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Debtors in Possession*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11
:
MPM Silicones, LLC, et al.,¹ : Case No. 14-_____ ()
:
Debtors. : (Joint Administration Pending)
-----X

**DEBTORS’ MOTION FOR ORDER AUTHORIZING PAYMENT OF
PREPETITION COMMON CARRIER, WAREHOUSE, FREIGHT FORWARDER,
TOLL PROCESSOR, MECHANIC’S LIEN AND RELATED OBLIGATIONS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”) hereby move for entry of an interim order (the “**Interim Order**”) and a final order (the “**Final Order**”), pursuant to sections 105(a), 363(b) and 506(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), authorizing the Debtors to pay certain prepetition common carrier, warehouse, freight forwarder, toll processor, mechanic’s lien and related

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Juniper Bond Holdings I LLC (9631); (ii) Juniper Bond Holdings II LLC (9692); (iii) Juniper Bond Holdings III LLC (9765); (iv) Juniper Bond Holdings IV LLC (9836); (v) Momentive Performance Materials China SPV Inc. (8469); (vi) Momentive Performance Materials Holdings Inc. (8246); (vii) Momentive Performance Materials Inc. (8297); (viii) Momentive Performance Materials Quartz, Inc. (9929); (ix) Momentive Performance Materials South America Inc. (4895); (x) Momentive Performance Materials USA Inc. (8388); (xi) Momentive Performance Materials Worldwide Inc. (8357); and (xii) MPM Silicones, LLC (5481). The Debtors’ executive headquarters are located at 260 Hudson River Road, Waterford, NY 12188.



obligations (the “**Motion**”). In support of the Motion, the Debtors rely upon and incorporate by reference the Declaration of William H. Carter, Chief Financial Officer of Momentive Performance Materials Inc., in Support of Chapter 11 Petitions and First Day Pleadings (the “**First Day Declaration**”), which was filed with the Court concurrently herewith. In further support of the Motion, the Debtors, by and through their undersigned proposed counsel, respectfully represent:

BACKGROUND

1. On the date hereof (the “**Petition Date**”), MPM Silicones, LLC and each of the other Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors intend to continue in the possession of their respective properties and the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner or official committee has been appointed in any of the Debtors’ cases.

2. The events leading up to the Petition Date and the facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration.

JURISDICTION

3. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 363(b) and 506(b) of the Bankruptcy Code.

**COMMON CARRIERS, WAREHOUSE PROVIDERS,
TOLL PROCESSORS, MECHANICS AND FREIGHT FORWARDERS**

4. In the ordinary course of operations, the Debtors' supply and delivery system depends upon the use of common carriers operated by third parties, including vessels, trucking services, air transport, and rail carriers (the "**Common Carriers**") to receive shipments of raw materials from their vendors and to transport materials, goods and products throughout the manufacturing process. As a result, the Common Carriers regularly possess certain of the Debtors' raw materials, goods and equipment in the ordinary course of the Debtors' operations.

5. The Debtors also supplement their own storage and distribution facilities with third-party warehouse facilities (the "**Warehouse Providers**") to store goods and inventory. The Warehouse Providers regularly possess products and materials owned by the Debtors.

6. The Debtors also utilize, in the ordinary course of business, the services of certain third-party toll processors and manufacturers (the "**Toll Processors**") with respect to the Debtors' finished products. As is typical for most toll processing arrangements, the Debtors supply the formula, raw materials and, in certain cases, equipment to the Toll Processors, which the Toll Processors then use to blend, package and/or produce the Debtors' final products. The Toll Processors are vital to the Debtors' continued operations due to their strong familiarity and experience in dealing with the specialty materials required by the Debtors' businesses and have undergone extensive product testing.

7. The Debtors also require significant maintenance and repair work with respect to their equipment. Although the Debtors utilize their own employees to perform some of this work, in the ordinary course of business the Debtors heavily rely on outside mechanics and repairmen (collectively, the "**Mechanics**") to perform maintenance and repair work. Many of the Mechanics are currently in possession of equipment that is vital to the Debtors' operations

and such Mechanics may be able to assert mechanics', possessory or similar liens on such equipment. As a result, the Mechanics may refuse to return such equipment to the Debtors unless they are paid prepetition amounts owed to them. In the event of such refusal, the Debtors' businesses could be in jeopardy as many of the pieces of equipment held by the Mechanics are vital to the Debtors' continued operations.

