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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
:
:
:

**NOTICE OF (I) AMENDED PROPOSED FINDINGS AND CONCLUSIONS,
(II) AMENDED PROPOSED CONFIRMATION ORDER, AND (III) AMENDED
PROPOSED ORDER RECOMMENDING ADOPTION OF THE FINDINGS AND
CONCLUSIONS AND ENTRY OF THE CONFIRMATION ORDER**



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PLEASE TAKE NOTICE that Hopeman Brothers, Inc. (“Hopeman” or the “Debtor”), the debtor and debtor-in-possession in the above-captioned Chapter 11 Case, and the Official Committee of Unsecured Creditors (the “Committee”, and collectively with Hopeman, the “Plan Proponents”) hereby file the following with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division:

- i. *Amended Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, annexed hereto as Exhibit A (the “Amended Proposed Findings and Conclusions”);
- ii. *[Amended] Order Confirming the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, annexed hereto as Exhibit B (the “Proposed Amended Confirmation Order”); and
- iii. *[Amended] Order Recommending Entry of (I) Proposed Findings and Conclusions and (II) Confirmation Order*, annexed hereto as Exhibit C (the “Proposed Amended Recommendation Order”).

Copies of the Proposed Findings and Conclusions, Amended Proposed Confirmation Order and Amended Proposed Recommendation Order are available free of charge by visiting <https://www.veritaglobal.net/hopeman>. You may also obtain copies of the pleadings by visiting the Bankruptcy Court’s website at <https://www.vaeb.uscourts.gov/> in accordance with the procedures and fees set forth therein.

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Dated: September 5, 2025
Richmond, Virginia

/s/ Henry P. (Toby) Long, III

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EXHIBIT A

Amended Proposed Findings and Conclusions

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
:
:
:

**AMENDED PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
REGARDING CONFIRMATION OF THE AMENDED PLAN OF REORGANIZATION
OF HOPEMAN BROTHERS, INC. UNDER CHAPTER 11 OF THE BANKRUPTCY
CODE AND APPROVING ADEQUACY OF THE DISCLOSURE STATEMENT**

TABLE OF CONTENTS

	Page
INTRODUCTION	1
FINDINGS OF FACT.....	8
I. HISTORY OF HOPEMAN’S ASBESTOS PERSONAL INJURY LIABILITIES.....	8
A. Background.....	8
B. Hopeman’s Prepetition Claims Process.....	10
C. Hopeman’s Insurance Coverage and Prepetition Funding of Defense and Reconciliation Costs Concerning Asbestos Claims.....	11
II. HOPEMAN’S DECISION TO FILE THE CHAPTER 11 CASE.....	14
III. INSURANCE SETTLEMENT MOTIONS.....	15
IV. FILING OF PLAN AND APPOINTMENT OF FUTURE CLAIMANTS’ REPRESENTATIVE	17
V. DISALLOWANCE AND EXPUNGEMENT OF LMIC POC	18
VI. MODIFICATIONS TO THE PLAN	19
VII. THE DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION.....	19
VIII. COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1129 OF THE BANKRUPTCY CODE.....	23
A. Section 1129(a)(1) — Compliance of the Plan with Applicable Provisions of the Bankruptcy Code.	23
B. Section 1129(a)(2) — Compliance with Applicable Provisions of the Bankruptcy Code.....	33
C. Section 1129(a)(3) — Proposal of the Plan in Good Faith.....	34
D. Section 1129(a)(4) — Court Approval of Certain Payments as Reasonable.....	49
E. Section 1129(a)(5) — Disclosure of Identity of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with the Interests of Creditors and Public Policy.....	49
F. Section 1129(a)(6) — Approval of Rate Changes.....	51
G. Section 1129(a)(7) — Best Interests of Holders of Claims and Interests.....	51
H. Section 1129(a)(8) — Acceptance of the Plan by Each Impaired Class.....	57

I.	Section 1129(a)(9) — Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code.....	58
J.	Section 1129(a)(10) — Acceptance By at Least One Impaired, Non-Insider Class.....	58
K.	Section 1129(a)(11) — Feasibility of the Plan.	59
L.	Section 1129(a)(12) — Payment of Bankruptcy Fees.	60
M.	Section 1129(a)(13) — Retiree Benefits.....	60
N.	Section 1129(b) — No Unfair Discrimination; Fair and Equitable.....	60
O.	Section 1129(c) — Only One Plan.	61
P.	Section 1129(d) — Purpose of Plan.....	61
IX.	APPROVAL OF THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS UNDER THE PLAN.....	61
X.	THE ASBESTOS TRUST’S ACCESS TO CERTAIN DOCUMENTS IN THE DOCUMENT REPOSITORY DOES NOT DESTROY OR WAIVE ANY PRIVILEGES	64
XI.	THE ASBESTOS TRUST AND THE ASBESTOS PERMANENT CHANNELING INJUNCTION COMPLY WITH SECTION 524(g).....	66
A.	The Asbestos Trust Satisfies the Requirements of Section 524(g)(2)(B)(i).	66
B.	The Asbestos Personal Injury Trust Satisfies the Requirements of Section 524(g)(2)(B)(ii).	74
C.	The Extension of the Asbestos Permanent Channeling Injunction to Third Parties Is Appropriate.....	78
D.	The Court Has Appointed a Legal Representative to Protect the Rights of Persons Who Might Subsequently Assert Demands.	79
E.	Entry of the Asbestos Permanent Channeling Injunction Is Fair and Equitable with Respect to Future Asbestos Claimants.	79
XII.	COMPREHENSIVE SETTLEMENT OF CLAIMS AND CONTROVERSIES	80
XIII.	SATISFACTION OF CONDITIONS TO CONFIRMATION	80
XIV.	THE PLAN DOES NOT IMPACT INSURERS’ RIGHTS	85
	CONCLUSIONS OF LAW	98
I.	JURISDICTION AND VENUE	98
II.	EXEMPTIONS FROM TAXATION	98
III.	APPROVAL OF DISCLOSURE STATEMENT	98
IV.	LMIC LACKS STANDING TO OBJECT	98
V.	COMPLIANCE WITH SECTION 1129 OF THE BANKRUPTCY CODE	100

VI.	COMPLIANCE WITH SECTION 524(g) OF THE BANKRUPTCY CODE.....	100
VII.	TRANSFER OF BOOKS AND RECORDS TO THE ASBESTOS TRUST.....	100
VIII.	APPROVAL OF THE SETTLEMENTS AND RELEASES PROVIDED UNDER THE PLAN.....	101
IX.	CONCLUSION.....	101

INTRODUCTION

WHEREAS, Hopeman Brothers, Inc. (“Hopeman” or the “Debtor”), the debtor and debtor-in-possession in the above-captioned Chapter 11 Case, and the Official Committee of Unsecured Creditors (the “Committee”, and collectively with Hopeman, the “Plan Proponents”) proposed the *Amended Plan of Reorganization of Hopeman Brothers, Inc. under Chapter 11 of the Bankruptcy Code*, dated May 21, 2025 [Docket No. 766] (as modified by the *Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated August 21, 2025 [Docket No. 1141] (the “Modified Plan”) and Second Modified Plan (defined below), and as may be further amended, modified, or supplemented from time to time, the “Plan”);¹

WHEREAS, on May 21, 2025, this Court entered an order [Docket No. 782] (the “Solicitation Procedures Order”) (a) conditionally approving the *Disclosure Statement with Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 767] (as may be modified from time to time, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code, (b) approving the solicitation procedures annexed as Exhibit 1 to the Solicitation Procedures Order (such procedures, the “Solicitation Procedures”), (c) approving the solicitation materials and notices to be distributed in connection with the solicitation of the Plan, (d) authorizing Hopeman

¹ Unless otherwise defined herein, capitalized terms used herein have the meanings given to them in the Plan and the Disclosure Statement. The rules of interpretation set forth in Article I.B of the Plan apply to these Findings of Fact and Conclusions of Law (the “Findings and Conclusions”). In addition, in accordance with Article I.A of the Plan, any term used in the Plan or these Findings and Conclusions that is not defined in the Plan, the Disclosure Statement or these Findings and Conclusions, but that is used in the Bankruptcy Code or the Bankruptcy Rules, has the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. A copy of the Plan (without the exhibits thereto) is attached hereto as Exhibit A and is incorporated herein by reference.

to solicit votes on the Plan, and (e) scheduling a hearing for July 1, 2025 at 10:00 a.m. (as adjourned to August 25, 2025, at 10:00 a.m. the “Combined Hearing”) to consider Confirmation of the Plan and final approval of the adequacy of the Disclosure Statement;

WHEREAS, an affidavit of service was executed by Kurtzman Carson Consultants, LLC d/b/a Verita Global, the Bankruptcy Court-appointed claims and noticing agent (the “Claims and Noticing Agent”), with respect to the mailing of notice of the Combined Hearing and solicitation materials in respect of the Plan in accordance with the Solicitation Procedures Order (the “Solicitation Affidavit of Service”) and was filed with the Court on June 12, 2025 [Docket No. 864];

WHEREAS, on June 5, 2025, Hopeman filed the *Affidavit of Publication of the Notice of Combined Hearing for Approval of Disclosure Statement and Confirmation of Plan* [Docket No. 844] (the “Publication Affidavit”);

WHEREAS, in accordance with the Solicitation Procedures Order and as set forth in the Publication Affidavit, Hopeman caused the notice of the Combined Hearing to be published (a) in the *Richmond-Times Dispatch* and the national edition of *USA Today* on May 29, 2025, and (b) in *The Times-Picayune/The New Orleans Advocate* on May 30, 2025, publicizing the date of the Combined Hearing and the deadline to object to the Plan, and how interested parties could obtain updates and copies of amendments and other documents relating to the Plan;

WHEREAS, on June 6, 2025, in accordance with the Solicitation Procedures Order, the Plan Proponents filed the *Notice of Filing of Plan Supplement Related to Amended Plan of Reorganization of Hopeman Brothers, Inc.* [Docket No. 853] (the “Initial Plan Supplement”), which included copies of: (i) the Asbestos Trust Agreement, Plan Supplement, Ex. A, and a redline reflecting the changes thereto, *id.* at Ex. A-1; (ii) the Asbestos Trust Distribution Procedures, *id.*

at Ex. B, and a redline reflecting the changes thereto, *id.* at Ex. B-1; (iii) the Amended By-Laws of Reorganized Hopeman, *id.* at Ex. C, (iv) the Amended Certificate of Incorporation, *id.* at Ex. D; (v) the Asbestos Personal Injury Claimant Release, *id.* at Ex. E; (vi) the Restructuring Transaction, *id.* at Ex. F; (vii) the list of the Vendor Released Parties, *id.* at Ex. G; (viii) the Asbestos Insurance Policies, *id.* at Ex. H; (ix) the Revised Reorganized Hopeman Projections, *id.* at Ex. I, and a redline reflecting the changes thereto, *id.* at Ex. I-1;

WHEREAS, on July 25, 2025, Hopeman filed the *Declaration of Jeffrey R. Miller with Respect to the Tabulation of Votes on the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 1077] (the “Voting Certification”) attesting to the results of the tabulation of the properly executed and timely received Ballots for the Plan as follows:

Class 3 Claimants. The Plan Proponents received 1 acceptance out of 1 vote from holders of Class 3 General Unsecured Claims, with Class 3 claimants who voted in favor of the Plan holding Claims in the amount of \$7,005.44 for voting purposes only, such acceptances being 100 percent in number and 100 percent in amount of all ballots received from holders of Class 3 General Unsecured Claims entitled to vote on the Plan;

Class 4 Claimants. The Plan Proponents received 2,409 acceptances out of 2,416 votes from holders of Class 4 Channeled Asbestos Claims, with Class 4 claimants who voted in favor of the Plan holding Claims in the amount of \$2,409.00 for voting purposes only, such acceptances being 99.71 percent in number and 99.71 percent in amount of all ballots received from holders of Class 4 Channeled Asbestos Claims;

WHEREAS, on August 21, 2025, the Plan Proponents filed: (i) the Modified Plan; and (ii) the *Notice of Filing of Second Amended Plan Supplement Related to Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 1143] (the “Amended Plan Supplement” and, together with the Initial Plan Supplement, the “Plan”

Supplement”), which included copies of: (a) the Second Revised Asbestos Trust Agreement, Amended Plan Supplement, Ex. A, and a redline reflecting the changes thereto, *id.* at Ex. A-1, (b) the Second Revised Asbestos Trust Distribution Procedures, *id.* at Ex. B, and a redline reflecting the changes thereto, *id.* at Ex. B-1, and (c) a Schedule of Non-Exclusive Causes of Action Transferred to the Asbestos Trust, *id.* at Ex. J;

WHEREAS, an affidavit of service was executed by the Claims and Noticing Agent, with respect to the service, carried out on August 21, 2025, of, among other things, the Modified Plan, the *Notice of Filing of Redline Version of Modified Amended Chapter 11 Plan of Reorganization* [Docket No. 1142], and the Amended Plan Supplement (the “Supplemental Affidavit of Service” and together with the Solicitation Affidavit of Service, the “Affidavits of Service”) and such Supplemental Affidavit of Service was filed on August 27, 2025 [Docket No. 1172];

WHEREAS, the only opposition to the Plan came from certain of the Debtor’s historical insurers: Century Indemnity Company (“Century”),² Westchester Fire Insurance Company (“Westchester” and together with Century, the “Chubb Insurers”), Liberty Mutual Insurance Company (“LMIC”), The Travelers Indemnity Company (“Travelers Indemnity”), Travelers Casualty and Surety Company (“Travelers Casualty”), St. Paul Fire and Marine Insurance Company (“St. Paul” and together with Travelers Indemnity and Travelers Casualty, collectively, “Travelers”), and Hartford Accident and Indemnity Company and First State Insurance Company (“Hartford” and together with the Chubb Insurers, LMIC, and Travelers, collectively, the “Objecting Insurers”);³

² In its capacity as the successor to CCI Insurance Company, as successor to Insurance Company of North America.

³ The following are the objections to the Plan that were filed by the Objecting Insurers: (i) *Hartford’s Limited Objection to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 942] (as supplemented by *Hartford’s Joinder to Objections to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 965], the “Hartford Plan Objection”); (ii) the *Objections of the Travelers Indemnity Company, Travelers Casualty and Surety Company*,

WHEREAS, the Plan Proponents filed a memorandum of law in support of Confirmation of the Plan and reply to the Plan Objections [Docket No. 1076] (the “Confirmation Brief”);

WHEREAS, the Plan Proponents filed a supplemental memorandum of law in support of Confirmation of the Plan and reply to the Plan Objections to address the best interests test set forth in 11 U.S.C. §1129(a)(7) [Docket No. 1119] (the “Supplemental Confirmation Brief”);

WHEREAS, on August 18, 2025, the Plan Proponents filed the *Notice of (I) Proposed Findings and Conclusions, (II) Proposed Confirmation Order, and (III) Proposed Order Recommending Adoption of the Findings and Conclusions and Entry of the Confirmation Order* [Docket No. 1120] (the “Notice of Confirmation Materials”), which contained copies of: (i) the Plan Proponents’ initial *Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, annexed to the Notice of Confirmation Materials as Ex. A; (ii) the Plan Proponents’ proposed *Order Confirming the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving the Adequacy of the Disclosure Statement*, annexed to the Notice of Confirmation Materials as Ex. B; and (iii) the *Order Recommending Entry of (I) Proposed*

and St. Paul Fire and Marine Insurance Company to (I) Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and (II) the Disclosure Statement With Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. filed under seal at Docket No. 949 and publicly available, with redactions, at Docket No. 944 (the “Travelers Plan Objection”); (iii) *Liberty Mutual Insurance Company’s Objection to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket No. 954 and publicly available, with redactions, at Docket No. 953 (the “LMIC Plan Objection”); and (iv) *Chubb Insurers’ Objection to (1) Final Approval of Disclosure Statement and (2) Confirmation of Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket Nos. 959-960 and publicly available, with redactions, at Docket No. 958 (the “Chubb Insurers Plan Objection” and together with the Hartford Objection, the Travelers Objection, and the LMIC Objection, collectively, the “Plan Objections”).

