

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

In re:)	Chapter 11
)	
THE FLINTKOTE COMPANY and FLINTKOTE MINES LIMITED,)	Case No. 04-11300 (JKF)
)	(Jointly Administered)
)	
Debtors.)	Related to Docket No. 3826, 4547, 5183
)	

**NOTICE OF FILING THIRD AMENDMENT TO PLAN SUPPLEMENT TO AMENDED
JOINT PLAN OF REORGANIZATION (AS MODIFIED)**

PLEASE TAKE NOTICE that on November 18, 2008, the Debtors filed the *Plan Supplement to Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited* (the “Plan Supplement”) (Docket No. 3826). On September 24, 2009, the Debtors filed the Notice of Filing Amendment to Plan Supplement to Amended Joint Plan of Reorganization (as Modified) (Docket No. 4547). On July 27, 2010, the Debtors filed the Notice of Filing Amendment to Plan Supplement to Amended Joint Plan of Reorganization (as Modified) (Docket No. 5183).

Attached hereto as Attachment 1 is the Trust Services Agreement, which is Exhibit D to the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited (As Modified August 5, 2010) (the “Plan”) (Docket No. 5220).¹ Attached hereto as Attachment 2 are forms of three employment contracts to be entered into on the Effective Date by Reorganized Flintkote and Mr. David Gordon, Mr. Eric Bower, and Mr. John Bay, disclosure of which is required by section 10.7 of the Plan.

¹ All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

Attachment V to the Plan Supplement contained the names of two individuals who were to serve on the Initial Board of Directors for Reorganized Flintkote (the “Initial Board”). Attachment V is hereby amended to provide that the members of the Initial Board shall consist of: (i) David Gordon; (ii) an individual to be designated by the Asbestos Claimants Committee; and (iii) an individual to be designated by the Future Claimants Representative. The Plan Proponents shall disclose the identities of all members of the Initial Board at or prior to the Confirmation Hearing.

Dated: September 16, 2010
Wilmington, Delaware

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ATTACHMENT 1
TRUST SERVICES AGREEMENT²

² The draft Trust Services Agreement remains subject to further revision and amendment by the Plan Proponents up to the Confirmation Hearing.

TRUST SERVICES AGREEMENT

This TRUST SERVICES AGREEMENT (this "Services Agreement"), dated and effective as of _____, 2010, is between The Flintkote Company ("Reorganized Flintkote"), a Delaware corporation and a reorganized debtor in the jointly-administered chapter 11 case number 04-11300 (JKF) (the "Chapter 11 Case") pending in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") and The Flintkote Company Asbestos Personal Injury Trust (the "Trust") established pursuant to the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Flintkote Mines Limited that was confirmed by the Bankruptcy Court and affirmed by the District Court (the "Plan").

RECITALS

WHEREAS, at the time of the entry of the order for relief in the Chapter 11 Case, The Flintkote Company and Flintkote Mines Limited (the "Debtors") were named as defendants in personal injury actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

WHEREAS, Reorganized Flintkote has reorganized under the provisions of chapter 11 of the Bankruptcy Code in the Chapter 11 Case;

WHEREAS, the order confirming the Plan filed by the Debtors and supported by the Asbestos Claimants Committee and the Representative of Future Asbestos Claimants ("Future Claimants' Representative"), has been issued or affirmed by the District Court (the "Confirmation Order") and has become a Final Order;

WHEREAS, the Plan provides for, among other things, the creation of the Trust;

WHEREAS, pursuant to the Plan and the Confirmation Order, all Asbestos Personal Injury Claims are channeled to the Trust;

WHEREAS, pursuant to the Plan, the Trust is to use its assets and income to pay Asbestos Personal Injury Claims as and to the extent provided for in the Trust Agreement and in the Trust Distribution Procedures;

WHEREAS, the Plan provides that Reorganized Flintkote and the Trust will enter into this Services Agreement, pursuant to which Reorganized Flintkote will manage and process the Asbestos Personal Injury Claims on behalf of the Trust and will provide various administrative and management services to the Trust;

NOW, THEREFORE, in consideration of the mutual covenants and understandings contained herein, and subject to and on the terms and conditions herein set forth, the parties hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. All capitalized terms used herein but not otherwise defined shall have the meanings given to such terms in the Plan or the Trust Distribution Procedures, and such definitions are incorporated herein by reference. All capitalized terms not defined herein or in the Plan or the Trust Distribution Procedures, but defined in the Bankruptcy Code or Bankruptcy Rules, shall have the meanings given to them in such code or rules, and such definitions are incorporated herein by reference.

Section 1.2 References. Unless indicated otherwise, all references in this Services Agreement to a particular Article or Section number are references to Articles or Sections of this Services Agreement.

ARTICLE 2

FLINTKOTE SERVICES

Section 2.1 Start Up/Transition Claims Services. Prior to performing the Claims Processing Services (as defined below in Section 2.2), Reorganized Flintkote shall complete any and all steps necessary to commence processing of Asbestos Personal Injury Claims as soon as practicable after the Effective Date of the Plan (the "Start Up Claims Processing Services"). Among other things, these Start Up Claims Processing Services will involve Reorganized Flintkote finishing its development of reports, claim forms, procedures and related materials in compliance with the terms and provisions of the Trust Distribution Procedures and as directed by the Trust for use by the Trust in connection with processing, liquidating and considering the allowance of Asbestos Personal Injury Claims, which shall include, without limitation:

- (a) Developing and testing required systems and procedures, including software.
- (b) Acquiring and training personnel and acquiring necessary equipment, furniture and premises.
- (c) Developing procedures for the transfer of information from Reorganized Flintkote to the Trust.
- (d) Preparing claims filing materials consistent with the terms and provisions of the Trust Distribution Procedures (the "Claims Materials").
- (e) Developing procedures for notice to the Trust of requests for Claims Materials by claimants or other counsel.
- (f) Developing a database for Asbestos Personal Injury Claims.

(g) Coordinating with and progress reporting to identified Trust representatives.

Section 2.2 Claims Processing Services. The claims processing services to be provided by Reorganized Flintkote to the Trust under this Services Agreement shall generally be referred to herein as the “Claims Processing Services,” which shall consist of:

(a) Establishing the FIFO Processing Queues, tracking claimants’ positions in such FIFO Processing Queues, and providing claimants with notice of their position in the applicable FIFO Processing Queue as required by the Trust Distribution Procedures.

(b) Working with the Trust, the Trustees, the Trust Advisory Committee and the Future Claimants’ Representative to adopt procedures for reviewing all Asbestos Personal Injury Claims and liquidating all unliquidated Asbestos Personal Injury Claims, including the establishment of deadlines for processing such claims.

(c) Reviewing and processing all incoming proof of claim forms and medical, exposure or any other evidence required by the Trust Distribution Procedures to determine eligibility under the Trust Distribution Procedures for liquidation and payment of an Asbestos Personal Injury Claim, taking into account, among other things, (i) Medical/Exposure Criteria, (ii) statute of limitations, and (iii) whether the claim satisfies the requirements to be an Exigent Hardship Claim.

(d) Managing the process of imaging all data received in connection with Section 2.2(c).

(e) Monitoring the accrued amount of each of the Maximum Annual Payment and the Maximum Available Payment.

(f) Tracking: (i) the number of Category A Claims and Category B Claims and amounts paid with respect thereto; (ii) the number of claims paid by the Trust for each Disease Level and the amounts paid with respect thereto; (iii) the identity and number of claims liquidated by Individual Review, Expedited Review, ADR Procedures, or in the tort system; and (iv) the identity and number of claims liquidated as Extraordinary Claims and Exigent Hardship Claims.