8. Further, the Debtors utilize the services of certain freight forwarders and customs processors (the "**Freight Forwarders**" and together with the Common Carriers, Warehouse Providers, Toll Processors and Mechanics, the "**Service Providers**"). The Freight Forwarders provide vital services that enable the Debtors to comply with the complex customs laws and regulations of the United States when importing products and materials from outside the United States. Among other things, the Freight Forwarders provide the back-office services necessary for customs clearance, prepare import summaries, facilitate exportation of the Debtors' products, obtain tariff numbers, and perform numerous other critical services for the Debtors. The Debtors pay the Freight Forwarders for their services and reimburse the Freight Forwarders for any funds advanced on behalf of the Debtors to pay fees to the United States Customs Service, as well as for charges of certain ocean, air, and land shippers, and certain miscellaneous storage and handling expenses. As discussed in more detail below, the Debtors typically pay the Service Providers through a third-party logistics administrator.

9. It is essential for the Debtors' continuing business viability and for the success of their restructuring efforts that they maintain the reliable and efficient flow of materials, goods and products through their distribution system. The Debtors estimate that at any given time, more than \$38 million of the Debtors' property is in the hands of the third-party Service Providers. The Debtors' manufacturing and customer service capabilities are dependent

upon the storage and transportation of such goods by the Service Providers. Even a short delay in the Debtors' supply pipeline could undermine the Debtors' ability to fulfill their customers' needs and adversely impact relationships with their customers. As a result, the Debtors' ability to effect a successful restructuring may be jeopardized. This risk is only heightened by the fact that the Debtors' customers may be tempted to source their business needs elsewhere due to the Debtors' commencement of these chapter 11 cases. Therefore, the Debtors respectfully request authority to pay, in their discretion, any claims of the Common Carriers, Warehouse Providers, Toll Processors, Mechanics and Freight Forwarders and the Debtors' logistics administrator (described below) owing as of the Petition Date (collectively, the "**Service Claims**").

PAYMENT TO SERVICE PROVIDERS

10. Although the Debtors pay certain Service Providers directly, the Debtors, in the ordinary course of business, rely substantially on the services of Odyssey Logistics & Technology Corporation ("**Odyssey**"), a fourth-party logistics administrator, in connection with the Service Claims. The Debtors' relationship with Odyssey governs the vast majority of the Debtors' transportation and logistics activities with the Service Providers. In its role as an intermediary, Odyssey administers all payments for carrier and freight forwarding expenses. Odyssey also receives all invoices directly from the Service Providers, confirms the accuracy of the invoices and pays the Service Providers on behalf of the Debtors following the Debtors' remittance of payment to Odyssey. Odyssey also maintains statistical records of each transaction. The administrative services rendered by Odyssey allow the Debtors to use numerous Service Providers to fulfill its shipping needs in an efficient and streamlined manner. This process also allows the Debtors to obtain substantial direct (reduced shipping charges) and indirect (reduced salaried personnel) savings.

11. Odyssey is compensated pursuant to that certain Logistics Services Agreement, dated as of October 1, 2009, under which the Debtors are obligated to reimburse Odyssey for all charges it incurs on behalf of the Debtors prior to the remittance of payment to the Service Providers and to pay Odyssey a management fee based upon the services it provides. If Odyssey is not paid by the Debtors for services performed by the Service Providers prior to the Petition Date, Odyssey is not required to remit payment to the Service Providers. The Debtors pay Odyssey approximately \$5 million each month for payments owed to the Service Providers. Further, the Debtors typically pay certain Service Providers directly, including the majority of the Warehouse Providers. As of the Petition Date, the Debtors estimate that there are approximately \$7,000,000 in Service Claims, which the Debtors have not yet paid to Odyssey or to other Service Providers that are paid directly by the Debtors. To the extent they remain unpaid, such Service Providers may assert a lien on the goods in their possession, refuse to deliver goods to the Debtors or their customers, or refuse to continue to do business with the Debtors in the future, which likely would cause irreparable harm to the Debtors' businesses. Accordingly, the Debtors hereby request that the Court authorize them to pay any prepetition amounts owed to Odyssey and the Service Providers in the ordinary course of their business.