While the Court concludes below that LMIC lacks standing to object to the Plan, the Court nonetheless addresses the LMIC Plan Objection herein and finds that, even if LMIC had standing, its objections to the Plan fail.

Findings and Conclusions and (II) Confirmation Order, annexed to the Notice of Confirmation Materials as Ex. C;

WHEREAS, the Court held the Combined Hearing over two days on August 25 and 26, 2025;

WHEREAS, counsel to the Debtor and counsel to Hartford announced at the Combined Hearing that, as a result of the Plan Proponents' agreement to insert the term "Asbestos CIP Agreements" into sections 1.10 and 8.18 of the Plan, the Hartford Plan Objection had been consensually resolved;⁴

WHEREAS, on September 5, 2025, the Plan Proponents filed the *Second Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, [Docket No. 1185] (the "Second Modified Plan") that modified the Plan to address, *inter alia*, the resolution of the Hartford Plan Objection;

WHEREAS, on September 5, 2025, the Plan Proponents filed the *Notice of (I) Amended Proposed Findings and Conclusions, (II) Amended Proposed Confirmation Order, and (III) Amended Proposed Order Recommending Adoption of the Findings and Conclusions and Entry of the Confirmation Order* (the "Revised Notice of Confirmation Materials"), which contained copies of: (i) the Plan Proponents' *Amended Proposed Findings of Fact and Conclusions of Law Regarding Confirmation of the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving Adequacy of the Disclosure Statement*, annexed to the Revised Notice of Confirmation Materials as Ex. A (the "Plan Proponents' Proposed Findings and Conclusions"); (ii) the Plan Proponents' *Amended Proposed Order Confirming the*

⁴ On August 25, 2025, Hartford filed the *Hartford's Notice of Withdrawal of Plan Objections* [Docket No. 1161].

Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and Approving the Adequacy of the Disclosure Statement, annexed to the Notice of Confirmation Materials as Ex. B; and (iii) the *Amended Proposed Order Recommending Entry of (I) Proposed Findings and Conclusions and (II) Confirmation Order*, annexed to the Notice of Confirmation Materials as Ex. C (the “Proposed Recommendation Order”);

WHEREAS, the Court has reviewed the Plan, the Disclosure Statement, the Solicitation Procedures Order, the Voting Certification, the Affidavits of Service, the Publication Affidavit, the Confirmation Brief, the Supplemental Confirmation Brief, the Proposed Recommendation Order, and the other pleadings before the Court in connection with the Confirmation of the Plan and final approval of the adequacy of the Disclosure Statement, including the Plan Objections⁵;

WHEREAS, the Court has considered all evidence presented and admitted into the record at the Combined Hearing;

WHEREAS, the Court has taken judicial notice of the papers and pleadings on file in the Chapter 11 Case, including any related adversary proceedings;

WHEREAS, the Court has considered the arguments of counsel made on the record at the Combined Hearing;

⁵ Exhibit 1 to the Chubb Insurers Plan Objection was a proposed expert report prepared by Marc C. Scarcella on behalf of the Chubb Insurers. On August 7, 2025, Hopeman filed a *Motion in Limine of the Debtor to Exclude the Expert Testimony of Marc C. Scarcella* [Docket No. 1089] (the “Motion in Limine”), and following a hearing held on August 21, 2025, this Court entered an Order granting the Motion in *Limine* [Docket No. 1147], precluding the Chubb Insurers’ proposed expert witness from offering opinions regarding the best interests test under section 1129(a)(7) of the Bankruptcy Code, including the Liquidation Analysis, at the Combined Hearing, because the Court determined that the opinions were based on assumptions provided by the Chubb Insurers’ counsel that do not comport with the requirements of section 1129(a)(7).

WHEREAS, the Court, after due deliberation and for sufficient cause, finds that the evidence admitted in support of Confirmation of the Plan and final approval of the Disclosure Statement at the Combined Hearing is persuasive and credible, as set forth herein;

WHEREAS, section 524(g)(3)(A) of the Bankruptcy Code requires “the order confirming the plan of reorganization [pursuant to 524(g)] [to be] issued or affirmed by the district court that has jurisdiction over the reorganization case;” and

WHEREAS, the Court has entered an Order recommending entry of an Order by the District Court confirming the Plan and approving the adequacy of the Disclosure Statement [Docket No. [●]] (the “Recommendation Order”).

NOW, THEREFORE, the Court enters the following Findings and Conclusions with respect to Confirmation of the Plan and final approval of the adequacy of the Disclosure Statement that, among other things, recommends that the District Court enter an Order confirming the Plan:⁶

FINDINGS OF FACT⁷

I. HISTORY OF HOPEMAN’S ASBESTOS PERSONAL INJURY LIABILITIES

A. Background.

1. For over 50 years, beginning in 1930, Hopeman’s primary business was marine joiner subcontractor work, *i.e.*, the assemblage, furnishing, and installation of bulkhead panels, ceilings, and other interior components of ships. (Lascell First Day Decl., ¶ 12⁸; Combined Hr’g

⁶ The Bankruptcy Court made additional findings and conclusions on the record at the Confirmation Hearing, which findings and conclusions are adopted and fully incorporated herein.

⁷ These Findings and Conclusions constitute the Court’s findings of fact and conclusions of law under Fed. R. Civ. P. 52 made applicable to this proceeding by Fed. R. Bankr. P. 7052 and 9014. Any finding of fact shall constitute a finding of fact even if it is referred to as a conclusion of law, and any conclusion of law shall constitute a conclusion of law even if it is referred to as a finding of fact.

⁸ References to “Lascell First Day Decl.” refer to the *Declaration of Christopher Lascell in Support of Chapter 11 Petition and First Day Pleadings of Hopeman Brothers, Inc.* [Docket No. 8].

Tr. Day 1⁹ at 14:15-19.) After 1934, applicable regulations required the use of fire-proof materials in ship construction. (Lascell First Day Decl., ¶ 13; Combined Hr’g Tr. Day 1 at 18:4-16.) The primary material used for such fireproofing at the time was asbestos. (Lascell First Day Decl., ¶ 13; Combined Hr’g Tr. Day 1 at 18:4-16.)

2. To comply with these regulations for its work, Hopeman purchased panels, veneer, and laminates that contained asbestos. (Lascell First Day Decl., ¶ 13; Combined Hr’g Tr. Day 1 at 18:4-16.) Installation of the panels required cutting and drilling at the shipyard and/or aboard the ship being constructed. For some of the panels, Wayne Manufacturing Corporation (“Wayne”), a former subsidiary of Hopeman that dissolved in 1985, would glue laminate to panels for use by Hopeman. (Lascell First Day Decl., ¶ 14.) Hopeman discontinued its use of any asbestos-containing products by 1977. (*Id.*, ¶ 16.)

3. In 1979, Hopeman received its first of many claims alleging personal injury as a result of exposure to asbestos fibers contained in marine interior materials Hopeman provided or installed. (“Asbestos Claims”). (*Id.*, ¶ 20; Combined Hr’g Tr. Day 1 at 18:24-19:1.) Since that time, claimants have asserted more than 126,000 Asbestos Claims against Hopeman (Lascell First Day Decl., ¶¶ 20-21; Combined Hr’g Tr. Day 1 at 19:3-6.) Some of these Asbestos Claims also have been asserted against Wayne, or an insurer for Wayne following Wayne’s dissolution. (Combined Hr’g Tr. Day 1 at 133:9-134:3.)

4. During the 1980s, Hopeman began transitioning its business away from ship joining. (Combined Hr’g Tr. Day 1 at 14:20-23) In 2003, Hopeman sold substantially all of its

⁹ References to: (i) “Combined Hr’g Tr. Day 1” refer to the transcript of the hearing that took place before the Court on August 25, 2025 (*See Notice of Filing of Transcript and of Deadlines Related to Restriction and Redaction* [Docket No. 1174]; and (ii) “Combined Hr’g Tr. Day 2” refer to the transcript of the hearing that took place before the Court on August 26, 2025 (*See Notice of Filing of Transcript and of Deadlines Related to Restriction and Redaction* [Docket No. 1175]).

remaining assets relating to its ship joining business to an unrelated party. (*Id.* at 15:1-4; Lascell First Day Decl., ¶ 17.) Hopeman's liabilities for any Asbestos Claims were not assumed by the buyer and remained the obligations of Hopeman. (Lascell First Day Decl., ¶ 17)

5. Since 2003, Hopeman has existed solely to defend and, when appropriate, settle the Asbestos Claims. (Combined Hr'g Tr. Day 1 at 13:7-10, 16:8-15.) While the pace of the filing of claims has slowed, the Asbestos Claims filed against Hopeman from January 2015 through April 2024 still exceeded 5,000 claims. (Lascell First Day Decl., ¶ 19; Combined Hr'g Tr. Day 1 at 19:12-20.) Claimants continued to assert Asbestos Claims against Hopeman during the weeks prior to the Petition Date, and such Asbestos Claims are expected to continue be asserted for many years to come. (Combined Hr'g Tr. Day 1 at 19:21-20:17, 139:14-140:10.) The Plan Proponents cannot, with any certainty, determine how many more Asbestos Claims will be asserted in the future, the value of such claims, how many individuals who were exposed to asbestos attributable to Hopeman will go on to actually manifest an asbestos-related disease, nor when such claims will stop being asserted. (Combined Hr'g Tr. Day 1 at 140:11-23.)

6. As set forth below, Hopeman's only material unpaid liabilities are the Asbestos Claims, most of which currently are unresolved. Aside from its remaining cash and business records, Hopeman's only other assets are its interests in the substantial remaining limits of its liability insurance policies. (Lascell First Day Decl., ¶ 19; Combined Hr'g Tr. Day 1 at 17:23-18:3.)

B. Hopeman's Prepetition Claims Process.

7. Prepetition, the Asbestos Claims were asserted against Hopeman by two methods. (Lascell First Day Decl., ¶ 25; Combined Hr'g Tr. Day 1 at 17:3-20, 19:3-6.) The first method was pursuant to agreed out-of-court claims processes pursuant to administrative agreements

Hopeman entered into with various personal injury law firms. (Lascell First Day Decl. ¶ 25; Combined Hr'g Tr. Day 1 at 17:3-20, 19:3-6.) Each claimant was required to submit evidence of his or her asbestos-related disease diagnosis and exposure to asbestos that was connected to Hopeman's operations. (Lascell First Day Decl., ¶ 25, n. 4.) Upon confirmation that an Asbestos Claim was valid, Hopeman would pay the claimant a prescribed amount for the substantiated asbestos-related disease or attempt to negotiate a settlement amount if there was no predetermined amount. If the claims were not resolved through the administrative process, litigation of the claim might follow. (*Id.*, ¶ 25; Combined Hr'g Tr. Day 1 at 17:3-20.)

8. The second method for claim assertion was through litigation. Hopeman would be named as a defendant, typically along with multiple other defendants, including others that provided products or services in the construction or repair of ships, manufacturers and sellers of products, shipyards, and ship owners. Former directors and officers of Hopeman also have been named as co-defendants with Hopeman in some of these lawsuits, and those persons have indemnification rights against Hopeman. Hopeman had its counsel defend these claims against its directors and officers. (*Id.* ¶ 27.)

9. Over 2,700 Asbestos Claims against Hopeman remained unresolved as of the bankruptcy filing in either the administrative process or in litigation. (Combined Hr'g Tr. Day 1 at 19:7-9.)

C. Hopeman's Insurance Coverage and Prepetition Funding of Defense and Reconciliation Costs Concerning Asbestos Claims.

10. Prior to the Petition Date, Hopeman funded its defense and resolution of the Asbestos Claims by drawing upon available coverage from its liability insurance program and with cash on hand from prior settlements with insurers. (Combined Hr'g Tr. Day 1 at 17:3-12.)

11. Hopeman's asbestos-related liability insurance program consists of primary-layer insurance policies and multilayer excess general liability insurance policies issued by various insurers (collectively, the "Insurers"), the last coverage period for which ended December 31, 1984. (Combined Hr'g Tr. Day 1 at 124:24-129:3.) The primary-layer policies Hopeman purchased from 1937 through 1984 were all issued by LMIC. (*Id.*) The excess insurance policies in the program were issued by LMIC and various other Insurers from 1965 through 1984. (*Id.*)

12. Historically, pursuant to Hopeman's various insurance policies, solvent Insurers, within their applicable policy limits, would reimburse Hopeman for portions of its defense costs (including claims administration costs) and for portions of the liability payments it made to resolve Asbestos Claims. (Combined Hr'g Tr. Day 1 at 17:3-12, 128:9-129:3.)

13. Additionally, prior to the Petition Date, Hopeman entered into various agreements with certain Insurers to address the Asbestos Claims. (*Id.* at 129:4-130:24.) Specifically, in June 1985, Hopeman and certain of its Insurers, as well as other asbestos claim defendants and their respective insurers, entered into an Agreement Concerning Asbestos Claims (commonly known as the "Wellington Agreement"). (Combined Hr'g Tr. Day 1 at 130:25-131:12.) Pursuant to the Wellington Agreement, participating insurers' obligations for asbestos-related claims, including for payment of defense costs and indemnification of liability payments incurred by Hopeman in connection with Asbestos Claims, were spread pro-rata across all insurance policies from a claimant's date of first exposure across a "coverage block" which, in Hopeman's case, eventually extended to 1984. (Combined Hr'g Tr. Day 1 at 130:25-131:12.)

14. Furthermore, on March 21, 2003, Hopeman and LMIC resolved certain disputes between them as to the insurance coverage provided by LMIC for Asbestos Claims by entering into (i) the Settlement Agreement and Release Between Hopeman Brothers, Inc. and Liberty

Mutual Insurance Company (the “Settlement Agreement”), and (ii) the Indemnification and Hold Harmless Agreement Between Hopeman Brothers, Inc. and Liberty Mutual Insurance Company (the “Indemnification Agreement”; together with the Settlement Agreement, the “2003 Agreements”). (Combined Hr’g Tr. Day 1 at 131:19-133:8.)

15. The 2003 Agreements, which were executed concurrently, (i) settled certain disputes between Hopeman and LMIC that arose under previous agreements concerning the LMIC policies, and (ii) compromised and settled all coverage issues, both present and future, between Hopeman and LMIC related to the LMIC policies. (*Id.*)

16. As a result of the 2003 Agreements, Hopeman released its rights under all of the primary and excess insurance it purchased from LMIC.¹⁰ (*Id.*)

17. A number of Insurers entered into bilateral insurance settlement agreements, called “coverage-in-place” agreements, with Hopeman (collectively, the “CIP Agreements”). (Combined Hr’g Tr. Day 1 at 134:17-19.) Pursuant to the CIP Agreements, the applicable insurance policies remained in place and the agreements obligated those Insurers to pay portions of Hopeman’s defense costs and liability indemnification amounts for Asbestos Claims on terms identical to or substantially similar to those of the Wellington Agreement. (*Id.* at 134:17-137:7.)