(g) Tracking and processing the payment of filing fees for each Asbestos Personal Injury Claim, to the extent payment of any fee is required pursuant to Section 6.4 of the Trust Distribution Procedures.

(h) Providing the Trust with information relating to the Flintkote Services as requested by the Trust in connection with any ADR proceeding or litigation in the tort system.

- (i) Preparing and distributing ongoing claims allocation billings and reports required under insurer settlement agreements, and reporting and collecting amounts due from insurers.
- (j) Not less than monthly, or more often if requested by the Trust in writing, providing the Trust with a written summary of all information being tracked or monitored.
- (k) Working with the Trust to develop and implement, as necessary, a claims audit program, as described in Section 5.8 of the Trust Distribution Procedures.

Section 2.3 Trust Administration Services. The administration and management services to be provided by Reorganized Flintkote to the Trust under this Services Agreement shall generally be referred to herein as the “Administration Services,” which shall consist of:

- (a) Providing assistance and recommendations in the development, maintenance and compliance with Trust policies and procedures.
- (b) Advising Trustees and related professionals and advisers on the status, trends and items for special consideration in the management of the Trust.
- (c) Coordinating, arranging, attending and providing support at Trust meetings.
- (d) Managing unresolved litigation and disputes, and any new litigation or disputes.
- (e) Managing post-confirmation insurance recovery settlement, dispute and litigation activities.
- (f) Managing and administering ongoing rights and obligations under asbestos-related coverage settlement agreements with insurers.
- (g) Preparing and coordinating claims reporting, billing allocations and collections required under settlement agreements with insurers.
- (h) Coordinating and responding to special insurer requests for explanation, information and verification.
- (i) Setting up and maintaining books and financial records.
- (j) Preparing regular and special purpose financial statements, reports and analysis.
- (k) Coordinating with investment managers and advisors including reporting and compliance with investment policy and related manager guidelines.

- (l) Processing cash receipts and disbursements (including Trust distributions) and maintaining bank accounts.
- (m) Handling tax compliance, including financial information required by Trust income tax return preparers.
- (n) Inputting to and coordinating of cash forecasting and planning processes.
- (o) Maintaining, administering and providing information from the Debtors' historical records related to Asbestos Personal Injury Claim matters.
- (p) Maintaining and administering Trust records.

Section 2.4 Overall Management of Flintkote Services.

Section 2.4.1 The Start Up Claims Processing Services, the Claims Processing Services and the Administration Services provided by Reorganized Flintkote to the Trust under this Services Agreement shall generally be referred to herein as the "Flintkote Services." If, following the Initial Term, the Trust discontinues utilizing Flintkote to provide the Claims Processing Services or some portion or all of the Administration Services, but continues to utilize Flintkote to provide some of the Flintkote Services, the term "Flintkote Services" shall thereafter only refer to those services that are continuing during the Renewal Term.

Section 2.4.2 The parties shall cooperate and endeavor in good faith to modify and supplement Sections 2.1-2.3 of this Services Agreement to accurately identify the Flintkote Services, and to specify the manner and terms under which the Flintkote Services shall be performed, in order to refine and further effect the understandings set forth in this Services Agreement.

Section 2.4.3 In furtherance of the principles set forth in this Article 2, each party shall cooperate with and assist the other party in obtaining any consent, authorization, order or approval of, or any exemption by, any third party required to be obtained or made for the performance by the parties of their obligations under this Services Agreement at no cost to either party. If the parties are unable to obtain any required consents, the parties shall negotiate in good faith reasonable modifications of the Flintkote Services such that such consents are not required.

Section 2.4.4 Each party shall designate a representative to be the primary liaison between the parties for the provision of the Flintkote Services under this Services Agreement (each, a "Services Representative"). The Services Representatives shall meet regularly in person, telephonically, or as they otherwise agree, at least monthly for the first year following the date hereof, and thereafter on a quarterly basis, to discuss any issues arising under this Services Agreement and the need for any modifications or additions hereto.

**ARTICLE 3
EMPLOYEES**

Section 3.1 Reorganized Flintkote shall at all times maintain staff sufficient to provide the Flintkote Services.

ARTICLE 4

FEES

Section 4.1 The Trust shall be responsible for paying Reorganized Flintkote's expenditures relating to its performance of the Flintkote Services (including the allocable portion of Flintkote's general overhead attributable to the Flintkote Services compared to Flintkote's other business activities) as follows:

(a) No later than thirty (30) days prior to the beginning of each calendar quarter, Reorganized Flintkote shall provide an invoice (the "Preliminary Invoice") to the Trust setting forth in reasonable detail an estimate of the expenditures anticipated by Reorganized Flintkote for the upcoming calendar quarter in connection with its performance of the Flintkote Services. The Trust shall have fifteen (15) days from receipt of the Preliminary Invoice to question any expenditures contained therein. If the Trust does not timely question any or all of the expenditures, it shall pay the invoiced amount within fifteen (15) days of the completion of the review period.

(b) No later than fifteen (15) days following the end of each calendar quarter, Reorganized Flintkote shall provide an updated invoice (the "Updated Invoice") to the Trust setting forth in reasonable detail the actual expenditures made by Reorganized Flintkote during the preceding calendar quarter in connection with its performance of the Flintkote Services. To the extent the estimated amount paid by the Trust pursuant to the Preliminary Invoice is less than the actual expenditures reflected in the corresponding Updated Invoice, then the Trust shall pay the shortfall amount within fifteen (15) days of its receipt of the Updated Invoice. To the extent the estimated amount paid by the Trust pursuant to the Preliminary Invoice is greater than the actual expenditures reflected in the corresponding Updated Invoice, then Reorganized Flintkote shall refund the excess amount to the Trust within fifteen (15) days of its receipt of the Updated Invoice.

(c) Any dispute regarding fees and services that is not resolved between the parties shall be resolved pursuant to Article 14 of this Services Agreement.

ARTICLE 5

STANDARD OF PERFORMANCE

Section 5.1

(a) Reorganized Flintkote shall provide the Flintkote Services with reasonable skill and care.

(b) The parties acknowledge that the timely completion of the Flintkote Services by Reorganized Flintkote may depend upon the provision of information and/or services to Reorganized Flintkote by the Trust. Reorganized Flintkote shall not be responsible for the failure to provide the Flintkote Services to the extent that such failure results from the Trust's failure to provide such information and/or services to Reorganized Flintkote.

ARTICLE 6

TERM OF SERVICES

Section 6.1

(a) The initial term of this Services Agreement shall commence on the date of execution of this Services Agreement and continue for a period of eighteen (18) months (the "Initial Term"). At the end of the Initial Term, this Agreement shall automatically renew for an additional 18-month period, and thereafter for additional two-year periods (each a "Renewal Term" and, collectively with the Initial Term, the "Term") on substantially the same terms contained herein, unless either party provides written notice to the other (i) at least one hundred eighty (180) days prior to the end of the Term of its election to terminate the Claims Processing Services under this Services Agreement, or (ii) at least one hundred twenty (120) days prior to the end of the Term of its election to terminate some or all of the Administration Services.

(b) Notwithstanding anything to the contrary herein, either party may terminate this Services Agreement for cause at any time by providing written notice of such termination to the other party.

ARTICLE 7

ACCESS TO RECORDS

Section 7.1 The Trust shall be entitled to have access during regular business hours and upon reasonable notice to Reorganized Flintkote to the books, records and premises of Reorganized Flintkote (insofar as it relates to the Flintkote Services provided hereunder) and any agent, auditor (internal and external), employee or other representative of Reorganized Flintkote, provided, however, that such access (a) shall not be disruptive to Reorganized Flintkote's business and operations; (b) shall be at the sole expense of the Trust; and (c) shall only be to the extent necessary to verify the proper performance by Reorganized Flintkote of the Flintkote Services.