REQUESTED RELIEF

12. By this Motion, the Debtors seek authority, but not direction, pursuant to sections 105(a), 363(b) and 506(b) of the Bankruptcy Code, to pay, in the Debtors' discretion, the Service Claims that are outstanding as of the Petition Date. The Debtors estimate that the aggregate amount of the Service Claims is approximately \$7,000,000.

13. Furthermore, the Debtors propose to condition the payment of Service Claims on the agreement of individual Service Providers to provide services to the Debtors on

the most favorable trade terms that such Service Provider offered to the Debtors in the last twelve months prior to the Petition Date (the “**Customary Trade Terms**”). Subject to objection rights of the Service Providers, if any Service Provider accepts payment on account of a Service Claim and does not continue to provide postpetition services to the Debtors on Customary Trade Terms, any payments made to such Service Provider hereunder shall be deemed an avoidable postpetition transfer under section 549 of the Bankruptcy Code and shall be recoverable by the Debtors in cash upon written request. In addition, the Debtors request that upon any and all third parties’ refusal to release property being held as security for such party’s unsatisfied prepetition claim, the Debtors shall be granted an expedited hearing, on not less than five (5) days notice without the need to file a further written motion, to compel the Service Provider or other third party to release such property.

14. Also, by this Motion, the Debtors seek authorization for the applicable banks asked to process, honor and pay any and all checks on account of the Service Claims to rely on the representations of the Debtors as to which checks are issued and authorized to be paid, in accordance with this Motion, without any duty of further inquiry and without liability for following the Debtors’ instructions.

BASIS FOR RELIEF

A. **The Debtors Are Authorized to Pay the Service Claims
Pursuant Sections 105(a) and 363(b) of the Bankruptcy Code**

15. The Court may authorize the Debtors’ payment of the Service Claims pursuant to sections 363(b) and 105(a) of the Bankruptcy Code and the “necessity of payment” doctrine. Section 363(b) of the Bankruptcy Code provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Pursuant to section 363 of the Bankruptcy Code,

a bankruptcy court is empowered to authorize a chapter 11 debtor to expend funds in the bankruptcy court's discretion, including in connection with the payment of prepetition amounts, outside the ordinary course of business. See In re Ionosphere Clubs, Inc., 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (authorizing payment of prepetition claims where the debtors articulate "some business justification, other than the mere appeasement of major creditors").

16. Although stated various ways, courts generally hold that a debtor's decision to enter into a transaction outside of the ordinary course of business is governed by the business judgment standard. See 3 Collier On Bankruptcy 363.02[1][f] (Lawrence P. King et al. 15th ed. 2007); In re U.S. Airways Group, Inc., 287 B.R. 643, 645 (Bankr. E.D. Va. 2002). When applying the "business judgment" rule, courts show great deference to the debtor's decision making. See, e.g., Myers v. Martin (In re Martin), 91 F.3d 389, 395 (3d Cir. 1996); In re Castre, Inc., 312 B.R. 426, 430-31 (Bankr. D. Colo. 2004); Murphy v. Howison (In re Murphy), 288 B.R. 1, 5 (D. Me. 2002); In re Bakalis, 220 B.R. 525, 532 (Bankr. E.D.N.Y. 1998). Payment of the Service Claims in order to preserve and protect the Debtors' business and to ultimately reorganize, even if such payment were deemed to be outside the ordinary course of business, is a sufficient business justification for such an authorization.

17. Further, section 105(a) of the Bankruptcy Code empowers the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). In case law construing sections 105(a) and 363(b) of the Bankruptcy Code, it is well established that bankruptcy courts have the equitable power to authorize the payment of prepetition claims where such payments are necessary to preserve the going concern value of a debtor's business. See, e.g., In re Lehigh & New England Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981); see also N.L.R.B. v. Bildisco & Bildisco, 465 U.S. 513, 528 (1984)

(allowing payment of prepetition claims pursuant to sections 105(a) and 363(b) of the Bankruptcy Code where payment was critical to preserve and protect the debtor's business). To do so, the debtor must provide a business justification for such payment. See Ionosphere, 98 B.R. at 175. As discussed above, it is the Debtors' business judgment that the failure to pay the Service Claims would have a material adverse impact on the day-to-day operations of their businesses and the ultimate success of their restructuring.