18. In addition, certain other Insurers entered into settlement agreements with Hopeman that fully and finally settled the outstanding insurance coverage through a “buy-back” of the outstanding coverage in exchange for a lump-sum payment, rather than through a CIP Agreement. (*Id.* at 136:4-12.)

¹⁰ As discussed below, certain holders of Asbestos Claims assert that Hopeman’s release of LMIC does not extinguish any rights to or interests in the liability insurance coverage issued by LMIC.

19. Hopeman's historical spend to pay claims and fund defense costs in connection with the Asbestos Claims far exceeded the amounts reimbursed by the Insurers. (*Id.* at 136:4-137:3.) In 2023 alone, Hopeman spent \$12.3 million in combined claim payments and defense costs, while being reimbursed only \$6.7 million of this amount by Insurers pursuant to current Asbestos CIP Agreements. (*Id.* at 136:23-137:3.) Accordingly, for year 2023, net of insurance recoveries, Hopeman used cash it had obtained from prior settlements to pay approximately \$5.6 million for claim payments and defense costs. (*Id.*)

20. As of the date hereof, the Chubb Insurers are the Insurers with the largest remaining coverage contribution obligations owed to Hopeman. (*Id.* at 137:4-7.)

21. The Debtor is not currently aware of any active claims that would not be covered by Hopeman's liability insurance. (*Id.* at 137:8-138:5.)

II. HOPEMAN'S DECISION TO FILE THE CHAPTER 11 CASE

22. After years of Hopeman covering the shortfall in insurance proceeds for its defense costs and claims payments in connection with the Asbestos Claims, Hopeman's cash reserves had dwindled. (Lascell First Day Decl., ¶ 37; Combined Hr'g Tr. Day 1 at 136:4-9.) If allowed to continue on the pace prior to the bankruptcy proceeding, Hopeman would have depleted its remaining cash within 12 months of the Petition Date. (Lascell First Day Decl., ¶ 37) As a result, Hopeman determined that it was in its best interest, as well as in the best interest of holders of Asbestos Claims, to commence the Chapter 11 Case to establish an efficient and fair process to utilize the Debtor's remaining cash and its insurance policies to address the thousands of asbestos-related claims asserted against the Debtor. (*Id.*; Combined Hr'g Tr. Day 1 at 20:18-21:6.)

III. INSURANCE SETTLEMENT MOTIONS

23. After the Petition Date, Hopeman promptly sought this Court's approval of two insurance settlements, the "Chubb Insurer Settlement" and the "Certain Settling Insurers Settlement." (Combined Hr'g Tr. Day 1 at 21:7-22:22; *see also* Docket Nos. 9 & 53.) These settlements collectively would have generated nearly \$50 million in cash through the resolution and buy-back by these insurers of Hopeman's unexhausted insurance coverage under policies they issued. Hopeman intended to use these settlement proceeds to fund the proposed chapter 11 plan filed at Docket No. 56 (the "Original Plan"). (*Id.*; Combined Hr'g Tr. Day 1 at 22:23-23:8, 145:8-146:17.) The Original Plan sought to establish a liquidation trust to which Hopeman would transfer the settlement proceeds and its other assets and have the trust address the remaining asbestos-related claims asserted against it by a proposed bar date. (Original Plan, pp. ii-iv.)

24. Initially, the Committee contested the Insurer Settlement Motions and the Original Plan. Following months of discovery and negotiations, Hopeman and the Committee executed a settlement term sheet, effective as of November 29, 2024 (the "November 29 Term Sheet") and filed the November 29 Term Sheet with the Court [Docket No. 417], through which, among other things, (a) Hopeman agreed to adjourn the hearing on the Chubb Insurer Settlement Motion, (b) Hopeman and the Committee agreed to participate in judicial mediation concerning the Chubb Insurer Settlement Motion, and (c) the Committee agreed not to oppose approval of the Certain Settling Insurers Settlement Motion. The November 29 Term Sheet also provided that Hopeman and the Committee agreed to negotiate in good faith over the terms of a chapter 11 plan that would propose to create a trust pursuant to section 524(g) of the Bankruptcy Code.

25. On December 19, 2024, this Court entered its Order approving the Certain Settling Insurer Settlement Motion and overruling four objections to that settlement [Docket No. 442] (the

“Settlement Approval Order”). Subsequently, two parties—Huntington Ingalls Industries, Inc. (“HII”) and claimants represented by Roussel & Clement (the “Roussel Claimants”)—appealed the Settlement Approval Order. (*See* Docket Nos. 454 & 475.) The appeals were consolidated and then separate settlements were reached with HII and the Roussel Claimants that ultimately led to the voluntary dismissal of their respective appeals. *See Huntington Ingalls Indus., Inc., et al. v. Hopeman Bros., Inc.*, Case No. 25-00005, Docket No. 19 (E.D. Va. May 15, 2025). By July 10, 2025, all funds owed to the Debtor pursuant to the Settlement Approval Order had been paid and the Certain Settling Insurers Settlement closed. (Combined Hr’g Tr. Day 1 at 22:7-22.)

26. On December 20, 2024, the Court entered its Order approving the joint motion by Hopeman and the Committee to authorize judicial mediation (the “Mediation”) of the Chubb Insurer Settlement Motion (Docket No. 443) (the “Mediation Order”), among other things, (i) appointing the Honorable Kevin R. Huennekens as the mediator and (ii) directing Hopeman, the Committee, and the Chubb Insurers to mediate the relief sought in the Chubb Insurers Settlement Motion. (Combined Hr’g Tr. Day 1 at 23:9-25.) Hopeman and the Committee consented to a request from HII to participate in the Mediation. (*Id.* at 24:1-7.) Hopeman commenced the Mediation in the hopes of reaching a resolution of the Chubb Insurers Settlement Motion with the Committee and other parties in interest, but such a resolution was not reached. (*Id.* at 138:14-139:13.)

27. The Mediation resulted in a settlement (the “524(g) Settlement”) between Hopeman, the Committee, and HII, but not a settlement with the Chubb Insurers. (*Id.* at 24:1-8.) The 524(g) Settlement was negotiated amongst the Debtor, Committee and HII at arm’s-length and the entirety of the negotiations were conducted under the supervision of the judicial mediator (the Honorable Kevin R. Huennekens). (*Id.* at 29:23-34:11.) The basic terms of the 524(g)

Settlement are set forth in a term sheet filed with this Court at Docket No. 609. (*Id.* at 24:7-23.) The 524(g) Settlement, *inter alia*, sets forth the essential terms on which Hopeman and the Committee agreed to resolve Hopeman's liability for Channeled Asbestos Claims, including that Hopeman and the Committee agreed to jointly prosecute a chapter 11 plan that would create a trust pursuant to section 524(g) of the Bankruptcy Code, and Hopeman would transfer to the trust its remaining insurance coverage and cash (with certain of the cash to be used to fund restructuring transactions for a Reorganized Hopeman), to allow for resolution of the thousands of Channeled Asbestos Claims against Hopeman after the effective date of the contemplated plan. (*Id.* at 24:24-25:9; *see also* Docket No. 609.) The Plan incorporates the terms of the 524(g) Settlement. (Combined Hr'g Tr. Day 1 at 25:10-20.)

IV. FILING OF PLAN AND APPOINTMENT OF FUTURE CLAIMANTS' REPRESENTATIVE

28. On April 29, 2025, the Debtor and Committee, in accordance with the 524(g) Settlement and in their capacity as the Plan Proponents, filed the (i) Plan,¹¹ (ii) Disclosure Statement, (iii) the motion seeking approval of the Solicitation Procedures Order (*see* Docket No. 691.), and (iv) the joint application for an Order appointing Marla Rosoff Eskin, Esq. of Campbell & Levine, LLC to serve as the legal representative to protect the rights of future claimants in accordance with section 524(g)(4)(B)(i) of the Bankruptcy Code (the "Future Claimants' Representative") (*see* Docket No. 688.).

29. On May 14, 2025, the Court entered the *Order Appointing Future Claimants' Representative* [Docket No. 732] (the "FCR Appointment Order"), which, *inter alia*, appointed

¹¹ This version of the Plan filed on April 29, 2025, included, among other Exhibits, the Asbestos Trust Agreement annexed thereto as Exhibit A (the "Original Asbestos Trust Agreement"), that included placeholders for the amount of compensation to be paid to the Asbestos Trustee (*see* Docket No. 689).

the Future Claimants' Representative. (*See* Combined Hr'g Tr. Day 1 at 34:12-14.) After the Court entered the FCR Appointment Order over their objection, the Chubb Insurers appealed that order to the District Court. (*See* Docket No. 745.) The Chubb Insurers' appeal of the FCR Appointment Order remains pending. (*See id.*)

V. DISALLOWANCE AND EXPUNGEMENT OF LMIC POC

30. On November 10, 2024, LMIC filed proof of claim number 10 (as subsequently amended by proof of claim no. 19, the "LMIC POC"), which asserted a "partially contingent and unliquidated" unsecured claim in the amount of \$317,254.89. The LMIC POC was predicated on asserted indemnity obligations purportedly arising under the 2003 Agreements.¹²

31. On April 30, 2025, the Debtor filed the *Objection of Hopeman Brothers, Inc. to Claim No. 10 of Liberty Mutual Insurance Company* [Docket No. 693]¹³ (the "LMIC POC Objection"),¹⁴ which sought the disallowance and expungement of the LMIC POC.¹⁵ The Debtor sought the expungement and disallowance of the LMIC POC because, among other things: (i) LMIC's "remedy, if any, for any such breach [of the 2003 Agreements] lies exclusively against the Settlement Funds, if any, in the Trust";¹⁶ and (ii) even assuming *arguendo* that LMIC *did* have a right to assert indemnification claims against the Debtor (it does not) "the type of fees and expenses in the [LMIC POC] do not fit within the definition of 'Indemnified Claim' if they were incurred, as suspected, by [LMIC] to have its counsel monitor the bankruptcy case."¹⁷

¹² LMIC POC, Attachment, at p. 2.

¹³ The objection at Docket No. 693 was filed under seal, but a redacted version of the objection is publicly available at Docket No. 694.

¹⁴ The Committee also filed a joinder to the LMIC Objection. *See* Docket No. 740.

¹⁵ LMIC POC Objection, ¶ 1.

¹⁶ *Id.* at ¶ 34.

¹⁷ *Id.* at ¶ 50.

32. On June 23, 2025, the Court entered the *Order Disallowing and Expunging Claim of Liberty Mutual Insurance Company* [Docket No. 907 (the “LMIC POC Expungement Order”)], which “disallowed and expunged [the LMIC POC] in its entirety.”¹⁸ LMIC appealed the LMIC POC Expungement Order, and the appeal remains pending.¹⁹

VI. MODIFICATIONS TO THE PLAN

33. Any modifications to the Plan do not materially or adversely affect or change the treatment of any Claim or Equity Interest in the Debtor and fully comply with all applicable provisions of the Bankruptcy Code and Rules.

VII. THE DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION

34. The Disclosure Statement contains summaries, descriptions and information (as applicable) concerning: (i) the nature and history of Hopeman’s business and liabilities; (ii) events leading up to this chapter 11 case; (iii) the terms of the Plan, including the treatment of holders of claims and equity interests under the Plan; (iv) the terms of the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures; (v) financial information and projections; (vi) an overview of the requirements for confirmation of the Plan; (vii) effect of confirmation of the Plan, including the channeling of the Asbestos Claims to the Asbestos Trust; (viii) a discussion of risk factors affecting the implementation of the Plan; (ix) certain federal income tax consequences of the Plan; and (x) solicitation of holders of General Unsecured Claims and Asbestos Claims. (*See Combined Hr’g Tr. Day 1 at 14:3-11, 37:21-24.*) The Disclosure Statement complies with all aspects of section 1125 because it contains information that is reasonably practicable to permit a hypothetical creditor to make an informed judgment about the Plan. (*See Docket No. 767.*)

¹⁸ LMIC POC Expungement Order, ¶ 2.

¹⁹ *See* Docket No. 918.

35. Bankruptcy Rule 3016(c) requires that, if a plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code, the plan and disclosure statement must describe, in specific and conspicuous language, the acts to be enjoined and the entities subject to the injunction. Fed. R. Bankr. P. 3016(c). The Disclosure Statement provides sufficient notice of the injunction, exculpation, and release provisions in the Plan, including the Asbestos Permanent Channeling Injunction. Article VIII of the Disclosure Statement describes in detail the entities subject to the injunction under the Plan and the acts that they are enjoined from pursuing. Further, the language describing the injunctions and acts enjoined is described in specific and conspicuous language, making it clear to anyone who reads it.

36. The Court overrules the Chubb Insurers' objection that the Disclosure Statement is inadequate in failing to disclose that recoveries of holders of Insured Asbestos Claims "will be significantly diminished by the Litigation Trustee's 33.3% contingency fee." (*See* Chubb Insurers Plan Objection, ¶ 102.) There is not a failure of disclosure on this point. The Chubb Insurers simply misread the relevant Plan provisions.

37. Section 8.12(a) expressly permits a Channeled Asbestos Claimant to "initiate, commence, continue or prosecute an action against Reorganized Hopeman ... [and] any Non-Settling Asbestos Insurer for Wayne, in a court of competent jurisdiction to obtain the benefit of Asbestos Insurance Coverage." In addition, Section 8.13(c) expressly permits "[a]ny Channeled Asbestos Claimant who ... has obtained a judgment against Reorganized Hopeman or Wayne in accordance with Section 8.12 hereof" to initiate an Insurance Policy Action through which such Channeled Asbestos Claimant can obtain any recovery such claimant may be entitled to from the applicable Non-Settling Asbestos Insurers. A plain reading of those provisions shows that, for

such recoveries, there will be no Litigation Trustee's Compensation²⁰ payable because the Litigation Trustee will not be involved.

38. The Chubb Insurers next complain about when the Litigation Trustee's Compensation was disclosed and the means by which the disclosure was made. First, they fault the Plan Proponents for disclosing the compensation structure in the Amended Trust Agreement filed as part of the Plan Supplement on June 6, 2025, but after the Solicitation Packages were transmitted.²¹

39. The Court's Solicitation Procedures Order expressly approved "dates and deadlines ... with respect to the Disclosure Statement, solicitation of votes to accept the Plan, voting on the Plan, and confirming the Plan," including a June 6, 2025, deadline to file the Plan Supplement. (*See* Solicitation Procedures Order, ¶ 6.) The Chubb Insurers do not dispute that the Plan Supplement was timely filed on June 6, even though the confirmation hearing was delayed several times from June 23 to August 25, giving parties in interest more time to consider those disclosures. Tellingly, no party-in-interest—including the Chubb Insurers—objected to conditional approval of the Disclosure Statement and entry of the Solicitation Procedures Order on the basis that the compensation of certain of the trustees administering the Asbestos Trust had not yet been fully disclosed and that additional time was required between the time such information was disclosed and the deadline to vote on the Plan. Nor has any party who is a beneficiary of the proposed Asbestos Trust objected to the Plan on the basis of any alleged late notice in learning of the compensation either before or after voting in favor of the plan over two months ago.

²⁰ "Litigation Trustee's Compensation" has the meaning assigned in section 4.5(b) of the Asbestos Trust Agreement.

²¹ Chubb Insurers Plan Obj., ¶ 104.

40. Next, the Chubb Insurers urge this Court to find that the Debtor's compliance with the Solicitation Procedures Order is insufficient because "[t]he Plan Supplement was not provided to all of the creditors that received Solicitation Packages; rather, it was served only on the Rule 2002 service list." (Chubb Insurers Plan Objection, ¶ 104). By virtue of the Debtor's service by mailing of notice of the Combined Hearing and solicitation materials, which notice included publication notice, the holders of Claims in the Voting Classes were given notice that the Debtor would file a Plan Supplement and of the deadline for doing so. Furthermore, that notice apprised the holders of Claims in the Voting Classes that they could—and how to—obtain copies of filings in this Chapter 11 Case free of charge on the Claims and Noticing Agent's website. That notice was more than sufficient in these circumstances.