ARTICLE 8

OWNERSHIP OF SYSTEMS AND MATERIALS

Section 8.1 Subject to the restrictions contained in Section 8.4, the Trust agrees that Reorganized Flintkote will own all right, title and interest and all Intellectual Property Rights (as defined in clause 8.3 below), in and to all software, systems, Claims Material, programs, business methods, operating instructions, documentation, pre-existing Intellectual Property Rights and other materials owned or controlled by Reorganized Flintkote (“Service Data”), including the source code and all modifications to the source code that constitute work product or otherwise result from, or are created in connection with the Flintkote Services under this Services Agreement and all right, title, and interest in and to all work product that results from, or is created in connection with, the performance of the Flintkote Services under this Agreement and all Intellectual Property Rights in or related thereto, and further including any of the foregoing created, in whole or in part, jointly with the Trust and its employees, subcontractors and/or agents (collectively, “Service Rights”). The Trust agrees to and shall assign to Reorganized Flintkote ownership of any such Intellectual Property Rights created, in whole or in part, jointly with the Trust and its employees, subcontractors and/or agents and shall cause all of the Trust’s employees and subcontractors (if any) to assign to Reorganized Flintkote all such Intellectual Property Rights and waive all legal and moral rights which they may have or retain in the same by operation of law or otherwise. The Trust shall execute and deliver to Reorganized Flintkote such instruments of conveyance, assignment and further assurance, and take such other actions as may be reasonably requested by Reorganized Flintkote to vest more fully and confirm in Reorganized Flintkote the worldwide Intellectual Property Rights and other rights set forth in this Section 8.1.

Section 8.2 Subject to the restrictions contained in Section 8.4, all data, database files, documentation and other materials held by Reorganized Flintkote or delivered by or on behalf of the Trust to Reorganized Flintkote hereunder pertaining to Asbestos Personal Injury Claims and all data and related files and computer files, including information submitted by or on behalf of Trust claimants during the performance of the Claims Processing Services hereunder (the “Claimant Data”) shall be and remain the exclusive property of the Trust; provided however, that the Trust hereby grants Reorganized Flintkote and its subcontractors and agents, an irrevocable, limited, personal, non-exclusive, royalty-free license to use such Claimant Data for the purpose of providing the Flintkote Services hereunder. All data, database files, documentation and other materials held by Reorganized Flintkote or delivered by or on behalf of the Trust to Reorganized Flintkote hereunder pertaining to Trust Assets, and all data and related files and computer files maintained or prepared by Reorganized Flintkote during the performance of the Administration Services hereunder (the “Trust Data”) shall be and remain the exclusive property of the Trust; provided however, that the Trust hereby grants Reorganized Flintkote and its subcontractors and agents, an irrevocable, limited, personal, non-exclusive, royalty-free license to use such Trust Data for the purpose of providing the Flintkote Services hereunder.

Section 8.3 For purposes hereof, “Intellectual Property Right” and “Intellectual Property Rights” mean (i) all rights under all copyright laws of the United States of America and all other jurisdictions and countries for the full terms thereof (of all rights accruing by virtue of copyright treaties and conventions), including, but not limited to, all renewals, extensions, reversions or restorations of copyrights now or hereafter provided by law and all rights to make applications for and obtain copyright registrations therefor and recordation thereof and all works of originality; (ii) all rights to and under new and useful inventions, discoveries, designs, technology and art and all other patentable subject matter, and all issued letters patent and all

pending applications for and all letters patent that issue from such applications in the United States and all other jurisdictions and countries of the world and all reissues, extensions, renewals, divisional applications, registrations and continuations (including continuations-in-part) of all of the foregoing, together with all know-how owned, created and/or developed by a party in whole or in part; (iii) all technologies and know-how not otherwise included in the above; (iv) all trade secrets; (v) all signs, business designations, trademarks, service marks and Internet domain names, goodwill, fame, reputation and the like throughout the world; and (vi) all other intellectual and industrial property and proprietary rights throughout the universe not otherwise included in the foregoing, including, without limitation, all techniques, methodologies and concepts and trade dress, improvements, enhancements, developments and the like.

Section 8.4 Notwithstanding anything else to the contrary in this Article 8, the claimant data arising from any other trust may not be used to process Trust Claims without the permission of the relevant claimant or his/her authorized representative, and the Claimant Data may not be used by Reorganized Flintkote for any purpose not authorized by the Services Agreement without the permission of the Trust Claimant or his/her authorized representative.

ARTICLE 9

ASSIGNMENT

Section 9.1 The provisions of this Services Agreement shall be binding upon and inure to the benefit of Reorganized Flintkote, the Trust and the Trustees (solely in their capacity as the Trustees of the Trust) and their respective successors, except that neither Reorganized Flintkote, the Trust nor the Trustees may assign or otherwise transfer any of its, or his or her, rights or obligations under this Services Agreement.

ARTICLE 10

REPRESENTATIONS AND WARRANTIES OF REORGANIZED FLINTKOTE

Section 10.1 Reorganized Flintkote hereby represents and warrants to the Trust as follows:

- (a) Reorganized Flintkote is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.
- (b) Reorganized Flintkote has the requisite financial resources, assets, personnel, corporate power and authority to execute, deliver and perform satisfactorily this Services Agreement. The execution, delivery and performance of this Services Agreement by Reorganized Flintkote have been duly authorized by all necessary corporate action. This Services Agreement has been duly executed and delivered by Reorganized Flintkote and constitutes the legal, valid and binding obligation of Reorganized Flintkote, enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights or by general principles of equity.

ARTICLE 11

ACKNOWLEDGEMENT OF TRUST

Section 11.1 The Trust acknowledges and agrees that Reorganized Flintkote's provision of services to another trust does not violate in any way Reorganized Flintkote's obligations or duties to the Trust under this Services Agreement or otherwise; provided, however, that Reorganized Flintkote will provide written notice to the Trust before Reorganized Flintkote enters into any agreement, either with another trust or with a third party, to (i) process asbestos-related personal injury claims for another trust, or (ii) provide administrative services to another trust.

ARTICLE 12

INDEMNIFICATION AND LIMITATION ON LIABILITY

Section 12.1 The Trust agrees to indemnify Reorganized Flintkote, its employees, officers and directors against any loss, liability, or damage (including reasonable costs of litigation and counsel fees) arising from or in connection with the Trust's operations or the performance of Reorganized Flintkote's duties under this Services Agreement, except for losses, liabilities, or damages resulting from Reorganized Flintkote's gross negligence or willful misconduct, in each case, as determined by a Final Order.

Section 12.2 In no event shall Reorganized Flintkote have any liability for loss of profit, diminution in value, loss of goodwill or consequential, incidental or punitive or other special damages as a result of provision of or failure to provide the Flintkote Services under the terms of this Services Agreement.

Section 12.3 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SERVICES AGREEMENT, REORGANIZED FLINTKOTE MAKES NO EXPRESS WARRANTIES, AND NO WARRANTY SHALL BE IMPLIED UNDER THIS SERVICES AGREEMENT OR AT LAW, INCLUDING, WITHOUT LIMITATION, WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AS TO THE FLINTKOTE SERVICES TO BE PERFORMED HEREUNDER.

Section 12.4 The receipt by the Trust of the Flintkote Services shall be an unqualified acceptance of, and a waiver by, the Trust of its rights to make any claim (other than based on gross negligence or fraud) with respect to such Flintkote Services unless the Trust gives written notice of the claim to Reorganized Flintkote within thirty (30) days after receipt of the Flintkote Services by the Trust.