18. The relief requested also is supported by the "necessity of payment" doctrine. Numerous courts have used their section 105(a) powers under the "doctrine of necessity" to authorize payment of a debtor's prepetition obligations where, as here, such payment is an essential element to the continuation of the debtor's businesses. See, e.g., Lehigh & New England Ry. Co., 657 F.2d at 581 (noting that the "necessity of payment doctrine" provides that "if payment of a claim that arose prepetition is essential to the continued operation of the [debtor], payment may be authorized"); see also In re Columbia Gas Sys., Inc., 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (noting that in the Third Circuit, debtors may pay prepetition claims that are essential to continued operations).

19. Any disruption in the Debtors' heavily interdependent transportation and storage network would significantly disrupt the Debtors' business. The shutdown of such network would cost the Debtors' estates millions of dollars in lost revenues and would irreparably harm the Debtors' relationship with its customers. The harm and economic disadvantage that would stem from the failure or refusal of any of the Service Providers to perform services to the Debtors is grossly disproportionate to the amount of the prepetition claims that would have to be paid. Accordingly, this Court may authorize the Debtors' proposed payment of the Service Claims under sections 105(a) and 363(b)(1) of the Bankruptcy Code.

B. Possessory Liens and Section 506(b)

20. In addition, the Debtors believe that their failure to pay the Service Claims may result in the assertion of mechanics', possessory or similar liens by the Service Providers under applicable federal and state common law, maritime law or statutory law with respect to any goods in their possession (collectively, the "**Liens**"). Pursuant to section 362(b)(3) of the Bankruptcy Code, the act of perfecting such Liens, to the extent consistent with section 546(b) of the Bankruptcy Code,² is expressly excluded from the automatic stay otherwise imposed by section 362(a) of the Bankruptcy Code. Moreover, to protect their asserted lien rights, the Service Providers may refuse to release goods in their possession unless and until their prepetition claims have been satisfied. Therefore, notwithstanding the automatic stay imposed by section 362 of the Bankruptcy Code, the Service Providers (a) may be entitled to assert Liens against the Debtors' property, which would entitle them to payment ahead of other general unsecured creditors in any event, and (b) may hold the property subject to the asserted Liens pending payment, to the direct detriment of the Debtors and their estates.

21. Moreover, since the amount of the Service Claims is substantially less than the value of any property securing such claims, the Service Providers are fully secured creditors. In general, pursuant to section 506(b) of the Bankruptcy Code, fully secured creditors are entitled to receive (a) payment in full of their prepetition claims pursuant to any confirmed plan or plans in these chapter 11 cases, and (b) the postpetition interest accruing on such claims, as well as reasonable fees, costs or charges provided by any relevant agreement or statute. Consequently, payment of the Service Claims will give the Service Providers no more than that

² Under section 546(b) of the Bankruptcy Code, a debtor's lien avoidance powers "are subject to any generally applicable law that . . . permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection . . ." 11 U.S.C. § 546(b)(1)(A).

to which they otherwise would be entitled under a plan, and save the Debtors the interest costs that otherwise may accrue on the Service Claims during these chapter 11 cases, as well as other fees and costs that may be asserted.

22. Courts in this district have authorized similar relief in other chapter 11 cases. See, e.g., In re Loehmann's Holdings Inc., Case No. 13-14050 (MG) (Bankr. S.D.N.Y. Jan. 16, 2014); In re HMX Acquisition Corp., Case No. 12-14300 (ALG) (Bankr. S.D.N.Y. Oct. 21, 2012); In re K-V Pharmaceutical Solutions, Inc., Case No. 12-13346 (ALG) (Bankr. S.D.N.Y. Aug. 23, 2012); In re Pinnacle Airlines Corp., Case No. 12-11343 (REG) (Bankr. S.D.N.Y. Apr. 23, 2012); In re AMR Corp., Case No. 11-15463 (SHL) (Bankr. S.D.N.Y. Dec. 22, 2011); In re The Great Atl. & Pac. Tea Co., Case No. 10-24549 (RDD) (Bankr. S.D.N.Y. Jan. 12, 2010).