41. The Court, therefore, finds that the Plan Supplement was timely and properly filed with this Court in accordance with the Solicitation Procedures Order. The Court also finds that disclosure of the Litigation Trustee's Compensation in the Plan Supplement was not a material modification of the Plan that required service of an amended disclosure statement and a corresponding extension of the deadline to vote on the Plan. The Plan always provided that the "Asbestos Trust shall pay all Asbestos Trust Expenses from the Asbestos Trust Assets." (Plan, § 8.3(n)). The Plan Supplement simply provided additional detail on the amount of compensation payable, in limited circumstances, and only from Asbestos Trust recoveries.²²

²² The Original Trust Agreement filed with the Court on April 29, 2025, also included placeholders for compensation to be paid to the Asbestos Trustee. (Original Trust Agreement, § 4.5(a)). Therefore, parties knew long before the entry of the Solicitation Procedures Order on May 21, 2025, setting the deadline to submit votes on the Plan and file objections to adequacy of the Disclosure Statement and confirmation of the Plan, that additional information would be made available at a later date.

42. Accordingly, the Chubb Insurers' objections to the Disclosure Statement are overruled because the Disclosure Statement contains adequate information for the parties entitled to vote on the Plan and service was accomplished in accordance with this Court's Solicitation Procedures Order.

VIII. COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1129 OF THE BANKRUPTCY CODE

A. Section 1129(a)(1) — Compliance of the Plan with Applicable Provisions of the Bankruptcy Code.

43. The Plan complies with all applicable provisions of the Bankruptcy Code, as required by section 1129(a)(1) of the Bankruptcy Code, including sections 1122 and 1123.

i. Sections 1122 and 1123(a)(1)-(4) — Classification and Treatment of Claims and Interests.

44. The Plan meets the classification requirements of sections 1122(a) and 1123(a)(1)-(4). Article II of the Plan classifies Claims and Interests into five separate classes. In particular, Article III of the Plan segregates into separate Classes Priority Non-Tax Claims (Class 1), Secured Claims (Class 2), General Unsecured Claims (Class 3), Channeled Asbestos Claims (Class 4), and Equity Interests (Class 5). The number of Classes reflects the diverse characteristics of those Claims and Interests, and the legal rights under the Bankruptcy Code of each of the holders of Claims or Interests within a particular Class are substantially similar to other holders of Claims or Interests within that Class.

45. In accordance with section 1123(a)(2), Article III of the Plan identifies and describes each Class of Claims or Interests that is not impaired under the Plan. In particular, Article III of the Plan indicates that Classes 1 and 2 are unimpaired.

46. In accordance with section 1123(a)(3), Article III of the Plan identifies and describes each Class of Claims or Interests that is impaired under the Plan. In particular, Sections

4.3 and 4.4 of the Plan state that Class 3 (General Unsecured Claims) and Class 4 (Channeled Asbestos Claims) are impaired and provides for the treatment of that class.

47. In accordance with section 1123(a)(4), the Plan provides the same treatment for each Claim or Interest of a particular Class unless the holder of such a Claim or Interest agrees to less favorable treatment. (Plan, Art. III.)

48. The Chubb Insurers and Travelers, nevertheless, both argue that the Plan violates section 1123(a)(4) because it fails to provide the same treatment to all holders of Class 4 Channeled Asbestos Claims. These objections are without merit and are overruled. Notably, none of the holders of Class 4 Channeled Asbestos Claims has raised any concerns with their proposed treatment under the Plan, and the handful of Channeled Asbestos Claimants who voted to reject the Plan have not filed objections.

49. Section 1123(a)(4) provides that a plan must “provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest.”²³ “[N]either the Code nor the legislative history precisely defines the standards of equal treatment,”²⁴ but “courts have interpreted the ‘same treatment’ requirement to mean that all claimants in a class must have ‘the same opportunity’ for recovery.”²⁵ Indeed, “[s]ection 1123(a)(4) does not require precise equality, only approximate equality.”²⁶ Ultimately, “[w]hat matters, then, is not that claimants recover the

²³ 11 U.S.C. § 1123(a)(4).

²⁴ *In re W.R. Grace & Co.*, 729 F.3d 311, 327 (3d Cir. 2013) (quoting *In re AOV Indus., Inc.*, 792 F.2d 1140, 1152 (D.C. Cir. 1986)).

²⁵ *Id.* at 327 (quoting *In re Dana Corp.*, 412 B.R. 53, 62 (S.D.N.Y. 2008)).

²⁶ *In re Quigley Co., Inc.*, 377 B.R. 110, 116 (Bankr. S.D.N.Y. 2007) (citing *In re Dow Corning Corp.*, 255 B.R. 445, 497 (E.D.Mich.2000), *aff’d in part and remanded in part*, 280 F.3d 648 (6th Cir. 2002), and *In re Resorts Int’l, Inc.*, 145 B.R. 412, 447 (Bankr. D.N.J. 1990) ([Section 1123(a)(4)] “is not to be interpreted as requiring precise equality of treatment, but rather, some approximate measure since there is no statutory obligation upon plan proponents to quantify exactly what each class member is relinquishing by a release.”); *see also In re LATAM*

same amount but that they have equal opportunity to recover on their claims.”²⁷ And the Bankruptcy Court has discretion in determining whether this standard is met.²⁸

50. Thus, courts have recognized that “[c]ertain procedural differences, such as a ‘delay in receipt of distributions’ for some claims, ‘do[] not alone constitute unequal treatment.’”²⁹ “In fact, § 524(g) ‘clearly envisions that asbestos claims will be paid periodically as they accrue and as they are allowed,’ since it requires courts to ensure that there will be sufficient funds available for both future demands and present claims to receive similar treatment.”³⁰ Accordingly, “differences in the timing of distributions and other procedural variations that have a legitimate basis do not generally violate § 1123(a)(4) unless they produce a substantive difference in a claimant’s opportunity to recover.”³¹

51. Against this backdrop, the Chubb Insurers contend that not all Channeled Asbestos Claims are subject to the same process because Uninsured Asbestos Claims are paid directly by

Airlines Grp. S.A., No. 20-11254 (JLG), 2022 WL 2206829, at *35 (Bankr. S.D.N.Y. June 18, 2022) (“[B]y its terms, [§ 1123(a)(4)] does not mandate that members of the same class receive the same treatment on account of their claims.” (citing *Quigley*, 377 B.R. at 116)); *In re Mesa Air Grp., Inc.*, No. 10-10018 MG, 2011 WL 320466, at *7 (Bankr. S.D.N.Y. Jan. 20, 2011) (“Without question, the ‘same treatment’ standard of section 1123(a)(4) does not require that all claimants within a class receive the same amount of money.”) (quoting *In re Joint Eastern and Southern Dist. Asbestos Litig.*, 982 F.2d 721, 749 (2d Cir. 1992))).

²⁷ *In re W.R. Grace & Co.*, 729 F.3d at 327.

²⁸ *In re Multiut Corp.*, 449 B.R. 323, 335 (Bankr. N.D. Ill. 2011) (“[B]ankruptcy courts have some discretion in deciding whether class members are receiving the same treatment.”).

²⁹ *Id.* (quoting *In re New Power Co.*, 438 F.3d 1113, 1122-23 (11th Cir. 2006)).

³⁰ *Id.* (quoting *In re W. Asbestos Co.*, 313 B.R. 832, 842-43 (Bankr. N.D. Cal. 2003)).

³¹ *Id.* (internal citation omitted); see also *In re W.R. Grace & Co.*, 729 F.3d at 330 (“[T]he District Court rightly determined that the Joint Plan satisfies the equal treatment provisions of § 1123(a)(4) and § 524(g). Although there may, at the margins, be some differences in recovery for direct and indirect claims, those differences do not amount to disparate treatment of creditors.”); *Quigley*, 377 B.R. at 118 (holding that the Court could not “determine as a matter of law that the non-settling PI Claimants are receiving unequal treatment in violation of 11 U.S.C. § 1123(a)(4)” when certain claimants had settled with the debtor’s nondebtor affiliate for an additional payment that was paid outside of the plan); *Dow Corning*, 255 B.R. at 498 (affirming bankruptcy court’s finding that § 1123(a)(4) was satisfied when each tort claimant’s primary treatment was to enter a Litigation Facility notwithstanding claimants’ subsequent choice of litigating his or her disputed and unliquidated claims or settling, i.e., agreeing to less favorable treatment).

the Asbestos Trust while Insured Asbestos Claims are resolved in the tort system.³² And, with respect to Insured Asbestos Claims, the Chubb Insurers further complain that those holders of Insured Asbestos Claims with direct-action rights sue and recover from Non-Settling Asbestos Insurers directly while those without such rights must engage in a two-step litigation process.³³ None of the Chubb Insurers' assertions support a finding of disparate treatment of class members.

52. First, nothing in the *Plan*—which is the relevant inquiry for purposes of section 1123(a)(4)—provides a different process for the holders of Insured Asbestos Claims to liquidate and obtain recovery on account of their claims. That the holders of Insured Asbestos Claims may be required to proceed under a two-step process is merely the result of different procedural rights afforded under applicable non-bankruptcy law.

53. Second, the thrust of the Chubb Insurers' complaint is that the allegedly different processes provided for under the Plan will result in delayed recoveries. Mere delay in recovery, however, is not enough to violate section 1123(a)(4) because it does not change Channeled Asbestos Claimants' substantive rights, and “[i]t would be wholly unreasonable to require asbestos victims ... to continue to wait indefinitely” until all Channeled Asbestos Claims are liquidated and at the distribution stage.³⁴ Indeed, there undoubtedly is a “rational basis” for placing all unliquidated personal injury claims in the same class, notwithstanding the fact that certain claimants have a procedural right to sue the debtor's insurers directly. That procedural right does not change the character of the claims.³⁵

³² Chubb Insurers Plan Obj., ¶ 90(a).

³³ *Id.*

³⁴ *In re W.R. Grace & Co.*, 729 F.3d at 328-29.

³⁵ *In re Boy Scouts of Am. & Del. BSA, LLC*, 642 B.R. 504, 634 (Bankr. D. Del. 2022). The district court in *Boy Scouts*, in affirming the bankruptcy court, similarly noted: “[T]he Bankruptcy Court correctly concluded that Lujan Claimants' direct action rights do not warrant separate classification because those rights are procedural in nature and do not give the Lujan Claimants extra substantive rights [over claimants who cannot].” *See In re Boy*

54. Third, this structure of holders of Insured Asbestos Claims seeking payment for their claims from Non-Settling Asbestos Insurers while holders of Uninsured Asbestos Claims proceed against the Asbestos Trust is the same structure as the *Kaiser Gypsum* § 524(g) plan that was recently affirmed by the Fourth Circuit.³⁶ The *Kaiser Gypsum* plan classified holders of insured and uninsured asbestos personal injury claims in the same class for voting and treatment purposes.³⁷ The district court found that this plan structure satisfied § 1123(a)(4).³⁸

55. Next, the Chubb Insurers contend that the Channeled Asbestos Claims are not of equal value because: (i) Uninsured Asbestos Claims will be paid by the Asbestos Trust subject to the Payment Percentage;³⁹ (ii) Insured Asbestos Claimants with direct-action rights will recover directly from Non-Settling Asbestos Insurers with recoveries undiminished by the Litigation Trustee's Compensation; and (iii) Insured Asbestos Claimants without direct-action rights will have their recoveries reduced by the Litigation Trustee's Compensation.⁴⁰ That contention also is wrong.

56. The Chubb Insurers' assertions depend on two erroneous premises. First, contrary to their argument, the fact that some Channeled Asbestos Claimants may not recover, or recover in full, from insurance does not render their treatment disparate from other class members. Each

Scouts of Am. & Del. BSA, LLC, 650 B.R. 87, 163 (D. Del. 2023), *aff'd in part, rev'd in part on other grounds, dismissed in part on other grounds sub nom. In re Boy Scouts of Am.*, 137 F.4th 126 (3d Cir. 2025).

³⁶ *In re Kaiser Gypsum Co., Inc.*, 135 F.4th 185, 190-91 (4th Cir. 2025) ("A key feature of the Plan relates to its separate treatment of insured and uninsured asbestos personal injury claims. The Plan provides that holders of insured asbestos personal injury claims—i.e., claims that fall within the scope of the Truck policy—would continue to assert actions against the reorganized Debtors, in name only, in the tort system. ... Holders of uninsured asbestos personal injury claims—i.e., claims that fall outside the scope of the Truck policy—would submit their claims directly to the Trust for resolution through an administrative process.").

³⁷ *In re Kaiser Gypsum Co., Inc.*, No. 16-31602 (JCW), 2021 WL 3215102, at *10 (W.D.N.C. July 28, 2021) (subsequent history omitted).

³⁸ *Id.*

³⁹ "Payment Percentage" has the meaning assigned in § 2.2 of the Asbestos Trust Distribution Procedures.

⁴⁰ Chubb Insurers Plan Obj., ¶ 90(b).

Channeled Asbestos Claimant may resort to the tort system to recover on their claim to the extent they have that right under applicable non-bankruptcy law. To the extent any Channeled Asbestos Claimants find that they hold an Uninsured Asbestos Claim, they can pursue a claim against the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures. All holders of Channeled Asbestos Claims have those same avenues of recovery under the Plan. Any different outcomes of class members are dictated by non-bankruptcy law, not by the Plan.

57. Second, as explained above, the Chubb Insurers misapprehend how the Plan works and when the Litigation Trustee Compensation is payable. Holders of Insured Asbestos Claims generally may pursue their own claims in the tort system against Reorganized Hopeman and, if they have direct-action rights under applicable non-bankruptcy law, against Non-Settling Insurers. Those claimants will compensate their own lawyers based on their engagement agreements. The Litigation Trustee will not be imposing a fee for that work, which the Litigation Trustee is not undertaking. In the event the Litigation Trustee institutes litigation and recovers monies for the Asbestos Trust from a Non-Settling Asbestos Insurer or reaches an Asbestos Insurance Settlement with this Court's approval under section 524(g), then the Litigation Trustee's Compensation may be payable out of those recoveries for his work on those matters. The fact that the Litigation Trustee is to be paid for his work on behalf of the Asbestos Trust does not make Class 4 members' treatment disparate. All class members whose compensable claims become Uninsured Insurance Claims will have the same avenues for recovery by being payable by the Asbestos Trust, in accordance with the Trust Distribution Procedures, out of funds available to the Trust. Any inequality in the value of Channeled Asbestos Claims is not dictated by any differing treatment

provided to the holders of Class 4 Channeled Asbestos Claims under the Plan but merely by applicable non-bankruptcy law.⁴¹

58. Travelers, for its part, argues that the Plan violates section 1123(a)(4) because “Uninsured Asbestos Claims are limited only to compensatory damages and cannot recover punitive or exemplary damages ... [but] there is no similar limitation on Insured Asbestos Claims.”⁴² Travelers’ argument also fails for two reasons.

59. First, section 1123(a)(4)’s requirements need not be satisfied where “the holder of a particular claim or interest agrees to less favorable treatment of such particular claim or interest.”⁴³ Here, no holder of a Channeled Asbestos Claim has objected to the Plan. Moreover, the Roussel Claimants—the only holders of Channeled Asbestos Claims that did not vote to accept the Plan—are not alleged to hold Uninsured Asbestos Claims. As a result, section 1123(a)(4)’s requirements are satisfied.

