole and reasonable</p>

	<p>discretion, better promote the goals of such procedures, namely, to maximize value for the estates; <u>provided</u> that all modifications and additional rules, procedures and deadlines may in no event permit the submission of bids after the close of the Auction; and <u>provided, further</u>, that the Debtors may not amend these Bidding Procedures or the bidding process to (a) reduce or otherwise modify their obligations to consult with any Consultation Party without the consent of such Consultation Party or further order of the Court, (b) reduce or otherwise modify their obligations to obtain consent from the DIP Lender or Pre-Petition First Lien Lender pursuant to these Bidding Procedures, the DIP Orders or the DIP Loan Documents (as defined in the DIP Orders), as applicable or (c) provide for any extensions of deadlines, other modifications of the Bidding Procedures or acceptance of any bid which limit the rights set out in or the protections provided to the DIP Agent, the DIP Lender and the Pre-Petition First Lien Lender as set forth in the DIP Orders, the DIP Loan Documents or the Pre-Petition First Lien Documents (each as defined in the DIP Orders), or are inconsistent with the Debtors' agreements and obligations thereunder, in each case, without the prior written consent of the Pre-Petition First Lien Lender or the DIP Agent or DIP Lender, as applicable. All such modifications and additional rules will be communicated to each of the Consultation Parties, the Sale Notice Parties, Prospective Bidders and Qualified Bidders; <u>provided</u> that, to the extent such modifications occur at the Auction, disclosure of such modifications is limited to those in attendance at the Auction.</p>
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B. Notice Procedures

13. The Debtors request approval of the Sale Notice substantially in the form attached to the Bidding Procedures Order as Exhibit 3. Within two days of entry of the Bidding Procedures Order, the Debtors will serve the Sale Notice by first class mail or email on: (a) the Consultation Parties, as applicable, (b) any counsel to a Stalking Horse Bidder, (c) DAK Americas, LLC, (d) Macquarie Investments US Inc., (e) all persons and entities known by the Debtors to have expressed an interest to the Debtors in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a bid for any of the Assets, as applicable, (f) all persons and entities known by the Debtors to have asserted any lien, claim, interest, or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtors), (g) all non-Debtor parties to any Contracts that are proposed to be assumed or rejected in connection with a Sale Transaction, (h) any governmental authority known to have a claim against the Debtors in these Cases, (i) the United States Attorney General, (j) the Antitrust Division of the United States Department of Justice, (k) the United States Attorney for the District of Delaware, (l) the Office of the Attorney General in

each state in which the Debtors operate, (m) the Federal Trade Commission, (n) the office of the United States Trustee for the District of Delaware, (o) counsel for the Committee, (p) the Internal Revenue Service, (q) the United States Securities and Exchange Commission, (r) all of the Debtors' known creditors (for whom identifying information and addresses are known to the Debtors), (s) all parties who have filed a notice of appearance and request for service of papers in these Cases pursuant to Bankruptcy Rule 2002 and (t) all other persons and entities as directed by the Court.

14. In addition, the Debtors will also post the Sale Notice and the Bidding Procedures Order on the Prime Clerk Website and no later than five days after entry of the Bidding Procedures Order, the Debtors will cause the Publication Notice to be published once in the *Wall Street Journal*, *Plastics News* and/or *Corpus Christi Caller-Times*.

15. The Debtors submit that the procedures described above (the "Notice Procedures"), coupled with the Assumption and Assignment Procedures further described below, constitute adequate and reasonable notice of the key dates and deadlines for the Sale, including, among other things, the deadline to object to the Sale of the Assets, assumption and assignment of the Contracts and Cure Costs, the Auction, the Final Bid Deadline and the Sale Hearing.

ASSUMPTION AND ASSIGNMENT PROCEDURES

16. In connection with any Sale Transaction, the Debtors propose to assume and assign to the Successful Bidder(s) the Proposed Assumed Contracts. The Assumption and Assignment Procedures will, among other things, notify the Counterparties of the potential assumption and assignment of their Contracts and the Debtors' calculation of Cure Costs with respect thereto. Specifically, the Assumption and Assignment Procedures provide that:

- (a) Assumption and Assignment Notice: Within five business days after the entry of the Bidding Procedures Order, the Debtors shall file with the Court, serve on the Sale Notice Parties, including each Counterparty to a

Contract that may be assumed in connection with any Sale Transaction, and cause to be published on the Prime Clerk Website, the Assumption and Assignment Notice, which shall (i) identify the Contracts; (ii) list the Debtors' good faith calculation of Cure Costs with respect to each Contract; (iii) expressly state that assumption or assignment of a Contract is not guaranteed and is subject to Court approval; and (iv) prominently display the deadline to file objections to the assumption, assignment or sale of the Debtors' Proposed Assumed Contracts. In the event that the Debtors identify Counterparties that were not served with the Assumption and Assignment Notice, the Debtors may subsequently serve such Counterparty with an Assumption and Assignment Notice, and the following procedures will nevertheless apply to such Counterparty; provided, however, that the deadline to file a Cure Objection and/or Adequate Assurance Objection with respect to such Counterparty shall be **5:00 p.m. (prevailing Eastern Time) on the date that is 14 days following service of the Assumption and Assignment Notice.**

- (b) Proposed Assumed Contracts Notice: As soon as reasonably practicable after the conclusion of the Auction, but no later than **March 1, 2018**, the Debtors shall file with the Court, serve on the Sale Notice Parties (as defined in the Bidding Procedures), including each applicable Counterparty and cause to be published on the Prime Clerk Website a list of the Proposed Assumed Contracts that the Debtors will seek to assume and assign pursuant to a Stalking Horse Agreement, if any, or one or more Asset Purchase Agreements submitted by a Successful Bidder (as defined in the Bidding Procedures) (such notice, a "Proposed Assumed Contracts Notice").
- (c) Objection Recipients: Any Counterparty that wishes to object to the assumption or assumption and assignment of a Contract to a Successful Bidder must file with the Court and serve its objection on the Objection Recipients (as defined in the Bidding Procedures).
- (d) Cure Costs Objections.
 - (i) Deadline: Any Counterparty to a Proposed Assumed Contract that wishes to object to the proposed assumption and assignment of the Proposed Assumed Contract, the subject of which objection is the Debtors' proposed Cure Costs to cure any outstanding monetary defaults then existing under such contract (each, a "Cure Objection"), shall file with the Court and serve on the Objection Recipients its Cure Objection, which must state, with specificity, the legal and factual bases thereof, including any appropriate documentation in support thereof, by no later than **5:00 p.m. (prevailing Eastern Time) on the date that is 14 days after filing of the Assumption and Assignment Notice.**

- (ii) Resolution: The Debtors, in consultation with the Consultation Parties, and a Counterparty that has filed a Cure Objection shall first confer in good faith to attempt to resolve the Cure Objection without Court intervention. If the parties are unable to consensually resolve the Cure Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the applicable Cure Costs and Cure Objections at a hearing scheduled pursuant to the following paragraph. If a Cure Objection is resolved in a manner that is not in the best interests of the Debtors and their estates, whether or not such resolved Cure Objection occurs prior to or after the closing of the applicable Sale Transaction, the Debtors may determine that any Proposed Assumed Contract subject to such resolved Cure Objection will no longer be assumed and assigned pursuant to the applicable Sale Transaction (subject to the terms of the applicable Sale Transaction). All other objections to the proposed assumption and assignment of the Debtors' right, title, and interest in, to, and under a Contract, if it is ultimately designated a Proposed Assumed Contract, will be heard at the Sale Hearing.
- (iii) Adjournment: If a timely filed Cure Objection cannot otherwise be resolved by the parties, such objection may be heard by the Court at the Sale Hearing or subsequent to the Sale Hearing (an "Adjourned Cure Objection"); provided that the determination of whether a Cure Objection may be heard at the Sale Hearing is in the Debtors' and the Court's discretion. An Adjourned Cure Objection may be resolved after the closing date of the applicable Sale Transaction(s); provided that the Sale Transaction provides for the establishment of a cash reserve equal to the cure amount the objecting Counterparty reasonably believes is required to cure the asserted monetary default under the applicable Proposed Assumed Contract (or as otherwise may be provided under the applicable Asset Purchase Agreement or as so ordered by the Court). Upon resolution of an Adjourned Cure Objection and the payment of the applicable cure amount, if any, the applicable Proposed Assumed Contract that was the subject of such Adjourned Cure Objection shall be deemed assumed and assigned to the applicable Successful Bidder, as of the closing date of the applicable Sale Transaction(s).
- (iv) Failure to Timely Object: If a Counterparty fails to timely file with the Court and serve on the Objection Recipients a Cure Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract and the adequate assurance of future performance in connection therewith (unless such Counterparty has timely filed an Adequate Assurance Objection (as defined below) with respect to the Proposed Assumed Contract) to the applicable Successful Bidder

and forever shall be barred from asserting any objection with regard to such assumption and assignment or the adequate assurance of future performance in connection therewith. The Cure Costs set forth in the Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Proposed Assumed Contract under section 365(b) of the Bankruptcy Code, notwithstanding anything to the contrary in any Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.

(e) Adequate Assurance Objections.

- (i) Deadline: Any Counterparty to a Proposed Assumed Contract that wishes to object to the proposed assumption and assignment of the Proposed Assumed Contract, the subject of which objection is a Successful Bidder's proposed form of adequate assurance of future performance with respect to such contract (each, an "Adequate Assurance Objection"), shall file with the Court and serve on the Objection Recipients an Adequate Assurance Objection, which must state, with specificity, the legal and factual bases thereof, including any appropriate documentation in support thereof, by no later than **March 2, 2018 at noon (prevailing Eastern Time)**.
- (ii) Resolution of Objections: The Debtors and a Counterparty that has filed an Adequate Assurance Objection shall first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, such objection and all issues of adequate assurance of future performance of the applicable Successful Bidder shall be determined by the Court at the Sale Hearing.
- (iii) Failure to Timely Object: If a Counterparty fails to timely file with the Court and serve on the Objection Recipients an Adequate Assurance Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract (unless the Counterparty has filed a timely Cure Objection with respect to the Proposed Assumed Contract) and adequate assurance of future performance in connection therewith to the applicable Successful Bidder and forever shall be barred from asserting any objection with regard to such assumption and assignment or adequate assurance of future performance in

connection therewith. The applicable Successful Bidder shall be deemed to have provided adequate assurance of future performance with respect to the applicable Proposed Assumed Contract in accordance with section 365(f)(2)(B) of the Bankruptcy Code, notwithstanding anything to the contrary in the Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.

APPLICATION OF SALE TRANSACTION PROCEEDS¹²

17. As further reflected in the proposed Sale Order, all proceeds shall be distributed in accordance with the terms of the Final DIP Order and the DIP Loan Documents as further set forth in paragraph 26 of the proposed Sale Order. Among other things, the Debtors' DIP Financing includes provisions that reflect the DIP Secured Parties, the Pre-Petition First Lien Lender, the Pre-Petition Second Lien Secured Party and the Obligors' agreement regarding a mechanism to apply the proceeds of any Pre-Petition Collateral sold in a Sale Transaction that constitutes a CC Sale. This agreement governs the application of proceeds of any Pre-Petition Collateral in a CC Sale, including to effect the repayment of the DIP Obligations under the DIP Financing, without which the Debtors would not be able to undertake a sales process with respect to the Assets. This mechanism respects the seniority of the Senior Prior Liens, if any, under applicable non-bankruptcy law and provides a means by which professionals of the Obligors' estates will be able to obtain funding for the "carve-out" proposed in connection with the DIP Financing. The foregoing mechanism and terms are set forth in detail under the DIP Loan Documents and the DIP Orders.

¹² This section is qualified, in its entirety by the provisions of the DIP Loan Documents and the DIP Orders. Unless otherwise set forth in this section, capitalized terms used but not otherwise defined have the meanings given to them in the Final DIP Order.

BASIS FOR RELIEF**A. The Bidding Procedures Are Appropriate and Are in the Best Interests of the Debtors and their Estates**

18. Bankruptcy Rule 6004(f)(1) provides that "[a]ll sales not in the ordinary course of business may be by private sale or by public auction." The paramount goal of any proposed sale of property of the debtor's estate is to maximize the value of the sale proceeds received by the estate. *See Official Committee of Unsecured Creditors of Cybergenics Corp. v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003) (the debtor has the "fiduciary duty to maximize the value of the bankruptcy estate."); *Burtch et al. v. Ganz, et al. (In re Mushroom Co.)*, 382 F.3d 325, 339 (3d Cir. 2004) (finding that debtor "had a fiduciary duty to protect and maximize the estate's assets."); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564- 65 (8th Cir. 1997) ("a primary objective of the Code [in asset sales is] to enhance the value of the estate at hand.") (citing *Metropolitan Airports Comm'n v. Northwest Airlines, Inc. (In re Midway Airlines, Inc.)*, 6 F.3d 492, 494 (7th Cir. 1993) ("Section 365 . . . advances one of the Code's central purposes, the maximization of the value of the bankruptcy estate for the benefit of creditors."). Courts uniformly recognize that procedures established for the purpose of enhancing competitive bidding are consistent with the fundamental goal of maximizing value of a debtor's estate. *See Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inc.)*, 181 F.3d 527, 537 (3d Cir. 1999) (noting that bidding procedures that promote competitive bidding provide a benefit to a debtor's estate); *In re Fin'l News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1992) ("court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for fair and efficient resolution of bankrupt estates.").

19. The proposed Bidding Procedures are designed to facilitate a Sale process in compliance with the Bankruptcy Rules and relevant case law by providing a method by which the Debtors will be able to maximize the value of the Assets. The Debtors, with the assistance of their advisors, have structured the Bidding Procedures to attract competitive and active bidding from those parties with the financial capability to do so. The Bidding Procedures will allow the Debtors to conduct the Auction in a fair, controlled and transparent manner that will encourage participation by financially capable bidders that demonstrate the financial wherewithal to close a transaction. To the extent the Debtors have identified and obtained Court approval of any Stalking Horse Bidders by the Final Bid Deadline, such Stalking Horse Bidders will enable the Debtors to set a floor for the value of the Assets subject to the respective Stalking Horse Bid, while also increasing the likelihood that the Debtors will receive the greatest possible consideration for the applicable Assets at the Auction. The Debtors submit that courts in this District and other districts routinely approve procedures substantially similar to the proposed Bidding Procedures. *See, e.g., In re Golfsmith, Inc.*, Case No. 16-12033 (CSS) [Docket No. 196] (Bankr. D. Del. Oct. 6, 2016) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to appoint and provide bid protections to, subject to court approval, one or more stalking horse bidders prior to the auction); *In re Sports Authority, Inc.*, No. 16-10257 (MFW) [Docket No. 1186] (Bankr. D. Del. Apr. 14, 2016) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to select a stalking horse bidder following the staking horse bid deadline and offer bid protections, subject to court approval, to such bidder(s)); *In re Haggan Holdings, LLC*, No. 15-11874 (KG) [Docket No. 911] (Bankr. D. Del. Dec. 4, 2015) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to select a stalking horse bidder 14 days prior to the bid

deadline and to offer bid protections, subject to court approval, to such bidder(s)); *In re Quicksilver Resources Inc.*, Case No. 15-10585 (LSS) [Docket No. 681] (Bankr. D. Del. Oct. 6, 2015) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to select a stalking horse bidder up until one day after the bid deadline and to offer bid protections, subject to court approval, to such bidder(s)); *In re Aeropostale, Inc.*, Case No. 16-11275 (SHL) [Docket No. 527] (Bankr. S.D.N.Y. July 29, 2016) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to select, prior to the bid deadline, any potential bidder to serve as a stalking horse); *see also In re AFA Investment Inc.*, Case No. 12-11127 (MFW) [Docket No. 242] (Bankr. D. Del. May 8, 2012) (approving bidding procedures absent an existing stalking horse bidder and permitting the debtors to appoint stalking horse bidders up until 24 hours prior to the auction and to offer pre-approved bid protections to such bidders). Accordingly, the Bidding Procedures should be approved as reasonable, appropriate, and in the best interests of the Debtors, their estates and all parties in interest.

B. Bid Protections Requested for any Stalking Horse Bidders will be Reasonable and Justified

20. To the extent the Debtors enter into a Stalking Horse Agreement, it is appropriate to offer and ultimately provide, subject to Court approval, the Stalking Horse Bidder with Bid Protections. While the Debtors will file a separate motion to the extent they may seek to grant Bid Protections to any Stalking Horse Bidder, in general Bid Protections are appropriate in these cases because the Debtors will enter into a Stalking Horse Agreement with a Stalking Horse Bidder only if the Debtors, in consultation with the Consultation Parties, believe such agreement will maximize the ultimate sale price for the applicable Assets, and the Bid Protections remain subject to approval by the Court. Under Third Circuit precedent, break-up fees, termination fees, topping fees, expense reimbursement and similar types of "bid protection" constitute

administrative expenses,¹³ and therefore, the payment of such fees must provide a postpetition benefit to the bankruptcy estate. *Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inc.)*, 181 F.3d 527, 533 (3d Cir. 1999). In *O'Brien*, the Third Circuit provided two examples of a potential benefit accruing from the payment of a termination fee. *Id.* First, a benefit to the estate may arise if, "assurance of a breakup fee promoted [a] more competitive bidding [process], such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *Id.* at 537. Second, bid protections encourage potential bidders to evaluate thoroughly a debtor's value, thereby "increasing the likelihood that the price at which the debtor is sold will reflect its true worth." *Id.*

21. Courts have recognized that termination and similar fees may be used to protect bidders in connection with a sale of assets pursuant to section 363 of the Bankruptcy Code and that such fees can be "important tools to encourage bidding and to maximize the value of the Debtors' assets." *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 659 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993). Such protections enable a debtor to assure a sale to a contractually committed bidder at a price the debtor believes is fair and reasonable, while providing the debtor with the opportunity of obtaining even greater benefits for the estate through an auction process. *See In re 995 Fifth Ave. Assocs., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (stating that bidding incentives 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) (internal quotation marks omitted).

¹³ The applicable Debtors' entry into a Stalking Horse Agreement and/or provision of Bid Protections to a Stalking Horse Bidder shall be in compliance with the DIP Orders, the DIP Loan Documents (as defined in the DIP Orders) and the Debtors' obligations thereunder.

22. The Debtors intend to negotiate any Stalking Horse Agreement at arms'-length and in good faith and will enter into a Stalking Horse Agreement with a Stalking Horse Bidder only if the Debtors, in consultation with the Consultation Parties, believe it will maximize the return for the sale of the applicable Assets and will not chill bidding. Further, the ability to offer the Bid Protections, subject to Court approval pursuant to a Stalking Horse Motion to be heard on no less than ten days' notice as determined by the Court subject to its availability, and no later than the Final Bid Deadline, may be necessary to encourage potential purchasers to finalize their bids and serve as Stalking Horse Bidders to promote a competitive sales process. A Stalking Horse Bid could secure an adequate price floor for the applicable Assets that are subject to the bid, and ensure that competing bids will be materially higher or better than that contained in the respective Stalking Horse Agreement. Accordingly, the Debtors' ability to offer the Bid Protections enables them to ensure the sale of some or all of the Assets to a contractually committed bidder at a price they believe to be fair, while, at the same time, providing them with the potential for even greater benefit to their estates. Thus, the authorization for the Debtors to offer the Bid Protections, subject to later Court approval on an expedited basis, is justified. *See, e.g., In re Golfsmith, Inc.*, Case No. 16-12033 (CSS) [Docket No. 196] (Bankr. D. Del. Oct. 6, 2016); *In re Sports Authority, Inc.*, No. 16-10257 (MFW) [Docket No. 1186] (Bankr. D. Del. Apr. 14, 2016).

C. Approval of the Sale is Warranted Under Section 363 of the Bankruptcy Code

23. Section 363 of the Bankruptcy Code provides that the debtor may, "after a notice and a hearing . . . use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363. In turn, section 105(a) of the Bankruptcy Code provides that the court

"may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

24. While the Bankruptcy Code does not specify the appropriate standard for approving the sale of property under section 363, courts uniformly agree that the business judgment standard applies. *See, e.g., Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (citing *In re Schipper*, 933 F.2d 513 (7th Cir. 1991)); *In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992); *Stephen Indus., Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986); *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). Courts typically apply four factors in determining whether a section 363 sale is appropriate under the business judgment standard—namely, whether: (a) a sound business justification exists for the sale; (b) adequate and reasonable notice of the sale was provided to interested parties; (c) the sale will produce a fair and reasonable price for the property; and (d) the parties have acted in good faith. *Id.* at 1070 (setting forth the "sound business" purpose standard for the sale of the debtor's assets under section 363 of the Bankruptcy Code); *In re Decora Indus., Inc.*, Case No. 00-4459, 2002 WL 32332749, at *2 (D. Del. May 20, 2002) (adopting *Lionel* factors) (citing *Guilford Transportation Industries, Inc. v. Delaware & Hudson Ry. Co. (In re Delaware & Hudson Ry. Co.)*, 124 B.R. 169, 176 (D. Del. 1991) (listing non-exclusive factors that may be considered by a court in determining whether there is a sound business purpose for an asset sale)). As such, it follows that when a debtor demonstrates a valid business justification for a decision, the presumption is that the business decision was made "on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." *Official Comm. of Subordinated Bondholders v. Integrated Res. Inc.*

(*In re Integrated Res., Inc.*), 147 B.R. 650, 656 (S.D.N.Y. 1990) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)).

1. The Debtors Have Demonstrated a Sound Business Justification for the Sale of the Assets

25. A sound business justification exists where a sale of the debtor's assets are necessary to preserve the value of the Debtors' estates. *See, e.g., In re Delaware & Hudson Ry. Co.*, 124 B.R. at 179 (approving the sale of the debtor as a going concern upon a showing of "a valid business purpose . . ."); *In re Lionel Corp.*, 722 F.2d at 1071 (adopting a rule "requiring that a judge determining a § 363(b) application expressly find from the evidence presented before him . . . a good business reason to grant" the sale).

26. As set forth above, in the First Day Declaration and in the Augustine Declaration, the Debtors have demonstrated a sound business justification for the potential entry into one or more Stalking Horse Agreements and any Sale Transaction that may result from the Auction. The Debtors, as currently constituted, are no longer able to operate their businesses or continue construction at the Corpus Christi Plant without significant infusions of cash. A sale is necessary to preserve the Assets in order to maximize the likelihood of going-concern bids and, therefore, the value of the Assets, consistent with the Debtors' fiduciary duties to their economic stakeholders.

27. Further, to the extent any Stalking Horse Agreements are proposed for approval of the Court, there is a sound business purpose for potentially entering into one or more Stalking Horse Agreements, because any such agreements will provide a "floor" price for the Assets that are subject to such agreements, thereby increasing the likelihood that the ultimate price obtained for the applicable Assets will reflect a value-maximizing bid for such Assets.

28. Accordingly, sound business justifications exist for the Sale of the Assets pursuant to the Bidding Procedures set forth in this Motion.

2. The Notice Procedures Are Appropriate and Comply with Bankruptcy Rule 2002

29. Bankruptcy Rule 2002(a) and (c) require the Debtors to notify creditors of the Sale, including a disclosure of the time and place of any auction, the terms and conditions of the sale and the deadline for filing any objections.

30. The Debtors submit that the Notice Procedures comply with Bankruptcy Rule 2002 and are reasonably calculated to provide all creditors and known parties in interest with adequate and timely notice of a Sale Transaction, the Bidding Procedures, the Auction and the Sale Hearing. Moreover, the Debtors are publishing the Publication Notice in the *Wall Street Journal*, *Plastics News* and/or *Corpus Christi Caller-Times*. Accordingly, the Debtors request that the Court approve the Notice Procedures as set forth herein, including the form and manner of the Sale Notice and that no other further notice of the Bidding Procedures, the Auction and the Sale Hearing is necessary or required.

3. The Proposed Sale Will Yield a Fair and Reasonable Purchase Price

31. As set forth above, the Debtors believe that the proposed Sale will yield a fair and reasonable price for the Assets. The Bidding Procedures were carefully designed to ensure that the Auction, if necessary, will yield the maximum value for the Debtors' stakeholders. The Debtors have constructed the Bidding Procedures to encourage competitive bidding, while giving the Debtors the opportunity to review and analyze all competitive bids only from Qualified Bidders, who will have been vetted prior to the Auction. These carefully constructed measures will prevent any bid that does not constitute a fair and adequate purchase price for the Assets or any combination thereof.

4. The Bidding Procedures Ensure a Good Faith Process and the Ultimate Purchaser of the Applicable Assets Is Entitled to the Protections of Section 363(m) of the Bankruptcy Code.

32. Section 363(m) of the Bankruptcy Code is designed to protect the sale of a debtor's assets to a good faith purchaser. Specifically, section 363(m) provides that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal.

11 U.S.C. § 363(m).

33. While the Bankruptcy Code does not define good faith, the Third Circuit has held that indicia of bad faith typically include "fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." *Cumberland Farms Dairy, Inc. v. Abbotts Dairies of Penn., Inc. (In re Abbotts Diaries of Penn., Inc.)*, 788 F.2d 143, 147 (3d Cir. 1986) (quoting *Hoese Corp. v. Vetter Corp. (In re Vetter Corp.)*, 724 F.2d 52, 55 (7th Cir. 1983) (other citations omitted); see also *Kabro Assoc. of West Islip, L.L.C. v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, 111 F.3d 269, 276 (2d Cir. 1997) (noting that the type of "misconduct that would destroy a [purchaser]'s good faith status at a judicial sale involves fraud, collusion between the [purchaser] and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders.").