ARTICLE 13

CONFIDENTIAL NATURE OF DATA

Section 13.1 Except to the extent provided for in Article 8, neither party will obtain any rights to any information including, but not limited to, confidential or proprietary information of or relating to the other party (the "Disclosing Party"), which has been or at any

time after the date of this Services Agreement is disclosed, directly or indirectly, by the Disclosing Party to the other party (the “Receiving Party”), including, without limitation, any data or information that pertains to any claim or processing of any claim, or other information, data, documents, database, files, methods of operation, processes, technical information, data, software, ideas, plans, know-how or services (collectively, “Proprietary Information”). Upon expiration or termination of this Services Agreement, the Receiving Party shall return to the Disclosing Party all Proprietary Information of the Disclosing Party, except the Receiving Party’s counsel may retain one copy of any Proprietary Information to the extent required for regulatory or other legal compliance purposes. The Receiving Party shall keep strictly confidential and not disclose, and shall cause its officers, trustees, employees, representatives, agents and contractors to keep strictly confidential and not disclose, any Proprietary Information of the Disclosing Party without the prior written consent of the Disclosing Party, which consent shall not be unreasonably withheld, except to the extent that (a) in the opinion of the Receiving Party’s counsel, such disclosure is required by law or any regulatory authority or in order to enforce any rights pursuant to this Services Agreement in legal proceedings, (b) such information (i) is known to the Receiving Party prior to the time of disclosure to it (to the extent evidenced by written records or other competent proof); (ii) is independently developed by the Receiving Party (to the extent evidenced by written records or other competent proof); (iii) was received from a third-party not in violation of any confidentiality restrictions; or (iv) is in the public domain through no fault of the Receiving Party. In addition to the foregoing, Section 6.5 of the Trust Distribution Procedures is hereby incorporated into this Services Agreement, and both the Trust and Reorganized Flintkote shall comply with the confidentiality requirements set forth therein with respect to Claimant Data. In the event of any breach of this Article 13 by the Receiving Party, the Receiving Party agrees that the Disclosing Party will suffer irreparable harm and that monetary damages will be an inadequate remedy. Accordingly, the Receiving Party agrees that the Disclosing Party shall be entitled to temporary and permanent injunctive relief against the Receiving Party, its employees, officers, directors, agents, representatives or contractors, and the other rights and remedies to which the Disclosing Party may be entitled to at law, in equity and under this Services Agreement for any violation of this Article 13.

Section 13.2 In the event any third-party or court serves upon Reorganized Flintkote a subpoena or other judicial process seeking disclosure of any Proprietary Information, including, without limitation, any information regarding Asbestos Personal Injury Claims or Trust Assets, Reorganized Flintkote shall notify the Trust immediately and shall respond to such subpoena or judicial process only as so directed by the Trust or as otherwise required by law.

ARTICLE 14

DISPUTE RESOLUTION

Section 14.1 Reorganized Flintkote and the Trust shall attempt in good faith to resolve any controversy, dispute or claim arising out of or relating to this Services Agreement or the breach, enforceability or validity thereof (collectively, a “Dispute”) promptly by negotiations by an officer of Reorganized Flintkote who shall have authority to settle the Dispute and the Trustees. Either party may give the other a written notice setting forth with reasonable specificity the nature of the Dispute (the “Dispute Notice”). Upon the receipt of a Dispute Notice, the representatives of both parties shall meet as soon as is practicable at a mutually

acceptable time and place to negotiate in good faith a settlement of the Dispute, and shall meet thereafter as they reasonably deem necessary.

Section 14.2 If the Dispute has not been resolved within thirty (30) days after receipt of the Dispute Notice (the "Negotiation Period") then the Dispute shall be resolved through binding arbitration. The following provisions shall cover any such arbitration:

(a) Within ten (10) days after the termination of the Negotiation Period, the parties to the arbitration shall jointly select a single arbitrator. If for any reason, the parties are unable to select an arbitrator, the arbitrator shall be chosen, or caused to be chosen, by the American Arbitration Association ("AAA"), or any successor organization, in accordance with its then current rules.

(b) The arbitrator shall hold his or her first hearing on the Dispute as promptly as possible, but in no event later than ten (10) days after the arbitrator is selected. All hearings and proceedings of the arbitration shall be conducted in San Francisco, California, unless both parties agree otherwise.

(c) The arbitrator shall have the right to issue any and all orders, final or otherwise, including interim or injunctive relief, and any and all awards that a court of competent jurisdiction sitting at law or in equity could issue, including the awarding of monetary damages. Under no circumstances, however, shall punitive or exemplary damages, non-compensatory damages or damages for pain and suffering be awarded. In the event interim or injunctive relief is sought before an arbitrator is selected, either party may seek such relief by applying to the AAA for such relief under its Rules for Emergency Measure of Protection. Each party shall be entitled to present to the arbitrator written briefs on all issues in the arbitration, and the arbitrator shall be authorized to rule on motions for summary judgment or other motions. The parties shall also be entitled to cause a transcript of the arbitration proceedings to be made. Unless otherwise agreed by the parties, the cost of the transcript shall be borne by the party requesting the transcription, unless the arbitrator requests a transcript, in which case, the arbitrator shall determine who shall bear such cost at the termination of the proceedings. If the arbitrator does not request transcription, then neither party shall provide any transcribed portions of the proceedings to the arbitrator unless that party furnishes the entire transcript to the other party.

(d) The decision of the arbitrator shall be final and binding on the parties and may be confirmed and entered by any court of competent jurisdiction at the request of any party hereto. It may not be appealed to any court of competent jurisdiction except upon a claim of fraud on the part of the arbitrator.

(e) Each party shall bear one-half of the fees and expenses of the arbitrator, and one-half of the costs of conducting the arbitration, as well as the party's own costs and expenses. Promptly after commencing proceedings, the arbitrator shall estimate the entire cost of the arbitration and shall require each party to deposit its share of such cost with the arbitrator, as soon as practicable following release of

the estimate. If the estimate is later determined to be insufficient, the arbitrator may require further deposits. The arbitrator shall be compensated and pay the costs of the arbitration from the amounts so deposited by the parties. Each party shall bear its own attorneys' fees.

(f) The arbitrator shall be compensated for his or her services at a reasonable hourly rate agreed to by the parties. The arbitrator shall be reimbursed for any and all reasonable expenses incurred by him or her in connection with the rendering of such services. The arbitrator shall be entitled to be indemnified, defended and held harmless by each of the parties for any and all loss, cost, expense, claim, action, demand or suit arising, from or relating to the arbitration.

(g) The laws of the United States regarding arbitration procedure shall govern the arbitration and California substantive law, without regard to conflicts of law, shall govern all Disputes. Any arbitration hereunder is intended to be administered by the arbitrator selected as provided herein, except to the extent that resort may be made to the AAA, as specified herein. However, the parties incorporate the rules of the AAA for Large, Complex Disputes and the rules for Emergency Measures of Protection as they may exist on the date an arbitrator is selected, to the extent not inconsistent herewith. If any such inconsistency exists, these rules shall govern, unless otherwise agreed by the parties in dispute hereunder. It is recognized by the parties hereto that Disputes, which may arise hereunder, may be complex and may require discovery of documents and depositions, which may be ordered by the arbitrator as deemed reasonable and necessary.