60. Second, section 7.2 of the Asbestos Trust Distribution Procedures, which provides that “[p]unitive or exemplary damages ... shall not be considered or paid by the Asbestos Trust on any Uninsured Claim” is entirely consistent with the purpose of asbestos trusts, which is to compensate injured individuals, not to punish any alleged bad actors. Setting aside the procedural impossibilities of providing for the award of punitive or exemplary damages through the Asbestos Trust Distribution Procedures, such awards would jeopardize the Asbestos Trust’s goal of protecting the interests of future claimants by disproportionately diminishing the corpus of the

⁴¹ The Chubb Insurers’ final objection on this issue, that the holders of Channeled Asbestos Claims are not giving up the same degree of consideration, also fails because it relies on the Chubb Insurers’ same misapprehension of the Plan with respect to the Litigation Trustee’s Compensation addressed above.

⁴² Travelers Plan Obj., ¶ 104.

⁴³ 11 U.S.C. § 1123(a)(4).

trust in a manner to the detriment of all Channeled Asbestos Claimants. Section 7.2 also is substantively identical to the analogous provision in the *Kaiser Gypsum* trust distribution procedures.⁴⁴

61. The Asbestos Trust Distribution Procedures in this case, like those in the *Kaiser Gypsum* case, contemplate treatment of insured and uninsured claims alike.⁴⁵ Channeled Asbestos Claimants can pursue whatever claims they may have in the tort system to the extent available to them under applicable non-bankruptcy law, but if a claim is presented to the Asbestos Trust because the holder of that claim is determined to hold an Uninsured Asbestos Claim, the Asbestos Trust will only allow for payment of the compensatory claim, not any punitive damages.⁴⁶

62. Because future Asbestos Insurance Settlements, exhaustion of coverage, or successful coverage defenses could cause any Insured Asbestos Claim to become an Uninsured Asbestos Claim, the treatment applies equally to all Channeled Asbestos Claims.

63. For all of these reasons, the Court overrules the Chubb Insurers' and Travelers' objections and finds that the Plan satisfies section 1123(a)(4).

ii. *Section 1123(a)(5) — Adequate Means for Implementation of the Plan.*

64. In accordance with the requirements of section 1123(a)(5), Article VIII and various other provisions of the Plan provide adequate means for the Plan's implementation.

65. Specifically, the Plan provides for: (a) the Debtor's continued corporate existence, including, for the avoidance of doubt, by consummation of the Restructuring Transactions, and the

⁴⁴ Kaiser Gypsum Asbestos Trust Distribution Procedures § 7.2, *In re Kaiser Gypsum Co., Inc.*, No. 16-31602 (JCW) (Bankr. W.D.N.C. Sept. 24, 2020), ECF No. 2481.

⁴⁵ Compare Kaiser Gypsum Asbestos Trust Distribution Procedures §§ 5.3, 5.5, *In re Kaiser Gypsum Co., Inc.*, No. 16-31602 (JCW) (Bankr. W.D.N.C. Sept. 24, 2020), ECF No. 2481, with Asbestos Trust Distribution Procedures §§ 5.1-5.3.

⁴⁶ See *Kaiser Gypsum*, 135 F.4th at 201.

vesting of all property, subject to the Asbestos Trust Contribution, of the Debtor's Estate and any property acquired by the Debtor or Reorganized Hopeman under the Plan in Reorganized Hopeman under Section 9.2 of the Plan; (b) the consummation of the Restructuring Transactions under Section 8.10 of the Plan; (c) the adoption of the corporate constituent documents that will govern Reorganized Hopeman and the identification of the initial directors and officers of Reorganized Hopeman under Sections 8.2(b) and 8.7 of the Plan; (d) sufficient cash resources to make all Distributions pursuant to Section 8.5 of the Plan; (e) the creation of, and transfer of certain assets to, the Asbestos Trust under Sections 8.2(a) and 8.3 of the Plan; (f) the appointment of the Asbestos Trustees, the Delaware Trustee, the post-Effective Date Future Claimants' Representative, and the Asbestos Trust Advisory Committee under Sections 8.2(d), 8.2(e), 8.2(f), and 8.2(g), respectively, of the Plan; (g) the vesting of assets in the Asbestos Trust under Sections 8.2(a) and 8.3 of the Plan; (h) the transfer of and preservation of rights of action by the Reorganized Hopeman, and the release of certain rights of action against the Debtor under Section 9.3 of the Plan; (i) the authorization to execute various documents and to enter into various transactions to effectuate the Plan under Section 8.9 of the Plan, and exemption from certain transfer taxes under Section 13.7 of the Plan; (j) the various discharges, releases, injunctions, and exculpations set forth in Article X of the Plan; and (k) the assumption or rejection of executory contracts and unexpired leases to which the Debtor is a party as detailed in Article VI of the Plan.

66. Accordingly, the Plan fully complies with the requirements of section 1123(a)(5).

iii. *Section 1123(a)(6) — Prohibition Against the Issuance of Nonvoting Equity Securities and Adequate Provisions for Voting Power of Classes of Securities.*

67. The Plan provides that the Amended Certificate of Incorporation and Amended By-Laws will prohibit the issuance of nonvoting equity securities to the extent required under section 1123(a)(6). (Plan, § 8.4.)

- iv. *Section 1123(a)(7) — Selection of Directors and Officers in a Manner Consistent with the Interests of Creditors and Equity Security Holders and Public Policy.*

68. The Plan complies with section 1123(a)(7) and ensures that the selection of the officers and directors of Reorganized Hopenman is consistent with the interests of creditors and equity security holders and with public policy.

- v. *Section 1123(b) — Discretionary Provisions.*

69. Section 1123(b) of the Bankruptcy Code identifies various discretionary provisions that may be included in a plan of reorganization but are not required. For example, a plan may impair or leave unimpaired any class of claims or interests and provide for the assumption or rejection of executory contracts and unexpired leases. 11 U.S.C. § 1123(b)(1)-(2). A plan also may provide for: (a) “the settlement or adjustment of any claim or interest belonging to the debtor or to the estate;” or (b) “the retention and enforcement by the debtor, by the trustee, or by a representative of the estate appointed for such purpose, of any such claim or interest.” 11 U.S.C. § 1123(b)(3)(A)-(B). Finally, a plan may “modify the rights of holders of . . . unsecured claims, or leave unaffected the rights of holders of any class of claims” and may “include any other appropriate provision not inconsistent with the applicable provisions of [title 11].” 11 U.S.C. § 1123(b)(5)-(6).

70. As described above, the Plan provides for the impairment of Classes 3, 4, and 5, while leaving all other Classes of Claims and Interests unimpaired. The Plan thus modifies the rights of the holders of certain Claims and leaves the rights of others unaffected. (Plan, Art. IV.) In particular, Channeled Asbestos Claims will be channeled to the Asbestos Trust for resolution as set forth in the Asbestos Trust Agreement and the related Asbestos Trust Distribution Procedures. (*Id.*, § 8.3.) The Plan also provides for (a) the assumption, assumption and

assignment, or rejection of executory contracts and unexpired leases to which Hopeman is a party (Plan Art. VI), and (b) the retention and enforcement of certain claim by the Debtor (*Id.*, § 9.3.)

71. Finally, in accordance with section 1123(b)(6), the Plan includes numerous other provisions necessary for its implementation that are consistent with the Bankruptcy Code, including: (a) Article VIII of the Plan providing for (i) the creation of the Asbestos Trust and (ii) the appointment of the Asbestos Trustee; (b) Article V of the Plan governing Distributions on account of Allowed Claims; (c) Article VII of the Plan establishing procedures for resolving Disputed Claims and making Distributions on account of such Disputed Claims once resolved; (d) Article X of the Plan regarding the discharge of Claims and injunctions against certain actions; and (e) Article XII of the Plan regarding retention of jurisdiction by the Bankruptcy Court over certain matters after the Effective Date. Accordingly, the Plan fully complies with section 1123(b) of the Bankruptcy Code.

vi. Section 1123(d) — Cure of Defaults.

72. The Plan provides that, to the extent necessary, the Bankruptcy Court shall determine the amount of any payments necessary to cure any defaults under any assumed Executory Contracts as of the Confirmation Date in accordance with the underlying agreements and applicable non-bankruptcy law. (Plan Art. VI.) Accordingly, the Plan fully complies with the requirements of section 1123(d) of the Bankruptcy Code.

B. Section 1129(a)(2) — Plan Proponents' Compliance with Applicable Provisions of the Bankruptcy Code.

73. The Plan Proponents have complied with all applicable provisions of the Bankruptcy Code, as required by section 1129(a)(2) of the Bankruptcy Code, including section 1125 of the Bankruptcy Code and Bankruptcy Rules 3017 and 3018. The Disclosure Statement and the procedures by which the ballots for acceptance or rejection of the Plan were solicited and

tabulated were fair, properly conducted and in accordance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018 and the Solicitation Procedures Order. Votes with respect to the Plan were solicited in good faith and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules and the Solicitation Procedures Order. The Debtor, the Reorganized Hopeman, the Committee, and the Future Claimants' Representative, their respective members and each of their respective directors, officers, employees, agents and professionals, acting in such capacity, have acted in "good faith," within the meaning of section 1125(e).

C. Section 1129(a)(3) — Proposal of the Plan in Good Faith.

74. Section 1129(a)(3) requires that a plan of reorganization be "proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1129(a)(3). "[A] plan is proposed in good faith where it 'fairly achieve[s] a result consistent with the objectives and purposes of the Bankruptcy Code.'" *In re Kaiser Gypsum Co., Inc.*, 135 F.4th 185, 193 (4th Cir. 2025) (quoting *In re Am. Cap. Equip., LLC*, 688 F.3d 145, 158 (3d Cir. 2012)); see also *In re SGL Carbon Corp.*, 200 F.3d 154, 165 (3d Cir. 1999) (the good faith standard in section 1129(a)(3) requires that there must be "some relation" between the chapter 11 plan and the "reorganization-related purposes" that chapter 11 was designed to serve); *In re Zenith Elecs. Corp.*, 241 B.R. 92, 107 (Bankr. D. Del. 1999) ("The good faith standard requires that the plan be proposed with honesty, good intentions and a basis for expecting that a reorganization can be effected with results consistent with the objectives and purposes of the Bankruptcy Code." (quotation marks omitted)). "The two 'recognized' objectives of the Code, in turn, are 'preserving going concerns and maximizing property available to satisfy creditors.'" *In re Kaiser Gypsum*, 135 F.4th at 194 (quoting *Bank of Am. Nat'l Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'Ship*, 526 U.S. 434, 453 (1999)).

75. In determining whether a plan has been proposed in good faith, “courts must consider the totality of the circumstances.” *In re Kaiser Gypsum*, 135 F.4th at 194; *see also McCormick v. Bane One Leasing Corp. (In re McCormick)*, 49 F.3d 1524, 1526 (11th Cir. 1995) (“The focus of a court’s inquiry is the plan itself, and courts must look to the totality of the circumstances surrounding the plan...keeping in mind the purpose of the Bankruptcy Code is to give debtors a reasonable opportunity to make a fresh start.”). In determining whether the plan will succeed and accomplish goals consistent with the Bankruptcy Code, courts look to the terms of the reorganization plan itself. *See In re Sound Radio, Inc.*, 93 B.R. 849, 853 (Bankr. D.N.J. 1988) (concluding that the good faith test provides the court with significant flexibility and is focused on an examination of the plan itself, rather than other, external factors), *aff’d in part, remanded in part on other grounds*, 103 B.R. 521 (D.N.J. 1989), *aff’d*, 908 F.2d 964 (3d Cir. 1990). The plan proponent must show, therefore, that the plan has not been proposed by any means forbidden by law and that the plan has a reasonable likelihood of success. *See In re Century Glove, Inc.*, Civ. A. Nos. 90-400-SLR, 90-401-SLR, 1993 WL 239489, at *4 (D. Del. Feb. 10, 1993) (“A court may only confirm a plan for reorganization if...the ‘plan has been proposed in good faith and not by any means forbidden by law....’ Moreover, ‘where the plan is proposed with the legitimate and honest purpose to reorganize and has a reasonable hope of success, the good faith requirement of section 1129(a)(3) is satisfied[.]’”). A plan is not a “collusive and improper agreement” when it sends “claims back to the tort system.”⁴⁷ Indeed, courts have rejected the argument that “resolving asbestos cases in the tort system is unfair or constitutes bad faith.”⁴⁸ The

⁴⁷ *See In re Kaiser Gypsum Co., Findings of Fact and Conclusions of Law Regarding Confirmation of the Joint Plan of Reorganization of Kaiser Gypsum Company, Inc. and Hanson Permanente Cement, Inc., as Modified*, No. 16-31602 (JCW) (W.D.N.C. July 28, 2021) (ECF No. 2745) (“**Kaiser Findings and Conclusions**”), at 29.

⁴⁸ *Id.*

district court in *Kaiser Gypsum* found there was no collusion because the plan would result in no prejudice to the insurer; instead, “the Plan returns Asbestos Personal Injury Claims to the tort system and places [the insurer] in the same position it was in before the Debtors’ bankruptcy.”⁴⁹ The Fourth Circuit in *Kaiser Gypsum* affirmatively cited the bankruptcy court’s finding that the plan proponents’ “failure to accede to [the insurer’s desire to limit its financial exposure under its policies] is [n]either collusive [n]or bad faith [n]or fraud [n]or anything else” and found that “the Debtors are merely utilizing the contractual insurance rights to which they are entitled.” 135 F.4th at 196.

76. The Court finds that the Plan was filed in good faith. The Plan serves valid bankruptcy objectives. It is the product of extensive arms’-length negotiations—overseen by a distinguished bankruptcy judge—among Hopeman, the Committee, HII and the Future Claimants’ Representative. (Combined Hr’g Tr. Day 1 at 29:12–34:14.) The Plan reflects a consensual resolution of Hopeman’s asbestos liabilities and maximizes the value of assets available to satisfy claims. *In re Kaiser Gypsum*, 135 F.4th at 195 (noting that plan was proposed in good faith where it “was the “product of extensive arms’-length negotiations . . . and maximize[d] the value of assets available to satisfy claims.”) (cleaned up). That the Plan maximizes the value of assets is demonstrated by the fact that creditor recoveries are greater than could be realized if Hopeman were to liquidate. (Combined Hr’g Tr. Day 1 at 181:10–186:6; Liquidation Analysis.) The unrefuted testimony from Mr. Lascell also supports that the Plan satisfies the goals the Debtor had in filing this bankruptcy case – to provide a fair process for addressing unresolved Asbestos Claims, and to provide a means to try to maximize the return for creditors while also allowing the current owners of Hopeman to step aside and transfer the responsibilities to Trust fiduciaries.

⁴⁹ *Id.* at 65.

(Combined Hr’g Tr. Day 1 at 38:18-39:9.) Indeed, both Mr. Lascell and Mr. Van Epps testified that the Plan represents the best opportunity for Hopeman and its creditors to exit this bankruptcy case. (Combined Hr’g Tr. Day 1 at 45:24-46:8; Combined Hr’g Tr. Day 1 at 145:8-146:146:7.) Mr. Lascell testified that he believed the Plan has overwhelming creditor support and that was confirmed by the votes in support of the Plan by over 99% of the asbestos claimants entitled to vote on the Plan. (*See* Combined Hr’g Tr. Day 1 at 46:3-8) The record also supports that no asbestos claimants have objected to the Plan.