34. The Bidding Procedures were designed with the goal of producing a fair and transparent bidding process to allow the Debtors to attract the best offers for the Assets. The Successful Bidder(s) and the Debtors will have negotiated at arm's-length and in good faith for the purchase of the Assets, pursuant to a process providing for an Auction in certain

circumstances. As such, the Debtors request that the ultimate purchaser of the applicable Assets be entitled to the protections of section 363(m) of the Bankruptcy Code.

D. The Sale of the Assets Free and Clear of Liens, Claims, Interests and Encumbrances Is Appropriate under Section 363(f) of the Bankruptcy Code

35. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of all liens, claims, interests and encumbrances provided that one of the following conditions are met:

- a. applicable non-bankruptcy law permits sale of such property free and clear of such interest;
- b. such entity consents;
- c. such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- d. such interest is in bona fide dispute; or
- e. such entity could be compelled, in legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f)(1) – (5).

36. As section 363(f) of the Bankruptcy Code is stated in the disjunctive, when proceeding pursuant to section 363(b), it is only necessary for a debtor to meet one of the five conditions of section 363(f). *See id.*; *Mich. Employment Sec. Comm'n v. Wolverine Radio Co.* (*In re Wolverine Radio Co.*), 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that Bankruptcy Code section 363(f) written in disjunctive; holding that court may approve sale "free and clear" provided at least one of the subsections of Bankruptcy Code 363(f) is met); *In re Zeigler*, 320 B.R. 362, 381 (Bankr. N.D.Ill. 2005); *In re Dundee Equity Corp.*, No. 89-B-10233 1992 Bankr. LEXIS 436, at *12 (Bankr. S.D.N.Y. Mar. 6, 1992) ("[s]ection 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of §363(f) have been met"); *In re Bygaph, Inc.*, 56 B.R. 596, 606 n.8 (Bankr. S.D.N.Y. 1986) (same).

37. The Debtors anticipate that, whichever Sale Transaction they pursue, whether that be with a Stalking Horse Bidder or Successful Bidder selected after the Auction, or any combination thereof, such Sale Transaction(s) will satisfy one of the five requirements set forth under section 363(f) of the Bankruptcy Code, either because there are proceeds sufficient to cover such liens or interests, the affected parties consent to the Sale of the applicable Assets or some other bases exist under section 363(f) of the Bankruptcy Code to warrant the sale of the applicable Assets free and clear of such liens or interests. Accordingly, the Debtors anticipate that one or more prongs of section 363(f) of the Bankruptcy Code will be satisfied with respect to parties that assert liens on or interests in the Assets.

E. Assumption and Assignment of Executory Contracts and Unexpired Leases

38. Section 365(a) of the Bankruptcy Code provides that a debtor "subject to the court's approval, may assume or reject any executory contract or unexpired lease . . ." 11 U.S.C. § 365(a).

39. Courts employ a business judgment standard in determining whether to approve a debtor's decision to assume or reject an executory contract or unexpired lease. *See, e.g., In re HQ Global Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) (finding that debtor's decision to assume or reject executory contract is governed by business judgment standard and can only be overturned if decision was product of bad faith, whim or caprice); *In re Market Square Inn, Inc.*, 978 F.2d 116, 121 (3d Cir. 1992) (finding that assumption or rejection of lease "will be a matter of business judgment by the Court. . ."). The business judgment test "requires only that the trustee [or debtor in possession] demonstrate that [assumption] or rejection of the contract will benefit the estate." *Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co.*, (*In re Wheeling-Pittsburgh Steel Corp.*), 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987).

40. The proposed Sale Transaction(s) will provide Successful Bidders the opportunity to designate certain Contracts for assumption and assignment in connection with the Sale Transaction. Assumption of the Proposed Assumed Contracts is a sound exercise of the Debtors' business judgment. Assuming and assigning the Proposed Assumed Contracts will permit the Debtors to attract the highest or otherwise best offer for the Assets, by enabling the Debtors to offer parties in interest with a combination of Contracts that are integral to the ownership or operation of the Assets that the Debtors seek to sell.

41. Section 365(f) of the Bankruptcy Code requires, in part, that the assignee of any executory contract provide "adequate assurance of future performance . . . whether or not there has been a default in such contract." 11 U.S.C. § 365(f)(2). Section 365(b), which codifies the requirements for assuming an executory contract, provides, in pertinent part that the debtor may only assume an executory contract if it:

(A) cures, or provides adequate assurance that the [debtor] will promptly cure[s] [any defaults existing under the executory contract];

(B) compensates, or provides adequate assurance that the [debtor] will promptly compensate, a party other than the debtor to such contract . . . for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b).

42. While undefined by the Bankruptcy Code, adequate assurance is guided by "a practical, pragmatic construction based upon the facts and circumstances of each case." *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988) (quoting *In re Bon Ton Restaurant & Pastry Shop, Inc.*, 53 B.R. 789, 803 (Bankr. N.D. Ill. 1995)); see also *In re Alipat, Inc.*, 36 B.R. 274, 276-77 (Bankr. E.D. Mo. 1984) (recognizing that

the term adequate assurance "borrowed its critical language . . . from Section 2-609 of the Uniform Commercial Code" which "suggest[s] that adequate assurance is to be defined by commercial rather than legal standards . . . [and] factual considerations."). While no single standard governs every case, adequate assurance "will fall considerably short of an absolute guarantee of performance." *In re Carlisle Homes, Inc.*, 103 B.R. at 538. Adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See, e.g., In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (finding that industrial expertise, past success in running a similar business and financial wherewithal satisfied the adequate assurance requirement of section 365 of the Bankruptcy Code).

43. The Bidding Procedures specifically require any Qualified Bidders to provide financial and other information that would provide the Counterparties with adequate assurance of future performance of the applicable obligations under any Proposed Assumed Contracts included as part of a Qualified Bid. Moreover, the Debtors will provide adequate assurance information to all Counterparties to the Proposed Assumed Contracts. Finally, Counterparties unsatisfied with the proposed adequate assurance of future performance provided to them will be able to lodge objections with respect thereto.

44. Accordingly, the Debtors have satisfied the requirements of section 365 of the Bankruptcy Code with respect to the assumption and assignment of the Proposed Assumed Contracts.

45. In order to facilitate the assumption and assignment of the Proposed Assumed Contracts, the Debtors respectfully request that the Court find that all anti-assignment provisions included in the Proposed Assumed Contracts, including those Proposed Assumed Contracts that

have the effect of restricting or limiting assignment, to be unenforceable and prohibited pursuant to section 365(f) of the Bankruptcy Code.¹⁴

F. Application of the Sale Proceeds is Appropriate

46. The application of Sale proceeds in the manner described above (and as contemplated in the DIP Loan Documents and the DIP Orders) is appropriate under the circumstances and necessary to permit the Debtors to repay the DIP Obligations (which are subordinate to certain of the debt of the Pre-Petition First Lien Lender and obligations secured by the Senior Prior Liens, if any), as well as to ensure the payment of the Obligors' professionals retained in these Cases, without whom the Sale process likely would not be possible. The repayment of obligations under a post-petition financing facility, such as the DIP Financing, is not an uncommon provision in a sale order and often approved by Courts in this and other districts. *See, e.g., In re Hagen Holdings, LLC*, No. 15-11874 (KG) [Docket No. 1700] at ¶ R (Bankr. D. Del. Mar. 29, 2016) (authorizing repayment in full of obligations under existing debtor-in-possession financing and authorizing debtors to offset a portion of the purchase price through a dollar-for-dollar reduction of obligations owing under a replacement debtor-in-possession financing); *In re Flying J, Inc.*, No. 08-13384 (MFW), 2009 Bankr. LEXIS 5718, at *81-83 (Bankr. D. Del. July 27, 2009) (in addition to allocating a portion of sale proceeds to repay certain secured lenders, authorizing the repayment of obligations under the debtors' debtor-in-possession financing); *In re Aeropostale, Inc.*, Case No. 16-11275 (SHL) (Bankr. S.D.N.Y.

¹⁴ Section 365(f)(1) provides in pertinent part that, "notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease. . ." 11 U.S.C. § 365(f)(1). Further, section 365(f)(3) provides that "[n]otwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee." 11 U.S.C. § 365(f)(3).

Sept. 13, 2016) [Docket No. 809] at ¶ 45 (authorizing repayment from sale proceeds of obligations under debtor-in-possession financing). Moreover, not only does the application of proceeds from a CC Sale of Pre-Petition Collateral described in paragraph 17 above represent a consensual agreement among the Obligor's secured funded-debt creditors, it also preserves the priority of any mechanics' liens in the applicable Obligor's capital structure and with respect to any recovery from the Sale proceeds to which such claims are entitled. *See, e.g., In re Flying J, Inc.*, No. 08-13384 (MFW), 2009 Bankr. LEXIS 5718, at *81-83 (Bankr. D. Del. July 27, 2009) (authorizing the application of sale proceeds to repay certain secured lenders); *In re TH Props., L.P.*, No. 09-13201 (SR), 2010 Bankr. LEXIS 5696, at *17-19 (Bankr. E.D. Pa. July 28, 2010) (order approving the DIP authorized application of sale proceeds to, among other things, the repayment of mechanics' liens). Finally, the payment of the Obligor's professionals, whose efforts are critical to achieving a value-maximizing Sale, ensures that they will be reasonably and appropriately compensated in connection with the transaction.

REQUESTS FOR IMMEDIATE RELIEF AND WAIVER OF STAY

47. Pursuant to Bankruptcy Rules 6004(h) and 6006(d), the Debtors seek a waiver of any stay of the effectiveness of the Sale Order(s). Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Bankruptcy Rule 6006(d) provides that "[a]n order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after entry of the order, unless the court order otherwise."

48. As set forth above, the relief requested herein is necessary and appropriate to maximize the value of the Debtors' estates for the benefit of their economic stakeholders.

Accordingly, the Debtors submit that ample cause exists to justify the waiver of the 14-day stay imposed by Bankruptcy Rules 6004(h) and 6006(d), to the extent that each Rule applies.

NOTICE

49. Notice of this Motion shall be given to (a) the Office of the United States Trustee for the District of Delaware; (b) those creditors holding the 30 largest unsecured claims against the Debtors' estates; (c) the Internal Revenue Service, the Securities and Exchange Commission and any other federal, state or local governmental agency to the extent required by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or order of the Court; (d) Magnate S.à r.l. and its counsel, Kirkland & Ellis LLP and Klehr Harrison Harvey Branzburg LLP; (e) DAK Americas LLC and its counsel, Weil, Gotshal & Manges LLP and Morris, Nichols, Arsht & Tunnell LLP; (f) Trimont Real Estate Advisors, LLC and its counsel, Thompson & Knight LLP, (g) Control Empresarial de Capitales, S.A. De C.V., and Banco Inbursa S.A., Institución De Banca Multiple, Grupo Financiero Inbursa and its counsel, Cleary Gottlieb Steen & Hamilton LLP and Young Conaway Stargatt & Taylor, LLP; (h) Macquarie Investments US Inc. and its counsel, Sidley Austin LLP and Ashby & Geddes, P.A., (i) the Committee and its counsel Milbank, Tweed, Hadley & McCoy LLP and Cole Schotz P.C.; and (j) all persons and entities that have filed a request for service of filings in these Cases pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice need be provided.

NO PRIOR REQUEST

50. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Bidding Procedures Order substantially in the form attached hereto as Exhibit A, (ii) enter the Sale Order (or Sale Orders), substantially in the form attached hereto as Exhibit B, authorizing the Sale of the Assets to the Successful Bidder(s), and (iii) grant such other and further relief to the Debtors as the Court may be appropriate.

Dated: November 16, 2017

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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*Proposed Co-Counsel for the Debtors and
Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
M & G USA CORPORATION, <i>et al.</i> , ¹	:	Case No. 17-12307 (BLS)
	:	
Debtors.	:	(Jointly Administered)

**Objection Deadline: November 30, 2017 at 4:00 p.m. (ET)
Hearing Date: December 11, 2017 at 1:00 p.m. (ET)**

**NOTICE OF MOTION OF THE DEBTORS FOR ENTRY OF ORDERS
(I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF CERTAIN OF THE
DEBTORS' ASSETS, (B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR
MORE STALKING HORSE PURCHASE AGREEMENTS AND TO PROVIDE BID
PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING
THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION
AND ASSIGNMENT PROCEDURES; AND (E) SCHEDULING A SALE HEARING AND
APPROVING THE FORM AND MANNER OF NOTICE THEREOF;
(II)(A) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE
AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND
(B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on November 16, 2017, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed the *Motion of the Debtors For Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets, (B) Authorizing the Debtors to Enter Into One or More Stalking Horse Purchase Agreements and to Provide Bid Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures; and (E) Scheduling a Sale Hearing and Approving the Form and*

¹ The Debtors are the following twelve entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): M & G USA Corporation (3449), M & G Resins USA, LLC (3236), M & G Polymers USA, LLC (7593), M & G Finance Corporation (4230), M&G Waters USA, LLC (2195), Mossi & Ghisolfi International S.à r.l. (1270), M&G Chemicals S.A. (N/A), M&G Capital S.à r.l. (7812), M & G USA Holding, LLC (3451), Chemtex International Inc. (7695), Chemtex Far East, Ltd. (2062) and Indo American Investments, Inc. (9208). The Debtors' noticing address in these chapter 11 cases is 450 Gears Road, Suite 240, Houston, Texas 77067.

Manner of Notice Thereof; (II)(A) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the "Bankruptcy Court"). A copy of the Motion is attached hereto.

PLEASE TAKE FURTHER NOTICE that any response or objection to the entry of a final order with respect to the relief sought in the Motion must be filed with the Bankruptcy Court on or before **November 30, 2017 at 4:00 p.m. prevailing Eastern time.**

PLEASE TAKE FURTHER NOTICE that at the same time, you must also serve a copy of the response or objection upon: (i) proposed counsel to the Debtors, (a) Jones Day, 250 Vesey Street, New York, NY 10025 (Attn: Scott J. Greenberg, Esq.), sgreenberg@jonesday.com, and (b) Pachulski Stang Ziehl & Jones, LLP, 919 North Market Street, 17th Floor, Wilmington, DE 19801 (Attn: Laura Davis Jones, Esq.), ljones@pszjlaw.com; (ii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Hannah M. McCollum, Esq.), Hannah.mccollum@usdoj.gov; (iii) counsel for the Pre-Petition First Lien Lender, (a) Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, NY 10006 (Attn: Lisa M. Schweitzer, Esq.), lschweitzer@cgsh.com, and (b) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, DE 19801 (Attn: Pauline K. Morgan, Esq.), pmorgan@ycst.com; (iv) counsel to the Pre-Petition Second Lien Secured Party, (a) Weil, Gotshal & Manges LLP, 700 Louisiana, Suite 1700, Houston, TX 77002 (Attn: Alfredo R. Perez, Esq.) alfredo.perez@weil.com, and (b) Morris, Nichols, Arsht and Tunnell LLP, 1201 North Market Street, 16th Floor, Wilmington, DE 19801 (Attn: Curtis S.

Miller, Esq.), cmiller@mnat.com; and (v) proposed counsel to the Official Committee of Unsecured Creditors, (a) Milbank Tweed Hadley & McCoy LLP, 28 Liberty Street, New York, New York 10005-1413 (Attn: Dennis F. Dunne), ddunne@milbank.com, and (b) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, Delaware 19801 (Attn: J. Kate Stickles), kstickles@coleschotz.com.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE FINAL RELIEF REQUESTED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE FINAL RELIEF SOUGHT IN THE MOTION WILL BE HELD ON **DECEMBER 11, 2017 AT 1:00 P.M. PREVAILING EASTERN TIME BEFORE THE HONORABLE BRENDAN L. SHANNON, UNITED STATES BANKRUPTCY COURT JUDGE, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, 6TH FLOOR, COURTROOM NO. 1, WILMINGTON, DELAWARE 19801.**

Dated: November 16, 2017

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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Proposed Co-Counsel for the Debtors and
Debtors in Possession

Exhibit A

Bidding Procedures Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
M & G USA CORPORATION, <i>et al.</i> , ¹ ,	:	Case No. 17-12307 (BLS)
	:	
Debtors.	:	(Jointly Administered)
	:	

**ORDER (I)(A) APPROVING BIDDING PROCEDURES FOR
THE SALE OF CERTAIN OF THE DEBTORS' ASSETS,
(B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR MORE
STALKING HORSE PURCHASE AGREEMENTS AND TO PROVIDE BID
PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION
AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF,
(D) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES
AND (E) SCHEDULING A SALE HEARING AND APPROVING THE FORM
AND MANNER OF NOTICE THEREOF AND (II) GRANTING RELATED RELIEF**

This Court having considered the *Motion of the Debtors for Entry of Orders*

(I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets,

(B) Authorizing the Debtors to Enter into One or More the Stalking Horse Purchase Agreements

and to Provide Bid Protections Thereunder, (C) Scheduling an Auction and Approving the Form

and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and

(E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof;

(II)(A) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims,

Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory

Contracts and Unexpired Leases; and (III) Granting Related Relief [Docket No. _]

¹ The Debtors are the following twelve entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): M & G USA Corporation (3449), M & G Resins USA, LLC (3236), M & G Polymers USA, LLC (7593), M&G Finance Corporation (4230), M&G Waters USA, LLC (2195), Mossi & Ghisolfi International S.à.r.l. (1270), M&G Chemicals S.A. (N/A), M&G Capital S.à.r.l. (7812), M & G USA Holding, LLC (3451), Chemtex International Inc. (7695), Chemtex Far East, Ltd. (2062) and Indo American Investments, Inc. (9208). The Debtors' noticing address in these chapter 11 cases is 450 Gears Road, Suite 240, Houston, Texas 77067.

(the "Motion"),² filed by the above-captioned debtors and debtors in possession (the "Debtors"), the Declaration of Dennis Stogsdill in Support of First Day Pleadings (the "First Day Declaration"), the Declaration of Neil Augustine in support of the Motion (the "Augustine Declaration") and the statements of counsel and the evidence adduced with respect to the Motion at a hearing before this Court (the "Bidding Procedures Hearing") to consider a portion of the relief requested in the Motion; and after due deliberation, this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates and their creditors, and the Debtors having demonstrated good, sufficient and sound business justification for the relief approved herein and that such relief is necessary to prevent immediate and irreparable harm to the Debtors, their estates and their creditors; and good and sufficient cause having been shown;

IT IS HEREBY FOUND AND DETERMINED THAT:³

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
- B. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
- C. The statutory predicates for the relief requested in the Motion are (i) sections 105(a), 363 and 365 of the title 11 of the United States Code (the "Bankruptcy Code"), (ii) Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"); and (iii) Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of

² Capitalized terms not specifically defined herein have the meaning assigned to them in the Motion.

³ The findings of fact and the conclusions of law stated herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

D. Notice of the Motion and the Bidding Procedures Hearing was sufficient under the circumstances and that no other or further notice need be provided.

E. The Bidding Procedures attached hereto as Exhibit 1 (the "Bidding Procedures") are fair, reasonable and appropriate, and are designed to maximize the value of the proceeds of a sale (the "Sale") of some or all of the Debtors' assets (the "Assets") to one or more purchasers (each such sale, a "Sale Transaction") following an auction (the "Auction").

F. The Bidding Procedures comply with the requirements of Local Rule 6004-1(c):

G. The procedures set forth in ¶¶ 25-36 below relating to the Debtors' assumption and assignment of executory contracts and unexpired leases (the "Assumption and Assignment Procedures") are fair, reasonable and appropriate and comply with the provisions of section 365 of the Bankruptcy Code.

H. The Debtors have articulated good and sufficient business reasons for this Court to approve (i) the Bidding Procedures, (ii) the Sale Notice attached hereto as Exhibit 3 (the "Sale Notice"), (iii) the Assumption and Assignment Notice attached hereto as Exhibit 2 and the (iv) Assumption Procedures.

I. The Bidding Procedures were proposed and negotiated in good faith and at arm's-length, and are reasonably designed to promote participation and active bidding and to ensure that the highest or otherwise best value is generated for the Assets.

J. Good and sufficient notice of the relief sought in the Motion has been provided under the circumstances, and no other or further notice is required except as set forth in the Bidding Procedures and Assumption and Assignment Procedures. A reasonable opportunity to

object and be heard regarding the relief requested in the Motion has been afforded to parties in interest.

K. The Sale Notice, Publication Notice (as defined below), Assumption and Assignment Notice and Proposed Assumed Contracts Notice (as defined below) are all appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, Sale Hearing, Bidding Procedures, Assumption and Assignment Procedures, the Debtors' proposed good faith calculation of cure amounts (the "Cure Costs") due under any executory contract or unexpired lease (the "Contracts") to be assumed and assigned in connection with a Sale Transaction, Proposed Assumed Contracts (as defined below) and all relevant important dates and deadlines with respect to the foregoing, and no other or further notice of the Sale, the Auction or the assumption and assignment of Contracts in connection therewith shall be required.

L. The Debtors have demonstrated compelling and sound business justifications for authorization to seek Court approval, on an expedited basis, of one or more agreements with a stalking horse bidder (each, a "Stalking Horse Bidder" and each such agreement, a "Stalking Horse Agreement"), including the provision of Bid Protections (as defined below) therein, on the timeframe and terms set forth in this Order and the Bidding Procedures.

M. Entry of this Order is in the best interests of the Debtors' estates, their creditors and all other interested parties.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED

THAT:

1. The Motion is GRANTED as set forth herein.
2. Except as expressly provided herein, nothing herein shall be construed as a determination of the rights of any party in interest in these chapter 11 cases (these "Cases").
3. All objections to the relief granted in this Order that have not been withdrawn, waived, or settled, and all reservations of rights included therein, hereby are overruled and denied on the merits with prejudice.

A. The Bidding Procedures

4. The Bidding Procedures attached hereto as Exhibit 1 are hereby APPROVED and fully incorporated into this Order. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures. The failure to specifically include a reference to any particular provision of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such provision.

5. The Bidding Procedures shall apply to the Qualified Bidders and the conduct of the sale of the Assets and the Auction.

6. The following dates and deadlines regarding competitive bidding are hereby established (subject to modification in accordance with the Bidding Procedures):

- a. **Proposal Deadline: January 16, 2018 at 5:00 p.m. (prevailing Eastern Time)** is the deadline by which any prospective interested parties will be requested to submit preliminary indications of interest (each, a "Proposal" and the date by which Proposals must be submitted, the "Proposal Deadline");
- b. **Final Bid Deadline: February 23, 2018 at 11:59 p.m. (prevailing Eastern Time)** is the deadline by which any Prospective Bidder that intends to participate in the Auction must submit its final, binding bid (a "Final Bid") so that it is **actually received** by the parties specified in the Bidding Procedures (the "Final Bid Deadline"), provided that the Debtors

shall have the discretion to the extend in writing the Final Bid Deadline for any Prospective Bidder so long as such extended deadline does not exceed the applicable milestone for such deadline under the DIP Loan Agreement (as defined in the DIP Orders);

- c. **Notification of Status as Qualified Bidder:** Prior to the Auction, the Debtors must notify bidders of their status as Qualified Bidders; and
- d. **Auction: February 28, 2018 at __: __ [a.m./p.m.] (prevailing Eastern Time)** is the date and time the Auction, if one is needed, will be held at the offices of Jones Day, 250 Vesey Street, New York, New York 10281.

7. Only a Qualified Bidder that has submitted a Qualified Bid will be eligible to participate at the Auction, subject to the Bidding Procedures. As described in the Bidding Procedures, if the Debtors receive no more than one Qualified Bid (including any Stalking Horse Bid(s) or Credit Bid by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender) with respect to any of the Assets, the Debtors may determine, in their discretion and in consultation with the Consultation Parties,⁴ not to hold the Auction for such Assets and instead declare such Qualified Bid as the Successful Bid on such Assets and request at the Sale Hearing (defined below) that the Court approve the applicable Asset Purchase Agreement with the applicable Successful Bidder (including any Stalking Horse Agreement(s) with the applicable Stalking Horse Bidder(s)).

8. The Pre-Petition First Lien Lender, the DIP Agent and the DIP Lender are entitled to Credit Bid any and/or all amounts owed to them in their capacity as Pre-Petition First Lien Lender, DIP Lender or DIP Agent, respectively on any Assets to which the Pre-Petition First Lien Lender, the DIP Agent and/or the DIP Lender, as applicable have a lien.

⁴ The "Consultation Parties" are (a) the DIP Agent and its counsel Thompson & Knight LLP; (b) the DIP Lender and the Pre-Petition First Lien Lender and their counsel Cleary Gottlieb Steen & Hamilton LLP and Young Conaway Stargatt & Taylor, LLP; and (c) the Committee and their counsel Milbank, Tweed, Hadley & McCoy LLP and Cole Schotz P.C.

9. Any Credit Bid by the DIP Agent, the DIP Lender or the Pre-Petition First Lien Lender shall not require payment of any Pre-Petition Second Lien Obligations.

10. In the event that the DIP Agent, the DIP Lender or the Pre-Petition First Lien Lender submits a Credit Bid comprised of any of their DIP Obligations or the Pre-Petition First Lien Obligations, respectively, on any Assets securing such respective obligations and without limiting any other requirements for approval of any other bid as a higher or better offer or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations (as defined in the DIP Orders)), any further bid for the purchase of some or all of the Assets and any Sale of such assets to a Successful Bidder (other than the DIP Lender or the Pre-Petition First Lien Lender) that is approved by the Court must provide for, at the closing of such Sale Transaction, indefeasible cash payments of the DIP Obligations and the Pre-Petition First Lien Obligations to the DIP Lender and Pre-Petition First Lien Lender, respectively, in at least the dollar amount equivalent of the Credit Bid submitted by the DIP Agent, the DIP Lender and the Pre-Petition First Lien Lender (as applicable), plus the Sale Professional Fees Amounts and the Sale Excess Fee Amounts (each, as defined in the final order approving the DIP Motion (the "Final DIP Order")) in order for the Successful Bid of such Successful Bidder to be considered as a potentially higher or better bid and/or to be approved by the Court as a Successful Bid, unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable).