23. For all of the foregoing reasons, the Debtors seek authority, pursuant to sections 105(a), 363(b) and 506(b) of the Bankruptcy Code, to pay, in the Debtors' discretion, the undisputed amounts owed by the Debtors on account of outstanding Service Claims.

24. In addition, the Debtors request that upon any and all third parties' refusal to release property of the Debtors being held as leverage against payment of such party's prepetition claim, the Debtors shall be granted an expedited hearing on not less than five (5) days notice without the need to file a further written motion to compel such third party to release such property.

25. Nothing contained herein is intended or shall be construed: (a) as an admission as to the validity of any claim against the Debtors; (b) as a waiver of the Debtors' rights to dispute any claim on any grounds; (c) as a promise to pay any claim; (d) as a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the

Bankruptcy Code; or (e) to prejudice any of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Service Provider.

26. The Debtors further submit that because the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein, Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), to the extent applicable, does not prohibit the immediate entry of the proposed Interim Order.

27. To successfully implement the foregoing, the Debtors respectfully seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay under Bankruptcy Rule 6004(h).

NOTICE

28. Notice of this Motion will be given to: (a) the United States Trustee for the Southern District of New York; (b) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis; (c) counsel to JPMorgan Chase Bank, N.A., as the administrative agent under the Debtors' prepetition secured credit agreements; (d) counsel to the administrative agent under the Debtors' postpetition credit agreement; (e) counsel to the indenture trustee for the 8.875% First-Priority Senior Secured Notes; (f) counsel to the indenture trustee for the 10% Senior Secured Notes; (g) counsel to the indenture trustee for the 9.0% / 9.5% Second-Priority Springing Lien Notes; (h) counsel to the indenture trustee for the 11.5% Senior Subordinated Notes; (i) counsel to GE Capital Equity, Inc.; (j) counsel to the Ad Hoc Group of Second Lien Noteholders; (k) counsel to Apollo Global Management, LLC and certain affiliated funds; and (l) counsel to Momentive Performance Materials Holdings LLC. The Debtors submit that, under the circumstances, no other or further notice is required.

29. No previous motion for the relief sought herein has been made to this or any other Court.

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CONCLUSION

WHEREFORE, the Debtors respectfully request: (i) entry of the Interim Order substantially in the form annexed hereto as Exhibit A; (ii) entry of the Final Order substantially in the form annexed hereto as Exhibit B; and (iii) such other and further relief as may be just and proper.

Dated: April 13, 2014
New York, New York

WILLKIE FARR & GALLAGHER LLP
*Proposed Counsel for the Debtors and
Debtors in Possession*

By: /s/ Jennifer J. Hardy
Matthew A. Feldman
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EXHIBIT A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
 In re : Chapter 11
 :
 MPM Silicones, LLC, et al.,¹ : Case No. 14-_____ ()
 :
 Debtors. : (Jointly Administered)
 -----X

**INTERIM ORDER AUTHORIZING PAYMENT OF
PREPETITION COMMON CARRIER, WAREHOUSE, FREIGHT FORWARDER,
TOLL PROCESSOR, MECHANIC’S LIEN AND RELATED OBLIGATIONS**

Upon the motion (the “**Motion**”) of the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”) for an order, pursuant to sections 105(a), 363(b) and 506(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), authorizing the Debtors to pay prepetition common carrier, warehouse, freight forwarder, toll processor, mechanics’ lien and related obligations, all as more fully set forth in the Motion; and upon the Declaration of William H. Carter, Chief Financial Officer of Momentive Performance Materials Inc., in Support of Chapter 11 Petitions and First Day Pleadings; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of the Debtors, their estates, creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefore, it is hereby

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Juniper Bond Holdings I LLC (9631); (ii) Juniper Bond Holdings II LLC (9692); (iii) Juniper Bond Holdings III LLC (9765); (iv) Juniper Bond Holdings IV LLC (9836); (v) Momentive Performance Materials China SPV Inc. (8469); (vi) Momentive Performance Materials Holdings Inc. (8246); (vii) Momentive Performance Materials Inc. (8297); (viii) Momentive Performance Materials Quartz, Inc. (9929); (ix) Momentive Performance Materials South America Inc. (4895); (x) Momentive Performance Materials USA Inc. (8388); (xi) Momentive Performance Materials Worldwide Inc. (8357); and (xii) MPM Silicones, LLC (5481). The Debtors’ executive headquarters are located at 260 Hudson River Road, Waterford, NY 12188.

