

Presentment Date: August 6, 2019 at 12:00 p.m. (prevailing Eastern Time)  
Objection Deadline: August 6, 2019 at 11:30 a.m. (prevailing Eastern Time)

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*Counsel for the Reorganized Debtors*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	: Chapter 11
	: :
MPM Silicones, LLC, <u>et al.</u> , <sup>1</sup>	: Case No. 14-22503 (RDD)
	: :
Reorganized Debtors.	: (Jointly Administered)
-----X	

**NOTICE OF PRESENTMENT OF PROPOSED FINAL DECREE CLOSING DEBTORS' CHAPTER 11 CASES**

PLEASE TAKE NOTICE that the proposed *Final Decree Closing Debtors'*

*Chapter 11 Cases* (the "**Proposed Final Decree**"), annexed to the motion of the reorganized

<sup>1</sup> 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.



debtors in the above-captioned cases (collectively, the “**Debtors**”) as Exhibit A, will be presented for signature to the Honorable Robert D. Drain, United States Bankruptcy Judge, Courtroom 118 at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 on **August 6, 2019 at 12:00 noon (prevailing Eastern Time)**.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to entry of the Proposed Final Decree must: (i) be made in writing; (ii) state with particularity the grounds therefor; (iii) be filed with the Bankruptcy Court (with a copy to the Judge’s chambers); and (iv) be served upon: (a) Momentive Performance Materials Inc., 260 Hudson River Road, Waterford, NY 12188 (Attn: Stephen Psutka, Esq.); (b) counsel for the Debtors, Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, NY 10019 (Attn: Matthew A. Feldman, Esq.), Willkie Farr & Gallagher LLP, 600 Travis Street, Suite 2100, Houston, TX 77002 (Attn: Jennifer J. Hardy, Esq.), and Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036 (Attn: Ira S. Dizengoff, Esq. and Philip C. Dublin, Esq.); and (c) the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, NY 10014 (Attn: Brian S. Masumoto, Esq. and Richard W. Fox, Esq.), so as to be received no later than **11:30 a.m. (prevailing Eastern Time) on August 6, 2019** (the “**Objection Deadline**”).

**PLEASE TAKE FURTHER NOTICE** that if no objections are timely filed and received by the Objection Deadline, the Court may enter the Proposed Final Decree without further notice or a hearing. If an objection is filed, you may be notified of a hearing to consider the requested relief.

Dated: July 30, 2019  
New York, New York

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In re	:	Chapter 11
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	:	
Reorganized Debtors.	:	(Jointly Administered)
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**MOTION FOR FINAL DECREE  
CLOSING DEBTORS' CHAPTER 11 CASES**

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<sup>1</sup> 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.

TO: THE HONORABLE ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE:

The reorganized debtors in the above-captioned cases (collectively, the “**Debtors**”) move (the “**Motion**”) for entry of a final decree, substantially in the form annexed hereto as Exhibit A (the “**Proposed Final Decree**”), pursuant to sections 105(a) and 350(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 3022 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 3022-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), closing the chapter 11 cases of the Debtors identified on Appendix 1 to the Proposed Final Decree (such cases, the “**Proposed Closed Cases**”), and respectfully represent:

#### **JURISDICTION**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Article XIII of the Plan and paragraph 39 of the Confirmation Order (each as defined below). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested herein are sections 105(a) and 350(a) of the Bankruptcy Code, Bankruptcy Rule 3022 and Local Bankruptcy Rule 3022-1.

#### **BACKGROUND**

##### **A. Plan Confirmation and Effective Date**

2. On April 13, 2014 (the “**Petition Date**”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. These chapter 11 cases have been consolidated for procedural purposes only.

3. By order dated September 11, 2014 [Docket No. 1001] (the “**Confirmation Order**”), the Court confirmed the *Joint Chapter 11 Plan of Reorganization for*

*Momentive Performance Materials Inc. and Its Affiliated Debtors* (as confirmed, the “**Plan**”).<sup>2</sup>

The Plan became effective on October 24, 2014 (the “**Effective Date**”).

**B. Distributions Pursuant to the Plan**

4. In accordance with and subject to the terms of the Plan, all of the distributions required by the Plan to date have been made.