11. Without limiting any other requirements for approval of such bid as a higher or better bid or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations), any bid by the Pre-Petition Second Lien Secured Party for the Corpus Christi Assets, by Credit Bid or otherwise, shall provide that at the closing of the Sale Transaction the

DIP Obligations and the Pre-Petition First Lien Obligations are indefeasibly paid in full in cash to the DIP Lender and the Pre-Petition First Lien Lender, respectively (unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable)), and cash in an amount equal to the Sale Professional Fees Amounts and the Sale Excess Fee Amounts, as authorized pursuant to the Final DIP Order, shall be transferred into an escrow account not subject to the control of the DIP Agent, the DIP Lender, the Pre-Petition First Lien Lender, the Pre-Petition Second Lien Secured Party or any party that purports to have a validly, perfected security interest in any of the Debtors' deposit accounts or cash.

12. If the Auction is conducted, (a) each Qualified Bidder participating in the Auction shall be required to confirm that it has not engaged in any collusion with respect to the bidding process or the Sale; (b) each Qualified Bidder participating in the Auction shall be required to confirm that its Qualified Bid is a good faith, *bona fide* offer and that it intends to consummate the proposed transaction if selected as the Successful Bidder; and (c) the Auction shall be conducted openly and shall be transcribed or videotaped.

13. If the Auction is conducted, this Court will not consider bids made after the Auction has closed.

B. Stalking Horse Agreements and Bid Protections

14. The Debtors are authorized, as they may deem necessary and appropriate in the prudent exercise of their business judgment, to enter into any Stalking Horse Agreement(s) in connection with the proposed sale of the Assets and to provide Bid Protections to any Stalking Horse Bidder therein; provided that the Debtors shall file a motion (each, a "Stalking Horse Motion") seeking approval of any such Stalking Horse Agreement, including any Bid Protections provided contained therein. Subject to the Court's determination, but no earlier than ten days after filing a Stalking Horse Motion and no later than the Sale Hearing, the Debtors are

authorized to seek approval from the Court, on an expedited basis if necessary, of such Stalking Horse Agreement(s) and any Bid Protections contained therein, in accordance with Rule 6004-1 of the Local Rules.

C. Sale Notice

15. The form of Sale Notice attached hereto as Exhibit 3 is approved and fully incorporated into this Order. The failure to specifically include a reference to any particular provision of the Bidding Procedures in the Sale Notice shall not diminish or impair the effectiveness of such provision.

16. Within three days after entry of this Order, the Debtors shall serve the Sale Notice on (a) the Consultation Parties; (b) any counsel to a Stalking Horse Bidder; (c) DAK Americas, LLC; (d) Macquarie Investments US Inc.; (e) all persons and entities known by the Debtors to have expressed an interest to the Debtors in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a Proposal or a bid for any of the Assets, as applicable; (f) all persons and entities known by the Debtors to have asserted any lien, claim, interest, or encumbrance on or against any of the Assets (for whom identifying information and addresses are available to the Debtors); (g) all Counterparties to the Contracts that may be assumed and assigned in connection with a Sale Transaction; (h) any governmental authority known to have a claim against the Debtors in these Cases; (i) the United States Attorney General; (j) the Antitrust Division of the United States Department of Justice; (k) the United States Attorney for the District of Delaware; (l) the Office of the Attorney General in each state in which the Debtors operate; (m) the Federal Trade Commission; (n) the office of the United States Trustee for the District of Delaware; (o) counsel for the Committee; (p) the Internal Revenue Service; (q) the United States Securities and Exchange Commission; (r) all of the Debtors' known creditors (for whom identifying information and addresses are known to the

Debtors); (s) all parties who have filed a notice of appearance and request for service of papers in these Cases pursuant to Bankruptcy Rule 2002; and (t) all other persons and entities as directed by the Court (collectively, the "Notice Parties").

17. As soon as reasonably practicable, but in no event later than three days after the entry of this Order, the Debtors will also post the Sale Notice and this Order on the website maintained by the Debtors' claim and noticing agent, Prime Clerk, LLC, located at <http://cases.primeclerk.com/mgusa> (the "Prime Clerk Website").

18. Not later than five days after entry of this Order, the Debtors shall cause the information contained in the Sale Notice to be published once in the *Wall Street Journal*, *Plastics News* and/or *Corpus Christi Caller-Times* (the "Publication Notice"); provided that, with respect to *Plastics News*, the Publication Notice shall be published no later than in its third publication following the entry of this Order.

19. Objections to any Sale Transaction (each, a "Sale Objection"), including any objection to the sale of any Assets free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code to a Successful Bidder and/or a Backup Bidder, as applicable, and entry of any Sale Order must (a) be in writing and specify the nature of such objection; (b) comply with the Bankruptcy Code, Bankruptcy Rules, Local Rules and all orders of the Court; and (c) be filed with the Court and served on: (i) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill); (ii) counsel for the Debtors, (1) Jones Day, 250 Vesey Street, New York, NY 100281 (Attn: Scott J. Greenberg, Esq. and Michael J. Cohen, Esq.) and 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq.) and (2) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura

Davis Jones, Esq., James E. O'Neill, Esq., and Joseph M. Mulvihill, Esq.); (iii) counsel for the Committee (1) Milbank, Tweed, Hadley & McCoy LLP, 28 Liberty Street, New York, NY 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq. and Lauren C. Doyle, Esq.) and (2) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: J. Kate Stickles, Esq. and David R. Hurst, Esq.); (iv) counsel for Trimont Real Estate Advisors, LLC, Thompson & Knight LLP, 900 Third Avenue, 20th floor, New York, NY 10122 (Attn: Michael V. Blumenthal, Esq.); (v) counsel for Control Empresarial de Capitales, S.A. De C.V. and Banco Inbursa, S.A., Institución de Banca Múltiple, Grupo Financiero Inbursa, (1) Cleary Gottlieb Steen & Hamilton LLP, 1 Liberty Plaza, New York, NY 10006 (Attn: Lisa M. Schweitzer, Esq.) and (2) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Pauline K. Morgan, Esq.); (vi) counsel to DAK Americas LLC, (1) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153 (Attn: Alfredo R. Perez, Esq.) and (2) Morris, Nichols, Arsht and Tunnell LLP, 1201 North Market Street, 16th Floor, Wilmington, Delaware 19899 (Attn: Curtis S. Miller, Esq.); (vii) counsel (if applicable) of any Stalking Horse Bidder(s); (viii) counsel (if applicable) of any applicable Successful Bidder(s); (ix) counsel (if applicable) of any Backup Bidder(s); and (x) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Hannah McCollum, Esq.) (collectively, the "Objection Recipients") by **February 26, 2018 at 5:00 p.m. (prevailing Eastern Time)** (the "Sale Objection Deadline").

20. The Sale Hearing shall be conducted on _____ at __:___ [a.m./p.m.] (prevailing Eastern Time).

21. Parties will be permitted to reply (a) to Sale Objections by no later than **March 5, 2018 at 5:00 p.m. (prevailing Eastern Time)** and (b) to Adequate Assurance Objections (defined below) in writing prior to the Sale Hearing and/or respond orally at the Sale Hearing.

22. The failure of any party to timely file with the Court and serve on the Objection Recipients a Sale Objection shall be barred from asserting, at the applicable Sale Hearing or thereafter, any objection (other than a Cure Objection or an Adequate Assurance Objection) to the relief requested in the Motion, or to the consummation and performance of the applicable Sale Transaction(s), including the transfer of the Assets to the applicable Successful Bidder(s), free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code, and shall be deemed to be a "consent" for purposes of section 363(f) of the Bankruptcy Code.

23. If the Successful Bidder fails to consummate the proposed Sale Transaction, a hearing to authorize the assumption and assignment of Contracts to the Backup Bidder will be held before the Court on no less than five business days' notice, with objections due at least one day prior to such hearing, unless otherwise ordered by the Court. For the avoidance of doubt, the scope of such hearing shall be limited to issues relating to adequate assurance of future performance by the Backup Bidder, and the assignments of any Contracts to the Backup Bidder.

24. Notwithstanding the foregoing or anything herein to the contrary, and as set forth below, the deadline to file a Cure Objection or an Adequate Assurance Objection (each as defined below) in connection with a proposed Sale Transaction to a Successful Bidder or to the Backup Bidder shall be as set forth below.

D. Assumption and Assignment Procedures

25. The Assumption and Assignment Notice attached hereto as Exhibit 2 is approved and fully incorporated into this Order. The failure to specifically include a reference to any

particular provision of the Bidding Procedures in the Assumption and Assignment Notice shall not diminish or impair the effectiveness of such provision.

26. Within five business days after the entry of this Order, the Debtors shall file with this Court, serve on the Notice Parties, including each Counterparty (as defined below) to a Contract that may be assumed, and cause to be published on the Prime Clerk Website, the Assumption and Assignment Notice, substantially in the form attached hereto as Exhibit 2, which shall (a) identify the Contracts; (b) list the Debtors' good faith calculation of Cure Costs with respect to each Contract; (c) state that assumption or assignment of a Contract is not guaranteed and is subject to Court approval; and (d) conspicuously disclose the deadline to file objections to the assumption and assignment of the Debtors' Proposed Assumed Contracts (as defined below).

27. In the event that the Debtors identify any non-Debtor counterparties (each, a "Counterparty") that were not served with the Assumption and Assignment Notice, the Debtors may subsequently serve such Counterparty with an Assumption and Assignment Notice, and the following procedures will nevertheless apply to such Counterparty; provided, however, that the deadline to file a Cure Objection (as defined below) with respect to such Counterparty shall be **5:00 p.m. (prevailing Eastern Time) on the date that is seven days following service of the supplemental Assumption and Assignment Notice.**

28. Within 24 hours of the receipt of adequate assurance information from any Qualified Bidder, but in no event later than 24 hours after the Final Bid Deadline, the Debtors shall serve, by email to the extent email addresses are available to the Debtors and otherwise by overnight mail, such adequate assurance information received from the Qualified Bidder as more fully set forth in Section VI.A.7 of the Bidding Procedures to any Counterparty (and their

counsel, if identified as a notice party in the applicable Contract or as identified in any notice of appearance filed in these Cases) whose Contract may be assumed pursuant to such Qualified Bidder's proposed transaction, including the legal name of the proposed assignee, the proposed assignee's financial ability to perform under the Contracts and a contact person with the proposed assignee that Counterparties may contact if they wish to obtain further information regarding the Qualified Bidder.

29. As soon as reasonably practicable after the conclusion of the Auction, but no later than **March 1, 2018**, the Debtors shall file with this Court, serve on the Notice Parties (including each applicable Counterparty and their counsel, if identified as a notice party in the applicable Contract or as identified in any notice of appearance filed in these Cases), by email, to the extent they have consented to email service and email addresses are available to the Debtors, or otherwise via overnight mail, and cause to be published on the Prime Clerk Website a list of the Contracts that the Debtors will seek to assume and assign pursuant to a Stalking Horse Agreement, if any, or one or more Asset Purchase Agreements submitted by a Successful Bidder (as applicable) (the "Proposed Assumed Contracts Notice" and, each Contract used therein, a "Proposed Assumed Contract").

30. Any Counterparty that wishes to object to the proposed assumption and assignment of the applicable Contract, the subject of which objection is the Debtors' proposed Cure Costs to cure any outstanding monetary defaults then existing under such contract (each, a "Cure Objection"), shall file with this Court and serve on the Objection Recipients its Cure Objection, which must state, with specificity, the legal and factual bases therefor, including any appropriate documentation in support thereof, by no later than **5:00 p.m. (prevailing Eastern Time) on the date that is 14 days after the filing of the Assumption and Assignment Notice.**

31. The Debtors, in consultation with the Consultation Parties, and a Counterparty that has filed a Cure Objection shall first confer in good faith to attempt to resolve the Cure Objection without Court intervention. If the parties are unable to consensually resolve the Cure Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the applicable Cure Costs and Cure Objections at a hearing scheduled pursuant to the following paragraph. If a Cure Objection is resolved in a manner that is not in the best interests of the Debtors and their estates, whether or not such resolved Cure Objection occurs prior to or after the closing of the applicable Sale Transaction, the Debtors may determine that any Proposed Assumed Contract subject to such resolved Cure Objection will no longer be assumed and assigned pursuant to the applicable Sale Transaction (subject to the terms of the applicable Sale Transaction). All other objections to the proposed assumption and assignment of the Debtors' right, title, and interest in, to, and under a Contract, if it is ultimately designated a Proposed Assumed Contract, will be heard at the Sale Hearing.

32. If a timely filed Cure Objection cannot otherwise be resolved by the parties, such objection may be heard by the Court at the Sale Hearing or subsequent to the Sale Hearing (an "Adjourned Cure Objection"); provided that the determination of whether a Cure Objection may be heard at the Sale Hearing is in the Debtors' and the Court's discretion. An Adjourned Cure Objection may be resolved after the closing date of the applicable Sale Transaction(s); provided that the Sale Transaction provides for the establishment of a cash reserve equal to the cure amount the objecting Counterparty reasonably believes is required to cure the asserted monetary default under the applicable Proposed Assumed Contract (or as otherwise may be provided under the applicable Sale Transaction agreement or as so ordered by the Court). Upon resolution of an Adjourned Cure Objection and the payment of the applicable cure amount, if

any, the applicable Proposed Assumed Contract that was the subject of such Adjourned Cure Objection shall be deemed assumed and assigned to the applicable Successful Bidder, as of the closing date of the applicable Sale Transaction(s).

33. If a Counterparty fails to timely file with the Court and serve on the Objection Recipients a Cure Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract and the adequate assurance of future performance in connection therewith (unless such Counterparty has timely filed an Adequate Assurance Objection (as defined below) with respect to the Proposed Assumed Contract) to the applicable Successful Bidder and forever shall be barred from asserting any objection with regard to such assumption and assignment or the adequate assurance of future performance in connection therewith. The Cure Costs set forth in the Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Proposed Assumed Contract under section 365(b) of the Bankruptcy Code, notwithstanding anything to the contrary in any Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.

34. Any Counterparty to a Proposed Assumed Contract that wishes to object to the proposed assumption and assignment of the Proposed Assumed Contract, the subject of which objection is a Successful Bidder's proposed form of adequate assurance of future performance with respect to such Contract (each, an "Adequate Assurance Objection"), shall file with this Court and serve on the Objection Recipients an Adequate Assurance Objection, which must

state, with specificity, the legal and factual bases therefor, including any appropriate documentation in support thereof, by no later than **March 2, 2018 at noon (prevailing Eastern Time)**.

35. The Debtors and a Counterparty that has filed an Adequate Assurance Objection shall first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, such objection and all issues of adequate assurance of future performance of the applicable Successful Bidder shall be determined by the Court at the Sale Hearing.

36. If a Counterparty fails to timely file with the Court and serve on the Objection Recipients an Adequate Assurance Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract (unless the Counterparty has filed a timely Cure Objection with respect to the Proposed Assumed Contract) and adequate assurance of future performance in connection therewith to the applicable Successful Bidder and forever shall be barred from asserting any objection with regard to such assumption and assignment or adequate assurance of future performance in connection therewith. The applicable Successful Bidder shall be deemed to have provided adequate assurance of future performance with respect to the applicable Proposed Assumed Contract in accordance with section 365(f)(2)(B) of the Bankruptcy Code, notwithstanding anything to the contrary in the Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.

E. Related Relief

37. If the Debtors receive more than one Qualified Bid for the same Assets, the Debtors shall conduct the Auction. The Auction, if required, will be conducted at the offices of Jones Day, 250 Vesey Street, New York, New York 10281 on **February 28, 2018 at ___:___ [a.m./p.m.] (prevailing Eastern Time)** (the "Auction Date"), or at such other time and location as designated by the Debtors; provided that the Auction shall not be rescheduled for a date that is beyond the outside date or milestone for the Auction set forth in the DIP Orders. If the Debtors receive no more than one Qualified Bid (including any Stalking Horse Bid(s)) with respect to any of the Assets, the Debtors may determine, in their discretion, not to hold the Auction for such Assets and instead declare such Qualified Bid as the Successful Bid on such Assets and request at the Sale Hearing that the Court approve the applicable Asset Purchase Agreement with the applicable Successful Bidder (including any Stalking Horse Agreement(s) with the applicable Stalking Horse Bidder(s)).

38. The Good Faith Deposits (for purposes of this paragraph, as increased by the Incremental Deposit Amount, if applicable) of all Prospective Bidders shall be held in escrow by the Debtors in a non-interest-bearing escrow or trust account and shall not become property of the Debtors' estates. The Good Faith Deposits of all Prospective Bidders shall be retained by the Debtors, notwithstanding Court approval of Sale Transactions for the applicable Assets, until no later than five business days after the conclusion of the Auction, except for the Good Faith Deposits of Successful Bidders and Backup Bidders. The Debtors shall retain the Good Faith Deposits of Backup Bidders until the earlier of (a) three business days after the closing of a Sale Transaction with the Successful Bidder for the applicable Assets and (b) 75 days after the date of the Sale Hearing.

39. All persons and entities that participate in the bidding process or the Auction shall be deemed to have knowingly and voluntarily submitted to the exclusive jurisdiction of this Court with respect to all matters related to the terms and conditions of the transfer of any of the Assets, the Auction and any Sale Transaction.

40. In the event there is a conflict between this Order and the Motion, this Order shall control and govern.

41. Any Stalking Horse Bidder has standing to enforce the terms of this Order.

42. For the avoidance of doubt, nothing in the Bidding Procedures this Order waives, modifies, limits or otherwise amends the terms of the DIP Orders and the DIP Loan Documents (as defined in the DIP Orders) or any of the rights of the DIP Lender, DIP Agent and the Pre-Petition First Lien Lender or any of the obligations of the Debtors or other parties thereunder, including without limitation the right to repayment of the DIP Obligations upon the maturity of the DIP Facility (each as defined in the DIP Orders).

43. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

44. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

45. The Debtors are authorized to take all steps necessary or appropriate to carry out this Order.

46. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: _____, 2017
Wilmington, Delaware

HONORABLE BRENDAN L. SHANNON
CHIEF UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Bidding Procedures

Code"), Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

On _____, 2017, the Court entered the *Order (I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Purchase Agreements and to Provide Bid Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (II) Granting Related Relief* [Docket No. ___] (the "Bidding Procedures Order"). Pursuant to the Bidding Procedures Order, the Debtors are authorized to employ the Bidding Procedures in connection with a Sale and are empowered to take all actions necessary or appropriate to implement a Sale:

Set forth below are the Bidding Procedures that will be employed in connection with the Sale of the following assets (the "Assets"):

- the Debtors' entire right, title and interest in and to their Corpus Christi Plant and related assets (together, the "Corpus Christi Assets");
- the Debtors' entire right, title and interest in and to their desalination equipment and boilers situated at or in the vicinity of the Corpus Christi Plant (the "Desalination Assets");
- the Debtors' entire right, title and interest in and to their intellectual property other than the intellectual property of M & G Polymers USA, LLC's (the "IP Assets");
- M & G Polymers USA, LLC's entire right, title and interest in and to their intellectual property (the "Polymers IP Assets");
- M & G Polymers USA, LLC's entire right, title and interest in and to their research and development facility located in Sharon Center, Ohio (the "Sharon R&D Assets"); and
- M & G Polymers USA, LLC's entire right, title and interest in and to their manufacturing facility located in Apple Grove, West Virginia and related assets (the "Apple Grove Plant").

The Assets owned by M & G Polymers USA, LLC will remain available for sale pursuant to these procedures so long as the Debtors have sufficient funding to maintain such assets through the closing of any sale of such assets. Consistent with Section IX of these Bidding Procedures, the Debtors may seek expedited approval of a Stalking Horse Agreement, Sale Transaction or otherwise proceed on an alternative sale timeline or with alternate sales procedures (including dispensing with an Auction) than those set forth in the Bidding Procedures, in each case, with respect to any of the Assets owned by M & G Polymers USA, LLC.

A Prospective Bidder may bid on all or any combination of the Corpus Christi Assets, the Desalination Assets, the IP Assets, the Polymers IP Assets, the Sharon R&D Assets, and the Apple Grove Plant, subject to the conditions set forth herein.

The ability to undertake and consummate any Sale(s) of the Assets shall be subject to competitive bidding as set forth herein and approval by the Court. In addition to any Stalking Horse Bid, the Debtors will consider bids for any or all of the Assets in a single bid from a single bidder or in multiple bids from multiple bidders. Any bids for individual Assets, even if such bids are the highest or best bids for such individual Assets, are subject to higher or better bids (including Credit Bids) on packages of Assets that include the individual Assets. Additionally, any bids on all of the Assets are subject to bids on individual assets or packages of Assets (including Credit Bids), which are in the aggregate higher or better bids. Assets will be sold free and clear of all liens, claims, interests and encumbrances, with such liens, claims, interests and encumbrances attaching to the proceeds of the Sale Transaction in the same order of priority and with the same validity, force and effect that such liens, claims, interests and encumbrances had before the Sale Transaction, subject to any rights, claims and defenses of the Debtors or their estates, as applicable, or as otherwise provided in an order of the Court approving the Sale Transaction.

I. KEY DATES AND DEADLINES²

December 11, 2017 at 1:00 p.m. (prevailing Eastern Time)	Hearing to consider entry of the Bidding Procedures Order
No later than five business days after entry of the Bidding Procedures Order	Deadline for Debtors to file Assumption and Assignment Notice
5:00 p.m. (prevailing Eastern Time) on the date that is 14 days after filing of the Assumption and Assignment Notice	Deadline to file Cure Objections
January 16, 2018, at 5:00 p.m. (prevailing Eastern Time)	Proposal Deadline
February 23, 2018, at 11:59 p.m. (prevailing Eastern Time)³	Final Bid Deadline
February 26, 2018, at 5:00 p.m. (prevailing Eastern Time)	Deadline for objections to the applicable Sale Transaction(s) other than Cure Objections and Adequate Assurance Objections

² Capitalized terms used in this section but not otherwise defined have the meanings given to them in the Motion or elsewhere in the Bidding Procedures.

³ Subject to Debtors' limited extension right set forth in Section V of the Bidding Procedures.

February 28, 2018, at __: __ [a.m./p.m.] (prevailing Eastern Time)	Auction, to be held at the offices of Jones Day, 250 Vesey Street, New York, New York 10281
March 2, 2018, at noon (prevailing Eastern Time)	Deadline to file Adequate Assurance Objections
March 5, 2018, at 5:00 p.m. (prevailing Eastern Time)	Deadline to file the replies in connection with the applicable Sale Transaction(s)
March 6, 2018, as determined by, and subject to the availability of, the Court	Proposed hearing to approve proposed Sale Transaction(s)

II. DUE DILIGENCE

To be eligible to participate in the bidding process, each person or entity that desires to participate in the bidding process (each, a "Prospective Bidder") must first deliver to each of the Bid Notice Parties (as defined in Section X.A):

- an executed confidentiality agreement, in form and substance satisfactory to the Debtors;
- a statement and other factual support demonstrating to the Debtors' reasonable satisfaction in the exercise of their reasonable business judgment that the Prospective Bidder has a *bona fide* interest in purchasing the Assets; and
- preliminary proof by the Prospective Bidder of its financial capacity to close a proposed Sale Transaction, which may include current unaudited or verified financial statements of, or verified financial commitments obtained by, the Prospective Bidder (or, if the Prospective Bidder is an entity formed for the purpose of acquiring the property to be sold, the party that will bear liability for a breach), the adequacy of which the Debtors and its advisors will determine; provided that such proof shall not be required to the extent that the Prospective Bidder's financial capacity is reasonably known to the Debtors' investment banker.

Upon execution of a valid confidentiality agreement, any Prospective Bidder identified by the Debtors as reasonably likely to be a Qualified Bidder (as defined below) that wishes to conduct due diligence on the Assets may be granted access to information regarding the Assets; provided that, if any Prospective Bidder is (or is affiliated with) a competitor of the Debtors, the Debtors will not be required to disclose to such Prospective Bidder any trade secrets or proprietary information, as determined by the Debtors' in their sole discretion, unless the confidentiality agreement executed by such Prospective Bidder is satisfactory to the Debtors to ensure that such trade secrets or proprietary information will not be used for an improper purpose or to gain an unfair competitive advantage. If the Debtors determine at any time that a Prospective Bidder is not reasonably likely to qualify as a Qualified Bidder or fails to become a

Qualified Bidder, then such Prospective Bidder shall not be entitled to receive further due diligence access or non-public information and all information provided by the Debtors prior to such time will be returned to the Debtors or destroyed in accordance with the terms of the applicable confidentiality agreement. The Debtors shall be entitled to revoke due diligence access to any Prospective Bidder that fails to become a Qualified Bidder.

The Debtors will work to accommodate all reasonable requests for additional information and due diligence access from Prospective Bidders. All due diligence requests shall be directed to (i) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill (dstogsdill@alvarezandmarsal.com)) and (ii) the Debtors' investment banker, Rothschild Inc., 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Neil Augustine ((neil.augustine@rothschild.com), Jonathan Brownstein (Jonathan.Brownstein@Rothschild.com) and Matthew Guill (Matthew.Guill@Rothschild.com)).