(h) This Services Agreement is intended to provide a mechanism whereby Disputes may be resolved in a confidential manner, without publicity and the attendant distractions. Accordingly, (i) no person shall be present at any hearing or other proceeding of the arbitrator except the parties, the arbitrator, such witnesses and producers of documents as the arbitrator shall allow, counsel to the parties, court reporters employed to produce a transcript of such hearing or other proceedings and such other persons allowed by the arbitrator consistent with the purpose of confidentiality; (ii) each party shall keep both the fact of the Dispute and all proceedings related thereto confidential, except to the extent necessary in order to preserve and maintain its position; and (iii) all testimony before the arbitrator and any whole or partial transcript of any hearing or other proceeding related to the arbitration shall be kept confidential and shall in no event be released, shown or distributed to any person other than the parties, their counsel and the arbitrator. If either party shall breach this subsection, the arbitrator is authorized to award compensation to the other party as appropriate.

ARTICLE 15

EFFECT OF TERMINATION

Section 15.1 Upon expiration or termination of this Services Agreement for any reason, (i) Reorganized Flintkote shall have no further obligation to process Asbestos Personal Injury Claims or provide administrative and management services to the Trust hereunder; (ii) all unpaid amounts due and owing to Reorganized Flintkote shall become immediately due and payable by the Trust; (iii) Reorganized Flintkote shall return to the Trust, at the Trust's expense within thirty (30) days of termination, all Claimant Data and Trust Data retained by Reorganized Flintkote in a form or medium reasonably requested by the Trust in writing and all of the documents and written records of transactions in Reorganized Flintkote's possession to the extent they relate to the processing of Asbestos Personal Injury Claims or the management of Trust Assets, provided that Reorganized Flintkote shall not be required to license, deliver a copy of or otherwise provide its software or other Intellectual Property Rights to the Trust; and (iv) the parties agree to cooperate to provide an orderly winding up of the services to be provided hereunder to ensure that the interests of the Trust's claimants are not adversely affected by such expiration or termination. Notwithstanding the foregoing, Article 4 (Fees), Article 8 (Ownership of Systems and Materials), Article 12 (Indemnification and Limitation on Liability), Article 13 (Confidential Nature of Data), Article 14 (Dispute Resolution), Section 16.4 (Governing Law) and Section 16.7 (Entire Agreement) shall survive the expiration or termination of this Services Agreement

ARTICLE 16

GENERAL PROVISIONS

Section 16.1 Force Majeure. No party hereunder shall be liable to the other for its failure to perform hereunder caused by contingencies beyond its reasonable control, including, but not limited to, acts of god, fire, flood, wars, acts of terrorism, sabotage, strike, government actions and any other similar occurrence beyond the non-performing party's reasonable control. Any party asserting its inability to perform any obligation hereunder for any such contingency shall promptly notify the other party of the existence of any such contingency, and shall use its reasonably diligent efforts to re-commence its performance of such obligation as soon as commercially practicable.

Section 16.2 Amendments. Reorganized Flintkote and the Trust may modify or amend this Services Agreement in a writing executed by each of them. Notwithstanding anything contained in this Services Agreement to the contrary, this Services Agreement shall not be modified or amended in any way that could jeopardize, impair, or modify the applicability of section 524(g) of the Bankruptcy Code, the efficacy or enforceability of the Flintkote Discharge Injunction, the Insurance Entity Injunction and the Third Party Injunction set out in the Plan and Confirmation Order, the Trust's "qualified settlement fund" status under section 468B of the Internal Revenue Code or the rights and protections provided to Flintkote or Reorganized Flintkote under the Plan Documents.

Section 16.3 Notices. All notices or other communications hereunder shall be deemed to have been duly given and made if in writing and if served by personal delivery upon the party for whom it is intended, if delivered by registered or certified mail, return receipt requested, or by a national courier service, or if sent by facsimile, provided that the facsimile is promptly confirmed by telephone confirmation thereof, to the party at the address set forth

below, or such other address as may be designated in writing hereafter, in the same manner, by such party:

To the Trust through the Trustees:

Attention: _____

To Debtors or Reorganized Flintkote:
The Flintkote Company
Attn: David J. Gordon, President
Two Embarcadero Center, Suite 410
San Francisco CA 94111
Facsimile: 415-949-5045

With a copy to:
The Flintkote Company
Attn: Eric Bower, Chief Financial Officer
Two Embarcadero Center, Suite 410
San Francisco CA 94111
Facsimile: 415-949-5045

With a copy to:
John H. Bay
1002 Olympia Avenue NE
Olympia, Washington 98506
Facsimile: (360) 943-4683

With a copy to:
Kevin T. Lantry
Sidley Austin LLP
555 West Fifth Street, Ste. 4000
Los Angeles, CA 90013
Facsimile: (213) 896-6600

Section 16.4 Governing Law. This Services Agreement shall be governed by the laws of the State of California, its rules of conflict of laws notwithstanding.

Section 16.5 Counterparts. This Services Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

Section 16.6 Headings. The headings contained in this Services Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Services Agreement.

Section 16.7 Entire Agreement. This Services Agreement contains the entire understanding and agreement between the parties hereto as to the services being performed hereunder.

Section 16.8 Waiver. Any provision of this Services Agreement may be waived if, and only if, such waiver is in writing and signed by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 16.9 Severability. The provisions of this Services Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any term or other provision of this Services Agreement, or the application thereof to any person or entity or any circumstance, is invalid, illegal or unenforceable: (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision; and (b) the remainder of this Services Agreement and the application of such provision to other persons, entities or circumstances shall not be affected by such invalidity, illegality or unenforceability, nor shall such invalidity, illegality or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

IN WITNESS WHEREOF, the parties have duly executed this Services Agreement as of the day and year first above written.

THE FLINTKOTE COMPANY

By: _____
Name:
Title:

THE TRUST

By:
Title: Trustee

By:
Title: Trustee

By:
Title: Trustee

ATTACHMENT 2
FORMS OF EMPLOYMENT CONTRACTS³

³ These draft forms of employment contracts remain subject to further revision and amendment by the Plan Proponents up to the Confirmation Hearing.

SIXTH AMENDMENT TO EMPLOYMENT AGREEMENT

This Sixth Amendment ("Sixth Amendment") to the Employment Agreement that was entered into as of January 1, 2004 and which was subsequently amended on or about September 1, 2004, further amended on or about February 16, 2006, further amended on or about December 31, 2009, further amended on or about _____, and further amended on September __, 2010 (as previously amended and modified, the "Agreement") by and between The Flintkote Company (the "Corporation") and David J. Gordon (the "Executive") (together the "Parties"), is made part of the Agreement and is effective as of the last date on which it has been duly executed by all of the signatories set forth below, (the "Sixth Amendment Effective Date").

WHEREAS, the Corporation filed for chapter 11 on May 1, 2004, which case is pending in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, the Bankruptcy Court entered an order confirming the Plan on [_____], and the Plan Effective Date will occur on [_____];

WHEREAS, the Agreement and any incentive arrangements between Executive and the Corporation were in effect only through the pendency of the Corporation's chapter 11 case, and Executive and the Corporation have agreed to extend the term of the Agreement from and after the Plan Effective Date pursuant to this Sixth Amendment;

WHEREAS, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Corporation and the Executive hereby agree as follows:

1. **Definition of Terms.**

(a) **"Bankruptcy Case"** means the Chapter 11 bankruptcy cases (i) commenced by the Corporation in the Bankruptcy Court on May 1, 2004, Case No. 04-11300 (JKF), and (ii) commenced by Mines on August 25, 2004, Case No. 04-12440 (JKF), both of which are pending in the United States Bankruptcy Court for the District of Delaware and are being jointly administered.

(b) **"Plan"** means the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Mines (As Modified), filed on July 20, 2009 by the Plan Proponents (as defined in the Plan) in the Bankruptcy Case, modified on August 5, 2010, and as it may be amended or otherwise modified from time to time.