77. To arrive at this juncture, Hopeman actively involved its creditor constituencies in the Plan-formulation process. (Combined Hr’g Tr. Day 1 at 29:12–34:14.) Indeed, the Debtor transitioned away from the Original Plan to pursue confirmation of the Plan because the Debtor, in accordance with its fiduciary duties, recognized the lack of support from its creditors and the Committee for the Original Plan. (*Id.*; *id.* at 145:8–146:7.) The Debtor provided substantial information to all constituencies and, thereafter, reached certain settlements that will be implemented through the Plan. (*Id.* at 29:12–34:14.) As described above and in the Disclosure Statement, the Debtor engaged in arms’-length negotiations with many parties-in-interest over the course of this Chapter 11 Case, including the Objecting Insurers. The Plan reflects agreements among the Debtor, the Committee, the Future Claimants’ Representative, the Certain Settling Insurers, HII, and certain other parties-in-interest. The Debtor’s good faith in proposing the Plan is evidenced by these negotiations, the consensual settlements reached with certain stakeholders, and the overwhelming support for the Plan by the Voting Classes.⁵⁰ The Debtor’s decision to

⁵⁰ *See* Voting Certification; *see also In re Eagle-Picher Indus., Inc.*, 203 B.R. 256, 274 (S.D. Ohio 1996) (finding that a plan of reorganization was proposed in good faith when, among other things, it was based on extensive arms’-length negotiations among the plan proponents and other parties in interest).

explore its alternatives, including, what ultimately became the Plan, neither undercuts nor negates the good-faith actions of the Plan Proponents.

78. In the face of these compelling facts, some of the Objecting Insurers, nevertheless, contend that the Plan was not proposed in good faith. They argue, without sufficient factual support, that the Plan was the product of collusion, not the product of arms'-length negotiations. Their objections lack merit or any evidentiary support.

79. Specifically, the Chubb Insurers and LMIC contend that (i) the Plan is merely the result of Hopeman's capitulation to the Committee and the asbestos claimants; and (ii) governance of Reorganized Hopeman by the same individual who will serve as the Litigation Trustee creates a fundamental conflict of interest. (*See* Chubb Insurers Plan Objection, ¶¶ 134-145; LMIC Plan Objection, ¶¶ 58-72.) Neither contention is availing.

a. The Pivot to the Plan Is Not Evidence of Collusion.

80. Both the Chubb Insurers and LMIC argue that Hopeman cannot confirm a §524(g) plan and that Hopeman's agreement to pivot away from the Original Plan is evidence that Hopeman merely acceded to the Committee's wishes. They claim that the Plan is the product of collusion amongst the Plan Proponents and the asbestos claimants to leverage recoveries out of the Non-Settling Asbestos Insurers. LMIC also contends that the Plan "targets" LMIC, apparently further evidencing collusion.⁵¹

⁵¹ *See* LMIC Plan Objection, ¶ 5 (arguing the Plan was not developed or proposed in good faith because it improperly names LMIC as a "Non-Settling Asbestos Insurer" in order to buy acceptances of certain asbestos claimants). In order to remedy this purported defect, LMIC contends that the Plan Proponents must designate LMIC as a "Settled Asbestos Insurer" under the Plan. *Id.*, ¶ 16.

The Plan defines a Settled Asbestos Insurer to include "any Asbestos Insurer that is a party to an Asbestos Insurance Settlement." Plan, § 1.107. An Asbestos Insurance Settlement is defined in the Plan, in relevant part to mean "(a) the Certain Settling Insurers Agreement; (b), with the exception of the Certain Settling Insurers Agreement, each agreement that, prior to the Effective Date, has been entered into by an Asbestos Insurer and Hopeman with consent of the Committee and approved by Final Order of the Bankruptcy Court"

81. The Objecting Insurers offered no evidence to support these claims, which are belied by the unrefuted evidence offered by the Plan Proponents during their case-in-chief. The evidence establishes that Debtor filed this Chapter 11 Case to establish a fair and efficient process through which its remaining cash and insurance policies may be used to resolve the thousands of asbestos-related claims asserted against it. To that end and as set forth above, shortly after the Petition Date, the Debtor filed the Insurer Settlement Motions, which sought the approval of settlements under which the applicable insurers would effectuate a buyback of their policies, providing the Estate the benefit of the cash consideration contemplated in the settlements, in exchange for providing the applicable insurers protections, including injunctions enjoining the holders of Asbestos Claims from asserting claims against them.

82. The Debtor made a good-faith effort to obtain approval of the Chubb Insurers Settlement Motion, even obtaining the Court's authorization for the Mediation in an effort to consensually resolve disputes around the motion. All of the evidence adduced, including testimony at the Combined Hearing, establishes that the Debtor hoped to reach a resolution of the Chubb Insurers Settlement Motion at the Mediation. (Combined Hr'g Tr. Day 1 at 138:14–139:13.)

83. It was only after entry into the November 29 Term Sheet and through participation in the judicially supervised Mediation that the Debtor, the Committee and HII, following hard-fought, arm's-length, good-faith negotiations, agreed to the 524(g) Settlement that memorialized the Debtor's intention to pivot away from the Original Plan to pursue confirmation of what, ultimately, became the Plan. The Court rejects the suggestion that the Debtor acted in bad faith

LMIC, therefore, is not a Settled Asbestos Insurer under the Plan because the 2003 Agreements were entered into long before the commencement of this bankruptcy case and were not approved by this Court.

because it engaged with its creditors and took stock of its available liquidity (both for purposes of being able to prosecute a plan to confirmation *and* with regard to the impact excessive administrative expenses would have on creditor recoveries), and in consultation with the judicial mediator. That is precisely what a Debtor is charged with doing in these circumstances.

84. Similarly, the Chubb Insurers' assertions that they were excluded from plan-related mediation efforts fares no better."⁵² There simply is no evidence of record supporting collusion and none to be inferred from a debtor and a committee (and a participating creditor) reaching an agreement through a judicially-supervised mediation merely because less than all parties to the mediation were consulted on terms being reached between other parties. The only evidence before this Court supports that there was no collusion. Mr. Lascell provided unrefuted testimony that there was no collusion. (Combined Hr'g Tr. Day 1 at 30:19-31:8). Mr. Lascell also testified that this case was hard fought with the Committee until the Mediation. (*See id.* at 31:12-32:2). In cases in which assertions of collusion gained traction, the record contained some evidence supporting the assertions, not merely the conjecture offered by the objectors here.⁵³

85. Critically, neither the Chubb Insurers nor LMIC can claim that they were denied access to the information necessary to substantiate any alleged collusion. The mere circumstantial evidence they offer—*i.e.*, the pivot from the Original Plan under the watchful eye of Judge Huennekens—does not support a finding of collusion. The Objecting Insurers, nonetheless, argued at the Combined Hearing that the Plan Proponents failed to offer evidence in support of the good-

⁵² The Third Circuit "reject[ed] AMH's implication that [the debtor's] failure to negotiate directly with AMH undercut the overall Plan's fundamental fairness, particularly when AMH declined to provide comments on drafts of the Plan when they were circulated during the negotiation process. *See In re W.R. Grace & Co.*, 729 F.3d at 347.

⁵³ *See id.* at 348 (discussing improprieties evidenced by the record in other cases that resulted in determinations that those plans were not, or might not have been, proposed in good faith).

faith nature of the negotiations and compromises reached at the Mediation because, according to the Objecting Insurers, the Plan Proponents have shielded communications through invocation of the mediation privilege because certain documents produced in connection with the mediation were subsequently clawed back. The Court disagrees. As an initial matter, the Court finds that it may take judicial notice of the term sheets, evidencing the results of the critical negotiations resulting in the Plan, and other documents, filed on the docket.⁵⁴

86. The Court also finds that the record supports that the Debtor provided extensive discovery to the Chubb Insurers and LMIC regarding the negotiations in the mediation that resulted in the 524(g) Settlement. *See* Combined Hr’g Tr. Day 1 at 279:20 (admitting Chubb Exhibit No. 8 into evidence); Combined Hr’g Tr. Day 2 at 172:6–173:18 (discussing Chubb Exhibit No. 8 and the discovery provided by Hopeman regarding the mediation negotiations). The Court finds that, while the Mediation Order provided that no party may use any communications made or provided in connection with the Mediation in any “arbitral, judicial or other proceeding” (*see* Mediation Order, ¶ 8), no actions were taken by the Chubb Insurers or LMIC to seek relief from the Mediation Order to use any of that discovery. To the extent the Chubb Insurers or LMIC had any evidence of collusion following the extensive discovery produced by Hopeman, the Court finds that presentation of that evidence at the Combined Hearing was the time for that evidence to be considered. To the extent the Chubb Insurers or LMIC had any such evidence, they should have sought relief from the Mediation Order to use that discovery at the Combined Hearing.

87. Furthermore, the Court finds the Third Circuit’s rejection of a similar argument in *W.R. Grace* persuasive. There, the Third Circuit “reject[ed] AMH’s contention that direct

⁵⁴ *In re Kretzing*, Case No. 25-10304-BFK, 2025 WL 1134653, at *1, n. 1 (Bankr. E.D. Va. April 16, 2025) (“The Court can take judicial notice of the matters contained in its own docket.”) (internal citations omitted).

testimony from [the debtors'] negotiators was required to demonstrate [the debtors'] honesty and good intention in proposing the Plan.”⁵⁵ The Third Circuit reasoned that “[s]ubjective intent, to the extent that it is one factor in determining that a Plan is not being used for purposes contrary to the Code’s own objectives, is routinely established by circumstantial evidence. *A negative inference should not be drawn against [the debtor] merely because it chose to protect the privacy of attorney-client communications. For a variety of privilege and evidentiary reasons, divining the subjective intent of a corporate actor through the testimony of the negotiators and other key people will often prove problematic and less than enlightening.*”⁵⁶ The Court agrees and finds that on this record, the Plan was the result of arm’s-length, good-faith negotiations amongst the Plan Proponents and other parties in interest, and such negotiations were carried out under the watchful supervision of an experienced, well-respected judicial mediator. Accordingly, the Court concludes the Plan Proponents have met their burden to establish that the Plan was proposed in good faith.

88. Moreover, the Court finds persuasive the Third Circuit’s observation that it would require “an extraordinary circumstance where an objectively fair plan must be set aside because of mere suspicions concerning the subjective intent of the parties,” and concludes no such extraordinary circumstances exist here.⁵⁷

89. Lastly, the evidence supports that the Plan does not improperly target LMIC. The unrefuted testimony is that Liberty has been sued by asbestos claimants and co-defendants for many years in Louisiana, including for over twenty-two years since LMIC and Hopeman entered

⁵⁵ *In re W.R. Grace & Co.*, 729 F.3d at 348.

⁵⁶ *Id.* (emphasis added).

⁵⁷ *Id.*

into the 2003 Agreements. (Combined Hr'g Tr. Day 1 at 133:17-134:14.) The inclusion of LMIC's name in the definition of "Non-Settling Asbestos Insurer" was, in part, driven by requests from certain creditors who intend to continue to sue LMIC and wanted to clarify that the Plan will not preclude future suits against LMIC. (Combined Hr'g Tr. Day 1 at 83:5-14.) If LMIC has a defense to those claims, LMIC can assert such a defense and nothing in the Plan changes that. The statements in the Plan clarifying that LMIC is a Non-Settling Asbestos Insurer and, thus, not receiving protection are accurate and do not impact LMIC's rights or defenses. The Plan does not create an entitlement for asbestos claimants to sue LMIC, or eliminate LMIC's defense to asbestos claimants pursuing LMIC if one exists.

90. On the entirety of the record of the proceedings in this case and the evidence adduced during the Combined Hearing, the Court finds there is no evidence of collusion and more than sufficient evidence that the Plan was filed in good faith.

b. The Governance Authorized By The Plan Is Permissible.

91. The Chubb Insurers and LMIC both contend that the Plan was not proposed in good faith because it puts in place a governance structure bereft with conflicts of interest. (Chubb Insurers Plan Objection, ¶¶ 139-145; LMIC Plan Objection, ¶¶ 63-72.) Their assertions do not withstand scrutiny. There also was no testimony or evidence in the record supporting these objections.

92. The Court finds that the governance structure proposed by the Plan is permissible and adequately protects against conflicts of interest. A plain reading of the relevant provisions of the Asbestos Trust Agreement and Asbestos Trust Distribution Procedures demonstrates that conflicts of interest of which the Chubb Insurers and LMIC complain do not exist.

93. The Asbestos Trust is charged with treating all holders of Channeled Asbestos Claims fairly, equitably and reasonably in accordance with the Asbestos Trust Agreement, the Asbestos Trust Distribution Procedures, and applicable law. Asbestos Trust Agreement, § 1.2.

94. Furthermore, both the Administrative Trustee⁵⁸ and the Litigation Trustee are expressly required to act as fiduciaries to the Asbestos Trust and are also prohibited from acting as an attorney to a Channeled Asbestos Claimant. Specifically, the Administrative Trustee and the Litigation Trustee will both “act as fiduciaries to the Asbestos Trust in accordance with the provisions of this [Asbestos] Trust Agreement and the Plan,”⁵⁹ with “[t]he Litigation Trustee ... be[ing] responsible for all matters relating to Trust Litigation,” and the “Administrative Trustee ... be[ing] responsible for all duties and responsibilities ... other than those relating to litigation.”⁶⁰ Finally, neither the Administrative Trustee nor the Litigation Trustee may “act as an attorney for any person who holds a Channeled Asbestos Claim.”⁶¹ Thus, both the Administrative Trustee and the Litigation Trustee have a fiduciary duty to act on behalf of the holders of the Asbestos Trust as a whole and to avoid conflicts of interest with that role.

95. By contrast and to protect against conflicts, the Asbestos Trust Advisory Committee is charged with representing the interests of the holders of present Channeled Asbestos Claims. Accordingly, the Asbestos Trust Agreement expressly provides that the Asbestos Trust Advisory Committee “shall serve in a fiduciary capacity representing all holders of present

⁵⁸ “Administrative Trustee” has the meaning assigned in the introductory paragraph of the Asbestos Trust Agreement.

⁵⁹ Asbestos Trust Agreement, § 2.1(a).

⁶⁰ *Id.* at § 4.1.

⁶¹ *Id.* at § 4.9.

Channeled Asbestos Claims.”⁶² The members of such committee, “have no fiduciary obligations or duties to any party other than the holders of present Channeled Asbestos Claims.”⁶³

96. Similarly and to protect the interests of Demands (*i.e.*, future Channeled Asbestos Claims), the Asbestos Trust Agreement provides that the Future Claimants’ Representative, “shall serve in a fiduciary capacity, representing the interests of the holders of future Channeled Asbestos Claims for the purposes of protecting the rights of such persons.”⁶⁴ And, likewise, the Future Claimants’ Representative does not have any “fiduciary obligations or duties to any party other than holders of future Channeled Asbestos Claims.”⁶⁵

97. This framework includes adequate mechanisms designed to avoid conflicts amongst the various fiduciaries to protect the interests of all Channeled Asbestos Claimants (both the holders of present Channeled Asbestos Claims and future Demands). There is no legal or factual basis on which this Court could or should assume that the selected fiduciaries will fail to comply with their fiduciary duties. In addition, while the Trustees must, in certain instances, consult with the Trust Advisory Committee and the Future Claimants’ Representative, the Asbestos Trust Agreement only requires the Trustees to obtain their consent on items necessary to protect the divergent interests of their constituencies.⁶⁶ This does not create a conflict, it creates rights in favor of each of these fiduciaries to serve their respective constituencies.