III. PROPOSALS

A. Proposal Deadline

Prospective interested parties will be requested to submit written preliminary indications of interest (each, a "Proposal") to the Bid Notice Parties at any time but by no later than **January 16, 2018 at 5:00 p.m. (prevailing Eastern Time)** (the "Proposal Deadline") and otherwise in compliance with the Bidding Procedures. The receipt of Proposals by the Proposal Deadline will assist the Debtors in promptly identifying potential Stalking Horse Bidder(s). The DIP Lender and Pre-Petition First Lien Lender are not required to submit a Proposal in order to be a Qualified Bidder.

B. Proposal Requirements

Proposals must contain the following information:

1. Identity of Purchaser and its Affiliates: A Proposal must specify the identity of the purchaser, including the legal entity that would acquire all or part of the Assets, the ultimate holding company, the identity of all key shareholders and any relevant history and/or experience in the industry. A Proposal must confirm that the prospective interested party is acting as a principal and not as an agent or broker for any other party. A Proposal must also disclose whether the prospective interested party or any of its representatives has, or within the last 24 months has had, any commercial relationship or dealings with the Debtors or any of their affiliated or associated entities and their respective directors and officers or any of the Debtors' prepetition secured lenders, and, if so, disclose in reasonable detail information about such relationship and/or dealings.
2. Proposed Sale Transaction: A Proposal must include the terms of the proposed Sale Transaction, including, but not limited to:
 - a) the Assets included in the Proposed Sale Transaction;

- b) the liabilities, if any, to be assumed, including any debt to be assumed;
 - c) total purchase price and form of consideration for the proposed Sale Transaction and, if bidding on more than one Asset, an allocation of the total purchase price among those Assets; provided, however, that no such allocation shall be required for Assets subject to a Credit Bid except to the extent that the underlying Proposal that includes such Credit Bid proposes the purchase of Assets that are subject to another lender's valid, perfected senior lien securing funded debt obligations, in which case the Proposal must identify the means of satisfying or otherwise resolving or assuming such obligations;
 - d) a description of any significant assumptions on which the Proposal has been based;
 - e) structure, terms and conditions of the proposed Sale Transaction;
 - f) evidence of financial wherewithal to close the proposed Sale Transaction, including the prospective interested party's cash balances as of the most recent month end, availability under existing credit facilities or guarantee and/or equity commitment letter from a credit worthy affiliate entity; and
 - g) other economic matters to the extent material to the proposed Sale Transaction.
3. Due Diligence: A Proposal must include a description of the due diligence the prospective interested party needs to conduct, including a list of any due diligence items the prospective interested party needs to review or confirm in order for it to enter into a definitive agreement.
4. Material Conditions: A Proposal must list any other material conditions to which the consummation of the proposed Sale Transaction would be subject.
5. Sources of Financing: A Proposal must include an indication (with as much specificity as possible) of expected sources of funds (including the amounts of debt and equity financing necessary to fund the Sale Transaction together with the indications from any third party sources of their commitment to provide such funds) and the steps required (and anticipated timing) to obtain definitive funding commitments. If the purchaser will be a newly formed entity, the Proposal must identify the entity or entities that will provide backstops in the form of a guarantee and/or equity commitment letter and describe the nature of such arrangement(s).

6. Required Approvals & Timing: A Proposal must include a description of the level of review, authorization and approval within the prospective interested party's organization that the potential Sale Transaction has received to date and an indication of any anticipated need (and associated timing) for further corporate, shareholder, or regulatory authorization, approvals and waivers and any other material conditions or time constraints related to closing. In addition, a Proposal must provide an estimate of the aggregate timing required to secure any necessary financing, complete due diligence and obtain any necessary approvals to close a Sale Transaction. Finally, a Proposal must provide information on the prospective interested party's existing involvement and/or extent of production capacity it owns or operates in the North American and global markets for PTA or PET.
7. Pre-Closing Funding: A Proposal must (i) state the prospective interested party's ability and willingness to fund the Debtors' Cases from March 31, 2018 through the closing of a Sale Transaction and (ii) disclose in reasonable detail the proposed structure and material terms of such financing (such as a proposed refinancing of the DIP Financing, providing incremental financing on a junior basis, etc., in each case subject to obtaining the necessary approvals and consents).
8. Prior Investments or Acquisitions: A Proposal must include a description of material investments or acquisitions that the prospective interested party has completed over the last five years as further evidence of its capability to close the Sale Transaction in a timely fashion.
9. Advisors: A Proposal must include a list of all financial, legal and other advisors that a prospective interested party has retained or plans to retain in connection with the Sale Transaction.
10. Contacts: A Proposal must provide a list of contacts (including mailing and e-mail addresses and phone numbers) who would be involved in further due diligence and with whom the Bid Notice Parties may discuss the Proposal, including individuals employed by any prospective interested party and any of its financial and legal advisors.

The Debtors will in their reasonable discretion, and in consultation with the Consultation Parties, determine compliance with the foregoing.

IV. STALKING HORSE AGREEMENTS

The Debtors may, as they deem necessary and appropriate in the prudent exercise of their business judgment, accept one or more Stalking Horse Bids and execute one or more Stalking Horse Agreements with such Stalking Horse Bidder(s), which may be comprised of a Credit Bid (including by the DIP Agent, DIP Lender and/or the Pre-Petition First Lien Lender), in connection with the proposed sale of the Assets and file a motion (each, a "Stalking Horse

Motion") seeking approval of such Stalking Horse Agreement, including any Bid Protections provided therein. Subject to the Court's determination, but no earlier than ten days after filing a Stalking Horse Motion, and no later than the Sale Hearing, the Debtors will seek approval from the Court on an expedited basis of such Stalking Horse Agreement(s) and any Bid Protections contained therein, in accordance with Rule 6004-1 of the Local Rules. The applicable Debtors' entry into a Stalking Horse Agreement and/or provision of Bid Protections to a Stalking Horse Bidder shall be in compliance with the DIP Orders, the DIP Loan Documents (as defined in the DIP Orders) and the Debtors' obligations thereunder.

V. BID DEADLINE

Any Prospective Bidder that intends to participate in the Auction must submit its final, binding bid (a "Final Bid") on or before **February 23, 2018 at 11:59 p.m. (prevailing Eastern Time)** (the "Final Bid Deadline") in writing to the Bid Notice Parties (as defined in Section X.A); provided that the Debtors shall have the discretion to the extend in writing the Final Bid Deadline for any Prospective Bidder so long as such extended deadline does not exceed the applicable milestone for such deadline under the DIP Loan Agreement (as defined in the DIP Orders). Any bid received after the Final Bid Deadline will not constitute a Qualified Bid.

A Good Faith Deposit (as defined in Section VI.A.7) must be contemporaneously provided with any Final Bid by wire transfer or certified check pursuant to delivery instructions to be provided by the Debtors prior to the Final Bid Deadline.

The Debtors shall promptly provide copies of all Final Bids received to the Consultation Parties (as defined below).

VI. BID REQUIREMENTS

A. Qualified Bid Requirements

In order for a Final Bid to qualify as a "Qualified Bid," the Final Bid must be in writing and the Debtors must determine that the Final Bid satisfies the following requirements:

1. Purchased Assets. A Qualified Bid must identify the following:
 - a) the Assets to be purchased, including any Proposed Assumed Contracts;
 - b) the liabilities, if any, to be assumed, including any debt to be assumed;
 - c) the cash purchase price of, and any other consideration offered in connection with, the Final Bid (the "Purchase Price"); provided that, if the Final Bid is for more than one Asset, such bid must also allocate the Purchase Price across the individual Assets; provided, however, that no such allocation shall be required for Assets subject to a Credit Bid except to the extent that the underlying

Final Bid that includes such Credit Bid proposes the purchase of Assets that are subject to another lender's valid, perfected senior lien securing funded debt obligations, in which case the Final Bid must identify the means of satisfying or otherwise resolving or assuming such obligations; provided further that, if the Final Bid is for Assets subject to a Stalking Horse Agreement, such Purchase Price must exceed the Stalking Horse Overbid (as defined below);

- d) the proposed form of adequate assurance of future performance of the Qualified Bidder with respect to any Proposed Assumed Contracts, including the legal name of any proposed assignee of a Proposed Assumed Contract, the proposed use of any leased premises and, with respect to the Corpus Christi Assets, the proposed plans and any financing therein, if any, to complete construction of the Corpus Christi Plant;
- e) whether the Prospective Bidder intends to operate all or a portion of the Debtors' business as a going concern (as applicable) or to liquidate the applicable Assets; and
- f) whether the Prospective Bidder intends to offer future employment to any of the Debtors' employees.

2. Identification of Bidder. A Qualified Bid must fully disclose the legal identity of each person or entity bidding for the applicable Assets and otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), participating in (including through license or similar arrangement with respect to the assets to be acquired in connection with such bid) such bid or the Auction in connection with such bid, and the complete terms of any such participation, and must also disclose any past or present connections or agreements with the Debtors, any Stalking Horse Bidder(s), any other known Prospective Bidder or Qualified Bidder, any prepetition secured lender and/or any officer or director of the foregoing (including any current or former officer or director of the Debtors).

3. Asset Purchase Agreement: A Qualified Bid for some or all of the Assets must include (i) a duly authorized and executed Asset Purchase Agreement based on the form asset purchase agreement that the Debtors provided to Prospective Bidders and (ii) a proposed sale order based on the proposed Sale Order attached to the Motion as Exhibit D, both modified to reflect such Qualified Bidder's proposed Sale Transaction (including all exhibits and schedules thereto), together with copies marked to show any amendments and modifications to (i) the form asset purchase agreement and (ii) the proposed Sale Order.

4. Asset Purchase Agreement for Stalking Horse Assets Only: To the extent the Debtors enter into a Stalking Horse Agreement for any of their Assets, a Qualified Bid solely for such Assets must include (i) a duly authorized and executed copy of the Stalking Horse Agreement and (ii) a proposed sale order based on the proposed Sale Order attached to the Motion as Exhibit D, both modified to reflect such Qualified Bidder's proposed Sale Transaction (including all exhibits and schedules thereto), together with copies marked to show any amendments and modifications to (i) the Stalking Horse Agreement and (ii) the proposed Sale Order.

5. Credit Bidding:⁴ Subject to the satisfaction of the requirements set forth above and in these Bidding Procedures, a bid that includes a credit bid as a portion of the Purchase Price (each such bid, a "Credit Bid") shall be considered to be a Qualified Bid only if a court of competent jurisdiction has, as of the date of the submission of such bid to the Bid Notice Parties, entered a final, non-appealable order determining the validity, priority, and extent of the claims and liens that form the underlying basis of the Credit Bid, provided, however, that any Credit Bid by any Specified Lender on any Assets on which such Lender has a valid, perfected lien,⁵ shall not require the entry of a final, non-appealable order determining the validity, priority, and extent of the claims and liens that form the underlying basis of the Credit Bid. All Credit Bids shall be subject to the Credit Bid Requirements (as defined below). A Credit Bid may be applied only to reduce the cash consideration with respect to the Assets in which the party submitting the Credit Bid holds a security interest.

A Qualified Bidder whose Final Bid includes a Credit Bid or who would like to preserve its right to submit a Credit Bid at the Auction, in each case, on any applicable Assets shall deliver to the Debtors at the time of the submission of its Final Bid or, if such Qualified Bidder does not submit a Final Bid, one business day before the Auction as a condition precedent to its participation in the Auction (i) a Good Faith Deposit pursuant to Section VI.A.7 below, and (ii)(x) a written commitment to

⁴ Capitalized terms used in this section but not otherwise defined have the meanings given to them in the DIP Motion or the *Interim Order Granting Debtors' Motion to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief*, [Docket No. 62] (the "Interim DIP Order") and the final order approving the relief sought in the DIP Motion (the "Final DIP Order") and, together with the Interim DIP Order, the "DIP Orders"), as applicable.

⁵ "Specified Lender" includes: (a) any of the DIP Secured Parties (as defined in the DIP Motion); (b) Banco Inbursa S.A., Institución De Banca Multiple, Grupo Financier, solely in its capacity as Pre-Petition First Lender ("Pre-Petition First Lien Lender"); (c) DAK Americas, LLC, solely in its capacity as the Pre-Petition Second Lien Lender ("DAK"); and (d) Macquarie Investments US Inc., solely in its capacity as collateral agent under that certain \$55.5 million secured credit facility to which M&G Waters USA, LLC is a party.

fund into an escrow account established by the Debtors upon the closing of the Sale Transaction (as further described in Section VI.A.6 below) an amount of cash (the "Cash Amount") sufficient to satisfy (1) the estimated Sale Professional Fees, (2) to the extent the Sale Excess Fees are senior to the obligations subject to such Credit Bid, the estimated Sale Excess Fees, and (3) any obligations secured by liens on such CC Assets that are senior to the obligations that are the subject of such Credit Bid (the "Senior Secured Obligations"), as the terms "Sale Professional Fees" and "Sale Excess Fees" would apply under the Final DIP Order either before or after the Carve-Out Trigger Date, as appropriate, and (y) documentary evidence of its financial wherewithal (as of the date of such commitment) to fund the Cash Amount upon the closing of the Sale Transaction (the foregoing requirements set forth in this paragraph, the "Credit Bid Requirements") provided that, to the extent a Sale Transaction is for less than all of the Corpus Christi Assets, the Debtors may permit the commitment described in the immediately preceding clause (ii) to be in an amount in cash that is less than the Cash Amount.

For the avoidance of doubt, any Credit Bid by the DIP Agent, the DIP Lender or the Pre-Petition First Lien Lender shall not require payment of any Pre-Petition Second Lien Obligations. Moreover, in the event that the DIP Agent, the DIP Lender or Pre-Petition First Lien Lender submits a Credit Bid comprised of any of their DIP Obligations or Pre-Petition First Lien Obligations, respectively, on any Assets securing such respective obligations, and without limiting any other requirements for approval of any other bid as a higher or better offer or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations), any further bid for the purchase of some or all of the Assets and any Sale of such Assets to a Successful Bidder (other than the DIP Lender or Pre-Petition First Lien Lender) that is approved by the Court must provide for, at the closing of such Sale Transaction, indefeasible cash payments of the DIP Obligations and the Pre-Petition First Lien Obligations to the DIP Lender and the Pre-Petition First Lien Lender, respectively, in at least the dollar amount equivalent of the Credit Bid submitted by the DIP Lender and the Pre-Petition First Lien Lender (as applicable), plus the Sale Professional Fees Amounts and the Sale Excess Fees Amounts (each, as defined in the Final DIP Order) in order for the Successful Bid of such Successful Bidder to be considered as a potentially higher or better bid and/or to be approved by the Court as a Successful Bid, unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable) (the foregoing requirements set forth in this paragraph, the "Credit Bid Overbid Requirements"). In addition, and without limiting any other requirements for approval of such bid as a higher or better bid or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations) any bid by the Pre-Petition Second Lien Secured Party for the Corpus Christi Assets, by Credit Bid or otherwise, shall provide at the closing of the Sale Transaction (a) that the

DIP Obligations and the Pre-Petition First Lien Obligations are indefeasibly paid in full in cash to the DIP Lender and the Pre-Petition First Lien Lender, respectively (unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable)), and (b) cash in an amount equal to the Sale Professional Fees Amounts and Sale Excess Fee Amounts, as authorized pursuant to the Final DIP Order, is transferred into an escrow account pursuant to the Final DIP Order.

6. Financial Information. A Qualified Bid must include the following:
- a) a statement that the Prospective Bidder is financially capable of consummating the Sale Transaction(s) contemplated by the applicable Asset Purchase Agreement, together with the Prospective Bidder's audited financial statements for the prior two years and pro forma capital structure;
 - b) if the bid of a Qualified Bidder includes a Credit Bid pursuant to section 363(k) of the Bankruptcy Code, at the time of the submission of such Qualified Bidder's Final Bid or, if such Qualified Bidder does not submit a Final Bid, one business day before the Auction as a condition precedent to its participation in the Auction, such Qualified Bidder must deliver to the Debtors (i) a written commitment to fund into an escrow account established by the Debtors upon the closing of the Sale Transaction an amount of cash equal to the Cash Amount and (ii) documentary evidence of its financial wherewithal as of the date of such commitment to fund upon the closing of the Sale Transaction the Cash Amount plus any remaining balance of the bid after reducing the applicable Purchase Price of the Assets by the amount of the proposed Credit Bid; and
 - c) (i) a written commitment by the Prospective Bidder to provide the Debtors with financing to fund the Debtors' Cases from March 31, 2018 through the closing of the Sale Transaction and (ii) a writing setting forth in reasonable detail the proposed structure and material terms of such financing (such as a proposed refinancing of the DIP Financing, providing incremental financing on a junior basis, etc., in each case subject to obtaining the necessary approvals and consents).

Good Faith Deposit. Each Qualified Bid (including a Qualified Bid that includes a Credit Bid) must be accompanied by a good faith deposit (the "Good Faith Deposit") in the form of cash (or other form acceptable to the Debtors in their sole and absolute discretion) in an amount equal to the greater of (a) \$10 million or (b) 10% of the Purchase Price (inclusive of any amount thereof comprising Credit Bid consideration) offered to

purchase the applicable Assets (or portion thereof); provided that, with respect to a bid (other than a bid on Assets owned by M & G Polymers USA, LLC) that includes a Credit Bid by the DIP Lender or the Pre-Petition First Lien Lender, the Good Faith Deposit shall equal \$20 million. All Good Faith Deposits shall be held in escrow in a non-interest bearing account identified by the Debtors until no later than five business days after the conclusion of the Auction unless such bidder is selected as the Successful Bidder or as a Backup Bidder (as hereinafter defined) and thereafter returned to the respective Qualified Bidders in accordance with the Bidding Procedures or, in the case of a Stalking Horse Bidder, if any, return of its Good Faith Deposit shall be governed by the Stalking Horse Agreement. The Backup Bidder's Good Faith Deposit shall be returned by the Debtors upon the earlier of (a) three business days after the closing of the Sale Transaction and (b) 75 days from the date of the Sale Hearing. The Debtors reserve the right to increase the Good Faith Deposit for one or more Qualified Bidders (as defined below) (other than any Stalking Horse Bidder's Good Faith Deposit or the DIP Lender or Pre-Petition First Lien Lender's Good Faith Deposit) in their sole and reasonable discretion.

7. Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's ability to perform future obligations arising under the contracts and leases proposed in its bid to be assumed by the Debtors and assigned to the Prospective Bidder, in a form that will permit the immediate dissemination of such evidence to the Counterparties to such contracts and leases.
8. Representations and Warranties. A Qualified Bid must include the following representations and warranties:
 - a) expressly state that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtors' businesses and the Assets prior to submitting its bid; and
 - b) a statement that the Prospective Bidder has relied solely upon its own independent review, investigation, and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtors' businesses or the applicable Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in a Stalking Horse Agreement or the form asset purchase agreement (as applicable) signed by the Prospective Bidder and ultimately accepted and executed by the Debtors;

9. Authorization. A Qualified Bid must include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of a Final Bid, participation in the Auction and closing of the proposed Sale Transaction(s) in accordance with the terms of the Final Bid and these Bidding Procedures; provided that, if the Prospective Bidder is an entity specially formed for the purpose of effecting the Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtors of the approval by the equity holder(s) of such Prospective Bidder.

10. Other Requirements. A Qualified Bid shall:
 - a) state that the bid is binding, not subject to or conditioned on any further due diligence and irrevocable until the selection of the Successful Bid (as defined below) in accordance with these Bidding Procedures; provided that if such Prospective Bidder is selected as the Successful Bidder or Backup Bidder, its bid must remain irrevocable until the earlier of (i) Debtors' consummation of a Sale Transaction with the Successful Bidder and (ii) 75 days from the date of the Sale Hearing;
 - b) if the bid is for Assets subject to a Stalking Horse Agreement, state that (i) the bid is not subject to conditions more burdensome than those in such Stalking Horse Agreement and (ii) the bid is on terms that are determined to be better than the terms of such Stalking Horse Agreement;
 - c) expressly state that the Prospective Bidder is committed to closing the proposed Sale Transaction(s) contemplated by the bid as soon as practicable;
 - d) except for Bid Protections (as defined in the Bidding Procedures Order) for a potential Stalking Horse Bidder approved by an order of the Court, expressly state and acknowledge that no Prospective Bidder shall be entitled to a break-up fee, termination fee, expense reimbursement, or similar type of "bid protection" in connection with the submission of a bid;
 - e) expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code in connection with bidding for the applicable Assets and/or participating in the Auction;
 - f) not contain any financing contingencies of any kind;
 - g) not contain any condition to closing of the proposed Sale Transaction(s) on the receipt of any third party approvals

(excluding Court approval and any applicable required governmental and/or regulatory approval);

- h) provide information on the Prospective Bidder's existing involvement and/or extent of production capacity it owns or operates in the North American and global markets for PTA or PET, set forth each regulatory and third-party approval required for the Prospective Bidder to consummate the Sale Transaction and the time period within which the Bidder expects to receive such regulatory or third-party approvals, and state that all necessary filings under applicable regulatory, antitrust and other laws will be made and that payment of the fees associated therewith shall be made by the Prospective Bidder (all such information, "Regulatory Disclosures");
- i) expressly state that the Prospective Bidder agrees to serve as a backup bidder (a "Backup Bidder") if such bidder's Qualified Bid is selected as the next highest or next best bid after the Successful Bid with respect to the applicable Assets;
- j) include contact information for the specific person(s) the Debtors should contact in the event they have any questions about the Prospective Bidder's Final Bid;
- k) be received by the Bid Notice Parties set forth in Section X.A below by the Final Bid Deadline; and
- l) certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any of its affiliates) has a direct or indirect interest, unless consented to in writing by the Debtors, and that its bid represents a binding, good faith and bona fide offer to purchase the Assets identified if selected as the Successful Bid or Backup Bid at the Auction.

11. Disqualification of Final Bids. The Debtors, in their business judgment and in consultation with the Consultation Parties, reserve the right to reject any Final Bid (other than any Stalking Horse Bid), including without limitation, if such Final Bid:

- a) is on terms that are more burdensome or conditional than the terms of any Stalking Horse Agreement;
- b) requires any indemnification of the Prospective Bidder;
- c) is not received by the Final Bid Deadline;

- d) is subject to any contingencies (including representations, warranties, covenants, financing, due diligence and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the applicable Assets; or
- e) does not, in the Debtors' determination, include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtors estates or the Auction.

Any Final Bid rejected pursuant to this paragraph shall not be deemed to be a Qualified Bid. In the event that any Final Bid is so rejected, the Debtors shall cause the Good Faith Deposit of such Prospective Bidder to be refunded to it within five business days after the Final Bid Deadline.

B. Qualified Bidders

A Final Bid received for all or any portion of the Assets that is determined by the Debtors, in consultation with the Consultation Parties, to meet the requirements set forth in Section VI.A will be considered a "Qualified Bid" and any bidder that submits a Qualified Bid will be considered a "Qualified Bidder." Subject to the respective compliance of the DIP Lender and the Pre-Petition First Lien Lender (each as defined in the DIP Orders) with the Credit Bid Requirements and the actions required to establish such compliance, the DIP Lender and the Pre-Petition First Lien Lender automatically will be deemed Prospective Bidders and Qualified Bidders, without any need for further action, and their respective bids automatically will be deemed to constitute Qualified Bids, regardless of whether their respective Credit Bids meet the requirements set forth in Section VI.A (other than Section VI.A.5 and the requirement to submit Regulatory Disclosures). For the avoidance of doubt, (i) any Stalking Horse Bidder will be a Qualified Bidder, (ii) any Stalking Horse Bids are Qualified Bids, and (iii) any Stalking Horse Bidder will be deemed to be a Backup Bidder to the extent applicable; provided, however, that Stalking Horse Bidders will be subject to qualification by the Debtors in connection with any subsequent bids.

The Debtors, in consultation with the Consultation Parties, will evaluate a Qualified Bid using any and all factors that the Debtors deem reasonably pertinent, including, without limitation, (i) the amount of the Purchase Price and Credit Bid, as applicable, set forth in the Qualified Bid, including for the avoidance of doubt, whether the Purchase Price provides for the indefeasible cash payments of the DIP Obligations and the Pre-Petition First Lien Obligations to the DIP Lender and the Pre-Petition First Lien Lender, respectively, at the closing of the Sale Transaction in at least the dollar amount equivalent of the Credit Bid, if any, submitted by the DIP Lender and the Pre-Petition First Lien Lender (as applicable) and without limiting any other requirements for approval of any other bid as a higher or better offer or a Successful Bid (including without limitation the satisfaction of the Senior Secured Obligations), plus the Sale Professional Fees Amounts and the Sale Excess Fee Amounts (each, as defined in the Final DIP Order), as is required to constitute a Qualified Bid, unless otherwise agreed to by the DIP Agent, the DIP Lender and/or the Pre-Petition First Lien Lender (as applicable); (ii) the risks and timing associated with consummating a Sale Transaction(s) with the Qualified Bidder, (iii) any Assets included in or excluded from the Qualified Bid, including any Proposed Assumed Contracts, and (iv) the ability to obtain any and

all necessary antitrust or other applicable regulatory approvals for the proposed Sale Transaction. In addition, the Debtors will consider bids for any or all of the Assets.

The Debtors, in consultation with the Consultation Parties, will make a determination regarding which Final Bids qualify as Qualified Bids and as Baseline Bids (as hereinafter defined) and shall notify bidders whether they have been selected as Qualified Bidders prior to the Auction. Within 24 hours of the receipt of adequate assurance information from any Qualified Bidder, but in no event later than 24 hours after the Final Bid Deadline, the Debtors shall provide adequate assurance information received from a Qualified Bidder to any Counterparty whose Contract would be assumed pursuant to such Qualified Bidder's proposed transaction.