(c) **"Plan Effective Date"** has the meaning set forth in the Plan.

(d) All terms defined in the Agreement that are used in the Incentive Program and this Sixth Amendment shall have the same meanings as they do in the Agreement. Capitalized terms used herein but not otherwise defined shall have the same meanings set forth in the Incentive Program. Any discrepancy or conflict between the definitions, terms and conditions of the Incentive Program and this Sixth Amendment shall be controlled by the definitions, terms and conditions of this Sixth Amendment.

2. **Term of Employment.** Executive and the Corporation hereby agree to extend the Agreement to three years from the Plan Effective Date (the "Employment Term"). At the end of the Employment Term, Executive's employment will continue until the earlier of (1) the date of Executive's death or (2) the date when Executive's employment terminates pursuant to Section 1(b), (c) or (d) of the Agreement. Should the Corporation terminate Executive's employment with the Corporation not for Cause (as defined in Section 1(c) of the Agreement) or Disability (as defined in Section 1(d) of the Agreement), in addition to the earned and unpaid salary through the date of termination and a pro rata share of the earned and unpaid quarterly payment provided for in Section 3 below, upon Executive providing a signed general release of claims in favor of the Corporation as provided for in Section 8(c) of the Agreement, the Corporation shall pay to Executive within ten (10) business days following the Termination Date in a lump sum an aggregate amount equal to the greater of (i) Executive's then Base Compensation as of the Termination Date for the remainder of the Employment Term and (ii) one year of Executive's then Base Compensation as of the Termination Date. This Section 2 hereby supersedes Section 8(b) of the Agreement. Except as otherwise modified or supplemented herein, all provisions of the Agreement, including but not limited to any provisions regarding early termination of the Agreement, will remain in full force and effect until the termination of Executive's employment with the Corporation, when, unless otherwise extended by mutual agreement, the Agreement shall expire, except for any sections of the Agreement that Executive and the Corporation have agreed shall survive and continue in full force and effect notwithstanding any termination of Executive's employment.

3. **Quarterly Payments and Performance Bonus Payments.** If Executive is then employed by the Corporation, Executive shall receive a quarterly payment equivalent to 75% of the average base salaries for David J. Gordon, Eric A. Bower, and John Bay (or such of them that are then employed by the Corporation) for that quarter, payable in cash on the last day of the third month after the effective date of the Plan, and on each last day of each consecutive three-month period thereafter during the Employment Term. For example, if the effective date of the Plan is December 15, then quarterly payments will be payable on March 31, June 30, September 30, and December 31. Executive also shall be eligible to receive a performance bonus calculated and paid annually based upon criteria determined by the Board in its sole discretion (including, but not limited to, extending the "Incentive Program" (as that term is defined in the Fifth Amendment to Employment Agreement)).

4. **Cash Payments.** All cash payments to Executive referred to above in Section 3 shall be (i) deemed to be a payment made under Section 4 of the Agreement, (ii) deemed to be part of the "Accrued Benefits" as such term is defined in the Agreement, and (iii) subject to being paid to Executive pursuant to the provisions of Sections 7, 8 and 9 of the Agreement.

5. **Miscellaneous Amendments.** Section 15(f) of the Agreement is hereby amended as follows: For a period of four years after Executive's Termination Date, Executive will be available to the Corporation (i) to respond to requests by the Corporation for information pertaining to or relating to the Corporation and its subsidiaries and affiliates which may be within the knowledge of Executive and (ii) to give testimony and assistance in connection with any future litigation or arbitration proceedings arising from activities of the Corporation during the period of his employment provided, however, that Executive shall not be obligated to provide more than a cumulative total of 50 hours of time pursuant to this Section 15(f). Such testimony and assistance will be scheduled at times and locations convenient for Executive and not inconsistent with his health and the responsibilities that he then may have in connection with subsequent employment or other rendering of services. The Corporation shall reimburse him for all reasonable out-of-pocket travel and other expenses, including legal fees, incurred by him in connection with the satisfaction of his obligations pursuant to this Section 15(f). Such fees and reimbursements shall be paid promptly after Executive's submission to the Corporation of statements in such reasonable detail as to enable the Corporation to make such payment.

6. **Miscellaneous Provisions.** All provisions under the Agreement, including without limitation Section 16, shall apply to this Sixth Amendment, except Sections 6(b), 6(c), 10(a), and 16(a) of the Agreement, which are no longer in effect and shall not apply for the remainder of Executive's employment with the Corporation.

7. **Legal Fees.** The Corporation agrees that the cost of any reasonable legal fees incurred by Executive in connection with entering into this Sixth Amendment shall be paid promptly by the Corporation, subject to submission by Executive to the Corporation of appropriate documentation for such fees.

8. **Amendment.** No provision of this Sixth Amendment shall be modified, waived, discharged or amended unless the modification, waiver, discharge or amendment is agreed to in writing and signed by Executive and by an authorized officer of the Corporation (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Sixth Amendment by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time. This Sixth Amendment and the Agreement contain the entire agreement of the Parties with respect to the subject matter hereof and it replaces and supersedes any agreements, representations or understandings (whether oral or written and whether express or implied) that are not expressly set forth in this Sixth Amendment that have been made or entered into by either party with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, each of the Parties has executed this Sixth Amendment as of the date and year first above written.

EXECUTIVE

David J. Gordon

THE FLINTKOTE COMPANY

By _____
Eric A. Bower

Its Executive Vice President and
Chief Financial Officer

FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT

This Fifth Amendment ("Fifth Amendment") to the Employment Agreement that was entered into as of March 1, 2004 and which was subsequently amended on or about September 1, 2004, further amended on or about February 16, 2006, further amended on or about December 31, 2009, and further amended on September __, 2010 (as previously amended and modified, the "Agreement") by and between The Flintkote Company (the "Corporation") and Eric A. Bower (the "Executive") (together the "Parties"), is made part of the Agreement and is effective as of the last date on which it has been duly executed by all of the signatories set forth below, (the "Fifth Amendment Effective Date").

WHEREAS, the Corporation filed for chapter 11 on May 1, 2004, which case is pending in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, the Bankruptcy Court entered an order confirming the Plan on [_____], and the Plan Effective Date will occur on [_____];

WHEREAS, the Agreement and any incentive arrangements between Executive and the Corporation were in effect only through the pendency of the Corporation's chapter 11 case, and Executive and the Corporation have agreed to extend the term of the Agreement from and after the Plan Effective Date pursuant to this Fifth Amendment; and

WHEREAS, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Corporation and the Executive hereby agree as follows:

1. **Definition of Terms.**

(a) **"Bankruptcy Case"** means the Chapter 11 bankruptcy cases (i) commenced by The Corporation in the Bankruptcy Court on May 1, 2004, Case No. 04-11300 (JKF), and (ii) commenced by Mines on August 25, 2004, Case No. 04-12440 (JKF), both of which are pending in the United States Bankruptcy Court for the District of Delaware and are being jointly administered.

(b) **"Plan"** means the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Mines (As Modified), filed on July 20, 2009 by the Plan Proponents (as defined in the Plan) in the Bankruptcy Case, modified on August 5, 2010, and as it may be amended or otherwise modified from time to time.

(c) **"Plan Effective Date"** has the meaning set forth in the Plan.

(d) All terms defined in the Agreement that are used in the Incentive Program and this Fifth Amendment shall have the same meanings as they do in the Agreement. Capitalized terms used herein but not otherwise defined shall have the same meanings set forth in the Incentive Program. Any discrepancy or conflict between the definitions, terms and conditions of the Incentive Program and this Fifth Amendment shall be controlled by the definitions, terms and conditions of this Fifth Amendment.

2. **Term of Employment.** Executive and the Corporation hereby agree to extend the Agreement to one year from the Plan Effective Date (the "Employment Term"). Executive and the Corporation agree that prior to the expiration of the Employment Term, Executive and the Corporation will engage in good faith negotiations for a potential extension of the Employment Term or for a potential consulting services arrangement commencing immediately upon the expiration of the Employment Term. Notwithstanding such negotiations, at the end of the Employment Term, Executive's employment will continue until the earlier of (1) the date of Executive's death or (2) the date when Executive's employment terminates pursuant to Section 1(b), (c) or (d) of the Agreement. Should the Corporation terminate Executive's employment with the Corporation not for Cause (as defined in Section 1(c) of the Agreement) or Disability (as defined in Section 1(d) of the Agreement), in addition to the earned and unpaid salary through the date of termination and a pro rata share of the earned and unpaid quarterly payment provided for in Section 3 below, upon Executive providing a signed general release of claims in favor of the Corporation as provided for in Section 8(c) of the Agreement, the Corporation shall pay to Executive within ten (10) business days following the Termination Date in a lump sum an amount equal to one year of Executive's then Base Compensation as of the Termination Date. This Section 2 hereby supersedes Section 8(b) of the Agreement. Except as otherwise modified or supplemented herein, all provisions of the Agreement, including but not limited to any provisions regarding early termination of the Agreement, will remain in full force and effect until the termination of Executive's employment with the Corporation, when, unless otherwise extended by mutual agreement, the Agreement shall expire, except for any sections of the Agreement that Executive and the Corporation have agreed shall survive and continue in full force and effect notwithstanding any termination of Executive's employment.

3. **Quarterly Payments and Performance Bonus Payments.** If Executive is then employed by the Corporation, Executive shall receive a quarterly payment equivalent to 75% of the average base salaries for David J. Gordon, Eric A. Bower, and John Bay (or such of them that are then employed by the Corporation) for that quarter, payable in cash on the last day of the third month after the effective date of the Plan, and on each last day of each consecutive three-month period thereafter during the Employment Term. For example, if the effective date of the Plan is December 15, then quarterly payments will be payable on March 31, June 30, September 30, and December 31. Executive also shall be eligible to receive a performance bonus calculated and paid annually based upon criteria determined by the Board in its sole discretion (including, but not limited to, extending the "Incentive Program" (as that term is defined in the Fifth Amendment to Employment Agreement)).

4. **Cash Payments.** All cash payments to Executive referred to above in Section 3 shall be (i) deemed to be a payment made under Section 4 of the Agreement, (ii) deemed to be part of the "Accrued Benefits" as such term is defined in the Agreement, and (iii) subject to being paid to Executive pursuant to the provisions of Sections 7, 8 and 9 of the Agreement.

5. **Miscellaneous Amendments.** Section 15(f) of the Agreement is hereby amended as follows: For a period of four years after Executive's Termination Date, Executive will be available to the Corporation (i) to respond to requests by the Corporation for information pertaining to or relating to the Corporation and its subsidiaries and affiliates which may be within the knowledge of Executive and (ii) to give testimony and assistance in connection with any future litigation or arbitration proceedings arising from activities of the Corporation during the period of his employment provided, however, that Executive shall not be obligated to provide more than a cumulative total of 50 hours of time pursuant to this Section 15(f). Such testimony and assistance will be scheduled at times and locations convenient for Executive and not inconsistent with his health and the responsibilities that he then may have in connection with subsequent employment or other rendering of services. The Corporation shall reimburse him for all reasonable out-of-pocket travel and other expenses, including legal fees, incurred by him in connection with the satisfaction of his obligations pursuant to this Section 15(f). Such fees and reimbursements shall be paid promptly after Executive's submission to the Corporation of statements in such reasonable detail as to enable the Corporation to make such payment.

6. **Miscellaneous Provisions.** All provisions under the Agreement, including without limitation Section 16, shall apply to this Fifth Amendment, except Sections 10(a) and 16(a) of the Agreement, which are no longer in effect and shall not apply for the remainder of Executive's employment with the Corporation.

7. **Legal Fees.** The Corporation agrees that the cost of any reasonable legal fees incurred by Executive in connection with entering into this Fifth Amendment shall be paid promptly by the Corporation, subject to submission by Executive to the Corporation of appropriate documentation for such fees.

8. **Amendment.** No provision of this Fifth Amendment shall be modified, waived, discharged or amended unless the modification, waiver, discharge or amendment is agreed to in writing and signed by Executive and by an authorized officer of the Corporation (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Fifth Amendment by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time. This Fifth Amendment and the Agreement contain the entire agreement of the Parties with respect to the subject matter hereof and it replaces and supersedes any agreements, representations or understandings (whether oral or written and whether express or implied) that are not expressly set forth in this Fifth

Amendment that have been made or entered into by either party with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, each of the Parties has executed this Fifth Amendment as of the date and year first above written.

EXECUTIVE

Eric A. Bower

THE FLINTKOTE COMPANY

By _____
David J. Gordon

Its President and
Chief Executive Officer

FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT

This Fifth Amendment ("Fifth Amendment") to the Employment Agreement that was entered into as of March 1, 2004 and which was subsequently amended on or about September 1, 2004, further amended on or about February 16, 2006, further amended on or about December 31, 2009, and further amended on September __, 2010 (as previously amended and modified, the "Agreement") by and between The Flintkote Company (the "Corporation") and John Bay (the "Executive") (together the "Parties"), is made part of the Agreement and is effective as of the last date on which it has been duly executed by all of the signatories set forth below, (the "Fifth Amendment Effective Date").

WHEREAS, the Corporation filed for chapter 11 on May 1, 2004, which case is pending in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, the Bankruptcy Court entered an order confirming the Plan on [_____], and the Plan Effective Date will occur on [_____];

WHEREAS, the Agreement and any incentive arrangements between Executive and the Corporation were in effect only through the pendency of the Corporation's chapter 11 case, and Executive and the Corporation have agreed to extend the term of the Agreement from and after the Plan Effective Date pursuant to this Fifth Amendment; and

WHEREAS, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Corporation and the Executive hereby agree as follows:

1. **Definition of Terms.**

(a) **"Bankruptcy Case"** means the Chapter 11 bankruptcy cases (i) commenced by The Corporation in the Bankruptcy Court on May 1, 2004, Case No. 04-11300 (JKF), and (ii) commenced by Mines on August 25, 2004, Case No. 04-12440 (JKF), both of which are pending in the United States Bankruptcy Court for the District of Delaware and are being jointly administered.

(b) **"Plan"** means the Amended Joint Plan of Reorganization in Respect of The Flintkote Company and Mines (As Modified), filed on July 20, 2009 by the Plan Proponents (as defined in the Plan) in the Bankruptcy Case, modified on August 5, 2010, and as it may be amended or otherwise modified from time to time.

(c) **"Plan Effective Date"** has the meaning set forth in the Plan.

(d) All terms defined in the Agreement that are used in the Incentive Program and this Fifth Amendment shall have the same meanings as they do in the Agreement. Capitalized terms used herein but not otherwise defined shall have the same meanings set forth in the Incentive Program. Any discrepancy or conflict between the definitions, terms and conditions of the Incentive Program and this Fifth Amendment shall be controlled by the definitions, terms and conditions of this Fifth Amendment.