**C. Final Fee Applications**

5. On January 22, 2015, the Court entered an order approving the final fee applications for professionals retained by the Debtors and the Creditors’ Committee in these chapter 11 cases.

**D. Claims Resolution**

6. As of the date hereof, the Debtors have reconciled and resolved all claims in the Proposed Closed Cases.

**RELIEF REQUESTED**

7. By this Motion, the Debtors seek entry of the Proposed Final Decree, pursuant to sections 105(a) and 350(a) of the Bankruptcy Code, Bankruptcy Rule 3022 and Local Bankruptcy Rule 3022-1, closing the Proposed Closed Cases. The Debtors are seeking to close all of the jointly administered chapter 11 cases.

**BASIS FOR RELIEF**

8. Section 350(a) of the Bankruptcy Code provides that “[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case.” 11 U.S.C. § 350(a). Bankruptcy Rule 3022 further provides that “[a]fter an estate is fully

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<sup>2</sup> Capitalized terms used but not defined herein have the meanings given them in the Plan.

administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case.” Fed. R. Bankr. P. 3022. Section 105(a) of the Bankruptcy Code provides further that “[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

9. Although neither the Bankruptcy Code nor the Bankruptcy Rules define “fully administered,” the Advisory Committee’s Notes to Bankruptcy Rule 3022 provide that:

Factors that the court should consider in determining whether the estate has been fully administered include (1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the debtor or the successor of the debtor under the plan has assumed the business or management of the property under the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

Fed. R. Bankr. P. 3022, Advisory Committee’s Notes (1991). Courts often examine the six factors listed in the Advisory Committee’s Notes to determine whether a case has been fully administered. See, e.g., In re AOG Entm’t, Inc., 569 B.R. 563, 585 (Bankr. S.D.N.Y. 2017); In re Pulp Finish 1 Co., No. 12-13774 (SMB), 2014 WL 201482, at \*11 (Bankr. S.D.N.Y. Jan. 16, 2014); In re Gould, 47 B.R. 34, 37 (Bankr. D. Conn. 2010); In re McClland, 377 B.R. 446, 453 (Bankr. S.D.N.Y. 2007); In re Aquatic Development Group, Inc., 352 F.3d 671, 676 (2d Cir. 2003) (noting bankruptcy court relied on such factors). However, the foregoing factors are meant as a guide and not all factors must be satisfied. See In re Kliegel Bros. Universal Elec. Stage Lighting Co., Inc., 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999) (noting that bankruptcy courts weigh these factors when determining whether to close case); In re Gates Community

Chapel of Rochester, Inc., 212 B.R. 220, 223-24 (Bankr. W.D.N.Y. 1997) (noting that list of factors is non-exclusive).

10. As of the filing of this Motion, several factors utilized by courts in determining whether a bankruptcy case has been “fully administered” within the meaning of section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022 are present with respect to the Proposed Closed Cases. Specifically:

- i. The Court entered the Confirmation Order on September 11, 2014, which order has become final and non-appealable.
- ii. All of the transactions contemplated by the Plan closed on or about the Effective Date.
- iii. The Debtors emerged from chapter 11 as reorganized entities and have assumed the businesses and management of the properties addressed by the Plan.
- iv. All Claims against the Debtors have been resolved.
- v. All of the distributions required by the Plan to date for all Classes have been made.
- vi. For the Proposed Closed Cases, all motions, contested matters and adversary proceedings have been finally resolved.

11. In addition, all appeals related to the disputes with respect to the Confirmation Order and related adversary proceedings, including on the issue of the proper rate of interest for the replacement notes issued by the Debtors pursuant to the Plan, have been resolved. Moreover, two of the five adversary proceedings that had been filed in the Debtors’ chapter 11 cases have been closed. See Adv. Pro. Nos. 14-08247 and 14-08248. By this Motion, the Debtors are seeking to close the three adversary proceedings that remain open (Adv. Pro. Nos. 14-08227, 14-08228 and 14-08238) given that the underlying disputes and appeals related thereto have been resolved. See Bankruptcy Court Docket No. 1705 (notice of District Court’s



order dismissing appeal by agreement among the parties); District Court Docket No. 5, Case No. 19-04037 (same).

