

**Debtors' Motion for Entry of (I) an Order (A) Approving the Bidding Procedures and Overbid Protections in Connection with the Sale of Chemtura Corporation's Polyvinyl Chloride Additives Business and Related Assets, (B) Approving the Form and Manner of Notice of Such Sale, (C) Scheduling an Auction and Sale Hearing and (D) Authorizing the Debtors to Enter into Enhanced Severance Agreements in Connection with the Sale and (II) an Order (A) Authorizing the Sale of Chemtura Corporation's Polyvinyl Chloride Additives Business and Related Assets Free and Clear of All Liens, Claims, Encumbrances and Other Interests and (B) Granting Related Relief (the "Bid Procedures Motion").**

By the Bid Procedures Motion, the Debtors seek entry of an order:

establishing certain bidding procedures (the "Bidding Procedures") to govern the proposed sale (the "Sale") of Chemtura Corporation's ("Chemtura" or the "Seller") polyvinyl chloride additives business (the "PVC Business") pursuant to the Share and Asset Purchase Agreement, dated December 23, 2009 (the "Purchase Agreement"), by and among Chemtura and SK Atlas, LLC and SK Capital Partners II, LP (collectively, "SK Capital" or the "Purchaser");

approve certain bid protections in connection with the Sale, including a breakup fee of \$500,000 (the "Breakup Fee") and the reimbursement of the Purchaser's actual out of pocket due diligence in an amount up to \$750,000 (the "Reimbursement"), each or both of which are to be paid if the Purchase Agreement is terminated under certain circumstances described below;

the scheduling of an auction to determine the highest or the best bid for the PVC Business (the "Auction");

the scheduling of a hearing to approve the Sale (the "Sale Hearing") on February 23, 2010;

approving the form and manner of notice of the Sale, the Bidding Procedures, the Auction and the Sale Hearing (the "Sale Notice");

approving the form of procedures with respect to the assumption and assignment of certain executory contracts in connection with the Sale (the "Assumption Procedures") as well as the form of notice with respect to the assumption of contracts (the "Contract Notice"); and

authorizing the Debtors to enter into and perform under the Enhanced Severance Agreements (as defined below) with seven employees.

In addition, the Debtors seek entry of an order:

approving the Purchase Agreement;

authorizing the Sale to the Purchaser free and clear of all liens, claims and encumbrances (collectively, the "Claims"); and

authorizing the assumption and assignment of all included contracts exclusively relating to the PVC Business (the “Included Contracts”).

The Sale encompasses Chemtura’s ownership interests in (i) all of the issued and outstanding capital stock (the “Shares”) of Chemtura Vinyl Additives GmbH, a non-Debtor company organized in accordance with the laws of the federal Republic of Germany (the “Acquired Company”) and (ii) certain assets (the “Purchased Assets”) relating to the design, manufacture assembly, marketing, sale and distribution of tin and mixed metal stabilizers, organic-based stabilizers, expoxidized soybean oil, liquid phosphate esters, chemical foaming agents and impact modifiers, and related intermediates of each of the foregoing for the PVC Business. The PVC Business is conducted primarily through two facilities located in Lampertheim, Germany (the “Lampertheim Facility”) and Taft, Louisiana (the “Taft Facility”). The PVC Business historically has accounted for approximately 4-5% of the Debtors’ overall annual EBITDA.

According to the Bid Procedures Motion, the PVC Business has suffered from a number of difficulties in the past year including a decline in sales volume and decreased margin. Accordingly, Chemtura determined that the value of the PVC Business would be best maximized through a sale of the PVC Business, which would provide for an immediate infusion of cash proceeds and would afford significant savings in potential costs related to continuing the PVC Business or shutting it down.

From May 2009 through October 2009, the Debtors engaged their investment banker Lazard Frères & Co. (“Lazard”) to contact potential buyers. In August 2009, 59 of the 83 potential buyers identified by Lazard signed confidentiality agreements and received a confidential offering memorandum that outlined the Debtors’ proposed transaction structure. Thereafter, 12 parties submitted written indications of interest to, and met with, the Debtors. In October 2009, the Debtors received final initial bids from 4 potential buyers. The Debtors determined that the highest and best offer for the PVC Business was made by SK Capital.

### **The Purchase Agreement**

The material terms of the Purchase Agreement include the following:

*Purchase Price.* The consideration for the Purchased Assets and the Shares includes (i) \$2,056,000 in initial cash, (ii) a trade accounts payable adjustment payment of \$7,156,610, (iii) a European trade accounts payable adjustment payment (which is an amount equal to the outstanding European trade accounts payable that are not past due), (iv) a shared accounts payable adjustment payment of \$200,000, (v) an accrued payroll and benefits adjustment payment (which is equal to the outstanding payroll and benefits to be paid to employees at the Taft Facility through the closing date) and (vi) the Purchaser’s assumption of certain assumed liabilities. The Debtors believe that the liabilities to be assumed by the Purchaser in addition to the cash consideration equal at least \$34 million. The Debtors also believe that the Purchaser values the consideration at approximately \$45 million.