C. Bid Protections

Other than the Bid Protections provided to a Stalking Horse Bidder (if any), subject to approval by the Court pursuant to a Stalking Horse Motion, no party submitting a Final Bid, whether or not such Final Bid is determined by the Debtors to qualify as a Qualified Bid, shall be entitled to a break-up fee or expense reimbursement, or any other bid protection, unless such break-up fee, expense reimbursement or other bid protection is approved by the Court.

The Debtors are authorized, but not required, to provide customary bid protections to Stalking Horse Bidders, if any, subject to further approval of the Court.

VII. THE AUCTION

If the Debtors receive more than one Qualified Bid for any of the Assets, the Debtors shall conduct the Auction. The Auction, if required, will be conducted at the offices of Jones Day, 250 Vesey Street, New York, New York 10281 on **February 28, 2018 at __: __ [a.m./p.m.] (prevailing Eastern Time)**, or at such other time and location as designated by the Debtors; provided that the Auction shall not be rescheduled for a date that is beyond the outside date or milestone for the Auction set forth in the DIP Loan Documents (as defined in the DIP Orders).

If the Debtors receive no more than one Qualified Bid (including any Stalking Horse Bid(s) or Credit Bid by the DIP Agent, the DIP Lender and/or Pre-Petition First Lien Lender) with respect to any of the Assets, the Debtors may determine, in their reasonable discretion, not to hold the Auction for such Assets and instead declare such Qualified Bid as the Successful Bid on such Assets and request at the Sale Hearing (defined below) that the Court approve the applicable Asset Purchase Agreement with the applicable Successful Bidder (including any Stalking Horse Agreement(s) with the applicable Stalking Horse Bidder(s)).

All bidders at the Auction will be deemed to have consented to the core jurisdiction of the Court and waived any right to jury trial in connection with any disputes with the Debtors relating to the Auction, the Sale and the construction and enforcement of any Stalking Horse Agreements and all other agreements entered into in connection with any proposed Sale Transaction.

A. Participants and Attendees

Only Qualified Bidders that have submitted Qualified Bids (including any Stalking Horse Bids) by the Final Bid Deadline are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtors in consultation with the Consultation Parties in accordance with these Bidding Procedures. Qualified Bidders participating in the Auction must appear in person at the Auction or through a duly authorized representative. Subject to the Auction procedures set forth in Section VII.B, the Auction will be conducted openly and all Qualified Bidders, Specified Lenders and the Consultation Parties are permitted to attend; provided that the Debtors may, in their sole and exclusive discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction.

Each Qualified Bidder participating in the Auction will be required to confirm in writing and on the record at the Auction that (i) it has not engaged in any collusion with respect to the submission of any bid or the Auction and (ii) each Qualified Bid it submits at the Auction is a binding, good faith and bona fide offer to purchase the Assets identified in such bid.

B. Auction Procedures

The Auction shall be governed by the following procedures, subject to the Debtors' right to modify such procedures in their reasonable discretion, in consultation with the Consultation Parties:

1. Baseline Bids. Prior to the commencement of the Auction, the Debtors will provide copies of the Qualified Bid or combination of Qualified Bids that the Debtors determine in their reasonable business judgment, after consultation with the Consultation Parties, to be the highest and/or best Qualified Bid (the "Baseline Bid") to all other Qualified Bidders who have submitted a Qualified Bid prior to the Final Bid Deadline. Bidding at the Auction shall commence at the amount of the Baseline Bid.
2. Minimum Overbid. At each round of bidding, Qualified Bidders may submit successive bids higher than the Leading Bid from the prior round (or the Baseline Bid for the first round), based on and increased in an amount of at least \$1,000,000 or such other amount as the Debtors may determine from the Leading Bid (or Baseline Bid for the first round) for the applicable Assets (each such bid, a "Minimum Overbid"); provided, however, that to the extent that the Baseline Bid includes a Qualified Bid for Assets that are subject to a Stalking Horse Agreement, if any, the bidding for such Assets at the first round of bidding will start at an amount equal to the sum of: (i) the value of the Baseline Bid, (ii) the amount of the Bid Protections, and (iii) the Minimum Overbid amount (each such bid, a "Stalking Horse Overbid"). The Debtors may, in their reasonable discretion, announce increases or reductions to Minimum Overbids or Stalking Horse Overbids at any time during the Auction.

Additionally, with the exception of the DIP Lender and the Pre-Petition First Lien Lender, upon a Qualified Bidder's declaration of its bid, it must commit on the record to pay following the Auction, if such bid were to be the Successful Bid or the Backup Bid, the incremental amount of its Good Faith Deposit calculated based on the increased Purchase Price of such bid (such Good Faith Deposit so increased, the "Incremental Deposit Amount").

Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by any bid subsequent to a Baseline Bid, the Debtors will at each round of bidding, give effect to the Bid Protections payable to any Stalking Horse Bidder, if any, under the applicable Stalking Horse Agreement, as well as any additional liabilities to be assumed by a Qualified Bidder and whether they are secured or unsecured and any additional costs that may be imposed on the Debtors. To the extent that a Leading Bid has been accepted entirely or in part because of the addition, deletion or modification of a provision or provisions in the applicable Asset Purchase Agreement, the Debtors will identify such added, deleted or modified provision or provisions and the value thereof.

3. Highest or Best Offer. After the first round of bidding and between each subsequent round of bidding, the Debtors shall announce, in consultation with the Consultation Parties, the bid that they believe to be the highest or otherwise best offer for the applicable Assets (the "Leading Bid") and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a subsequent bid with full knowledge of the Leading Bid.

The Auction may include open bidding in the presence of all other Qualified Bidders. All Qualified Bidders shall have the right to be present for all rounds of bidding and to submit additional bids and make modifications to their proposed Asset Purchase Agreement at the Auction to improve their bids; provided that such bidders comply with Section VII.B.4 herein. The Debtors may, in their reasonable business judgment, negotiate with any and all Qualified Bidders participating in the Auction.

The Debtors shall have the right to determine, in their reasonable discretion, and in consultation with the Consultation Parties, which bid is the highest or otherwise best bid with respect to the applicable Asset(s) and reject at any time, without liability, any bid that the Debtors deem to be inadequate or insufficient, not in conformity with the requirements of the Bankruptcy Code, Bankruptcy Rules or the Local Rules, these Bidding Procedures (including the Credit Bid Overbid Requirements), any order of the Court or the best interests of the Debtors and their estates.

Any Leading Bid made from time to time by a Qualified Bidder must remain open and binding on the Qualified Bidder until and unless (i) the Debtors accept a higher or otherwise better bid submitted by another Qualified Bidder during the Auction as a Leading Bid and (ii) such Leading Bid is not selected as the Backup Bid.

To the extent not previously provided (which will be determined by the Debtors), a Qualified Bidder submitting a subsequent bid must submit at the Debtors' request, as part of its subsequent bid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Debtors) demonstrating such Qualified Bidder's ability to close the transaction at the Purchase Price contemplated by such subsequent bid.

4. No Round-Skipping. To remain eligible to participate in the Auction for a particular Asset, in each round of bidding, (i) each Qualified Bidder must submit a bid in such round of bidding that is of a higher value or is a better offer than the immediately preceding bid submitted by a Qualified Bidder in such round of bidding and (ii) to the extent a Qualified Bidder fails to bid such round of bidding or to submit a bid in such round of bidding that is of a higher value or is a better offer than the immediately preceding bid submitted by a Qualified Bidder in such round of bidding, such Qualified Bidder shall be disqualified from continuing to participate in the Auction for such Asset; provided that the Debtors may opt to utilize Auction procedures other than the foregoing procedure for any round of bidding.

To the extent to the Debtors conduct multiple auctions for different subgroupings of the Assets (each, a "Sub-Auction") and a Qualified Bidder declines to participate in any specific Sub-Auction or Sub-Auctions, or any round of bidding for such specific Sub-Auctions, such Qualified Bidder shall still be permitted to offer a bid in subsequent Sub-Auctions, including bids that include assets subject to a prior Sub-Auction. This includes the right to bid on groupings of Assets that may include specific Assets which were the subject of an earlier Sub-Auction.

5. Transcription. The bidding at the Auction shall be transcribed or videotaped and the Debtors shall maintain a transcript or video of all bids made and announced at the Auction.

C. Auction Results

1. Successful Bids. Immediately prior to the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, shall (a) determine, consistent with the Bidding Procedures, which bid constitutes the highest or otherwise best bid(s) for the applicable Asset(s) (each such bid, a "Successful Bid") and (b) notify all Qualified Bidders at the Auction for the applicable Asset(s) of the identity of the bidder that submitted the

Successful Bid (each such bidder, the "Successful Bidder") for such Asset(s) and the amount of the Purchase Price and other material terms of the Successful Bid. As a condition to remaining the Successful Bidder, the Successful Bidder (other than the DIP Lender or the Pre-Petition First Lien Lender) shall wire to the Debtors in immediately available funds the Incremental Deposit Amount, calculated based on the Purchase Price of the Successful Bid, no later than one business day following the date on which the Auction Results Notification is made.

2. Backup Bids. Immediately prior to the conclusion of the Auction, the Debtors shall (a) determine, in consultation with the Consultation Parties and consistent with these Bidding Procedures, which Qualified Bid is the next highest or otherwise best Qualified Bid for the applicable Assets after the Successful Bid (each such Qualified Bid, a "Backup Bid") and (b) notify all Qualified Bidders at the Auction for the applicable Asset of the identity of the Backup Bidder and the amount of the Purchase Price and other material terms of the Backup Bid (such notification, together with the notification described in Section VII.C.1, the "Auction Results Notification"). As a condition to remaining the Backup Bidder, the Backup Bidder (other than the DIP Lender or the Pre-Petition First Lien Lender) shall wire to the Debtors in immediately available funds the Incremental Deposit Amount, calculated based on the Purchase Price of the Backup Bid, no later than one business day following the date on which the Auction Results Notification is made.

The Backup Bid remains binding on the Backup Bidder until the earlier of (a) the closing of a Sale Transaction for the applicable Assets pursuant to the Successful Bid and (b) 75 days after the date of the Sale Hearing. If the Successful Bidder for the applicable Assets fails to consummate a Sale Transaction, the Backup Bidder shall be deemed the new Successful Bidder for the applicable Assets, and the Debtors will be authorized, but not required, to consummate a Sale Transaction for the applicable Assets with the Backup Bidder.

3. No Late Bids. The Debtors shall not consider any bids submitted after the conclusion of the Auction, and any and all such bids shall be deemed untimely and shall under no circumstances constitute a Qualified Bid.

On or before one business day after the Auction, the Debtors shall file with the Court, serve on the Sale Notice Parties and cause to be published on the website maintained by the Debtors' claim and noticing agent, Prime Clerk, LLC located at <http://cases.primeclerk.com/mgusa> (the "Prime Clerk Website"), the results of the Auction, which shall include (i) a copy of the Successful Bid(s) and Backup Bid(s); and (ii) the identities of the Successful Bidder(s) and Backup Bidder(s).

As soon as reasonably practicable after the conclusion of the Auction, but no later than **March 1, 2018**, the Debtors shall file with the Court, serve on the Sale Notice Parties (as defined

in Section X.B, by email to the extent Sale Notice Parties have consented to email service and email addresses are available to the Debtors and otherwise via overnight mail, and cause to be published on the Prime Clerk Website, (i) the Notice of the Proposed Assumed Contracts; and (ii) each Successful Bidder's and Backup Bidder's proposed form of adequate assurance of future performance with respect to the relevant Proposed Assumed Contracts (the "Proposed Assumed Contracts Notice").

D. Return of Good Faith Deposit

The Good Faith Deposits of all Prospective Bidders shall be held in escrow by the Debtors in a non-interest-bearing escrow or trust account and shall not become property of the Debtors' estates. The Good Faith Deposits of all Prospective Bidders shall be retained by the Debtors, notwithstanding Court approval of any Sale Transactions for the applicable Assets, until no later than five business days after the conclusion of the Auction, except for the Good Faith Deposits of Successful Bidders and Backup Bidders; provided that, if a Stalking Horse Bidder is not the Successful Bidder, a Stalking Horse Bidder's Good Faith Deposit shall be returned to such Stalking Horse Bidder in accordance with the applicable Stalking Horse Agreement. The Debtors shall retain the Good Faith Deposits of Backup Bidders until the earlier of (i) three business days after the closing of a Sale Transaction with the Successful Bidder for the applicable Assets and (ii) 75 days after the date of the Sale Hearing.

At the closing of a Sale Transaction, the Successful Bidder will be entitled to a credit for the amount of its Good Faith Deposit. If a Successful Bidder fails to consummate a Sale Transaction because of a breach that entitles the Debtors to terminate the applicable Asset Purchase Agreement, then, the Debtors and their estates shall be entitled to retain the Good Faith Deposit of the Successful Bidder as partial compensation for the damages caused to the Debtors and their estates as a result of such breach or failure to perform. Notwithstanding the foregoing, retention and application by the Debtors of the Good Faith Deposit delivered by a Stalking Horse Bidder shall be governed by the applicable Stalking Horse Agreement.

VIII. SALE HEARING

Each Successful Bid (including any Backup Bid that is subsequently deemed a Successful Bid) will be subject to approval by the Court. The hearing to approve the Sale and any Successful Bid(s) in respect of the Assets shall take place on **March 6, 2018 at [] [a/p].m. (prevailing Eastern Time)** (the "Sale Hearing") before the Honorable Brendan L. Shannon, Chief United States Bankruptcy Judge, in the United Bankruptcy Court for the District of Delaware, located at 824 N. Market Street, Wilmington, Delaware 19801.

At the Sale Hearing, the Debtors will seek entry of order(s) (each, a "Sale Order") approving, among other things, the Sale of the applicable Assets to the Successful Bidder(s). The Sale Hearing may be adjourned or rescheduled by the Debtors. The Debtors may not consider or support any other bid to purchase Assets that are the subject of a Successful Bid pending consideration by the Court of the Successful Bid for such Assets at the Sale Hearing.

Objections to a Sale Transaction, including any objection to the sale of any Assets free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the

Bankruptcy Code to the Successful Bidder(s) and/or a Backup Bidder, as applicable, any of the relief requested in the Motion (each, a "Sale Objection"), and entry of any Sale Order must (i) be in writing and specify the nature of such objection; (ii) comply with the Bankruptcy Code, Bankruptcy Rules, Local Rules, and all orders of the Court; and (iii) be filed with the Court and served on the Objection Recipients by **February 26, 2018 at 5:00 p.m. (prevailing Eastern Time)**.

All Sale Objections not otherwise resolved by the parties prior thereto shall be heard at the Sale Hearing. The failure of any party to timely file with the Court and serve on the Objection Recipients a Sale Objection forever shall be barred from asserting, at the applicable Sale Hearing or thereafter, any objection to the relief requested in the Motion, or to the consummation and performance of the applicable Sale Transaction(s) contemplated by an applicable asset purchase agreement with a Successful Bidder, including the transfer of the Assets to the applicable Successful Bidder(s), free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code. Notwithstanding the foregoing or anything herein to the contrary, and as set forth below, the deadline to file an objection to the proposed assumption and assignment of the Proposed Assumed Contract, the subject of which objection is a Successful Bidder's proposed form of adequate assurance of future performance with respect to such contract (each, an "Adequate Assurance Objection") in connection with a proposed Sale Transaction, shall be two days prior to the applicable Sale Hearing.

The Debtors may reject at any time, before entry of an order of the Court approving the Sale, any bid that, in the Debtors' judgment, following consultation with the Consultation Parties, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bidding Procedures, or (iii) contrary to the best interests of the Debtors and their estates.

The Debtors' presentation to the Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtors' acceptance of such bid. The Debtors will have accepted a Successful Bid only when such Successful Bid has been approved by the Court at the Sale Hearing. Upon the Court's approval of a Successful Bid, the Debtors will be bound by the terms of that Successful Bid with no further opportunity for an auction or other process.

If the Successful Bidder fails to consummate the proposed transaction, a hearing to authorize the assumption and assignment of contracts to the Backup Bidder will be held before the Court on no less than five business days' notice, with objections due at least one business day prior to such hearing, unless otherwise ordered by the Court. For the avoidance of doubt, the scope of such hearing shall be limited to issues relating to the identity of the Backup Bidder such as adequate assurance of future performance, and the assignments of any Contracts to the Backup Bidder.

IX. MODIFICATION OF PROCEDURES

The Debtors may, in any manner consistent with the Debtors' fiduciary duties and applicable law, modify the rules, procedures and deadlines set forth herein (including, without limitation, extending the Final Bid Deadline, modifying the Qualified Bid Requirements,

modifying the procedures for conducting the Auction, rescheduling the Auction or adjourning the Sale Hearing) or adopt new rules, procedures and deadlines or otherwise modify these Bidding Procedures in order to, in their sole and reasonable discretion, better promote the goals of such procedures, namely, to maximize value for the estates; provided that all modifications and additional rules, procedures and deadlines may in no event permit the submission of bids after the close of the Auction; and provided, further, that the Debtors may not amend these Bidding Procedures or the bidding process to (a) reduce or otherwise modify their obligations to consult with any Consultation Party without the consent of such Consultation Party or further order of the Court, (b) reduce or otherwise modify their obligations to obtain consent from the DIP Lender or Pre-Petition First Lien Lender pursuant to these Bidding Procedures, the DIP Orders or the DIP Loan Documents (as defined in the DIP Orders), as applicable or (c) provide for any extensions of deadlines, other modifications of the Bidding Procedures or acceptance of any bid which limit the rights set out in or the protections provided to the DIP Agent, the DIP Lender and the Pre-Petition First Lien Lender as set forth in the DIP Orders, the DIP Loan Documents or the Pre-Petition First Lien Documents (each as defined in the DIP Orders), or are inconsistent with the Debtors' agreements and obligations thereunder, in each case, without the prior written consent of the Pre-Petition First Lien Lender or the DIP Agent or DIP Lender, as applicable. All such modifications and additional rules will be communicated to each of the Consultation Parties, the Sale Notice Parties, Prospective Bidders and Qualified Bidders; provided that, to the extent such modifications occur at the Auction, disclosure of such modifications is limited to those in attendance at the Auction.

X. NOTICING

A. Bid Notice Parties

Qualified Bids must be submitted in writing to (i) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill (DStogsdill@alvarezandmarsal.com)); (ii) counsel for the Debtors, (a) Jones Day, 250 Vesey Street, New York, NY 10281 (Attn: Scott J. Greenberg, Esq. (sgreenberg@jonesday.com) and Michael J. Cohen, Esq. (mcohen@jonesday.com)) and 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq. (ceblack@jonesday.com)) and (b) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura Davis Jones, Esq., (ljones@pszjlaw.com), James E. O'Neill, Esq. (jo'neill@pszjlaw.com) and Joseph M. Mulvihill, Esq. (jmulvihill@pszjlaw.com)); and (iii) the Debtors' investment banker, Rothschild Inc., 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Neil Augustine ((neil.augustine@rothschild.com), Jonathan Brownstein (Jonathan.Brownstein@Rothschild.com) and Matthew Guill (Matthew.Guill@Rothschild.com)) (the foregoing entities in clauses (i) through (iii), the "Bid Notice Parties").

B. Sale Notice and Sale Notice Parties

1. Sale Notice Parties. The "Sale Notice Parties" shall include the following: (a) the Consultation Parties, (b) any counsel to a Stalking Horse Bidder, (c) DAK Americas, LLC, (d) Macquarie Investments US Inc., (e) all persons and entities known by the Debtors to have expressed an interest to

the Debtors in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a bid for any of the Assets, as applicable, (f) all persons and entities known by the Debtors to have asserted any lien, claim, interest, or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtors), (g) all non-Debtor parties to any Contracts that are proposed to be assumed or rejected in connection with a Sale Transaction, (h) any governmental authority known to have a claim against the Debtors in these Cases, (i) the United States Attorney General, (j) the Antitrust Division of the United States Department of Justice, (k) the United States Attorney for the District of Delaware, (l) the Office of the Attorney General in each state in which the Debtors operate, (m) the Federal Trade Commission, (n) the office of the United States Trustee for the District of Delaware, (o) counsel for any official committee appointed in these Cases, (p) the Internal Revenue Service, (q) the United States Securities and Exchange Commission, (r) all of the Debtors' known creditors (for whom identifying information and addresses are known to the Debtors), (s) all parties who have filed a notice of appearance and request for service of papers in these Cases pursuant to Bankruptcy Rule 2002 and (t) all other persons and entities as directed by the Court.

2. Sale Notice. Within three days after entry of the Bidding Procedures Order, the Debtors shall file with the Court, serve on the Sale Notice Parties, and cause to be published on the Prime Clerk Website a notice (the "Sale Notice") setting forth (i) the date, time, and place of (a) the Auction and (b) Sale Hearing; and (ii) the deadline to object to the Sale and the relief requested in the Motion (the "Sale Objection Deadline").
3. Publication Notice. Within five days after entry of the Bidding Procedures Order, the Debtors shall cause the information contained in the Sale Notice to be published once in the *Wall Street Journal*, *Plastics News* and/or the *Corpus Christi Caller-Times*.

C. Sale Objections

Sale Objections (as hereinafter defined) shall be filed in accordance with these Bidding Procedures and be served on (i) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill), (ii) counsel for the Debtors, (a) Jones Day, 250 Vesey Street, New York, NY 10281 (Attn: Scott J. Greenberg, Esq. and Stacey L. Corr-Irvine, Esq.) and 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq.) and (b) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura Davis Jones, Esq., James E. O'Neill, Esq. and Joseph M. Mulvihill, Esq.), (iii) counsel for the Committee, (a) Milbank, Tweed, Hadley & McCoy LLP, 28 Liberty Street, New York, NY 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq. and Lauren C. Doyle, Esq.) and (b) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: J. Kate Stickles, Esq. and David R. Hurst, Esq.), (iv) counsel for the DIP Lender and the Pre-Petition First Lien Lender, (a) Cleary Gottlieb Steen & Hamilton

LLP (Attn: Lisa M. Schweitzer, Esq.) and (b) Young Conaway Stargatt & Taylor, LLP (Attn: Pauline K. Morgan, Esq.), (v) counsel for the Consultation Parties, (vi) counsel (if applicable) of any applicable Successful Bidder(s), (vii) counsel (if applicable) of any applicable Backup Bidder(s), (viii) counsel, if applicable, to any Stalking Horse Bidders and (ix) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Hannah Mufson McCollum, Esq.) (the foregoing entities in clauses (i) through (ix), the "Objection Recipients").

D. Assumption and Assignment

The Debtors shall provide all notices regarding the proposed assumption and assignment of contracts in accordance with the Assumption and Assignment Procedures set forth in the Bidding Procedures Order.

XI. CONSULTATION BY THE DEBTORS

The Debtors shall consult with the Consultation Parties (as defined below) as explicitly provided for in these Bidding Procedures.

The following parties will constitute the "Consultation Parties": (i) the DIP Agent and their counsel Thompson & Knight LLP, (ii) the DIP Lender and the Pre-Petition First Lien Lender and their counsel Cleary Gottlieb Steen & Hamilton LLP and Young Conaway Stargatt & Taylor, LLP and (iii) the Committee and its counsel Milbank, Tweed, Hadley & McCoy LLP and Cole Schotz P.C.

Dated: _____, 2017
Wilmington, Delaware

PACHULSKI STANG ZIEHL & JONES LLP

Laura Davis Jones (DE Bar No. 2436)
James E. O'Neill (DE Bar No. 4042)
Joseph M. Mulvihill (DE Bar No. 6061)
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and

JONES DAY
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Stacey L. Corr-Irvine
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and

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*[Proposed] Co-Counsel for the Debtors
and Debtors in Possession*

Exhibit 2

Assumption and Assignment Notice

permitted encumbrances as determined by the Debtors and any purchaser of the Assets, and subject to any defenses or claims of the Debtors with respect thereto, with liens to attach to the proceeds of such sale(s) and (ii) the assumption and assignment of the Proposed Assumed Contracts; and (c) granting related relief, all pursuant to sections 105(a), 363 and 365 of title 11 of the U.S. Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure, and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

2. On _____, 2017, the Court entered the Bidding Procedures Order [Docket No. ___] approving, in part, the relief requested in the Motion.

3. **The Sale Hearing will take place on March 6, 2018 at [_:_] [a/p].m. (prevailing Eastern Time)** before the Honorable Brendan L. Shannon, Chief United States Bankruptcy Judge, in the United States Bankruptcy Court of the District of Delaware, located at 824 N. Market Street, Wilmington, Delaware 19801. The Debtors' presentation to the Court for approval of one or more highest or best bid(s) resulting from the Auction (each a "Successful Bid") does not constitute the Debtors' acceptance of such bid. The Debtors will have accepted the terms of a Successful Bid only when such bid has been approved by the Court pursuant to a Sale Order.

4. Pursuant to the Bidding Procedures Order, the Debtors file this Assumption and Assignment Notice to notify Counterparties whose Contracts may be assumed in connection with a Sale Transaction. In accordance with the Assumption and Assignment Procedures set forth in the Motion and the Bidding Procedures Order, the Debtors may seek to assume and assign to one or more Successful Bidders (as defined in the Bidding Procedures) certain Contracts of the Debtors. The Contracts that the Debtors believe may be subject to assumption and assignment in relation to a Sale Transaction are identified on Schedule 1 attached hereto. The Cure Costs, if any, that the Debtors believe are required to be paid to the applicable Counterparty to cure any monetary defaults under each Contract pursuant to sections 365(b)(1)(A) and (B) of the Bankruptcy Code is set forth on the Schedule 1.