12. Furthermore, all of the Claims have been resolved. Since entry of the Confirmation Order, the Debtors have objected to and/or consensually resolved over 1,200 Claims, including — filing twenty-one omnibus claims objections that culminated with the Court’s entry of orders which disallowed, expunged, reduced and/or reassigned over 860 Claims filed against, or previously scheduled by, the Debtors. The vast majority of the remaining Claims were Allowed and satisfied in accordance with the terms of the Plan. While a limited number of Claims remain subject to stipulations modifying the Plan injunction for the limited purpose of allowing the underlying actions or investigations to continue solely for the purpose of liquidating such Claims, any recovery on account of such Claims will be satisfied by the Reorganized Debtors in accordance with the terms of the Plan. The Debtors submit that entry of a final decree “should not be delayed solely because the payments required by the plan have not been completed,” and the Court “should not keep the case open only because of the possibility that the court’s jurisdiction may be invoked in the future.” See Fed. R. Bankr. P. 3022, Advisory Committee’s Notes to 1991 Amendment. Courts in this District have entered final decrees and closed cases where: (a) final distributions were yet to be made; (b) various claims and contested matters were left unresolved; and (c) the court retained jurisdiction over pending claims or adversary proceedings. See In re Residential Capital Holdings, Case No. 12-12020 (MG) (Bankr. S.D.N.Y. Dec. 12, 2018) (granting final decree although distributions to creditors had not yet been completed); In re AOG Entm’t, Inc., Case No. 16-11090 (SMB) (Bankr. S.D.N.Y. Feb. 21, 2018) (granting final decree although disputed claims remained unresolved); In re BGL,

Inc., Case No. 11-10614 (MG) (Bankr. S.D.N.Y. Nov. 16, 2015) (granting final decree although distributions to creditors had not yet been completed).

13. Notably, approval of this Motion will allow the Debtors to cease incurring quarterly fees in the Proposed Closed Cases arising under 28 U.S.C. § 1930(a)(6) (“**U.S. Trustee Fees**”). See In re Jay Bee Enterprises, Inc., 207 B.R. 536, 539 (Bankr. E.D. Ky. 1997) (concluding that “it seems appropriate to close this case to stop the financial drain on the debtor” on account of the continuing accrual of section 1930(a)(6) fees); In re Jr. Food Mart of Arkansas, Inc., 201 B.R. 522, 524 (Bankr. E.D. Ark. 1996) (closing case to avoid further accrual of section 1930(a)(6) fees notwithstanding pending litigation). All previously invoiced U.S. Trustee Fees have been paid. Moreover, U.S. Trustee Fees invoiced hereafter, if any, shall be paid in accordance with the Proposed Final Decree. In the event that the Court grants the Debtors’ request to reopen a Proposed Closed Case, the United States Trustee for Region 2 (the “**U.S. Trustee**”) shall retain all of its rights and privileges under 28 U.S.C. section 1930(a)(6).

14. The Debtors also request that, at any time, the Debtors may seek to reopen any of the Proposed Closed Cases by filing a notice of presentment of proposed order (the “**Notice of Proposed Order**”) with this Court on twenty-one (21) days’ notice to the U.S. Trustee and the parties receiving notice of this Motion (the “**Notice Parties**”). If no objection to the proposed order is received within twenty-one (21) days of the Notice of Proposed Order, the Debtors request that the Court enter the proposed order without a hearing and without further action by the Debtors.

15. Based on the foregoing, the Debtors submit that entry of the Proposed Final Decree closing the Proposed Closed Cases is warranted under the circumstances.

**NOTICE**

16. The Debtors will provide notice of this Motion in accordance with the Confirmation Order. The Debtors submit that, under the circumstances, no other or further notice is required.

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

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Final Decree, substantially in the form annexed hereto as Exhibit A, and grant such other and further relief as may be just and proper.