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is granted on an interim basis to the extent set forth herein.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.
3. The Debtors are authorized, but not directed, in their discretion, to pay the prepetition Service Claims, consistent with their customary practices in the ordinary course of business, in amounts not to exceed \$6,700,000 in the aggregate; provided, however, that within the twenty-one (21) day period following the Petition Date, the Debtors shall only honor those Service Claims to the extent the Debtors determine, in the exercise of their business judgment, that honoring such obligations is necessary to avoid immediate and irreparable harm to the Debtors; provided further, that in no event shall the Debtors pay any Service Claims before such amounts are due and payable and this Interim Order shall not be deemed to allow the Debtors to accelerate payment of any amounts for Service Claims that may be due and owing by the Debtors.
4. The Debtors' banks are authorized to process, honor, and pay, to the extent of funds on deposit, any and all prepetition wire transfer requests or checks issued by the Debtors for any prepetition Service Claims prior to or after the commencement of these cases.
5. The Debtors are authorized, consistent with this Interim Order, to issue postpetition checks, or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests, for prepetition payment of Service Claims dishonored or rejected as of the commencement of these chapter 11 cases.
6. Upon the payment of any Service Claim, any property of the Debtors held by or within the control of a Service Provider shall be released and delivered to its destination as

directed by one or more of the Debtors consistent with their customary practices in the ordinary course of business with the Debtors.

7. The authorization granted hereby to pay certain Service Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys, or agents to pay such obligations, and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Service Claim, and nothing contained in this Interim Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect Service Claims to the extent they are not paid.

8. In return for payment of the Service Claims, the Service Providers agree to continue to provide services to the Debtors on Customary Trade Terms during the course of these chapter 11 cases.

9. Subject to the challenge rights described in this paragraph, if any Service Provider accepts payment on account of a prepetition obligation of the Debtors and thereafter does not continue to provide goods or services to the Debtors on Customary Trade Terms, absent objection as described below, any payments made shall be deemed an avoidable postpetition transfer under section 549 of the Bankruptcy Code and shall be recoverable by the Debtors in cash upon written request. Upon recovery by the Debtors, the Service Claim shall be reinstated as a prepetition claim in the amount so recovered. The foregoing does not preclude a Service Provider from contesting whether it has failed to comply with the provisions of this Interim Order by filing an objection with this Court within twenty (20) days of the date of the Debtors' initial written request for return of the payments, which hearing the Debtors shall set for the next regularly scheduled omnibus hearing date occurring more than twenty (20) days after the date of the filing of the objection. The Debtors are hereby authorized, but not directed, to obtain written

verification, before issuing payment to a Service Provider, that such Service Provider will, if relevant, continue to provide services to the Debtors on Customary Trade Terms for the remaining term of the Service Provider's relationship with the Debtors; provided, however, that the absence of such written verification will not limit the Debtors' rights hereunder.

10. Upon any and all third parties' refusal to release property being held as leverage against payment of such party's prepetition claim, the Debtors shall be granted an expedited hearing on not less than five (5) days notice without the need to file a further written motion to compel the Service Provider or third party to release such property.

11. The relief granted herein is not and shall not be deemed an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

12. Any payment made pursuant to this Interim Order is not, and shall not be deemed, an admission as to the validity of the underlying obligation or a waiver of any rights the Debtors may have to subsequently dispute such obligation.

13. Within three (3) business days of the entry of this Interim Order, the Debtors shall serve a copy of the Motion and this Interim Order upon (a) the United States Trustee for the Southern District of New York (the "U.S. Trustee"); (b) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis; (c) counsel to JPMorgan Chase Bank, N.A., as the administrative agent under the Debtors' prepetition secured credit agreements; (d) counsel to the administrative agent under the Debtors' postpetition credit agreement; (e) counsel to the indenture trustee for the 8.875% First-Priority Senior Secured Notes; (f) counsel to the indenture trustee for the 10% Senior Secured Notes; (g) counsel to the indenture trustee for the 9.0% / 9.5% Second-Priority Springing Lien Notes; (h) counsel to the indenture trustee for the 11.5% Senior Subordinated Notes; (i) counsel to GE Capital Equity, Inc.; (j) counsel to the Ad Hoc

Group of Second Lien Noteholders; (k) counsel to Apollo Global Management, LLC and certain affiliated funds; and (l) counsel to Momentive Performance Materials Holdings LLC.