5. Any Counterparty that wishes to object to the proposed assumption, assignment and sale of a Contract listed herein, the subject of which objection is the Debtors' proposed Cure Costs to cure any outstanding monetary defaults then existing under such Contract (each, a "Cure Objection") shall file with the Court and serve its Cure Objection on (a) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill); (b) counsel for the Debtors, (i) Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq.) and 250 Vesey Street, New York, NY 10281 (Attn: Scott J. Greenberg, Esq. and Michael J. Cohen, Esq.); and (ii) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura Davis Jones, Esq., James E. O'Neill, Esq., and Joseph M. Mulvihill, Esq.); (c) counsel for the official committee of unsecured creditors appointed in these chapter 11 cases (1) Milbank, Tweed, Hadley & McCoy LLP, 28 Liberty Street, New York, NY 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq. and Lauren C. Doyle, Esq.) and (2) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: J. Kate Stickles, Esq. and David R. Hurst, Esq.); (d) counsel for Control Empresarial de Capitales, S.A. De C.V. and Banco

Inbursa, S.A., Institución de Banca Múltiple, Grupo Financiero Inbursa, (i) Cleary Gottlieb Steen & Hamilton LLP, 1 Liberty Plaza, New York, NY 10006 (Attn: Lisa M. Schweitzer, Esq.) and (ii) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Pauline K. Morgan, Esq.); (e) counsel to Trimont Real Estate Advisors, LLC, Thompson & Knight LLP, 900 Third Avenue, 20th floor, New York, NY 10022 (Attn: Michael V. Blumenthal, Esq.); (f) counsel to DAK Americas LLC, (i) Weil Gotshal & Manges LLP, 700 Louisiana, Suite 1700, Houston, Texas, 77002 (Attn: Alfredo R. Perez, Esq.) and (ii) Morris, Nichols, Arsht and Tunnell LLP, 1201 North Market Street, 16th Floor, Wilmington, Delaware 19899 (Attn: Curtis S. Miller, Esq.); (g) counsel (if applicable) of any Stalking Horse Bidder(s); (h) counsel (if applicable) of any applicable Successful Bidder(s); (i) counsel (if applicable) of any Backup Bidder(s) (as defined in the Bidding Procedures); and (j) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Hannah McCollum, Esq.) (collectively, the "Objection Recipients") **no later than 5:00 p.m. (prevailing Eastern Time) on the date that is 14 days from the service of this Assumption and Assignment Notice, _____, 2017 (the "Cure Objection Deadline").** Any Cure Objection must state, with specificity, the legal and factual bases therefor, including any appropriate documentation in support thereof.

6. The Bidding Procedures Order requires that the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), and a Counterparty that has filed a Cure Objection first confer in good faith to attempt to resolve the Cure Objection without Court intervention. If the parties are unable to consensually resolve the Cure Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the applicable Cure Costs and Cure Objections at a hearing scheduled pursuant to the following paragraph. If a Cure Objection is resolved in a manner that is not in the best interests of the Debtors and their estates, whether or not such resolved Cure Objection occurs prior to or after the closing of the applicable Sale Transaction, the Debtors may determine that any Proposed Assumed Contract subject to such resolved Cure Objection will no longer be assumed and assigned pursuant to the applicable Sale Transaction (subject to the terms of the applicable Sale Transaction). All other objections to the proposed assumption and assignment of the Debtors' right, title, and interest in, to, and under a Contract, if it is ultimately designated a Proposed Assumed Contract, will be heard at the Sale Hearing.

7. If a timely filed Cure Objection cannot otherwise be resolved by the parties, such objection may be heard by the Court at the Sale Hearing or subsequent to the Sale Hearing (an "Adjourned Cure Objection"); provided that the determination of whether a Cure Objection may be heard at the Sale Hearing is in the Debtors' and the Court's discretion. An Adjourned Cure Objection may be resolved after the closing date of the applicable Sale Transaction(s); provided that, the Sale Transaction provides for the establishment of a cash reserve equal to the cure amount the objecting Counterparty reasonably believes is required to cure the asserted monetary default under the applicable Proposed Assumed Contract (or as otherwise may be provided under the applicable Sale Transaction agreement or as so ordered by the Court). Upon resolution of an Adjourned Cure Objection and the payment of the applicable cure amount, if any, the applicable Proposed Assumed Contract that was the subject of such Adjourned Cure Objection shall be deemed assumed and assigned to the applicable Successful Bidder, as of the closing date of the applicable Sale Transaction(s).

8. **If a Counterparty fails to timely file with the Court and serve on the Objection Recipients a Cure Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract and the adequate assurance of future performance in connection therewith (unless such Counterparty has timely filed an Adequate Assurance Objection (as defined below) with respect to the Proposed Assumed Contract) to the applicable Successful Bidder and forever shall be barred from asserting any objection with regard to such assumption and assignment or the adequate assurance of future performance in connection therewith. The Cure Costs set forth in the Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Proposed Assumed Contract under section 365(b) of the Bankruptcy Code, notwithstanding anything to the contrary in any Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.**

9. In the event that the Debtors identify any Counterparties that were not served with this Assumption and Assignment Notice, the Debtors may subsequently serve such Counterparty with an Assumption and Assignment Notice, and the following procedures will nevertheless apply to such Counterparty; provided, however, that the deadline to file a Cure Objection with respect to such Counterparty shall be **5:00 p.m. (prevailing Eastern Time) on the date that is seven days following service of such modified Assumption and Assignment Notice.**

10. As soon as reasonably practicable after the conclusion of the Auction, but no later than **March 1, 2018**, the Debtors shall file with the Court, serve on the Sale Notice Parties (as defined in the Bidding Procedures), including each applicable Counterparty, and cause to be published on the Prime Clerk Website (as defined below) a list of the Proposed Assumed Contracts that the Debtors will seek to assume and assign pursuant to a Stalking Horse Agreement, if any, or one or more Asset Purchase Agreements submitted by a Successful Bidder (as defined in the Bidding Procedures) (such notice, a "Proposed Assumed Contracts Notice"). Any Counterparty to a Contract that is identified as a Proposed Assumed Contract that wishes to object to the proposed assumption, assignment and sale of the Proposed Assumed Contract, the subject of which objection is a Successful Bidder's proposed form of adequate assurance of future performance with respect to such contract (each, an "Adequate Assurance Objection"), shall file with the Court and serve on the Objection Recipients an Adequate Assurance Objection, which must state, with specificity, the legal and factual bases therefor, including any appropriate documentation in support thereof, by no later than **March 2, 2018, at noon (prevailing Eastern Time)** (the "Adequate Assurance Objection Deadline").

11. The Bidding Procedures Order requires that the Debtors and a Counterparty that has filed an Adequate Assurance Objection first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, such objection and all issues of adequate assurance of future performance of the applicable Successful Bidder shall be determined by the Court at the Sale Hearing.

12. **If a Counterparty fails to timely file with the Court and serve on the Objection Recipients an Adequate Assurance Objection, the Counterparty shall be deemed to have consented to the assumption and assignment of the Proposed Assumed Contract (unless the Counterparty has filed a timely Cure Objection with respect to the Proposed Assumed Contract) and adequate assurance of future performance in connection therewith to the applicable Successful Bidder and forever shall be barred from asserting any objection with regard to such assumption and assignment or adequate assurance of future performance in connection therewith. The applicable Successful Bidder shall be deemed to have provided adequate assurance of future performance with respect to the applicable Proposed Assumed Contract in accordance with section 365(f)(2)(B) of the Bankruptcy Code, notwithstanding anything to the contrary in the Proposed Assumed Contract, or any other document, and the Counterparty to the Proposed Assumed Contract shall be deemed to have consented to the Cure Costs and forever shall be barred from asserting any other claims related to such Proposed Assumed Contract against the Debtors or any Successful Bidder(s) or their respective property.**

13. The inclusion of a Contract or other document or Cure Costs on Schedule 1 of this Assumption and Assignment Notice or on any subsequently filed Proposed Assumed Contracts Notice (collectively, the "Contract Notices") shall not constitute or be deemed a determination or admission by the Debtors, the applicable Successful Bidder(s), or any other party in interest that such Contract or other document is an executory contract or an unexpired lease within the meaning of the Bankruptcy Code or that the stated Cure Costs are due (all rights with respect thereto being expressly reserved). The Debtors reserve all of their rights, claims, and causes of action with respect to each Contract or other document listed on the Contract Notices. **The Debtors' inclusion of any Contract on the Contract Notices shall not be a guarantee that such contract ultimately will be assumed or assumed and assigned.** The Contract Notices shall be without prejudice to each Successful Bidder's rights, if any, under the applicable Asset Purchase Agreement, to subsequently exclude Proposed Assumed Contracts from the assumption or assignment prior to the closing of an applicable Sale Transaction(s).

14. The Debtors fully reserve the right to amend, modify or supplement the Contract Notices (each, an "Amended Contract Notice"); provided that the deadline for any Counterparty that is added to an Amended Contract Notice or whose Cure Cost under a Contract is reduced to file (a) a Cure Objection shall be **5:00 p.m. (prevailing Eastern Time) on the date that is seven days** following service of the Amended Contract Notice; and (b) an Adequate Assurance Objection by the earlier **of one business day following the service of the Amended Contract Notice or the date of the Sale Hearing**; provided, however, that if the earlier date is the Sale Hearing, the Counterparty need not file a written Adequate Assurance Objection and may instead make its Adequate Assurance Objection on the record at the Sale Hearing.

15. The Debtors' assumption and/or assignment of a Contract is subject to approval by the Court and consummation of one or more Sale Transactions. Absent consummation of one or more Sale Transactions and entry of a Sale Orders approving the assumption and/or assignment of the Contracts, the Contracts shall be deemed neither assumed nor assigned, and shall in all respects be subject to subsequent assumption or rejection by the Debtors.

16. Copies of the Motion, the Bidding Procedures Order and the Bidding Procedures may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent and administrative advisor, Prime Clerk LLC (<http://cases.primeclerk.com/mgusa>) (the "Prime Clerk Website"). Copies of these documents are also available for inspection during regular business hours at the Office of the Clerk of the Court, located at 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, and may be viewed for a fee on the internet at the Court's website (<http://www.deb.uscourts.gov/>) by following the directions for accessing the ECF system on such website.

Dated: _____, 2017
Wilmington, Delaware

PACHULSKI STANG ZIEHL & JONES LLP

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James E. O'Neill (DE Bar No. 4042)
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and

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and

Carl E. Black
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Email: ceblack@jonesday.com

*Proposed Co-Counsel for the Debtors
and Debtors in Possession*

Schedule 1

Counterparty	Counterparty Address	Title/Description of Contract	Cure Cost

Exhibit 3

Sale Notice

assumption and assignment of the Proposed Assumed Contracts; and (c) granting related relief, all pursuant to sections 105(a), 363 and 365 of title 11 of the U.S. Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

2. On _____, the Court entered the Bidding Procedures Order [Docket No. _].

3. Pursuant to the Bidding Procedures Order, prospective interested parties will be required to submit a Proposal (as defined in the Bidding Procedures) for the relevant Assets at any time, but by no later than **January 16, 2018 at 5:00 p.m. (prevailing Eastern Time)** (the "Proposal Deadline") to the following parties: to (a) the Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill) (DStogsdill@alvarezandmarsal.com); (b) counsel for the Debtors, (i) Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq. (ceblack@jonesday.com)) and 250 Vesey Street, New York, NY 10281 (Attn: Scott J. Greenberg, Esq. (sgreenberg@jonesday.com) and Michael J. Cohen, Esq. (mcohen@jonesday.com)) and (ii) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura Davis Jones, Esq., (ljones@pszjlaw.com), James E. O'Neill, Esq. (joneill@pszjlaw.com) and Joseph M. Mulvihill, Esq. (jmulvihill@pszjlaw.com)); (c) the Debtors' investment banker, Rothschild Inc., 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Neil Augustine (neil.augustine@rothschild.com), Jonathan Brownstein (jonathan.brownstein@rothschild.com) and Matthew Guill (matthew.guill@rothschild.com)) (the foregoing clauses (a) through (c), the "Bid Notice Parties").

4. Pursuant to the Bidding Procedures Order, the Debtors are authorized, as they may deem necessary and appropriate in the prudent exercise of their business judgment, to enter into any Stalking Horse Agreement(s) in connection with the proposed sale of the Assets and to provide Bid Protections to any Stalking Horse Bidder therein; provided that the Debtors shall file a motion (each, a "Stalking Horse Motion") seeking approval of any such Stalking Horse Agreement, including any Bid Protections provided therein. Subject to the Court's determination, but no earlier than ten days after filing a Stalking Horse Motion and no later than the Sale Hearing, the Debtors are authorized to seek approval from the Court, on an expedited basis if necessary, of such Stalking Horse Agreement(s) and any Bid Protections contained therein, in accordance with Rule 6004-1 of the Local Rules.

5. Any Prospective Bidder (as defined in the Bidding Procedures) that intends to participate in the Auction must submit its final, binding bid (a "Final Bid") on or before **February 23, 2018 at 11:59 p.m. (prevailing Eastern Time)** (the "Final Bid Deadline").

6. If the Debtors receive more than one timely Qualified Bid (as defined in the Bidding Procedures) for the same Assets by the Final Bid Deadline, the Debtors will conduct an Auction at the offices of Jones Day, 250 Vesey Street, New York, New York 10281 on **February 28, 2018, at _: __ [a.m./p.m.] (prevailing Eastern Time)**, or at such other time and

location as designated by the Debtors; provided that the Auction shall not be rescheduled for a date that is beyond the outside date or milestone for the Auction set forth in the DIP Orders.²

7. If the Debtors receive no more than one Qualified Bid (including any Stalking Horse Bid(s) or Credit Bid by the DIP Agent, DIP Lender and/or Pre-Petition First Lien Lender (each, as defined in the Bidding Procedures)) with respect to any of the Assets, the Debtors may determine, in their reasonable discretion, not to hold the Auction for such Assets and instead declare such Qualified Bid as the Successful Bid on such Assets and request at the Sale Hearing that the Court approve the applicable Asset Purchase Agreement with the applicable Successful Bidder (including any Stalking Horse Agreement(s) with the applicable Stalking Horse Bidder(s)).

8. Objections to the Sale Transaction(s) (each, a "Sale Objection"), including any objection to the sale of any Assets free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code, to the Successful Bidder and/or a Backup Bidder, as applicable, and entry of any sale order (other than Adequate Assurance Objections (as defined below)) must (a) be in writing and specify the nature of such objection; (b) comply with the Bankruptcy Code, Bankruptcy Rules, Local Rules and all orders of the Court; and (c) be filed with the Court and served on: (i) Debtors, M&G USA Corporation, 450 Gears Road, Suite 240, Houston, Texas 77067 (Attn: Dennis Stogsdill); (ii) counsel for the Debtors, (1) Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 (Attn: Carl E. Black, Esq.) and 250 Vesey Street, New York, NY 10281 (Attn: Scott J. Greenberg, Esq. and Michael J. Cohen, Esq.); and (2) Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Attn: Laura Davis Jones, Esq., James E. O'Neill, Esq., and Joseph M. Mulvihill, Esq.); (iii) counsel for the official committee of unsecured creditors appointed in the Cases (1) Milbank, Tweed, Hadley & McCoy LLP, 28 Liberty Street, New York, NY 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq. and Lauren C. Doyle, Esq.) and (2) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: J. Kate Stickles, Esq. and David R. Hurst, Esq.); (iv) counsel for Control Empresarial de Capitales, S.A. De C.V. and Banco Inbursa, S.A., Institución de Banca Múltiple, Grupo Financiero Inbursa, (1) Cleary Gottlieb Steen & Hamilton LLP, 1 Liberty Plaza, New York, NY 10006 (Attn: Lisa M. Schweitzer, Esq.) and (2) Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Pauline K. Morgan, Esq.); (v) counsel to Trimont Real

² The "DIP Orders" means the (i) *Interim Order Granting Debtors' Motion to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 104, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief* [Docket No. 62] and (ii) final order approving the *Motion for Entry of Interim and Final Orders to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief*, [Docket No. 14].

Estate Advisors, LLC, Thompson & Knight LLP, 900 Third Avenue, 20th floor, New York, NY 10022 (Attn: Michael V. Blumenthal, Esq.); (vi) counsel to DAK Americas LLC, (1) Weil Gotshal & Manges LLP, 700 Louisiana, Suite 1700, Houston, Texas, 77002 (Attn: Alfredo R. Perez, Esq.) and (2) Morris, Nichols, Arsht and Tunnell LLP, 1201 North Market Street, 16th Floor, Wilmington, Delaware 19899 (Attn: Curtis S. Miller, Esq.); (vii) counsel (if applicable) of any Stalking Horse Bidder(s); (viii) counsel (if applicable) of any Successful Bidder(s); (ix) counsel (if applicable) of any Backup Bidder(s); and (x) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Hannah McCollum, Esq.) (collectively, the "Objection Recipients") by **February 26, 2018 at 5:00 p.m. (prevailing Eastern Time)** (the "Sale Objection Deadline").

9. All Sale Objections not otherwise resolved by the parties prior thereto shall be heard at the Sale Hearing. **THE FAILURE OF ANY PARTY TO TIMELY FILE WITH THE COURT AND SERVE ON THE OBJECTION RECIPIENTS A SALE OBJECTION FOREVER SHALL BE BARRED FROM ASSERTING, AT THE APPLICABLE SALE HEARING OR THEREAFTER, ANY OBJECTION TO THE RELIEF REQUESTED IN THE MOTION, OR TO THE CONSUMMATION AND PERFORMANCE OF THE APPLICABLE SALE TRANSACTION(S) CONTEMPLATED BY AN APPLICABLE ASSET PURCHASE AGREEMENT WITH A SUCCESSFUL BIDDER, INCLUDING THE TRANSFER OF THE ASSETS TO THE APPLICABLE SUCCESSFUL BIDDER(S), FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES PURSUANT TO SECTION 363(F) OF THE BANKRUPTCY CODE.** Notwithstanding the foregoing or anything herein to the contrary, and as set forth below, the deadline to file an Adequate Assurance Objection in connection with a proposed Sale Transaction shall be two days prior to the applicable Sale Hearing.

10. The Sale Hearing will take place on **March 6, 2018 at _ : _ [a.m./p.m.] (prevailing Eastern Time)**, before the Honorable Brendan L. Shannon, Chief United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 N. Market Street, Wilmington, Delaware 19801. The Debtors' presentation to the Court for approval of a Successful Bid does not constitute the Debtors' acceptance of such bid. The Debtors will have accepted the terms of a Successful Bid only when such bid has been approved by the Court pursuant to a Sale Order.

11. To the extent set forth in the Bidding Procedures, the Debtors reserve the right to, in their reasonable discretion, modify the Bidding Procedures at any time, including, without limitation, to extend deadlines and proposed dates set forth therein, including extending the Final Bid Deadline, modifying the date of the Auction and adjourning and/or rescheduling the Sale Hearing. This Notice is subject to the full terms and conditions set forth in the Bidding Procedures Order and the Bidding Procedures; provided that the Debtors may not amend the Bidding Procedures or the bidding process to (a) reduce or otherwise modify their obligations to consult with any Consultation Party (as defined in the Bidding Procedures) without the consent of such Consultation Party or further Court Order, (b) reduce or otherwise modify their obligations to obtain consent from the DIP Lender or the Pre-Petition First Lien Lender, as applicable or (c) provide for any extensions of deadlines, other modifications of the Bidding Procedures or acceptance of any bid which limit the rights set out in or the protections provided to the DIP Agent, the DIP Lender and the Pre-Petition First Lien Lender as set forth in the DIP

Orders, the DIP Loan Documents or the Pre-Petition First Lien Documents, or are inconsistent with the Debtors' agreements and obligations thereunder, in each case without the prior written consent of the Pre-Petition First Lien Lender or the DIP Agent or the DIP Lender, as applicable.

12. Parties interested in receiving additional information, including, with regard to the Sale, the Assets, the Auction or the Bidding Procedures may make requests to the Debtors' investment banker, Rothschild Inc., 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020 (Attn: Neil Augustine (neil.augustine@rothschild.com), Jonathan Brownstein (jonathan.brownstein@rothschild.com) and Matthew Guill (matthew.guill@rothschild.com)).

13. Copies of the Motion, the Bidding Procedures Order and the Bidding Procedures may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent and administrative advisor, Prime Clerk LLC (<http://cases.primeclerk.com/mgusa>). Copies of these documents are also available for inspection during regular business hours at the Office of the Clerk of the Court, located at 824 N. Market Street, 3rd Floor, Wilmington, DE 19801, and may be viewed for a fee on the internet at the Court's website (<http://www.deb.uscourts.gov/>) by following the directions for accessing the ECF system on such website.

Dated: _____, 2017
Wilmington, Delaware

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*Proposed Co-Counsel for the Debtors
and Debtors in Possession*

Exhibit B

Proposed Sale Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
M & G USA CORPORATION, <i>et al.</i> , ¹	:	Case No. 17-12307 (BLS)
	:	
Debtors.	:	(Jointly Administered)
	:	

ORDER (I) APPROVING THE SALE OF CERTAIN ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION THEREWITH; AND (III) GRANTING RELATED RELIEF

This Court having considered the *Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Purchase Agreements and to Provide Bid Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures; and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related*

¹ The Debtors are the following twelve entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): M & G USA Corporation (3449), M & G Resins USA, LLC (3236), M & G Polymers USA, LLC (7593), M & G Finance Corporation (4230), M&G Waters USA, LLC (2195), Mossi & Ghisolfi International S.à r.l. (1270), M&G Chemicals S.A. (N/A), M&G Capital S.à r.l. (7812), M & G USA Holding, LLC (3451), Chemtex International Inc. (7695), Chemtex Far East, Ltd. (2062) and Indo American Investments, Inc. (9208). The Debtors' noticing address in these chapter 11 cases is 450 Gears Road, Suite 240, Houston, Texas 77067.

Relief (the "Motion") [Docket No. ___],² filed by the above-captioned debtors and debtors in possession (the "Debtors") and upon the *Declaration of Dennis Stogsdill in Support of First Day Pleadings* [Docket No. 3] (the "First Day Declaration") and upon the *Declaration of Neil Augustine in Support of Debtors' Sale and Bidding Procedures Motion* [Docket No. ___, Ex. [C]] (the "Augustine Declaration"); [and upon the *Supplemental Declaration of Neil Augustine in Further Support of the Debtors' Sale Motion* [Docket No. ___] (the "Supplemental Augustine Declaration");] and upon the *Order (I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Purchase Agreements, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (II) Granting Related Relief* [Docket No. [___]] (the "Bidding Procedures Order"); and an auction (the "Auction") having been held on _____ in accordance with the Bidding Procedures Order; and the Debtors having filed the *Notice of Designation of Successful Bid and Backup Bid for the Assets* on _____ [Docket No. ___], designating _____ (the "Purchaser") as the Successful Bidder for the Assets [comprised of _____] pursuant to the Asset Purchase Agreement dated _____ (the "Purchase Agreement") between certain of the Debtors and the Purchaser, which Purchase Agreement is attached hereto as Exhibit 1; and the Sale Hearing having been held on _____ to consider the remaining relief requested in the Motion and approval of the Purchase Agreement; and appearances of all interested parties having been noted on the record of the Sale Hearing; and upon all of the proceedings had before this Court (including the

² Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

testimony and other evidence proffered or adduced at the Sale Hearing); and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest; and it appearing that proper and adequate notice of the Motion has been given under the circumstances and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. Jurisdiction: This Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1134. Approval of the Debtors' entry into the Purchase Agreement and the transactions contemplated thereby (the "Sale Transaction") is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (D), (N) and (O).

B. Venue: Venue of these Cases in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409(a).

C. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

D. Statutory Predicates: The statutory predicates for the approval of the Purchase Agreement and Sale Transaction contemplated thereby are sections 105, 363 and 365 of the Bankruptcy Code, Rules 2002, 6004 and 9014 of the Bankruptcy Rules, and Local Rule 6004-1.

³ The findings of fact and the conclusions of law stated herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

E. Notice: Proper, timely, adequate and sufficient notice of the Motion and the Sale Hearing has been provided in accordance with sections 102(1), 105(a), and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001 and 6004, and in compliance with the Local Rules and Bidding Procedures Order, including to the Notice Parties (as defined below) and more broadly by publication as set forth in the *Affidavit of Publication* [Docket No. ___] on _____. The foregoing notice was good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Sale Hearing, the Purchase Agreement or the Sale Transaction is required. The disclosures made by the Debtors concerning the Purchase Agreement, the Sale Transaction and the Sale Hearing were sufficient, complete and adequate.

F. Opportunity to be Heard: A reasonable opportunity to object or be heard regarding the relief requested in the Motion and the Sale Transaction has been afforded to all interested persons and entities, including the following: (i) Cleary Gottlieb Steen & Hamilton LLP and Young Conaway Stargatt & Taylor, LLP, as counsel to Banco Inbursa, S.A., Institución de Banca Múltiple, Grupo and Control Empresarial de Capitales, S.A. De C.V.; (ii) Thompson & Knight LLP, as counsel to Trimont Real Estate Advisors, LLC; (iii) Weil Gotshal & Manges LLP and Morris, Nichols, Arsht & Tunnell LLP, as counsel to DAK Americas, LLC; (iv) Sidley Austin LLP and Ashby & Geddes, P.A., as counsel to Macquarie Investments US Inc.; (v) counsel for the Committee; (vi) counsel for the Successful Bidder in accordance with the Purchase Agreement; (vii) all persons and entities known by the Debtors to have expressed an interest to the Debtors in any Sale Transaction involving any of the Assets during the past twelve (12) months, including any person or entity that has submitted a bid for any of the Assets, as applicable; (viii) all persons and entities known by the Debtors to

have asserted any lien, claim, interest, or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtors); (ix) all non-Debtor parties to any executory contracts or unexpired leases of the Debtors (collectively, the "Contracts") that are proposed to be assumed or rejected in connection with any Sale Transaction; (x) any governmental authority known to have a claim against the Debtors in the Cases; (xi) the United States Attorney General; (xii) the Antitrust Division of the United States Department of Justice; (xiii) the United States Attorney for the District of Delaware; (xiv) the Office of the Attorney General in each state in which the Debtors operate; (xv) the Federal Trade Commission; (xvi) the Office of the United States Trustee for the District of Delaware; (xvii) the Internal Revenue Service; (xviii) the United States Securities and Exchange Commission; (xix) all of the Debtors' known creditors (for whom identifying information and addresses are known to the Debtors); (xx) all parties who have filed a notice of appearance and request for service of papers in the Cases pursuant to Bankruptcy Rule 2002; and (xxi) all other persons and entities as directed by the Bankruptcy Court (the parties listed in (i) through (xxi) collectively, the "Notice Parties"). Objections, if any, to the Motion have been withdrawn or resolved and, to the extent not withdrawn or resolved, are hereby overruled.

G. Marketing Process: As demonstrated by (i) the First Day Declaration, the Augustine Declaration [and the Supplemental Augustine Declaration], (ii) the testimony and other evidence proffered or adduced at the hearing with respect to the approval of the bidding procedures held on December 11, 2017 at 1:00 p.m. (prevailing Eastern Time) (the "Bidding Procedures Hearing") and the Sale Hearing and (iii) the representations of counsel made on the record at the Bidding Procedures Hearing and the Sale Hearing, the Debtors and their advisors thoroughly marketed the Assets and conducted the marketing and sale process as set forth in

and in accordance with the Motion and the Bidding Procedures Order. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective purchasers have been afforded a reasonable and fair opportunity to bid for the assets.

H. Compliance with Bidding Procedures: The Debtors conducted a fair and open sale process in a manner reasonably calculated to produce the highest or otherwise best offer for the Assets in compliance with the Bidding Procedures Order. The sale process and the Bidding Procedures were non-collusive, substantively and procedurally fair to all parties and to each person or entity that desired to participate in the Auction and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer for the assets. The Bidding Procedures have been complied with in all material respects by the Debtors and the Purchaser.

I. Highest and Best Offer: After the conclusion of the Auction held on _____ and in accordance with the Bidding Procedures, the Debtors determined in a valid and sound exercise of their business judgment that the highest and best Qualified Bid for the Assets was that of the Purchaser as increased as a result of the Auction. The consideration provided by the Purchaser for the Assets provides fair and reasonable consideration to the Debtors for the sale of the Assets and the assumption of all Assumed Liabilities (as defined and limited in the Purchase Agreement), and the performance of the other covenants set forth in the Purchase Agreement will provide a greater recovery for Debtors' estates than would have been provided by any other available alternative.

J. [Stalking Horse Agreement]: On _____, the Court entered an order authorizing [certain of the Debtors] to enter into that certain Asset Purchase Agreement dated [_____] among such Debtors and [the Stalking Horse Bidder] (as may be amended,

modified or restated from time to time in accordance with the terms hereof and thereof, the "Stalking Horse Agreement"). In accordance with the Bidding Procedures Order and Bidding Procedures, the Stalking Horse Agreement was deemed a Qualified Bid and the Stalking Horse Bidder was eligible to participate in the Auction.]

K. Court Approval Required. Entry of an order approving and authorizing the Debtors' entry into the Purchase Agreement and the Debtors' performance of all the provisions thereof is a necessary condition precedent to the Purchaser's consummation of the Sale Transaction.

L. Business Judgment: The Debtors' decisions to (i) enter into the Purchase Agreement, and (ii) perform under and make payments, if any, required by such Purchase Agreement, constitute reasonable exercises of the Debtors' sound business judgment consistent with their fiduciary duties and is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest. Good and sufficient reasons for the approval of the Purchase Agreement have been articulated by the Debtors. The Debtors have demonstrated compelling circumstances for the Sale Transaction outside: (i) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code and (ii) a plan of reorganization, in that, among other things, the immediate consummation of the Sale Transaction is necessary and appropriate to preserve and maximize the value of the Debtors' estates. To maximize the value of the Assets and preserve the viability of the business to which the Assets relate, it is essential that the Sale Transaction occur promptly.

M. Time is of the Essence: Time is of the essence to implement the Purchase Agreement and to consummate the Sale Transaction contemplated thereby without interruption. Based on the record of the Sale Hearing, and for the reasons stated on the record at the Sale

Hearing and in the First Day Declaration, the Augustine Declaration [and the Supplemental Augustine Declaration], the Sale Transaction contemplated by the Purchase Agreement must be consummated as soon as possible following entry of this Sale Order, and in any event by the later of (i) March 20, 2018, and (ii) 5 calendar days after all necessary and regulatory approvals are completed, to maximize the value that the Purchaser may realize from the Sale Transaction, and the value that the Debtors may realize from entering into the Purchase Agreement. Accordingly, cause exists to lift the stay to the extent necessary, as contemplated by Bankruptcy Rules 4001(a) and 6004(h), and permit the immediate effectiveness of this Sale Order.

N. Sale Free and Clear: Except for liabilities assumed by the Purchaser pursuant to the Purchase Agreement, a sale of the Assets other than one free and clear of liens, defenses (including rights of setoff and recoupment) and interests, including security interests of whatever kind or nature, mortgages, conditional sales or title retention agreements, pledges, deeds of trust, hypothecations, liens, encumbrances, assignments, preferences, debts, easements, charges, suits, licenses, options, rights-of-recovery, judgments, orders and decrees of any court or foreign or domestic governmental entity, taxes (including foreign, state and local taxes), licenses, covenants, restrictions, indentures, instruments, leases, options, off-sets, claims for reimbursement, contribution, indemnity or exoneration, successor, product, environmental, tax, labor, Employee Retirement Income Security Act of 1974 ("ERISA"), Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"), alter ego and other liabilities, causes of action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature (including all "claims" as defined in section 101(5) of the Bankruptcy Code), known or unknown, whether prepetition or

postpetition, secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, statutory or non-statutory, matured or unmatured, legal or equitable, including any and all such liabilities, causes of action, contract rights and claims arising out of Debtors' continued operations following the Closing Date (as defined in the Purchase Agreement), (collectively, "Encumbrances") and without the protections of this Sale Order would hinder the Debtors' ability to obtain the consideration provided for in the Purchase Agreement and, thus, would impact materially and adversely the value that the Debtors' estates would be able to obtain for the sale of such Assets. But for the protections afforded to the Purchaser under the Bankruptcy Code and this Sale Order, the Purchaser would not have offered to pay the consideration contemplated in the Purchase Agreement. In addition, each entity with an Encumbrance upon the Assets, (i) has consented to the Sale Transaction or is deemed to have consented to the Sale Transaction, (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such interest, or (iii) otherwise falls within the provisions of section 363(f) of the Bankruptcy Code, and therefore, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. All holders of Encumbrances are adequately protected—thus satisfying section 363(e) of the Bankruptcy Code—by having their Encumbrances, if any, attach to the proceeds of the Sale Transaction, in the same order of priority and with the same validity, force and effect that such Encumbrances had before the Sale Transaction, subject to any rights, claims and defenses of

the Debtors or their estates, as applicable, or as otherwise provided herein. Therefore, approval of the Purchase Agreement and the consummation of the Sale Transaction free and clear of Encumbrances is appropriate pursuant to section 363(f) of the Bankruptcy Code and is in the best interests of the Debtors' estates, their creditors and other parties in interest.

O. The recitation, in the immediately preceding paragraph of this Sale Order, of specific agreements, plans or statutes is not intended, and shall not be construed, to limit the generality of the categories of liabilities, debts, commitments or obligations referred to as "Encumbrances" therein.

P. In addition to the foregoing, the Court finds and concludes that the Assets may be sold to the Purchaser free and clear of any mechanics' liens on the Assets.

Q. The Purchaser would not have entered into the Purchase Agreement and would not consummate the sale of Assets, thus adversely affecting the Debtors, their estates, creditors, employees and other parties in interest, if such sale was not free and clear of all Encumbrances (other than Permitted Encumbrances and Assumed Liabilities (each as defined in the Purchase Agreement)). A sale of the Assets, other than one free and clear of all Encumbrances, would yield substantially less value for the Debtors' estates, with less certainty than the Sale Transaction.

R. Arms'-length Sale: The consideration to be paid by the Purchaser under the Purchase Agreement was negotiated at arm's-length and constitutes reasonably equivalent value and fair and adequate consideration for the Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, the Uniform Voidable Transactions Act, and the laws of the United States, any state, territory, possession thereof or the District of Columbia. The terms and conditions set forth in the Purchase

Agreement are fair and reasonable under these circumstances and were not entered into with the intent to nor for the purpose of, nor do they have the effect of, hindering, delaying or defrauding the Debtors or their creditors under any applicable laws. None of the Debtors or the Purchaser is entering into the Purchase Agreement or proposing to consummate the Sale Transaction fraudulently, for the purpose of statutory or common law fraudulent conveyance or fraudulent transfer claims, whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction.

S. Good Faith: The Debtors, their management and their boards of directors or equivalent governing bodies and the Purchaser and its officers, directors, employees, agents and representatives actively participated in the bidding process and respectively acted in good faith. The Purchase Agreement between the Purchaser and the Debtors was negotiated and entered into based upon arm's-length bargaining, without collusion or fraud, and in good faith as that term is used in sections 363(m) and 364(e) of the Bankruptcy Code. The Purchaser is entering into the Sale Transaction in good faith and is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and the court decisions applying or interpreting such provision, and is therefore entitled to the full protection of sections 363(m) and 364(e) of the Bankruptcy Code with respect to all aspects of the transactions contemplated by the Purchase Agreement, including the acquisition of the Assets, and otherwise has proceeded in good faith in all respects in connection with this proceeding. The Debtors were free to deal with any other party interested in buying or selling on behalf of the Debtors' estate some or all of the Assets. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Sale Transaction, the Purchase Agreement, or any related action

or the transactions contemplated thereby to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Purchaser has not acted in a collusive manner with any person or entity nor was its bidding or participation in the Auction controlled by any agreement among bidders. The Purchaser's prospective performance and payment of amounts owing under the Purchase Agreement will be undertaken in good faith and for valid business purposes and uses.

T. Insider Status: The Purchaser is not an "insider" of any Debtor, as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling stockholders exists between the Purchaser and the Debtors.

U. Corporate Authority: The Debtors have (i) full corporate or other power to execute, deliver and perform their obligations under the Purchase Agreement and all other transactions contemplated thereby and entry into the Purchase Agreement has been duly and validly authorized by all necessary corporate or similar action, (ii) all of the corporate or other power and authority necessary to consummate the Sale Transaction, and (iii) taken all actions necessary to authorize and approve the Purchase Agreement and the Sale Transaction. No consents or approvals, other than those expressly provided for herein or in the Purchase Agreement, are required for the Debtors to consummate such transaction.

V. The Purchaser shall have no obligations with respect to any Encumbrances against or in respect of any of the Debtors or the Assets (other than Permitted Encumbrances and Assumed Liabilities, each as defined in the Purchase Agreement).

W. The consummation of the Sale Transaction is legal, valid and properly

authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m) and 363(n) of the Bankruptcy Code.

X. The Assets constitute property of the Debtors' estates and title thereto is presently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. The Debtors are the sole and rightful owners of the Assets, and no other person has any ownership right, title, or interest therein, subject to the following liens and claims: (i) the liens and claims described in that certain *Final Order Granting Debtors' Motion to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 104, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507; and (5) Grant Related Relief* [Docket No. ___] (the "Final DIP Order") and together with the Interim DIP Order⁴, the "DIP Orders"), as applicable and (ii) [to be described, if applicable]. The sale of the Assets to the Purchaser will be, as of the Closing Date or such later date as such Assets are transferred under the Purchase Agreement, a legal, valid and effective transfer of such assets, and each transfer and assignment vests or will vest the Purchaser with all right, title and interest of the Debtors to the Assets free and clear of all Encumbrances (other than Permitted Encumbrances

⁴ The Interim DIP Order shall mean that certain *Interim Order Granting Debtors' Motion to (1) Authorize Certain Debtors in Possession to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 104, 362, 363 and 364; (2) Grant Liens and Superpriority Administrative Expense Claims to DIP Lender Pursuant to 11 U.S.C. §§ 364 and 507; (3) Provide Adequate Protection to the Pre-Petition First Lien Lender and the Pre-Petition Second Lien Secured Party; (4) Modify Automatic Stay Pursuant to 11 U.S.C. §§ 361, 362, 363, 364 and 507; (5) Schedule Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rule 4001-2; and (6) Grant Related Relief* [Docket No. 62].

and Assumed Liabilities).

Y. Assumption and Assignment of Contracts: The assumption and assignment of the Contracts are an integral part of the Purchase Agreement and may be amended, supplemented or otherwise modified prior to assumption and assignment without further order of this Court with the consent of the Debtors, the applicable counterparty(s) and the Purchaser. The assumption and assignment of the Contracts does not constitute unfair discrimination, is in the best interests of the Debtors, their estates, their creditors and all other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

Z. The Debtors have met all requirements of section 365(b) of the Bankruptcy Code for each of the Contracts. Pursuant to the Purchase Agreement, the Debtors, and, solely with respect to the assumed Cure Costs (as defined in the Purchase Agreement), the Purchaser, has (i) cured any default existing prior to the assignment of the Contracts to the Purchaser in accordance with the terms of the Purchase Agreement, under each of the Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (ii) provided compensation or adequate assurance of compensation to any counterparty for actual pecuniary loss to such party resulting from a default prior to the assignment of any of the Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. Each of the Contracts shall be assumed and assigned to the Purchaser free and clear of all Encumbrances (other than the Permitted Encumbrances and Assumed Liabilities or otherwise as set forth in the Purchase Agreement) against the Purchaser.

AA. The Purchaser has demonstrated adequate assurance of its future performance under each Contract within the meaning of section 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, the Contracts to be

assumed and assigned under the Purchase Agreement shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser notwithstanding any provision in the Contracts or other restrictions prohibiting their assignment or transfer.

BB. No monetary or non-monetary defaults exist in the Debtors' performance under the Contracts as of the date of this Sale Order other than the failure to pay amounts equal to the Cure Costs (as defined below) or defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy Code. In accordance with the terms set forth in the Purchase Agreement and this Sale Order, the Purchaser shall pay the Cure Costs for each of the Contracts.

CC. No Successor Liability: No sale, transfer or other disposition of the Assets pursuant to the Purchase Agreement or entry into the Purchase Agreement will subject the Purchaser to any liability for claims, obligations or Encumbrances asserted against the Debtors or the Debtors' interests in such Assets by reason of such transfer under any laws, including any bulk-transfer laws or any theory of successor or transferee liability, antitrust, environmental, product line, *de facto* merger or substantial continuity or similar theories. By virtue of the consummation of the Sale Transaction contemplated by the Purchase Agreement, (i) the Purchaser is not a continuation of the Debtors and their respective estates, there is no continuity or continuity of enterprise between Purchaser and the Debtors, there is no common identity between the Debtors and the Purchaser, (ii) the Purchaser is not holding itself out to the public as a continuation of the Debtors or their respective estates, and (iii) the Sale Transaction does not amount to a consolidation, merger or *de facto* merger of Purchaser and the Debtors and/or the Debtors' estates. Accordingly, the Purchaser is not and shall not be deemed a successor to the Debtors or their respective estates as a result of the consummation of

the Sale Transaction contemplated by the Purchase Agreement.

DD. No Sub Rosa Plan: Entry into the Purchase Agreement and the transactions contemplated thereby neither impermissibly restructure the rights of the Debtors' creditors, nor impermissibly dictate the terms of a chapter 11 plan of reorganization for the Debtors. Entry into the Purchase Agreement does not constitute a sub rosa chapter 11 plan.

EE. Nothing in the Purchase Agreement creates any third party beneficiary rights in any entity not a party to the Purchase Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:⁵

A. Motion Granted, Objections Overruled

1. The relief requested in the Motion is GRANTED as set forth herein. Any remaining objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included in such objections are overruled on the merits with prejudice and denied. All parties and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein.

2. This Court's findings of fact and conclusions of law in the Bidding Procedures Order and the record of the Bidding Procedures Hearing are incorporated herein by reference.

B. The Purchase Agreement Is Approved and Authorized

3. The Purchase Agreement is approved pursuant to sections 105 and 363 of the Bankruptcy Code and Rules 2002, 4001, 6004 and 9014 of the Bankruptcy Rules. The Debtors are hereby authorized and directed to perform under the Purchase Agreement (and each of the

⁵ To the extent any findings of fact constitute conclusions of law, they are adopted as such, and *vice versa*.

transactions contemplated thereby is hereby approved in its entirety and is incorporated herein by reference). The failure to include specifically any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of this Court that the Purchase Agreement, and all of its provisions and the payments and transactions provided for therein shall be authorized and approved in their entirety. Likewise, all of the provisions of this Sale Order are non-severable and mutually dependent.

4. Subject to the provisions of this Sale Order, the Debtors and the Purchaser are hereby authorized, pursuant to sections 105(a) and 363(b)(1) of the Bankruptcy Code, to consummate the Sale Transaction in accordance with the Purchase Agreement.

5. Pursuant to section 363(b) of the Bankruptcy Code, and without any further corporate action or orders of this Court, the Debtors, the Purchaser and each of their respective officers, employees and agents are hereby authorized and directed to fully perform under, consummate and implement the terms of the Purchase Agreement together with any and all additional instruments and documents that may be reasonably necessary or desirable to implement and effectuate the terms of the Purchase Agreement, this Sale Order and the Sale Transaction.

6. The Debtors are hereby authorized and directed to instruct an escrow agent to (i) hold the Good Faith Deposit (as increased by the Incremental Deposit Amount (as defined in the Bidding Procedures), if applicable) funded by the Successful Bidder in accordance with the Purchase Agreement and release and deliver such Good Faith Deposit pursuant to the terms of such Purchase Agreement, and (b) hold the Good Faith Deposit (as increased by the Incremental Deposit Amount (as defined in the Bidding Procedures), if applicable) funded by

any Backup Bidder, in accordance with the Bidding Procedures, and release and deliver such Good Faith Deposit upon the earlier of (i) three business days after the closing of a Sale Transaction with the Successful Bidder for the applicable Assets and (ii) 75 days after the date of the Sale Hearing.

C. Sale and Transfer Free and Clear of Encumbrances

7. Upon the Closing Date (as defined in the Purchase Agreement), all of the Debtors' legal, equitable and beneficial right, title and interest in and to, and possession of, the Assets shall be immediately vested in the Purchaser pursuant to sections 105(a), 363(b) and 363(f) of the Bankruptcy Code free and clear of Encumbrances (other than Permitted Encumbrances and Assumed Liabilities); provided, however, that the proceeds of the Sale Transaction shall be applied as set forth herein and thereafter all remaining Encumbrances shall attach to the proceeds of the Sale Transaction in the order of their priority, with the same validity, force and effect that they now have against the Assets (subject with respect to such proceeds to any rights, claims and defenses the Debtors or any parties in interest may possess with respect thereto). On the Closing Date, this Sale Order shall be considered, and constitute for any and all purposes, a legal, valid, binding, effective and complete general assignment, conveyance and transfer of the Assets and a bill of sale or assignment transferring indefeasible title in the Assets to the Purchaser and shall vest Purchaser with good and marketable title to the Assets.

8. The holders of claims related solely to the Permitted Encumbrances and Assumed Liabilities shall have the right to seek payment directly from the Purchaser on account of the Permitted Encumbrances and Assumed Liabilities; provided, however, that the Purchaser reserves any and all rights, defenses or objections with regard to such Permitted Encumbrances and Assumed Liabilities, including the Purchaser's rights hereunder and under the Purchase

Agreement.

D. Order Binding

9. All (i) entities, including all filing agents, filing officers, title agents, title companies or title agents, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state and local officials, and (ii) other persons, in each case, who may be required by operation of law, the duties of their office, or contract to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Assets, shall be authorized and directed to take any such actions in connection with the Sale Transaction or this Sale Order, and this Sale Order shall be binding upon such entities or persons. All entities or persons described in this paragraph are authorized and specifically directed to strike all recorded Encumbrances against the Assets from their records, official and otherwise.

10. This Sale Order and the terms and provisions of the Purchase Agreement shall be binding on all of the Debtors' creditors (whether known or unknown), the Debtors, the Purchaser, and each of their respective affiliates, successors and assigns, and any affected third parties, including all persons asserting an interest in the Assets, notwithstanding any subsequent appointment of any trustee, party, entity or other fiduciary under any section of the Bankruptcy Code with respect to the forgoing parties, and as to such trustee, party, entity or other fiduciary, such terms and provisions likewise shall be binding. The provisions of this Sale Order and the terms and provisions of the Purchase Agreement, and any actions taken pursuant hereto or thereto shall survive the entry of any order, which may be entered confirming or consummating any plan(s) of the Debtors or converting these Cases from chapter 11 to chapter 7, and the terms and provisions of the Purchase Agreement, as

well as the rights and interests granted pursuant to this Sale Order and the Purchase Agreement, shall continue in these or any superseding cases and shall be binding upon the Debtors, the Purchaser and their respective successors and permitted assigns, including any trustee or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code. Any trustee appointed in these Cases shall be and hereby is authorized to operate the business of the Debtors to the fullest extent necessary to permit compliance with the terms of this Sale Order and the Purchase Agreement, and the Purchaser and the trustee shall be and hereby are authorized to perform under the Purchase Agreement upon the appointment of such trustee without the need for further order of this Court.

11. Except with respect to the Assumed Liabilities, all persons and entities (and their respective successors and assigns), including all debt security holders, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Encumbrances arising under or out of, in connection with, or in any way relating to, the Debtors, the Assets, the ownership, sale or operation of the Assets and the business prior to the Closing Date or the transfer of Assets to Purchaser, are hereby forever barred, estopped and permanently enjoined from asserting such Encumbrances against the Purchaser, its property or the Assets. Following the Closing Date, no holder of any Encumbrance shall interfere with the Purchaser's title to or use and enjoyment of the Assets based on or related to any such Encumbrance, or based on any action the Debtors may take in these Cases.

12. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens* or other documents or agreements evidencing Encumbrances against or in the

Assets shall not have delivered to the Debtors prior to the Closing Date of the Sale Transaction in proper form for filing and executed by the appropriate parties termination statements or instruments of satisfaction or release of all Encumbrances that such person or entity has with respect to such Assets, then only with regard to the Assets that are purchased by the Purchaser pursuant to the Purchase Agreement and this Sale Order, (a) the Debtors are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Assets that are necessary or appropriate to effectuate the Sale Transaction, any related agreements and this Sale Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate and (b) the Purchaser is hereby authorized and empowered to cause to be filed, registered or otherwise recorded a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Encumbrances against the Purchaser and the applicable Assets. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office.

E. Good Faith

13. Neither the Debtors nor the Purchaser has engaged in any action or inaction that would cause or permit the Sale Transaction to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. Entry into the Purchase Agreement is undertaken by the parties thereto, without collusion and in good faith, as that term is used in sections 363(m) and 364(e) of the Bankruptcy Code, and the Purchaser shall be entitled to all

of the benefits of and protections under sections 363(m) and 364(e) of the Bankruptcy Code. The reversal or modification on appeal of the authorization provided herein to enter into the Purchase Agreement and consummate the Sale Transaction shall not affect the validity of such Sale Transaction, unless such authorization is duly stayed pending such appeal. The Sale Transaction is not subject to avoidance pursuant to section 363(n) or chapter 5 of the Bankruptcy Code and the Purchaser is entitled to all the protections and immunities thereunder.

F. No Successor or Transferee Liability

14. The Purchaser shall not be deemed, as a result of any action taken in connection with the Purchase Agreement, the consummation of the Sale Transaction, or the transfer, operation or use of the Assets, to (a) be a legal successor, or otherwise be deemed a successor to the Debtors (other than, for the Purchaser, with respect to any obligations arising after the Closing Date as an assignee under the Contracts); (b) have, *de facto* or otherwise, merged with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation or successor in any respect of the Debtors, including within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax, labor, employment, environmental or other law, rule or regulation (including filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine.

15. Except as expressly provided in the Purchase Agreement with respect to Assumed Liabilities, the Purchaser shall have no liability whatsoever with respect to the Debtors' (or their predecessors or affiliates) respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations (as described below, "Successor or Transferee Liability") based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of labor law,

employment law, ERISA and benefits law, antitrust, environmental, successor or transferee liability, *de facto* merger or substantial continuity, labor and employment or products liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including any liabilities or non-monetary obligations on account of any settlement or injunction, or any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the operation of the Assets or the business prior to the Closing Date or such later time as the Purchaser is assigned and assumes any Contract. Except to the extent expressly included in the Assumed Liabilities or otherwise provided for in the Purchase Agreement with respect to WARN liabilities, the Purchaser shall have no liability or obligation under the WARN Act (29 U.S.C. §§ 2101 et seq.), CERCLA or any foreign, federal, state or local labor, employment or environmental law, whether of similar import or otherwise, by virtue of the Purchaser's purchase of the Assets or assumption of the Assumed Liabilities.

16. The Purchaser has given substantial consideration under the Purchase Agreement for the benefit of the holders of any Encumbrance. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of Successor or Transferee Liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of any Encumbrance.