*Included Contracts.* At the closing of the Sale, the Seller will assign all of its rights under all Included Contracts. The Purchaser will cure any and all cure costs related to the Included

Contracts and will be responsible for such cure amounts whether such defaults occurred or arose before the commencement of the chapter 11 cases.

*Assumed Liabilities.* The Purchaser will assume, with certain exceptions, and pay or perform and discharge when due, all of the liabilities of the Seller to the extent relating to the PVC Business or Purchased Assets. The Assumed Liabilities include, among others, the following: (i) certain accrued expenses; (ii) post-closing taxes; (iii) liabilities with respect to the Included Contracts; and (iv) all pension obligations, accrued vacation and sick time relating to the employment of transferred employees on or before the closing date.

*Excluded Liabilities.* In addition, Chemtura will retain certain liabilities which include, among other things, (i) pre-closing taxes, (ii) certain trade account payables, (iii) all accrued payroll and accrued benefits related to the employment of transferred employees on or before the closing date, (iv) all rights in connection with and assets of any Seller Plan,<sup>1</sup> (v) any liability arising out of or related to any asset other than the Purchased Assets and certain intercompany payables between Chemtura and its subsidiaries, and (vi) all encumbrances of which the Purchase Assets are being sold free and clear (collectively, the “Excluded Liabilities”).

*Termination.* The Purchase Agreement may be terminated by, among other things, (i) mutual written consent, (ii) the Purchaser if there has been a breach of any of the Seller’s representations, (iii) the Seller if there has been a breach of any of the Purchaser’s representations, or (iv) the Seller or the Purchaser if the Seller accepts or the Bankruptcy Court approves an alternative transaction for any of the Shares or Purchased Assets pursuant to the terms of the Bidding Procedures.

*Breakup Fee.* In the event that (i) the Purchase Agreement is terminated because the Seller accepts or the Bankruptcy Court approves an alternative transaction and (ii) an alternative transaction is consummated no later than 12 months after such termination, then upon closing of the alternative transaction, the Seller will pay the Breakup Fee of \$500,000 out of the proceeds of the alternative transaction.

*Reimbursement.* In the event the Purchase Agreement is terminated (i) by the Purchaser if the Seller has breached any of its representations, warranties or covenants in the Purchase Agreement, (ii) because the Seller accepts or the Bankruptcy Court approves an alternative

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<sup>1</sup> Under the Purchase Agreement, “Seller Plan” means any contract, plan, commitment, fund or program maintained, sponsored, owed, adopted, contributed to, or followed by the Seller, any affiliate, the Acquired Company or any of their respective affiliates, providing compensation (other than salary), benefits, pension, retirement, superannuation, profit sharing, stock bonus, stock option, stock purchase, phantom or stock equivalent, bonus, incentive, deferred compensation, hospitalization, medical, dental, vision, vacation, life insurance, death benefit, sick pay, disability, severance, termination indemnity, redundancy pay, educational assistance, holiday pay, housing assistance, moving expense reimbursement, fringe benefit or similar employee benefits to employees or Acquired Company employees company and former directors, officers, employees or agents employed or formerly employed or otherwise retained or formerly retained primarily in the operation of the business or by the Acquired Company, but excluding (a) any contract, plan, fund or program required to be maintained by the laws of the jurisdiction in which the employee or Acquired Company employee is working and (b) any governmental plan or program requiring the mandatory payment of social insurance taxes or similar contributions to a governmental fund with respect to the wages of an employee.

transaction, (iii) by the Purchaser because the closing has not occurred by May 31, 2010 (but only if the Purchaser is the alternate bidder), or (iv) by the Seller if the closing has not occurred on or before May 31, 2010, the Seller will pay the Reimbursement to the Purchaser for the Purchaser's actual out-of-pocket due diligence costs and expenses up to \$750,000. Timing of the Reimbursement payment depends on the cause for termination under the Purchase Agreement.

*Indemnification and Assumption of Environmental Liabilities.* The Seller will indemnify the Purchaser from and against any and all losses incurred by the Purchaser relating to or arising from unknown and known environmental liabilities. With respect to any unknown environmental liability, the Seller's indemnity will expire on the seven-year anniversary of the closing date, and with respect to any known environmental liability, the Seller's indemnity will expire on the four-year anniversary of the closing date.