14. Any responses or objections to the Motion and entry of an order granting the relief requested in the Motion on a final basis (the “**Final Order**”) must: (a) be made in writing; (b) state with particularity the grounds therefor; (c) conform to the Bankruptcy Rules and the Local Bankruptcy Rules for the Southern District of New York; (d) be filed with the United States Bankruptcy Court for the Southern District of New York; and (e) be served upon (i) the U.S. Trustee, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Brian S. Matsumoto, Esq. and Richard W. Fox, Esq.; (ii) Momentive Performance Materials Inc., 260 Hudson River Road, Waterford, NY 12188, Attn: Douglas A. Johns; (iii) proposed counsel to the Debtors: Willkie Farr & Gallagher LLP, 787 Seventh Ave, New York, New York 10019, Attn: Mathew A. Feldman, Esq. and Rachel C. Strickland, Esq.; and (iv) counsel to the administrative agent under the Debtors’ postpetition credit agreement, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017, Attn: Steven M. Fuhrman, Esq. and Nicholas Baker, Esq. The deadline by which objections to the Motion and the Final Order must be filed and received by counsel to the Debtors is [_____], 2014 at 4:00 p.m. (prevailing Eastern Time) (the “**Objection Deadline**”).

15. A final hearing, if required, on the Motion will be held on [_____], 2014 at [_____] [__].m. (prevailing Eastern Time). If no objections are filed and served to the Motion and entry of the Final Order on or before the Objection Deadline, the Court may enter the Final Order without further notice or hearing.

16. Notwithstanding anything to the contrary contained herein, any payment to be made, and any authorization contained hereunder, shall be subject to the requirements

imposed on the Debtors under the Debtors' postpetition financing agreements (the "**DIP Loan Agreements**") and any order governing the Debtors' use of cash collateral and entry into the DIP Loan Agreements (such order, the "**DIP Financing Order**") and nothing herein shall alter the rights of the secured parties under the DIP Financing Order or DIP Loan Agreements. To the extent of any conflict between the terms of this Order and the terms of the DIP Financing Order, the terms of the DIP Financing Order shall govern.

17. The relief requested in the Motion is necessary to avoid irreparable harm to the Debtors, and timely entry of this Interim Order is not prohibited by Bankruptcy Rule 6003(b).

18. The notice requirements of Bankruptcy Rule 6004(a) are deemed waived.

19. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be effective and enforceable immediately upon entry hereof.

20. This Court shall, and hereby does, retain jurisdiction respecting all matters arising from or related to the implementation of this Interim Order.

Dated: _____, 2014
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
 In re : Chapter 11
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 MPM Silicones, LLC, et al.,¹ : Case No. 14-_____ ()
 :
 Debtors. : (Jointly Administered)
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**FINAL ORDER AUTHORIZING PAYMENT OF
PREPETITION COMMON CARRIER, WAREHOUSE, FREIGHT FORWARDER,
TOLL PROCESSOR, MECHANIC’S LIEN AND RELATED OBLIGATIONS**

Upon the motion (the “**Motion**”) of the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”) for an order, pursuant to sections 105(a), 363(b) and 506(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), authorizing the Debtors to pay prepetition common carrier, warehouse, freight forwarder, toll processor, mechanics’ lien and related obligations, all as more fully set forth in the Motion; and upon the Declaration of William H. Carter, Chief Financial Officer of Momentive Performance Materials Inc., in Support of Chapter 11 Petitions and First Day Pleadings; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and upon the record, including the statements of counsel, at the interim and final hearings before the Court on the Motion; and the Court having entered an order granting the relief requested in the Motion on an interim basis; and it appearing that the relief requested by this Motion is in the