Dated: July 30, 2019  
New York, New York

WILLKIE FARR & GALLAGHER LLP  
*Counsel for the Reorganized Debtors*

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**Exhibit A**

**Proposed Final Decree**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re : Chapter 11  
: :  
MPM Silicones, LLC, et al.,<sup>1</sup> : Case No. 14-22503 (RDD)  
: :  
Reorganized Debtors. : (Jointly Administered)  
-----X

**FINAL DECREE CLOSING  
DEBTORS' CHAPTER 11 CASES**

Upon the motion (the "**Motion**") of the reorganized debtors in the above-captioned cases (collectively, the "**Debtors**") for entry of a final decree (the "**Final Decree**") closing the chapter 11 cases of the Debtors identified on Appendix 1 annexed hereto pursuant to sections 105(a) and 350(a) of title 11 of the United States Code, Rule 3022 of the Federal Rules of Bankruptcy Procedure and Rule 3022-1 of the Local Bankruptcy Rules for the Southern District of New York; and it appearing that notice was given in accordance with the Motion; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interest of the Debtors and their estates; and sufficient cause appearing therefore, it is hereby:

ORDERED, ADJUDGED and DECREED that:

1. The Motion is granted to the extent provided herein.

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<sup>1</sup> 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.

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

3. Pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022, the cases of the Debtors identified on Appendix 1 hereto (the “**Closed Cases**”) are closed.

4. The remaining adversary proceedings that had been filed in the Debtors’ chapter 11 cases (Adv. Pro. Nos. 14-08227, 14-08228 and 14-08238) are closed.

5. At any time, the Debtors may seek to reopen one or more of the Closed Cases pursuant to section 350(b) of the Bankruptcy Code and Bankruptcy Rule 5010 by filing a Notice of Proposed Order with the Court on twenty-one (21) days’ notice to the Notice Parties. If no objection to the proposed order is received within twenty-one (21) days of the Notice of Proposed Order, the Court may enter the proposed order without a hearing and without further action by the Debtors.

6. The Debtors shall reserve sufficient funds to pay the Office of the United States Trustee the amount of any quarterly fees due pursuant to 28 U.S.C. § 1930 and any applicable interest due pursuant to 31 U.S.C. § 3717, which fees and interest, if any, shall be paid within fifteen (15) days of the entry of this Final Decree. Within five (5) days after the entry of this Final Decree, the Debtors shall provide to the United States Trustee an affidavit indicating cash disbursements for the 2<sup>nd</sup> quarter of 2019 and for the period from July 1, 2019 to the date that this Final Decree has been entered.

7. The appointment and services of Kurtzman Carson Consultants LLC (“**KCC**”) as the claims and noticing agent in these cases shall be terminated effective as of one business day after final distributions are made to all holders of Allowed Claims; provided that, at the Debtors’ expense, KCC shall, as soon as practicable after such distribution, provide to the

office of the Clerk of the Court (the "**Clerk's Office**") the final version of the official claims registers of each of the Debtors pursuant to any current guidelines implementing 28 U.S.C. § 156(c).

8. Upon termination, at the Debtors' expense, KCC shall be responsible for boxing and transporting all original proofs of claim, in proper format, as provided by the Clerk's Office, to (i) the Federal Archives Record Administration or (ii) any other location requested by the Clerk's Office. Upon termination, KCC is authorized to shred or otherwise dispose of all noticing and other documents that have been returned by the post office as undeliverable mail.

9. This Court shall retain jurisdiction over all matter arising in, arising under, or related to these cases, including, with respect to all matters described in Article XIII of the Plan.

Dated: White Plains, New York  
\_\_\_\_\_, 2019

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THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE



**Appendix 1**

**Closed Cases**

<b>Debtors</b>	<b>Case Number</b>
MPM Silicones, LLC	14-22503
Juniper Bond Holdings I LLC	14-22504
Juniper Bond Holdings II LLC	14-22505
Juniper Bond Holdings III LLC	14-22506
Juniper Bond Holdings IV LLC	14-22507
Momentive Performance Materials Holdings Inc.	14-22508
Momentive Performance Materials Inc.	14-22509
Momentive Performance Materials Quartz, Inc.	14-22510
Momentive Performance Materials USA Inc.	14-22511
Momentive Performance Materials Worldwide Inc.	14-22512
Momentive Performance Materials South America Inc.	14-22513
Momentive Performance Materials China SPV Inc.	14-22514