17. Except as expressly provided in the Purchase Agreement with respect to the Assumed Liabilities, nothing in this Sale Order or the Purchase Agreement shall require the Purchaser to (a) continue or maintain in effect, or assume any liability in respect of any employee, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors or their affiliates are a party or have any responsibility

therefor including medical, welfare and pension benefits payable after retirement or other termination of employment, or (b) assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including pension plans) or the termination of any such plan, arrangement or agreement.

18. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any matter any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Purchaser, or its assets (including the Assets), or its successors and assigns, with respect to any (a) Encumbrance or (b) Successor or Transferee Liability, including the following actions with respect to clauses (a) and (b): (i) commencing or continuing any action or other proceeding pending or threatened; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any Encumbrance; (iv) asserting any setoff, right of subrogation or recoupment of any kind; (v) commencing or continuing any action, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Sale Order or other orders of this Court, or the agreements or actions contemplated or taken in respect hereof; or (vi) revoking, terminating or failing or refusing to renew any license, permit or authorization to operate any of the Assets or conduct any of the businesses operated with such assets.

G. Assumption and Assignment of Contracts

19. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, the Debtors are authorized and directed to assume and assign the Contracts to the Purchaser, pursuant to the terms of the Purchase Agreement, free and clear of all Encumbrances. The payment of the cure costs due under each Contract pursuant to section 365(b) of the Bankruptcy Code by the

Purchaser under the Purchase Agreement in the amounts set forth on Exhibit 2 to this Sale Order (the "Cure Costs") (a) cures all monetary defaults existing thereunder as of the assignment of the Contracts to the Purchaser in accordance with the terms of the Purchase Agreement; (b) compensates the applicable counterparties to the Contracts for any actual pecuniary loss resulting from such default; and (c) together with the assumption of the Contracts by the Debtors and the assignment of the Contracts to the Purchaser constitutes adequate assurance of future performance thereof. The Purchaser has provided adequate assurance of future performance under the Contracts within the meaning of sections 365(b)(1)(c) and 365(f)(2)(B) of the Bankruptcy Code

20. Any Adequate Assurance Objections must be made in writing, must clearly specify the grounds for the objection and have been filed with the Court by, and served so as to be received on the Objection Recipients (as defined in the Bidding Procedures) by no later than **March 2, 2018 at noon (prevailing Eastern Time)** (the "Adequate Assurance Objection Deadline"). If no timely Adequate Assurance Objection with respect to a Contract has been filed and served on the Objection Recipients by the Adequate Assurance Objection Deadline, (a) the applicable Contract will be deemed subject to assumption and assignment as proposed by the Debtors and the Successful Bidder and (b) the Successful Bidder will be deemed to have provided or to be able to provide adequate assurance of future performance of the applicable Contract in satisfaction of section 365(f)(2)(B) of the Bankruptcy Code.

21. To the extent that any counterparty to a Contract did not timely file a Cure Objection by the deadline to file a Cure Objection, such counterparty is deemed to have consented to the proposed Cure Cost set forth in the Purchase Agreement. The counterparties to the Contracts are forever bound by the applicable Cure Costs and, upon payment of such

Cure Costs as provided for herein and in the Purchase Agreement, are hereby enjoined from taking any action against the Purchaser with respect to any claim for cure under the Contracts, except as set forth in the Purchase Agreement.

22. Any provision in any Contract that prohibits or conditions the assignment of such Contract or allows the counterparty to such Contract to impose any penalty, fee, increase in payment, profit sharing arrangement or other condition on renewal or extension, or to modify any term or condition upon the assignment of such Contract, constitutes an unenforceable anti-assignment provision that is void and of no force and effect in connection with the Sale Transaction. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of the Contract have been satisfied. Upon the Closing Date, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Contracts, and such Contracts shall remain in full force and effect for the benefit of the Purchaser.

23. Upon the assignment of the Contracts to the Purchaser in accordance with the terms of the Purchase Agreement, the Purchaser shall be deemed to be substituted for the Debtors as a party to the applicable Contract, and the Debtors and their estates shall be released, pursuant to section 365(k) of the Bankruptcy Code, from any liability under the Contract occurring after such assignment. The Purchaser shall pay any Cure Costs in accordance with the Purchase Agreement. There shall be no assignment fees, increases or any other fees charged to the Purchaser or the Debtors as a result of the assumption and assignment of the Contracts.

24. Each counterparty to a Contract is forever barred, estopped, and permanently

enjoined from asserting against the Debtors or the Purchaser or their respective property in connection with the Sale Transaction (a) any assignment fee, acceleration, default, breach or claim or pecuniary loss, or condition to assignment existing, arising or accruing as of the Closing Date, including, any breach related to or arising out of a change-in-control resulting from the Sale Transaction of any provision of such Contract, or any purported written or oral modification to the Contract; or (b) any claim, counterclaim, defense, breach, default, condition, setoff or other claim asserted or capable of being asserted against the Debtors existing as of the Closing Date.

25. Other than the Contracts, the Purchaser shall assume none of the Debtors' other contracts or leases and shall have no liability whatsoever thereunder.

H. Other Provisions

26. Application of Sale Transaction Proceeds.⁶ All sale proceeds from the DIP Collateral and Pre-Petition Collateral shall be distributed in accordance with the terms of the Final DIP Order and the DIP Loan Documents, including without limitation (a) distributions to be made at Closing to the DIP Lender and the Pre-Petition First Lien Lender, in accordance with the terms of the DIP Loan Documents, the Final DIP Order, including paragraphs B(vii), B(viii) and 13 of the Final DIP Order, and (b) the transfer to be made at Closing by the CC Selling Parties into an escrow account not subject to the control of the DIP Agent, the DIP Lender, the Pre-Petition First Lien Lender, the Pre-Petition Second Lien Secured Party or any party that purports to have a validly, perfected security interest in any of the Debtors' deposit accounts or cash (the "Carve-Out Account") of the sale proceeds from the Pre-Petition

⁶ Capitalized terms used in this paragraph but not otherwise defined have the meanings given to them in the Final DIP Order.

Collateral in an amount equal to the Sale Professional Fees Amounts, Sale Excess Fees Hold-Back Amounts (to the extent applicable and in accordance with the order of priorities set forth in the Final DIP Order) and Sale Excess Fee Amounts (to the extent applicable and in accordance with the order of priorities set forth in the Final DIP Order), in each case in this clause (b), as authorized pursuant to paragraph 13 of the Final DIP Order; provided that any excess amounts remaining in the Carve-Out Account shall be governed by and distributed in accordance with the Final DIP Order and the DIP Loan Documents.⁷

27. Good Faith Deposit. Any Good Faith Deposit that is not returned to the Successful Bidder or Backup Bidder, as applicable shall become DIP Collateral; provided that in the event that (a) the Successful Bidder does not close the Sale Transaction and there is no Backup Bidder or (b) each of the Successful Bidder and the Backup Bidder does not close the Sale Transaction, the Debtors shall be authorized to transfer cash comprising the necessary portion of such Good Faith Deposit into the Carve-Out Account and to pay, upon approval by the Court of the allowance of such professional fees, the Sale Professional Fees Amounts that are determined to be owing to those professionals retained by the Obligors (as defined in the DIP Loan Agreement) whose retention is approved by the Court pursuant to any one or more of sections 327, 363 and 1103 of the Bankruptcy Code. Any amounts deposited to fund the Carve-Out Account shall reduce any obligation under the DIP Loan and/or the Final DIP Order to fund the Carve-Out Account and/or to pay the Sale Professional Fees Amounts on an equal dollar basis, and shall not constitute DIP Collateral, except that the DIP Lender shall retain security

⁷ Any application of sale proceeds to specific CC Assets shall be done in good faith and shall not violate the priorities or protections provided in the DIP Facility or the Pre-Petition First Lien Obligations under the DIP Loan Documents, the Interim DIP Order, the Final DIP Order or the Pre-Petition First Lien Loan Documents, as the case may be.

interests in any residual interests in the Carve-Out Account available following satisfaction in full of all obligations benefitting from the Carve Out, and shall receive distributions on account of such residual interests.

28. No Alteration of DIP Agent/DIP Lender Claims or Liens.⁸ Notwithstanding anything contained in this Sale Order to the contrary, nothing in the Purchase Agreement or this Sale Order shall be deemed to amend, modify, or limit the rights (including, without limitation, the liens, security interests or superpriority claims) of the DIP Agent and/or the DIP Lender pursuant to the DIP Orders or the DIP Loan Documents, or in respect of the DIP Obligations or the liens, security interests, or superpriority claims of the DIP Lender, until the Closing Date and the repayment in full in cash of the DIP Obligations.

29. No Alteration of Obligations Owed Under Pre-Petition First Lien Loan Documents/Pre-Petition Second Lien Documents.⁹ Nothing in the Purchase Agreement or this Sale Order shall be deemed to amend, modify, or limit the rights and claims of the Pre-Petition First Lien Lender and/or Pre-Petition Second Lien Secured Party pursuant to the DIP Orders, the Pre-Petition First Lien Loan Documents or the Pre-Petition Second Lien Documents.

30. Excluded Liabilities. All persons, all Governmental Units (as defined in sections 101(27) and 101(41) of the Bankruptcy Code) and all holders of Encumbrances, based upon or arising out of the Excluded Liabilities (as defined in the Purchase Agreement) are hereby barred and estopped from taking any action against the Purchaser or the Assets to

⁸ Capitalized terms used in this paragraph but not otherwise defined have the meanings given to them in the Final DIP Order.

⁹ Capitalized terms used in this paragraph but not otherwise defined have the meanings given to them in the Final DIP Order.

recover property on account of any Adverse Interests or on account of any Liabilities of the Debtors other than Assumed Liabilities pursuant to the Purchase Agreement. All persons holding or asserting any Encumbrances with respect to the Excluded Assets are hereby enjoined from asserting or prosecuting such Encumbrances against the Purchaser or the Assets for any Liability whatsoever associated with the Excluded Assets.

31. No Bulk Sales; No Brokers. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the Sale Transaction. Other than the professionals retained by the Debtors pursuant to orders of this Court, no brokers were involved in consummating the Sale Transaction, and no brokers' commissions shall be due to any person or entity in connection with the Sale Transaction. The Purchaser is not obligated to pay any fee or commission or like payment to any broker, finder, or financial advisor as a result of the consummation of the Sale Transaction. Notwithstanding the foregoing, the Debtors may be obligated to pay their financial advisor or investment banker for services rendered in connection with the sale in accordance with other orders of this Court.

32. Failure to Specify Provisions; Conflicts. The failure specifically to mention any particular provisions of the Purchase Agreement or any related agreements in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court, the Debtors, and the Purchaser that the Purchase Agreement and any related agreements are authorized and approved in their entirety with such amendments thereto as may be made by the parties thereto in accordance with this Sale Order. In the event there is a direct conflict between the terms of this Sale Order and the terms of the Purchase Agreement, the terms of this Sale Order shall control.

33. Allocation of Consideration. All rights of the respective Debtors' estates with

respect to the allocation of consideration received from the Purchaser in connection with the Sale Transaction are expressly reserved for later determination by this Court and, to the extent consideration is received by any Debtor that is determined to be allocable to another Debtor, such other Debtor shall have a claim against the recipient Debtor with the status of an expense of administration in the case of the recipient Debtor under section 503(b) of the Bankruptcy Code.

34. Subsequent Plan Provisions. Nothing contained in any chapter 11 plan to be confirmed in these Cases or any order to be entered in these Cases (including any order entered after conversion of these chapter 11 cases to cases under chapter 7 of the Bankruptcy Code) shall alter, conflict with, or derogate from, the provisions of the Purchase Agreement or this Sale Order. In the event there is a direct conflict between the terms of this Sale Order and the terms of any subsequent chapter 11 plan or any order to be entered in these Cases (including any order entered after conversion of these Cases to cases under chapter 7 of the Bankruptcy Code), the terms of this Sale Order shall control.

35. Further Assurances. From time to time, as and when requested, all parties to the Sale Transaction shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to consummate the Sale Transaction, including such actions as may be necessary to vest, perfect, or confirm or record or otherwise in the Purchaser its right, title and interest in and to the Assets.

36. Governing Terms. To the extent this Sale Order is inconsistent with any prior order or pleading in these Cases, the terms of this Sale Order shall govern. To the extent there is any inconsistency between the terms of this Sale Order and the terms of the Purchase

Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

37. Approval of Backup Bidder. The Backup Bidder is hereby approved and the bid submitted by the Backup Bid is hereby approved and authorized. In accordance with the Bidding Procedures, the bid submitted by the Backup Bidder for, among other things, the Assets shall remain binding on the Backup Bidder until the earlier of (a) closing of the Sale Transaction pursuant to the Successful Bid or (b) 75 days after the date of the Sale Hearing. In the event the Purchase Agreement is terminated pursuant to its terms and the sale of the Assets to the Purchaser is not consummated, then the Backup Bidder will be deemed the Successful Bidder in accordance with the Bid Procedures and all references to the Purchaser and the Purchase Agreement instead shall be to the Backup Bidder and the Backup Bid, respectively, without further order of this Court. In such case, (a) the findings and other provisions of this Sale Order shall apply to the Backup Bidder and the Backup Bid to the same extent that they apply to the Purchaser and the Purchase Agreement and (b) the Debtors shall, within one business day of the selection of the Backup Bid as the Successful Bidder, file a notice with the Court (with a copy concurrently provided by email to respective counsel to the following parties (each, as defined in the DIP Orders): (i) counsel for the Committee, (ii) the DIP Agent, (iii) the DIP Lender, (iv) the Pre-Petition First Lien Lender and (v) the Pre-Petition Second Lien Secured Party advising (x) that the Purchase Agreement with the Purchaser has not been consummated, (y) that the Backup Bid has become the Successful Bid pursuant to this Sale Order and (z) of the Closing Date of the Sale Transaction under the Backup Bid.

38. Modifications. The Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in

accordance with the terms thereof, without further order of this Court; provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

39. Automatic Stay. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby modified with respect to the Debtors to the extent necessary, without further order of this Court, to allow the Purchaser to deliver any notice provided for in the Purchase Agreement and allow the Purchaser to take any and all actions permitted or required under the Purchase Agreement in accordance with the terms and conditions thereof. The Purchaser shall not be required to seek or obtain any further relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Purchase Agreement or any other sale-related document.

40. No Stay of Order. Notwithstanding Bankruptcy Rules 6004(h), 6006(d) and 7062, this Sale Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. Neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Sale Order. Any party objecting to this Sale Order must exercise due diligence in filing an appeal and obtaining a stay prior to the Closing Date or risk its appeal being foreclosed as moot.

41. Servers and IT Equipment. Upon consummation of the Sale, and to the extent applicable, the Debtors shall retain originals or copies of, and preserve in accordance with their discovery obligations, all hard copy documents and data and information that constitute Assets and any other document, data or information stored on or in servers, backup devices, mobile devices, electronic storage devices, or miscellaneous IT equipment, in each case, that

constitutes Assets, currently in the Debtors' possession, custody, or control pertaining to pending or threatened litigation or necessary to administer these Cases.

42. Notice of Sale Closing Date. Within one (1) business day of the occurrence of the Closing Date of the Sale Transaction, the Debtors shall file and serve a notice of same, substantially in the form attached hereto as Exhibit 3 (the "Notice of Sale Closing Date").

43. Retention of Jurisdiction. This Court shall retain jurisdiction to interpret, implement, and enforce the terms and provisions of this Sale Order, the Bidding Procedures Order, and the Purchase Agreement, including all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith, and decide any issues or disputes concerning this Sale Order and the Purchase Agreement or the rights and duties of the parties hereunder or thereunder, including the interpretation of the terms, conditions, and provisions hereof and thereof, the status, nature, and extent of the Assets.

44. The Sale Transaction contemplated hereunder is not receiving an exemption under section 1146(a) of the Bankruptcy Code.

45. The Purchaser has standing to seek to enforce the terms of this Order.

46. The Debtors are authorized to take all actions necessary or appropriate to effectuate the relief granted pursuant to this Order.

47. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

48. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

Dated: _____
Wilmington, Delaware

HONORABLE BRENDAN L. SHANNON
CHIEF UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Purchase Agreement

Exhibit 2

Cure Costs

Exhibit 3

Notice of Sale Closing Date

Exhibit C

Augustine Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

<p>In re:</p> <p>M & G USA CORPORATION, <i>et al.</i>,¹</p> <p style="text-align: center;">Debtors.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Chapter 11</p> <p>Case No. 17- 17-12307 (BLS)</p> <p>(Jointly Administered)</p>
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**DECLARATION OF NEIL A. AUGUSTINE
IN SUPPORT OF MOTION OF THE DEBTORS FOR ENTRY OF ORDERS
(I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF CERTAIN OF THE
DEBTORS' ASSETS, (B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR
MORE STALKING HORSE PURCHASE AGREEMENTS AND TO PROVIDE BID
PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING
THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION
AND ASSIGNMENT PROCEDURES AND (E) SCHEDULING A SALE HEARING AND
APPROVING THE FORM AND MANNER OF NOTICE THEREOF;
(II)(A) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE
AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND
(B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

I, Neil A. Augustine, declare as follows:

1. I am an Executive Vice Chairman of North American Global Advisory at Rothschild Inc. ("Rothschild"), a financial advisory services and investment banking firm which has its principal office at 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020. I am authorized to make this declaration (this "Declaration") on behalf of Rothschild.

¹ The Debtors are the following twelve entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): M & G USA Corporation (3449), M & G Resins USA, LLC (3236), M & G Polymers USA, LLC (7593), M & G Finance Corporation (4230), M&G Waters USA, LLC (2195), Mossi & Ghisolfi International S.à r.l. (1270), M&G Chemicals S.A. (1022), M&G Capital S.à r.l. (7812), M & G USA Holding, LLC (3451), Chemtex International Inc. (7695), Chemtex Far East, Ltd. (2062) and Indo American Investments, Inc. (9208). The Debtors' noticing address in these chapter 11 cases is 450 Gears Road, Suite 240, Houston, Texas 77067.

Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.²

2. I submit this Declaration in support of the *Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Certain of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More the Stalking Horse Purchase Agreements and to Provide Bid Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief (the "Motion")*.³

3. Except where specifically noted, all statements in this Declaration are based on: (a) my personal knowledge developed during the course of my engagement with the Debtors; (b) my discussions with the Debtors' senior management, the Debtors' other advisors and other members of my team at Rothschild; and (c) my review of relevant documents and/or my opinion based upon my experience. If called to testify, I could and would testify to each of the facts set forth herein based on such personal knowledge, discussions, review of documents and/or opinion.

² Certain disclosures herein relate to matters within the personal knowledge of other professionals at Rothschild and are based on information provided by them.

³ Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

Qualifications

4. I am an Executive Vice-Chairman at Rothschild, a financial advisory services and investment banking firm which has its principal office at 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020.

5. Over the last 28 years, my transactions experience has ranged from out-of-court restructurings to in-court insolvencies in the U.S., Europe, Canada, Brazil, and Mexico, including involvement in the section 363 sale process in the chapter 11 cases of the following companies, among others: Performance Sports Group, Sports Authority, Atlantic Express, Lifecare Holdings, Inner City Broadcasting, Nassau Broadcasting, Blockbuster, Werner Ladder, WestPoint Stevens, Milacron and Verasun. Additionally, my merger and acquisition experience includes troubled company buy-side and sell-side assignments, as well as special committee representations and traditional M&A transactions. My financing expertise is in raising and structuring debtor-in-possession loans, secured debt, exit financing, second lien loans, convertible notes, rights offerings and preferred and common stock investments.

6. Prior to joining Rothschild, I was the Group Portfolio Manager for the Distressed Debt Group of Morgens, Waterfall, Vintiadis & Company Inc. Previously, I was the Director of Distressed Debt Research at Lehman Brothers, Inc. and was the Director of Research at Whippoorwill Associates, Inc.

7. I began my career at Chemical Bank and was one of the founding members of The Blackstone Group's Restructuring and Reorganization Financial Advisory Department. I hold a Bachelors of Arts and a M.B.A. from the University of Rochester.

Rothschild's Retention

8. The Company originally retained Rothschild in the summer of 2016 to investigate potential capital-raising alternatives to mitigate the effect of the dramatic cost overruns and delays at the Corpus Christi Plant. More recently, Rothschild's responsibilities have shifted to identifying and/or initiating potential restructuring or sale transactions for the Company and to conducting related services, including, among other things, diligence of the Company's business plans, financial projections and cash flows. Rothschild will utilize such information to form views on the Company's strategic alternatives, debt capacity and valuation. In these capacities, Rothschild has worked and will work closely with the Debtors' management and the Debtors' other professionals and has become well acquainted with the Debtors' capital structure, liquidity needs and business operations.

The Debtors' Marketing Efforts

9. As described in further detail in the First Day Declaration and the DIP Motion, in the period leading up to the Petition Date, the Debtors were primarily focused on addressing severe liquidity constraints resulting from the construction of the Corpus Christi Plant, as well as their related efforts to obtain the DIP Financing in order to commence these Cases and ultimately consummate a Sale of the Assets under the protections of the Bankruptcy Code. Before the filing of these Cases and since the Petition Date, no party has stepped forward to make the significant investment (in the order of magnitude of hundreds of millions of dollars) necessary to fund the construction of the Corpus Christi Plant to completion, such that a sale is the Debtor's only viable path to reorganization. Accordingly, the Debtors, together with Rothschild, believe that consummating a Sale or Sales of the Assets over the first six months of these Cases, while the Obligor has access to the DIP Financing, is the Debtors' best and only

option to maximize the value their Assets, absent additional funding to maintain the Assets and administer these Cases.

10. Prior to the Petition Date, the Debtors, together with Rothschild, engaged in discussions with certain interested parties regarding the purchase of some or all of the Assets. In addition, the Debtors and Rothschild began taking steps necessary to enable such parties to conduct due diligence and to prepare for a more comprehensive post-petition marketing process. Rothschild has established a virtual data room to facilitate interested parties' due diligence, has developed a "teaser" to gauge potential purchaser interest and is preparing a confidential information memorandum for interested parties. Following the Petition Date, Rothschild continued to contact additional purchasers and seek to have those potential purchasers that express interest in the Debtors' Assets enter into confidentiality agreements with the Debtors and begin conducting due diligence. During the pendency of the Motion, the Debtors, with Rothschild's assistance, will continue their marketing efforts, in compliance with the terms of the DIP Financing, to ensure that the Sale process can be completed expeditiously and yield a value-maximizing result for the Debtors' stakeholders.

The Bidding Procedures

11. The Bidding Procedures reflect a two-step marketing process. In the first round, interested parties will have the option to submit preliminary indications of interest by the Proposal Deadline. After affording prospective interested parties additional time to conduct due diligence, the second round of the Sale process will culminate with the Final Bid Deadline, by which interested parties must submit a final bid in order to qualify, subject to the Bidding Procedures, for participation in the Auction.

12. I believe that the proposed Bidding Procedures are appropriate given the facts and circumstances of the Cases. Specifically, the timeline of the Bidding Procedures is aligned with

the milestones required under the DIP Financing, which provides the liquidity necessary for the Obligors to maintain their facilities and corporate functions during the Sale process, as well as to continue to pay their remaining employees, and offers the estates the best chance of maintaining value and maximizing creditor recoveries. The Debtors' failure to adhere to these milestones is an event of default under the DIP Financing, which could lead to the DIP Lender's exercise of its rights and remedies and/or the Obligors no longer having funding to preserve the Corpus Christi Plant and their other Assets. In addition, the Bidding Procedures provide parties with sufficient time and information necessary to formulate and submit bids to purchase the Assets. In formulating the procedures and time periods, the Debtors, together with Rothschild, balanced the need to provide an adequate period for potential purchasers to conduct due diligence and submit bids on the Assets on a fully informed basis with the Debtors' need to quickly and efficiently sell their Assets while they have sufficient funding to do so.

13. In addition to the milestones, the Debtors have significant business and financial imperatives to move quickly to protect and preserve value. Even with the DIP Financing, the Debtors are currently not operating their plants or otherwise generating revenue, and they continue to incur expenses every day. Therefore, it is in the Debtors' best interests and the interests of their stakeholders to pursue an expeditious Sale process. In formulating the proposed Sale timeline, the Debtors, with the assistance of Rothschild and their other advisors, have considered their liquidity needs and their ability to maintain their facilities and corporate functions and pay employees during the Sale process. The Debtors' proposed Sale timeline is designed to maximize value while at the same time limit needless expenditures and the incurrence of administrative expenses, which may risk a liquidity shortfall that could frustrate their restructuring efforts.

14. I also believe that the Bidding Procedures are designed to foster competitive bidding that would increase the likelihood that the Debtors will obtain the highest or otherwise best offer for the Assets for the benefit of the Debtors' stakeholders. The proposed Bidding Procedures will allow the Debtors to identify potential Stalking Horse Bidders who could serve to establish an adequate price floor for the applicable Assets that are subject to the bid and thereby provide a defined target that competing bids must exceed to be higher or better. In addition, the Bidding Procedures will allow the Debtors to conduct the Sale and post-petition marketing process in a controlled, fair and open fashion that is intended to draw participation by financially capable bidders. Specifically, the Bidding Procedures contemplate an open marketing process and provide potentially interested parties with sufficient time (more than three months) to perform due diligence and acquire the information necessary to submit a timely and well-informed bid by the Final Bid Deadline.

15. Accordingly, I believe that the proposed Bidding Procedures will encourage competitive bidding and are consistent with other bidding procedures governing bidding and auction processes in comparable chapter 11 proceedings.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: November 16, 2017

Respectfully Submitted,

/s/ Neil A. Augustine

Neil A. Augustine
Executive Vice Chairman
of North American Global Advisory
Rothschild Inc.