98. LMIC also argues that proposed members of the Asbestos Trust Advisory Committee “are not independent because they have a vested interest in funding payments to their

⁶² *Id.* at § 5.2 (emphasis added).

⁶³ *Id.* (emphasis added).

⁶⁴ *Id.* at § 6.1 (emphasis added).

⁶⁵ *Id.* (emphasis added).

⁶⁶ *See id.* at 2.2(f).

own clients.”⁶⁷ More specifically, LMIC contends that “[t]he beneficiaries of the Asbestos Trust should not have the right to influence the timing, procedures, and conditions under which they may receive a distribution from the Asbestos Trust, nor should they be permitted to represent Asbestos Claimants as a whole when they have vested interests in maximizing the recoveries of certain Asbestos Claimants to the detriment of others.”⁶⁸

99. LMIC, in essence, asks this Court to predetermine that parties are likely to fail to act in accordance with their fiduciary duties. There is no legal or factual basis to do so here. To the contrary, as set forth above, the applicable documents (*i.e.*, the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures) and applicable law already impose appropriate fiduciary duties with which these fiduciaries are required to comply, and there is no reason to presume these fiduciaries will not act consistent with their respective obligations.

100. In sum, the Asbestos Trust Agreement: (i) establishes processes for consulting with, and where required, obtaining the consent of each of the Asbestos Trust Advisory Committee and the Future Claimants’ Representative, which guard against the hypothetical risk of a true conflict of interest arising;⁶⁹ (ii) prohibits the Asbestos Trust Advisory Committee and the Future Claimants’ Representative from unreasonably withholding consent where their consent is required;⁷⁰ and (iii) in the event a dispute arises with respect to an action proposed by the Administrative Trustee or the Litigation Trustee for which the consent of the Asbestos Trust Advisory Committee

⁶⁷ LMIC Plan Objection, ¶ 65.

⁶⁸ *Id.* (emphasis added).

⁶⁹ Asbestos Trust Agreement, §§ 5.7 (a) (setting forth consultation process with Asbestos Trust Advisory Committee), 5.7(b) (setting forth process for obtaining consent of Asbestos Trust Advisory Committee), 6.6 (a) setting forth process for consulting with the Future Claimants’ Representative), and 6.6(b) (setting forth process for obtaining consent of the Future Claimants’ Representative).

⁷⁰ *Id.* at § 5.7(b)(ii) (emphasis added); *see id.* § 6.6(b)(ii) (same with respect to Future Claimants’ Representative).

and the Future Claimants' Representative is required, it sets forth an appropriate procedure for ensuring such conflicts are resolved with the oversight of an impartial decisionmaker while preserving the parties' rights to seek review of such third-party decisionmaker's decision with the Bankruptcy Court *de novo*.⁷¹ Those protections are sufficient under the circumstances.

101. Next, both the Chubb Insurers and LMIC object to Mr. Matthew Richardson's simultaneous service as Reorganized Hopeman's sole officer and director and as the Litigation Trustee. Essentially, they argue that the fiduciary duties Mr. Richardson will owe in his two, separate capacities will result in "an irreconcilable conflict which renders it impossible for the Trustees to cooperate with the Asbestos Insurers as required by the applicable Asbestos Insurance Policies."⁷² Both base this contention on the purported conflict created by Mr. Richardson's supposed "perverse incentive to sabotage Reorganized Hopeman's defense that is created by his contingency fee compensation in his role as Litigation Trustee."⁷³ These contentions are meritless.

102. First, as determined previously, the Chubb Insurers operate under an erroneous reading of the Plan and the provision for the Litigation Trustee's Compensation. The fact that the Litigation Trustee may be compensated for monies he recovers for the Asbestos Trust does not itself create any conflict with the interests of Reorganized Hopeman. And, the Asbestos Trust will own 100% of Reorganized Hopeman and can take action to replace him if the need arises.

103. Second, both the Chubb Insurers and LMIC assume an inaccurate premise: that the Litigation Trustee would take action inconsistent with, or violative of, the Asbestos Insurance Cooperation Obligations. The Asbestos Trust's most significant asset is the Asbestos Insurance

⁷¹ *Id.* at § 7.13.

⁷² LMIC Plan Objection, ¶ 71; *see also* Chubb Insurers Plan Objection, ¶ 143.

⁷³ Chubb Insurers Plan Obj., ¶ 144; *see also* LMIC Plan Obj., ¶ 71.

Rights. The Asbestos Trust has a duty to maximize the value of its assets but taking action in violation of the Asbestos Insurance Cooperation Obligations risks giving Non-Settling Asbestos Insurers coverage defenses that could render worthless the Asbestos Trust's principal asset. Taking any action that could jeopardize coverage under the Asbestos Insurance Policies – the Asbestos Trust's most valuable asset–would be the antithesis of the Administrative Trustee's and Litigation Trustee's fiduciary duties. What the Chubb Insurers, apparently, forget is that the sole shareholder of Reorganized Hopeman is none other than the Asbestos Trust. The Asbestos Trust, in turn, exists for the benefit of the holders of Channeled Asbestos Claims. These parties all have in common a vested interest in ensuring that no action is taken that jeopardizes the Asbestos Insurance Policies through which the vast majority of the Channeled Asbestos Claims, if meritorious and entitled to payment, will be satisfied.

104. Finally, the Chubb Insurers erroneously contend that the only means of the Litigation Trustee carrying out his duties is by “*maximizing the amount of Reorganized Hopeman's liabilities.*”⁷⁴ Coverage under Asbestos Insurance Policies is either available or it is not. If it is available, the Litigation Trustee is not required to increase, much less maximize, Reorganized Hopeman's liability to obtain it. In addition, the Litigation Trustee has no need, and every incentive not to take any action that could jeopardize coverage under the Asbestos Insurance Policies.

105. Accordingly, the Court overrules the Objecting Insurers' objections and concludes that the Plan Proponents proposed the Plan in good faith in accordance with section 1129(a)(3).

⁷⁴ Chubb Insurers Plan Obj., ¶ 144 (emphasis in original).

D. Section 1129(a)(4) — Court Approval of Certain Payments as Reasonable.

106. In accordance with section 1129(a)(4), all fees to which parties may be entitled in connection with the Chapter 11 Case, including Professionals' Fee Claims, are subject to the approval of the Bankruptcy Court. (Plan, § 2.2.) Although the Bankruptcy Court has authorized the interim payment of the fees and expenses incurred by Professionals in connection with the Chapter 11 Case, all such fees and expenses remain subject to final review for reasonableness by the Bankruptcy Court. (*Id.*) Finally, the Plan provides that the Bankruptcy Court will retain jurisdiction after the Effective Date to hear and determine all applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan. (*Id.* at § 12.1.) Accordingly, the Plan fully complies with the requirements of section 1129(a)(4).

E. Section 1129(a)(5) — Disclosure of Identity of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with the Interests of Creditors and Public Policy.

107. Section 1129(a)(5) requires the proponent of a plan to disclose the names and affiliations of the proposed officers and directors of Reorganized Hopeman or a successor to the debtor under the Plan.

108. The Plan Proponents have satisfied this obligation by identifying Mr. Richardson, the individual proposed to serve as Reorganized Hopeman's sole officer and director, and his affiliations. (Plan Supp., Ex. D.) The Plan Supplement also discloses Mr. Richardson's proposed service as Litigation Trustee of the Asbestos Trust and his compensation in that role.⁷⁵ The Plan Supplement discloses Mr. Richardson's affiliation with Wyche, P.A., his employer, and his office

⁷⁵ The Plan, through a Plan Supplement, also discloses the identities of the Administrative Trustee and the members of the Trust Advisory Committee. (*See* Docket No. 1143.)

address at Wyche, P.A. in Columbia, South Carolina office. (*Id.*) These disclosures satisfy 1129(a)(5)’s requirements because they provide “adequate information,” within the meaning of section 1125.⁷⁶

109. Nevertheless, the Chubb Insurers contend that section 1129(a)(5) is not satisfied because “nothing in the Plan discloses that the Litigation Trustee/Hopeman’s sole director, Mr. Richardson, is currently co-counsel and part of a fee-sharing arrangement with the Committee’s co-chair, Mr. Branham – who will also serve as a member of the TAC – in an asbestos-related lawsuit.” (Chubb Insurers Objection, ¶ 144.)

110. The 1129(a)(5) disclosure obligation is not, as the Chubb Insurers would have this Court find, the “disinterestedness” analysis mandated by section 327. Nowhere in section 1129(a)(5) does the word “disinterested” appear or mandate that the proposed officer or director of a reorganized debtor be a “disinterested person” within the definition of that term in section 101(14)(C). Rather than require the disclosure of “direct and indirect relationship[s],” “connection[s],” and “interest[s]” of a professional to be retained to be retained under section 327, Congress chose to limit the disclosures required by section 1129(a)(5) to “affiliations.” Accordingly, there is no basis to engage in the disinterestedness analysis the Chubb Insurers seek.⁷⁷

111. Accordingly, the Plan satisfies the requirements of section 1129(a)(5), and the Chubb Insurers’ objection on that point is overruled.

⁷⁶ “The affiliations should be those of interest to creditors and interest holders under the ‘adequate information’ standard of section 1125 (since such affiliations, if so qualifying, will have to be disclosed in any event).” 7 COLLIER ON BANKRUPTCY ¶ 1129.02[5] (16th ed. rev. 2025).

⁷⁷ As reflected in the Chubb Insurers’ Objection, at ¶ 144 & n. 288, the Chubb Insurers were provided the opportunity to depose the Committee co-chair about Mr. Richardson’s affiliations.

F. Section 1129(a)(6) — Approval of Rate Changes.

112. Section 1129(a)(6) is not applicable because Hopeman’s current business does not involve the establishment of rates over which any regulatory commission has or will have jurisdiction after Confirmation.

G. Section 1129(a)(7) — Best Interests of Holders of Claims and Interests.

113. Based on the Liquidation Analysis,⁷⁸ no non-accepting holder of a Class 3 General Unsecured Claim or a Class 4 Channeled Asbestos Claim will receive less under the Plan than such holder would receive in a liquidation of the Debtor’s assets. (Combined Hr’g Tr. Day 1 at 181:10–186:6.) As a result, the Plan, which was almost unanimously accepted by the holders of Class 3 General Unsecured Claims and Class 4 Channeled Asbestos Claims who voted on the Plan, satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.⁷⁹

114. The Court finds, consistent with other courts’ decisions, that “it is appropriate to take the value of future Asbestos Claims into account in determining the Claims that would be required to be paid in a liquidation under chapter 7 of the Bankruptcy Code.”⁸⁰

115. Under the Fourth Circuit’s analysis in *Grady*, even those Channeled Asbestos Claimants who have yet to manifest an injury do hold Claims. “While other courts apply several

⁷⁸ The methodology used to estimate the total liquidation proceeds available for Distribution and the principal assumptions and considerations underlying the liquidation analysis are described in the Disclosure Statement and the Liquidation Analysis.

⁷⁹ See *Tranel v. Adams Bank & Trust Co. (In re Tranel)*, 940 F.2d 1168, 1172 (8th Cir. 1991); *In re AOV Indus.*, 31 B.R. 1005, 1008-13 (D.D.C. 1983), *aff’d in part, rev’d in part*, 792 F.2d 1140, 1144 (D.C. Cir. 1986) (if no impaired creditor receives less than liquidation value, a plan of reorganization is in best interests of creditors), *vacated in light of new evidence*, 797 F.2d 1004 (D.C. Cir. 1986); *In re Econ. Lodging Sys., Inc.*, 205 B.R. 862, 864-65 (Bankr. N.D. Ohio 1997); *Eagle-Picher*, 203 B.R. at 266.

⁸⁰ *Eagle-Picher*, 203 B.R. at 275; see also *In re W.R. Grace & Co.*, 446 B.R. 96, 127 (Bankr. D. Del. 2011) (recognizing, in addressing objecting party’s argument the Best Interests Test was not satisfied, that “In this bankruptcy case, in addition to the current Libby claims that remain to be liquidated *there will be future demands due to the nature of asbestos disease.*”) (emphasis added).

different tests to determine when a claim arises, in the Fourth Circuit Court . . . [courts] apply the conduct test.”⁸¹ “The “conduct test” focuses on the actual act that gives rise to a state or federal claim . . . not the contingency that gives rise to the right of payment.”⁸²

116. In *Grady*, the Fourth Circuit affirmed the determination that a woman, Ms. Grady, who used an A.H. Robins-made Dalkon Shield prepetition but did not manifest an injury until after the petition date, held a prepetition claim that was subject to the automatic stay.⁸³ Ms. Grady and the legal representative of future claimants appointed in the Robins bankruptcy appealed the lower court’s holding, relying on the “accrual” test adopted by the Third Circuit in *Frenville* under which “a right to payment must exist pre-petition before a claim can exist.”⁸⁴ The Fourth Circuit observed that the only courts that had followed *Frenville* were in the Third Circuit, and that “[a]ll of the cases coming to our attention which have considered the issue have declined to follow *Frenville*’s limiting definition of claim.”⁸⁵ Thus, the Fourth Circuit rejected *Frenville*’s accrual test, instead adopting the conduct test.⁸⁶

117. Even the Third Circuit, in *Jeld-Wen, Inc. v. Van Brunt (In re Grossman’s Inc.)*, 607 F.3d 114 (3d Cir. 2010), later adopted *Grady*’s conduct test, holding “[w]e agree . . . that a ‘claim’

⁸¹ *Grady v. A.H. Robins Co.*, 839 F.2d 198, 202 (4th Cir. 1988); see also *In re Schechter*, No. 10-72175-FJS, 2012 WL 3555414, at *5 (Bankr. E.D. Va. Aug. 16, 2012) (quoting *In re Camellia Food Stores, Inc.*, 287 B.R. 52, 57 n.2 (Bankr. E.D. Va. 2002).

⁸² *In re Schechter*, 2012 WL 355414, at *5 (quoting *In re Boyette*, No. 09-04573-8-RDD, 2010 WL 4777631, at *2 (Bankr. E.D.N.C. Nov. 17, 2010)); see also

⁸³ *Grady*, 839 F.2d at 199.

⁸⁴ *Id.* at 200-201 (citing *Avellino & Bienes v. M. Frenville Co., Inc. (Matter of M. Frenville Co., Inc.)*, 744 F.2d 332, 335-336 (3d Cir. 1984)).

⁸⁵ *Grady*, 839 F.2d at 201 (internal citations omitted).

⁸⁶ *Id.* at 202-203; see also *In re Baseline Sports, Inc.*, 393 B.R. 105, 128 (Bankr. E.D. Va. 2008) (“Given the broad definition that the Code gives to the term ‘claim,’ the Fourth Circuit specifically rejected the concept that a right of payment must exist prior to the bankruptcy filing in order for a claim to arise pre-petition. Instead, it applied a conduct test where it merely required the events giving rise to a claim occur pre-petition. Whether a claim arises pre-petition, therefore, turns on whether the events giving rise to the claim occurred prior to the date the Debtor filed its bankruptcy petition.”) (internal citations and quotation marks omitted).

arises when an individual is exposed pre-petition to a product or other conduct giving rise to an injury, which underlies a ‘right to payment’ under the Bankruptcy Code.”⁸⁷ The *Grossman* court, in adopting the conduct test, also observed that “various bankruptcy courts have followed a form of the conduct test when considering the existence of an asbestos-related claim.”⁸⁸ Finally, the Third Circuit noted that the due-process concerns potentially implicated by “discharging future claims of individuals whose injuries were not manifest [on the petition date]” had been accounted for by Congress through many of the requirements of section 524(g) which “are specifically tailored to protect the due process rights of future claimants.”⁸⁹

118. The Chubb Insurers’ argument that the Best Interests Test should ignore future claims in the analysis is contrary to caselaw that acknowledges that the Bankruptcy Code’s definition of “claims” and section 524(g)(5)’s definition of “demands” are, essentially, overlapping, leading such courts to reject interpretations of the terms as mutually exclusive that would “produce[] a result demonstrably at odds with the intentions of its drafters.”⁹⁰

119. Accordingly, the Court has determined that it is entirely *inappropriate* for future Claims, *i.e.*, Demands, that are to be addressed in the Plan, to be ignored for purposes of the Best Interests Test.