### **The Bidding Procedures**

*Requirements for Potential Bidders.* In order to participate in the bidding process, potential bidders must deliver by February 9, 2010 (i) an executed indication of interest, (ii) an executed confidentiality agreement in form and substance reasonably acceptable to the Seller, and (iii) evidence of the party's financial wherewithal to complete the transaction (the "Potential Bid Package") to the Seller and the Committee.

*Evaluation of Potential Bidders.* Upon receipt of the Potential Bid Packages, the Seller will determine, in consultation with the Committee, whether a party may participate in the Auction.

*Qualified Bids.* A bid from a potential bidder must be in writing and must, among other things, (i) state that the offer to purchase all or substantially all of the Shares and the Purchased Assets are on terms and conditions substantially similar to or more favorable than the Purchase Agreement, (ii) be accompanied by a duly executed modified Purchase Agreement, (iii) be an irrevocable offer, (iv) be free from any due diligence or financial contingencies, (v) be likely to result in a value to the Seller that is more than the sum of (a) the Breakup Fee, (b) the Reimbursement and (c) an initial bid increment of at least \$100,000 higher than the purchase price set forth in the Purchase Agreement, and (vi) be received by the Seller on or before February 16, 2010 at 4 p.m. (ET).

*The Auction.* If a qualified bid in addition to the Purchaser's bid is received, the Auction will be held on February 22, 2010. On or before February 18, 2010, the Seller shall provide each qualified bidder and the Committee with a copy of the bid determined by the Seller in consultation with the Committee to be the highest or otherwise best offer (the "Pre-Auction Successful Bid").

- Participation. Only the Purchaser, qualified bidders, the United States Trustee, the Committee and the Debtors may participate in the Auction.
- Bidding. The bidding shall begin with the Pre-Auction Successful Bid plus a minimum overbid increment of \$100,000 and subsequently continue in minimum increments of \$50,000 (each bid, an "Overbid"). The Seller will announce material

terms of each Overbid at the Auction and will disclose its valuation of the total consideration offered in each Overbid.

*Successful Bid.* At the close of the Auction, the Debtors, after consulting with the Committee, will identify the highest or otherwise best bid (the “Successful Bid”) and the next highest or otherwise best bid (the “Alternate Bid”). If for any reason the Successful Bid is not consummated, the Alternate Bid will be deemed to be the highest or otherwise best bid and the Seller will be reauthorized to consummate the Sale pursuant to the Alternate Bid.

### **Proposed Assumption Procedures**

In connection with the Sale, the Debtors also seek authority to assume and assign certain executory contracts. The Debtors propose that the following assumption procedures (the “Assumption Procedures”) apply whether the Purchaser or a different bidder is the acquirer of the Shares or the Purchased Assets.

- *Notice.* In no event later than 5 business days after the entry of an order approving the Bidding Procedures, the Seller will serve the Contract Notice on (i) all counterparties to the Included Contracts, (ii) the Committee, and (iii) the United States Trustee. The Notice will contain the following information: (a) the title of the Included Contract to be assumed; (b) the name of the counterparty to the Included Contract; (c) any applicable cure costs; (d) the identity of the proposed assignee; and (e) the deadline by which any such Included Contract counterparty must object.
- *Objections.* Any objections to the proposed cure costs and adequate assurance of future performance obligations must (i) be in writing, (ii) set forth the nature of the objector’s claims against or interests in the Seller’s estates and the basis of the objection, (iii) comply with the Bankruptcy Rules and Local Bankruptcy Rules for the Southern District of New York, and (iv) be filed with the Court and served on the Seller, the Purchaser, the Committee and the United States Trustee by February 16, 2010. Any counterparty to an Included Contract who does not file an objection to the assumption and assignment will be deemed to have waived and released any right to assert an objection and will have otherwise consented to such assumption and assignment of cure costs.

### **The Proposed Enhanced Severance Agreements**

The operation of the PVC Business in the United States is conducted by eight full time employees (collectively, the “Employees”). The Purchase Agreement provides that at least 5 days before closing the Sale, the Purchaser will extend a written offer of employment to the active Employees. Chemtura has developed an enhanced severance opportunity to provide additional severance to seven of the Employees if they are not employed by a successful bidder (the “Enhanced Severance Agreements”). The average severance payment per Employee under the Enhanced Severance Agreement, if paid in full, would be approximately \$60,000. While the Debtors do not currently expect to make any payments under the Enhanced Severance Agreements, they believe that the ability to offer the Enhanced Severance Agreements to the Employees will prevent disruption in the operation of the PVC Business during the Sale process.

*A hearing on the Bid Procedures Motion will be held on January 14, 2010 at 9:45 a.m. (ET) with a corresponding objection deadline of January 7, 2010 at 4:00 p.m. (ET). The Sale Hearing is scheduled for February 23, 2010 at 9:45 a.m. (ET) with a corresponding objection deadline of February 16, 2010 at 4:00 p.m. (ET).*