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Juniper Bond Holdings I LLC (9631); (ii) Juniper Bond Holdings II LLC (9692); (iii) Juniper Bond Holdings III LLC (9765); (iv) Juniper Bond Holdings IV LLC (9836); (v) Momentive Performance Materials China SPV Inc. (8469); (vi) Momentive Performance Materials Holdings Inc. (8246); (vii) Momentive Performance Materials Inc. (8297); (viii) Momentive Performance Materials Quartz, Inc. (9929); (ix) Momentive Performance Materials South America Inc. (4895); (x) Momentive Performance Materials USA Inc. (8388); (xi) Momentive Performance Materials Worldwide Inc. (8357); and (xii) MPM Silicones, LLC (5481). The Debtors’ executive headquarters are located at 260 Hudson River Road, Waterford, NY 12188.

best interests of the Debtors, their estates, creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is granted on a final basis to the extent set forth herein.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.
3. The Debtors are authorized, but not directed, in their discretion, to pay the prepetition Service Claims, consistent with their customary practices in the ordinary course of business, in amounts not to exceed \$7,000,000 in the aggregate.
4. In return for payment of the Service Claims, the Service Providers agree to continue to provide services to the Debtors on Customary Trade Terms during the course of these chapter 11 cases.
5. Subject to the challenge rights described in this paragraph, if any Service Provider accepts payment on account of a prepetition obligation of the Debtors and thereafter does not continue to provide goods or services to the Debtors on Customary Trade Terms, absent objection as described below, any payments made shall be deemed an avoidable postpetition transfer under section 549 of the Bankruptcy Code and shall be recoverable by the Debtors in cash upon written request. Upon recovery by the Debtors, the Service Claim shall be reinstated as a prepetition claim in the amount so recovered. The foregoing does not preclude a Service Provider from contesting whether it has failed to comply with the provisions of this Final Order by filing an objection with this Court within twenty (20) days of the date of the Debtors' initial written request for return of the payments, which hearing the Debtors shall set for the next regularly scheduled omnibus hearing date occurring more than twenty (20) days after the date of

the filing of the objection. The Debtors are hereby authorized, but not directed, to obtain written verification, before issuing payment to a Service Provider, that such Service Provider will, if relevant, continue to provide services to the Debtors on Customary Trade Terms for the remaining term of the Service Provider's relationship with the Debtors; provided, however, that the absence of such written verification will not limit the Debtors' rights hereunder.

6. The Debtors' banks are authorized to process, honor, and pay, to the extent of funds on deposit, any and all prepetition wire transfer requests or checks issued by the Debtors for any prepetition Service Claims prior to or after the commencement of these cases.

7. The Debtors are authorized, consistent with this Final Order, to issue postpetition checks, or to effect postpetition fund transfers requests in replacement of any checks or fund transfer requests, for payment of prepetition Service Claims dishonored or rejected as of the commencement of these chapter 11 cases.

8. Upon the payment of any Service Claim, any property of the Debtors held by or within the control of a Service Provider shall be released and delivered to its destination as directed by one or more of the Debtors consistent with their customary practices in the ordinary course of business with the Debtors.

9. The authorization granted hereby to pay certain Service Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys, or agents to pay such obligations, and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Service Claim, and nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect the Service Claims to the extent they are not paid.

10. Upon any and all third parties' refusal to release property being held as leverage against payment of such party's prepetition claim, the Debtors shall be granted an expedited hearing on not less than five (5) days notice without the need to file a further written motion to compel the Service Provider or third party to release such property.

11. Notwithstanding anything to the contrary contained herein, any payment to be made, and any authorization contained hereunder, shall be subject to the requirements imposed on the Debtors under the Debtors' postpetition financing agreements (the "**DIP Loan Agreements**") and any order governing the Debtors' use of cash collateral and entry into the DIP Loan Agreements (such order, the "**DIP Financing Order**") and nothing herein shall alter the rights of the secured parties under the DIP Financing Order or DIP Loan Agreements. To the extent of any conflict between the terms of this Order and the terms of the DIP Financing Order, the terms of the DIP Financing Order shall govern.

12. The relief granted herein is not and shall not be deemed an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

13. Any payment made pursuant to this Final Order is not, and shall not be deemed, an admission as to the validity of the underlying obligation or a waiver of any rights the Debtors may have to subsequently dispute such obligation.

14. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon entry hereof.

15. This Court shall, and hereby does, retain jurisdiction respecting all matters arising from or related to the implementation of this Final Order.

Dated: _____, 2014
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE