

**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.)
)
_____)

**JOINT PLAN OF REORGANIZATION IN RESPECT OF
THE FLINTKOTE COMPANY AND FLINTKOTE MINES LIMITED**

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EXHIBITS TO PLAN

- Exhibit A Asbestos Personal Injury Trust Agreement
- Exhibit B Asbestos Personal Injury Trust Distribution Procedures
- Exhibit C Retention and Contingency Fee Agreement

INTRODUCTION

Flintkote and Mines, the debtors and debtors in possession in the above-captioned cases, the Asbestos Claimants Committee, and the Future Claimants Representative jointly propose the following Plan under chapter 11 of the Bankruptcy Code.

ARTICLE I DEFINITIONS AND RULES OF INTERPRETATION

1.1 Capitalized Terms. The capitalized terms used herein have the respective meanings set forth below. Any term that is not otherwise defined in this Section 1.1 of the Plan, but that is defined elsewhere in the Plan or in the Bankruptcy Code or Bankruptcy Rules, shall have the meaning given to that term in the Plan, the Bankruptcy Code or Bankruptcy Rules, as applicable.

1.1.1 “Administrative Claim” means any Claim for (a) any cost or expense of administration of the Chapter 11 Cases under section 503(b) of the Bankruptcy Code including, but not limited to (1) any actual and necessary post-petition cost or expense of preserving the Estates or operating the businesses of the Debtors, (2) any payment to be made under the Plan to cure a default on an assumed executory contract or unexpired lease, (3) post-petition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtors in the ordinary course of business, (4) any Fee Claim, including any Claim for compensation or reimbursement of expenses of Professionals to the extent allowed by the Bankruptcy Court under sections 328, 330(a) or 331 of the Bankruptcy Code or the provision of the Plan, and (5) any fee or charge assessed against the Estates under 28 U.S.C. § 1930.

1.1.2 “Affiliate” shall have the meaning ascribed to such term in section 101(2) of the Bankruptcy Code.

1.1.3 “Allowed Amount” means, with respect to any Claim, the amount for which that Claim is allowed, denominated in dollars.

1.1.4 “Amended Bylaws” means, the amended and restated bylaws of Reorganized Flintkote, in substantially the form contained in the Plan Supplement.

1.1.5 “Amended Certificate of Incorporation” means, the amended and restated certificate of incorporation of Reorganized Flintkote, in substantially the form contained in the Plan Supplement.

1.1.6 “Amended Charter Documents” means, collectively, the Amended Bylaws and the Amended Certificate of Incorporation.

1.1.7 “Asbestos Claimants Committee” means the Official Committee of Asbestos Personal Injury Claimants appointed in Flintkote’s Chapter 11 Case by the United States Trustee on or about May 19, 2004.

1.1.8 “Asbestos In-Place Insurance Coverage” means any insurance coverage available for the payment or reimbursement of liability, indemnity or defense costs arising from or related to Asbestos Personal Injury Claims or Trust Expenses under any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

1.1.9 “Asbestos Insurance Action” means any claim, cause of action, or right of the Debtors or any of them, under the laws of any jurisdiction, against any Asbestos Insurance Company, arising from or related to: (a) any such Asbestos Insurance Company’s failure to provide or pay under Asbestos In-Place Insurance Coverage, (b) the refusal of any Asbestos Insurance Company to compromise and settle any Asbestos Personal Injury Claim under or pursuant to any Asbestos Insurance Policy or Asbestos Insurance Settlement Agreement, (c) the interpretation or enforcement of the terms of any Asbestos Insurance Policy or Asbestos Insurance Settlement Agreement with respect to any Asbestos Personal Injury Claim, or (d) any conduct by an Asbestos Insurance Company constituting “bad faith” or other wrongful conduct under applicable law.

1.1.10 “Asbestos Insurance Action Recoveries” means (a) Cash derived from and paid pursuant to Asbestos Insurance Settlement Agreements entered into after May 1, 2004, attributable to any Asbestos Personal Injury Claim other than reimbursement for payments made on account of Asbestos Personal Injury Claims prior to May 1, 2004, (b) the right to receive proceeds of Asbestos In-Place Insurance Coverage (including any receivables) and (c) the right to receive the proceeds or benefits of any Asbestos Insurance Action.

1.1.11 “Asbestos Insurance Company” means any insurance company, insurance broker or syndicate insurance broker, guaranty association or any other Entity that may have liability under an Asbestos Insurance Policy.

1.1.12 “Asbestos Insurance Policy” means any insurance policy currently or previously in effect at any time on or before the Effective Date naming the Debtors (or any predecessor, subsidiary, or past or present Affiliate of the Debtors) as an insured (whether as the primary or as an additional insured), or otherwise affording the Debtors indemnity or insurance coverage, upon which any claim could have been, has been or may be made with respect to any Asbestos Personal Injury Claim.

1.1.13 “Asbestos Insurance Settlement Agreement” means (a) any settlement agreements existing by and among any Asbestos Insurance Company and one or both Debtors (among other Entities), that amends, modifies, replaces or governs the rights and obligations of, and the coverage afforded to, one or both Debtors under any Asbestos Insurance Policy or (b) any settlement agreement with a Settling Asbestos Insurance Company relating to any Asbestos Personal Injury Claim.

1.1.14 “Asbestos Insurer Coverage Defense” means all rights and defenses at law or in equity that any Asbestos Insurance Company may have under any Asbestos Insurance Policy or applicable law to a claim seeking insurance coverage. Asbestos Insurer Coverage Defenses include, without limitation, any defense based on the terms of the Plan or the Plan Documents or the manner in which the Plan or Plan Documents were

negotiated, including but not limited to (a) the defense that Asbestos Personal Injury Claims asserted against one Debtor cannot be tendered to nor paid by insurers issuing or subscribing Asbestos Insurance Policies to the other Debtor and/or with respect to risks that are not insured under those policies, and (b) the defenses that excess insurers have no duty to undertake the defense of any claim and have no duty to pay defense costs with respect to claims that are not covered by any Asbestos Insurance Policy issued or subscribed by them; but Asbestos Insurer Coverage Defenses does not include any defense that the Plan or any of the Plan Documents does not comply with the Bankruptcy Code. In the event that it is finally determined in these Chapter 11 Cases that the Bankruptcy Code authorizes the Assignment by preempting any terms of the Asbestos Insurance Policies or provisions of applicable non-bankruptcy law that otherwise might prohibit the Assignment, Asbestos Insurer Coverage Defense shall not include any defense that the Assignment is prohibited by the Asbestos Insurance Policies or applicable non-bankruptcy law.

1.1.15 “Asbestos Personal Injury Claim” means a liquidated or unliquidated Claim against one or both of the Debtors, or their present or former officers, directors or employees of any of them, whether asserted by agents or employees of the Debtors or any other Person or Entity, whether in the nature of or sounding in tort, contract, warranty, employer liability or any other theory of law, equity or admiralty, whatsoever, for, attributable to or arising under the laws of any jurisdiction, by reason of, directly or indirectly, physical, emotional or other personal injuries, death, or other damages caused, or allegedly caused, in whole or in part, directly or indirectly, by the presence of, or exposure to, asbestos – including, but not limited to, asbestos-containing products, manufacturing processes, improvements to real property or materials manufactured, sold, supplied, produced, specified, selected, distributed or in any way marketed or mined by one or both of the Debtors or their predecessors – and arising or allegedly arising, directly or indirectly, from acts or omissions of one or both of the Debtors, or the predecessors, of any of them, including, but not limited to, all claims, debts, obligations or liabilities for compensatory damages (such as, without limitation, loss of consortium, medical monitoring, personal or bodily injury, wrongful death, survivorship, proximate, consequential, general and special damages) and punitive damages. Asbestos Personal Injury Claims shall include, without limitation, (i) Indirect Asbestos Personal Injury Claims and (ii) Asbestos Personal Injury Demands. Notwithstanding the foregoing, Asbestos Personal Injury Claim shall not include any workers’ compensation claim brought directly against either or both Debtors by a past or present employee of either Debtor under any applicable workers’ compensation statute.

1.1.16 “Asbestos Personal Injury Demand or Demand” means a demand as such term is used and defined in section 524(g)(5) of the Bankruptcy Code, including a demand for payment, present or future, that (i) was not a Claim prior to the Effective Date; (ii) arises out of the same or similar conduct or events that gave rise to an Asbestos Personal Injury Claim; and (iii) pursuant to the Plan, is to be satisfied exclusively by the Trust.

1.1.17 “Assignment” means any transfer of (i) Asbestos Insurance Actions, (ii) the Asbestos Insurance Action Recoveries, (iii) the Asbestos Insurance Settlement

Agreements attributable to any Asbestos Personal Injury Claims, (iv) the Asbestos In-Place Insurance Coverage, and (v) other rights or obligations with respect to Asbestos Insurance Policies, to the Trust under the Plan or Plan Documents.

1.1.18 “Bankruptcy Code” or “Code” means title 11 of the United States Code, 11 U.S.C. 101 *et seq.*, as in effect on the Petition Date, together with all amendments, modifications, and replacements of the foregoing as the same may exist on any relevant date to the extent applicable to the Chapter 11 Cases.

1.1.19 “Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware, or such other court as may have jurisdiction over the Chapter 11 Cases.

1.1.20 “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code.

1.1.21 “Business Day” means any day other than a Saturday, Sunday or legal holiday (as such term is defined in Bankruptcy Rule 9006(a)).

1.1.22 “Cash” means lawful currency of the United States of America and its equivalents.

1.1.23 “Chapter 11 Cases” means the cases under chapter 11 of the Bankruptcy Code filed by the Debtors, styled In re The Flintkote Company, Case No. 04-11300 (JKF) and In re Flintkote Mines, Limited, 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 under Case No. 04-11300 (JKF).

1.1.24 “Claim” shall have the meaning ascribed to such term in section 101(5) of the Bankruptcy Code as it pertains to “claims” against one or both Debtors.

1.1.25 “Claims Agent” means The Garden City Group, Inc.

1.1.26 “Claims Objection Bar Date” means, for all Claims against the Debtors (other than Asbestos Personal Injury Claims, Fee Claims and late-filed claims), ninety (90) days after the Effective Date, unless extended by order of the Bankruptcy Court prior to the expiration of such period. Objections to late-filed Claims against the Debtors shall be filed not later than the later of (a) six months following the Effective Date or (b) ninety (90) days after Reorganized Flintkote receives actual notice of the filing of such Claim. Subject to Article IV of the Plan, objections to Asbestos Personal Injury Claims shall be handled by the Trust in accordance with the Trust Distribution Procedures.

1.1.27 “Class” means a category of holders of Claims or Equity Interests described in the Plan.

1.1.28 “Compensation Procedures Order” means that certain “Order Appointing Fee Auditor and Establishing Related Procedures Concerning the Allowance