2. **Term of Employment.** Executive and the Corporation hereby agree to extend the Agreement to one year from the Plan Effective Date (the "Employment Term"). Executive and the Corporation agree that prior to the expiration of the Employment Term, Executive and the Corporation will engage in good faith negotiations for a potential extension of the Employment Term or for a potential consulting services arrangement commencing immediately upon the expiration of the Employment Term. Notwithstanding such negotiations, at the end of the Employment Term, Executive's employment will continue until the earlier of (1) the date of Executive's death or (2) the date when Executive's employment terminates pursuant to Section 1(b), (c) or (d) of the Agreement. Should the Corporation terminate Executive's employment with the Corporation not for Cause (as defined in Section 1(c) of the Agreement) or Disability (as defined in Section 1(d) of the Agreement), in addition to the earned and unpaid salary through the date of termination and a pro rata share of the earned and unpaid quarterly payment provided for in Section 3 below, upon Executive providing a signed general release of claims in favor of the Corporation as provided for in Section 8(c) of the Agreement, the Corporation shall pay to Executive within ten (10) business days following the Termination Date in a lump sum an aggregate amount equal to the greater of (i) Executive's then Base Compensation as of the Termination Date for the remainder of the Employment Term and (ii) an amount equal to six months of Executive's then Base Compensation as of the Termination Date. This Section 2 hereby supersedes Section 8(b) of the Agreement. Except as otherwise modified or supplemented herein, all provisions of the Agreement, including but not limited to any provisions regarding early termination of the Agreement, will remain in full force and effect until the termination of Executive's employment with the Corporation, when, unless otherwise extended by mutual agreement, the Agreement shall expire, except for any sections of the Agreement that Executive and the Corporation have agreed shall survive and continue in full force and effect notwithstanding any termination of Executive's employment.

3. **Quarterly Payments and Performance Bonus Payments.** If Executive is then employed by the Corporation, Executive shall receive a quarterly payment equivalent to 75% of the average base salaries for David J. Gordon, Eric A. Bower, and John Bay (or such of them that are then employed by the Corporation) for that quarter, payable in cash on the last day of the third month after the effective date of the Plan, and on each last day of each consecutive three-month period thereafter during the Employment Term. For example, if the effective date of the Plan is December 15, then quarterly payments will be payable on March 31, June 30, September 30, and December 31. Executive also shall be eligible to receive a performance bonus calculated and paid annually based upon criteria determined by the Board in its sole discretion (including, but

not limited to, extending the "Incentive Program" (as that term is defined in the Fifth Amendment to Employment Agreement)).

4. **Cash Payments.** All cash payments to Executive referred to above in Section 3 shall be (i) deemed to be a payment made under Section 4 of the Agreement, (ii) deemed to be part of the "Accrued Benefits" as such term is defined in the Agreement, and (iii) subject to being paid to Executive pursuant to the provisions of Sections 7, 8 and 9 of the Agreement.

5. **Miscellaneous Amendments.**

(a) Section 2(c) of the Agreement is hereby amended as follows: The Corporation understands and agrees that Executive shall carry out his duties and responsibilities to the Corporation primarily from an office that he maintains in Washington and that it shall provide Executive with staff and administrative support from its San Francisco, California offices and access to the Corporation's retained professionals and consultants together with access to files and other information as is necessary and appropriate to allow Executive to satisfy his obligations hereunder. Executive understands and agrees that he will be expected to make himself available for meetings in San Francisco, California and elsewhere as reasonably requested by the Corporation upon reasonable notice.

(b) Section 6(b) of the Agreement is hereby amended as follows: The Corporation agrees to reimburse Executive for expenses incurred in maintaining an office in Washington in an amount not to exceed \$300 per month. All such expenses shall be presented with supporting documentation in accordance with and subject to the Corporation's applicable policies.

(c) Section 15(f) of the Agreement is hereby amended as follows: For a period of four years after Executive's Termination Date, Executive will be available to the Corporation (i) to respond to requests by the Corporation for information pertaining to or relating to the Corporation and its subsidiaries and affiliates which may be within the knowledge of Executive and (ii) to give testimony and assistance in connection with any future litigation or arbitration proceedings arising from activities of the Corporation during the period of his employment provided, however, that Executive shall not be obligated to provide more than a cumulative total of 50 hours of time pursuant to this Section 15(f). Such testimony and assistance will be scheduled at times and locations convenient for Executive and not inconsistent with his health and the responsibilities that he then may have in connection with subsequent employment or other rendering of services. The Corporation shall reimburse him for all reasonable out-of-pocket travel and other expenses, including legal fees, incurred by him in connection with the satisfaction of his obligations pursuant to this Section 15(f). Such fees and reimbursements shall be paid promptly after Executive's submission to the Corporation of statements in such reasonable detail as to enable the Corporation to make such payment.

6. **Miscellaneous Provisions.** All provisions under the Agreement, including without limitation Section 16, shall apply to this Fifth Amendment, except Sections 10(a) and 16(a) of the Agreement, which are no longer in effect and shall not apply for the remainder of Executive's employment with the Corporation.

7. **Legal Fees.** The Corporation agrees that the cost of any reasonable legal fees incurred by Executive in connection with entering into this Fifth Amendment shall be paid promptly by the Corporation, subject to submission by Executive to the Corporation of appropriate documentation for such fees.

8. **Amendment.** No provision of this Fifth Amendment shall be modified, waived, discharged or amended unless the modification, waiver, discharge or amendment is agreed to in writing and signed by Executive and by an authorized officer of the Corporation (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Fifth Amendment by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time. This Fifth Amendment and the Agreement contain the entire agreement of the Parties with respect to the subject matter hereof and it replaces and supersedes any agreements, representations or understandings (whether oral or written and whether express or implied) that are not expressly set forth in this Fifth Amendment that have been made or entered into by either party with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, each of the Parties has executed this Fifth Amendment as of the date and year first above written.

EXECUTIVE

John Bay

THE FLINTKOTE COMPANY

By _____
David J. Gordon

Its President and
Chief Executive Officer

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

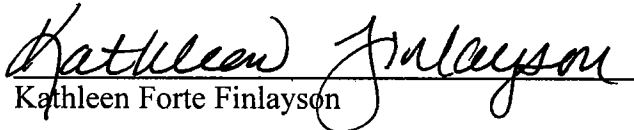
In re:)	Chapter 11
)	
THE FLINTKOTE COMPANY and,)	Case No. 04-11300 (JKF)
FLINTKOTE MINES LIMITED,)	(Jointly Administered)
Debtors.)	

AFFIDAVIT OF SERVICE


STATE OF DELAWARE)
) ss:
 COUNTY OF NEW CASTLE)

Kathleen Forte Finlayson, being duly sworn according to law, deposes and says that she is employed by the law firm of Pachulski Stang Ziehl & Jones LLP, attorneys for the Debtors in the above-captioned action, and that on the 16th day of September 2010 she caused a copy of the following document(s) to be served upon the parties on the attached service list in the manner indicated:

Notice of Filing Third Amendment to Plan Supplement to Amended Joint Plan of Reorganization (As Modified)


 Kathleen Forte Finlayson

Sworn to and Subscribed before me this 16th day of September 2010


 Notary Public
 Commission Exp.: 2-20-12

DOCS_DE:163656.1

DIANE K. POTTS
NOTARY PUBLIC
STATE OF DELAWARE
 My commission expires Feb. 20, 2012

Flintkote – Confirmation
Parties not on 2002 Service List
Case No. 04-11300
Doc. #163642
03 - First Class Mail

First Class Mail
(counsel for Certain London Market
Insurance Companies)
Fred L. Alvarez, Esquire
Walker Wilcox Matousek LLP
225 West Washington St., Ste 2400
Chicago, IL 60606

First Class Mail
(counsel for Certain London Market
Insurance Companies)
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