120. Caselaw also belies the Chubb Insurers’ claim that “[t]he Liquidation Analysis is premised on the false construct that converting to chapter 7 would result in a considerably longer process for resolving all of the Asbestos Claims and in substantially less funds being available to

⁸⁷ *Grossman*, 607 F.3d at 125 (internal citations omitted).

⁸⁸ *Id.* (collecting cases).

⁸⁹ *Id.* at 127 (internal citation and quotation marks omitted).

⁹⁰ *See, e.g., In re Flintkote Co.*, 486 B.R. 99, 124 (Bankr. D. Del. 2012) (internal citation and quotation marks omitted).

distribute to creditors.” In the context of a chapter 7 case, asbestos personal injury claims would be put into a pool of general unsecured claims to await payment, and the trustee could not pay claims until all the claims were liquidated. That would take many years.

121. As the Delaware bankruptcy court found in *W.R. Grace*, in rejecting one group of claimants’ arguments that the debtors’ section 524(g) plan did not satisfy the Best Interests Test:

Libby Claimants’ arguments ... do not account for the costs of Chapter 7 administration or for the fact that, if these estates were liquidated, there would be a finite amount available for distribution. In addition, the Libby Claimants are not the only creditors with asbestos personal injury claims against Debtors. Thus, their recovery as a group is not the proper gauge of the recovery in a Chapter 7 versus a successful reorganization. Rather, as in any Chapter 7, their claims would be put into a pool of general unsecured creditors to await payment until all the claims in the class were liquidated, all the assets reduced to cash, distribution made, and insurance claims resolved. Because of the nature of asbestos disease and the latency period for some asbestos-related diseases, it is unclear what provisions, if any, might have to be made for future demands, inasmuch as “a prerequisite for recognizing a ‘claim’ is that the claimant’s exposure to product giving rise to the claim occurred prepetition.” *In re Grossman’s, Inc.*, 607 F.3d at 125. The latency period can be decades and if distribution cannot be made until all claims are liquidated, the entire bankruptcy distribution process could be long-delayed while all claimants and future demand holders proved their claims were liquidated.

In re W.R. Grace, 446 B.R. at 127 (emphases added).

122. In affirming the bankruptcy court’s decision in *W.R. Grace*, the district court similarly observed:

[T]he Libby Claimants fail to take into account the practical implications of what Chapter 7 liquidation would entail in this case. As the Bankruptcy Court properly noted, valuation of Grace creditors’ claims under Chapter 7 is highly speculative due to the uncertainty associated with future claims related to latent pleural disease. These future claims are not and cannot yet be known. The Joint Plan accounts for this uncertainty in its proposed structure, and guarantees all claimants—both current and future—some degree of recovery. ***In contrast, a liquidation under Chapter 7 has no such***

reassurance in place. Rather, creditors' claims in a Chapter 7 proceeding would be put into a pool that would not distribute payments until all claims in the class were liquidated and all the assets were reduced to cash value. See In re Kiwi Int'l Air Lines, Inc., 344 F.3d 311, 318 n. 6 (3d Cir.2003); see also In re Baker & Getty Fin. Servs., Inc., 106 F.3d 1255, 1259 n. 7 (6th Cir.1997). Given the latent nature of asbestos-related pleural disease, excessive time could pass until all future claims are ascertained. Thus, a Chapter 7 liquidation would need to be held open for a seemingly indefinite amount of time while all personal injury claimants pursued jury trials and settlements in the tort system. Such a process would result in inevitable delay and disparate—or, even worse, unavailable—recovery amongst personal injury claimants. Such uncertainty is certainly not within the creditors' best interests.

In re W.R. Grace & Co., 475 B.R. 34, 144-45 (D. Del. 2012) (emphases added) (footnotes omitted).

123. Ignoring the sound logic of these decisions, the Chubb Insurers claim that liquidation in a hypothetical chapter 7 would neither delay claimants' recoveries nor reduce such recoveries with chapter 7 fees. They argue that a chapter 7 trustee could just agree to lift the automatic stay to allow claimants to promptly pursue and recover on their claims from insurance, relying principally on *In re D/C Distribution, LLC*, 617 B.R. 600 (Bankr. N.D. Ill. 2020). That case actually supports the proposition that recoveries in a chapter 7 case would be significantly delayed. The *D/C Distribution* court's order lifting the stay was entered thirteen years after the chapter 7 case was first filed⁹¹ and after the trustee's efforts to settle with insurers had not borne fruit over that time.⁹²

124. There is no basis to assume a trustee in a hypothetical chapter 7 of Hopeman would immediately consent to stay relief rather than pursue settlements with insurers particularly since here, unlike in *D/C Distribution*, Hopeman already was able to reach and consummate a settlement

⁹¹ *D/C Distribution, LLC*, 617 B.R. at 618.

⁹² *Id.* at 605 & 613.

with one group of insurers, the Certain Settling Insurers, and had proposed another settlement with the Chubb Insurers in a liquidation scenario, even though that settlement has not been approved by the Court.

125. Importantly, in this case as well, the hypothetical chapter 7 trustee in the Best Interests Test would need to resolve all creditors' claims, some of which are still latent claims for unmanifested diseases, before deciding how to distribute any of the remaining proceeds of the settlement with the Certain Settling Insurers. That exercise will take many years and delay any distributions since there would be no claimants' trust and no Future Claimants' Representative to agree on amounts the trustee safely could distribute to claimants in advance of a final decree.

126. Accordingly, *D/C Distribution* does little more than demonstrate the sort of unworkable delay that the holders of Channeled Asbestos Claims would face in a hypothetical liquidation under chapter 7. It does not support that such a hypothetical liquidation would be resolved by immediately lifting the stay as to virtually all Asbestos Claims, nor does it address how future claims included in the Plan will be addressed by a chapter 7 trustee, which may take decades to resolve.

127. The Court further finds unavailing the assertions by certain of the Objecting Insurers that the Liquidation Analysis is deficient, for purposes of the Best Interests Test, because it fails to estimate the value of Claims treated under the Plan. The Court finds Mr. Tully's testimony at the Combined Hearing persuasive in that it establishes the "waterfall" set forth in the Plan, which is depicted in the Liquidation Analysis, renders the value of the Claims treated thereunder irrelevant.⁹³ Mr. Tully testified that the Liquidation Analysis effectively is a waterfall

⁹³ Mr. Tully is a Senior Managing Director for FTI, the Court-approved financial advisor to the Committee, who has around twenty-seven years of experience in bankruptcy-related matters, including other Chapter 11 asbestos

because it makes an assessment under the Chapter 11 plan scenario and the Chapter 7 hypothetical of what assets are available, and then it distributes payments to claimants according to the priority of their claims. (*Id.* at 256:24–257:6.) Mr. Tully further testified that, under the Liquidation Analysis, asbestos claimants, as unsecured creditors, are at the bottom of the waterfall and get the remaining assets. (*Id.* at 257:7–11) Ultimately, Mr. Tully testified that he did not need to estimate the Claims in the Liquidation Analysis because the assets available for distribution under the Plan, shown at the bottom of the waterfall, are greater than the assets that would be available in a hypothetical liquidation under Chapter 7 which, as established above, would have to treat the same Claims. (Combined Hr’g Tr. Day 1 at 256: 15–259:22.) Indeed, Mr. Tully testified that in his opinion, based on his experience and knowledge of this case, it is not even a close call whether claimants will receive more under the Plan than they would in a Chapter 7. (*Id.* at 186:3–6.) There is no evidence or testimony to the contrary.

128. Finally, contrary to other arguments raised by the Chubb Insurers, the Liquidation Analysis contains all the information required for the Court to confirm that the Best Interests Test is satisfied in this case. Accordingly, the Plan satisfies the requirement of section 1129(a)(7)(A), and the Chubb Insurers’ objections are overruled on this issue.

H. Section 1129(a)(8) — Acceptance of the Plan by Each Impaired Class.

129. All classes of Claims have either accepted the Plan or are unimpaired. (Voting Certification.) Specifically, Classes 3 and 4, the only classes entitled to vote on the Plan, voted in favor of the Plan. (*Id.*) Classes 1 and 2 are unimpaired under the Plan and, therefore, are presumed to have accepted the Plan. (Plan § 3.1; Disclosure Statement § III.) Meanwhile, Class 5 (Equity

cases. (*See* Combined Hr’g Tr. Day 1 at 169:23–172:5.). Mr. Tully provided his opinion testimony without objections being made at the time the testimony was offered.

Interests) is Impaired and is deemed to reject the Plan. (*Id.*) Accordingly, the Plan does not satisfy section 1129(a)(8). Notwithstanding, the Plan is confirmable because, as set forth below, the Plan satisfies section 1129(b).

I. Section 1129(a)(9) — Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code.

130. The Plan also meets the requirements regarding the payment of Administrative Claims, Priority Tax Claims, and Priority Non-Tax Claims, as set forth in section 1129(a)(9).

131. Section 2.1 of the Plan provides that, subject to certain bar dates and unless otherwise agreed by the holder of an Administrative Claim, each holder of an Allowed Administrative Claim shall receive, in full satisfaction of its Administrative Claim, cash equal to the allowed amount of such Administrative Claim either: (a) as soon as practicable after the Effective Date; (b) the first Business Day that is at least thirty (30) calendar days after the date on which such Administrative Expense Claim becomes Allowed; or (c) on such other date as may be agreed to by the holder of such Allowed Administrative Expense Claim and Reorganized Hopeman.

132. Further, Section 2.3 of the Plan provides that Priority Tax Claims against the Debtor (which include Claims entitled to priority other than Administrative Expense Claims and Priority Non-Tax Claims) will be paid on: (a) the Effective Date, (b) thirty (30) days after the date such Priority Tax Claim becomes an Allowed Claim, or (c) the date such Allowed Priority Tax Claim becomes due and payable under applicable non-bankruptcy law. Accordingly, the Plan satisfies the requirements set forth in section 1129(a)(9).

J. Section 1129(a)(10) — Acceptance By at Least One Impaired, Non-Insider Class.

133. As shown in the Voting Certification and as reflected in the record of the Confirmation Hearing, at least one Class of Claims that is impaired under the Plan has voted to

accept the Plan, determined without including the acceptance by any insider. Specifically, Class 3 (General Unsecured Claims) and Class 4 (Channeled Asbestos Claims), which are not insider Classes and are the only voting Classes under the Plan, voted to accept the Plan. Accordingly, the Plan satisfies section 1129(a)(10).

K. Section 1129(a)(11) — Feasibility of the Plan.

134. As reflected in the Plan and the Reorganized Hopeman Projections (*see* Plan Supplement, Ex. I (the “Projections”)), Reorganized Hopeman will generate cash flows through the real-estate investment contemplated by the Restructuring Transactions and will be capitalized with an additional \$150,000 in Net Reserve Funds which will be invested in high-quality fixed income securities.

135. Thus, as the Projections demonstrate, Reorganized Hopeman will have the ability to fund its ongoing operations from cash flow generated by the investment acquired through the Restructuring Transactions and through interest earned on the Net Reserve Funds (as well as through the Asbestos Trust Assets, which will be used to satisfy Reorganized Hopeman’s obligations to the holders of Channeled Asbestos Claims, including to provide notice, cooperate, and take whatever actions are necessary to maintain insurance coverage). The Restructuring Transactions, as evidenced by the Projections, ensure that Reorganized Hopeman generates positive cash flow into the future.

136. The Debtor, through cash on hand, by virtue of the Net Cash Reserves, the revenue that will be generated by the Restructuring Transactions, and the Asbestos Trust Assets available to the holders of Class 4 Channeled Asbestos Claims, will be able to fund the obligations imposed by the Plan.

137. Overall, the Projections demonstrate that: (a) the Plan provides a feasible means of completing the Debtor's reorganization; and (b) Reorganized Hopeman will have more than sufficient funds to satisfy its obligations under the Plan. Accordingly, the Plan satisfies the feasibility standard of section 1129(a)(11).

L. Section 1129(a)(12) — Payment of Bankruptcy Fees.

138. The Plan complies with section 1129(a)(12) by providing that all fees payable pursuant to 28 U.S.C. § 1930 will be paid in cash on or before the Effective Date. (Plan, § 13.6.)

M. Section 1129(a)(13) — Retiree Benefits.

139. Section 1129(a)(13) is not applicable because Hopeman does not maintain any retiree benefits, as defined in section 1114. (Combined Hr'g Tr. Day 1 at 38:4-6.)

N. Section 1129(b) — No Unfair Discrimination; Fair and Equitable.

140. The Plan has been accepted by Classes 3 and 4, the only voting Classes. (Voting Certification.) However, it is deemed to be rejected by Class 5 (Equity Interests). (*Id.*) Pursuant to section 1129(b)(1), the Plan may be confirmed despite the fact that Class 5 has not accepted the Plan because the Plan meets the "cramdown" requirements for confirmation under section 1129(b). Other than the requirement in section 1129(a)(8) with respect to Class 5, all of the requirements of section 1129(a) have been met. The Plan does not discriminate unfairly and is fair and equitable with respect to Class 5. No Class of Claims or Interests junior to Class 5 will receive or retain any property on account of their Claims or Interests, and no Class of Claims or Interests senior to Class 5 is receiving more than full payment on account of the Claims and Interests in such Class. The Plan therefore is fair and equitable, does not discriminate unfairly with respect to Class 5, and complies with section 1129(b).

O. Section 1129(c) — Only One Plan.

141. There is only one plan that is being confirmed in the Chapter 11 Case, the Plan. As a result thereof, the requirements of section 1129(c) have been satisfied.

P. Section 1129(d) — Purpose of Plan.

142. The principal purpose of the Plan is not avoidance of taxes or avoidance of the requirements of section 5 of the Securities Act of 1933. (Combined Hr'g Tr. Day 1 at 37:15-20.)

IX. APPROVAL OF THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS UNDER THE PLAN

143. The Plan provides that all Executory Contracts to which Hopeman is a party shall be rejected, except those which (a) have been previously rejected, (b) are the subject of a separate rejection motion filed by the Debtor prior to the Confirmation Date, (c) are an Asbestos Insurance Policy or Asbestos CIP Agreement,⁹⁴ or (d) are a Non-Asbestos Insurance Policy.⁹⁵ Additionally, to the extent any Designated Insurance Agreements,⁹⁶ including the Travelers 2005 Agreement, are Executory Contracts, the Plan rejects such Designated Insurance Agreements.⁹⁷

144. The Court agrees with the Plan Proponents that the Asbestos Insurance Policies, the Asbestos CIP Agreements and Designated Insurance Agreements are not Executory Contracts. It is well-settled that insurance policies do not constitute executory contracts where the premiums

⁹⁴ The Modifications, among other things, expressly provide that the Wellington Agreement constitutes an Asbestos CIP Agreement and, to the extent any of the Asbestos CIP Agreements are Executory Contracts (which the Plan Proponents, as set forth herein, disputes) will be assumed under the Plan.

⁹⁵ Plan, § 6.1.

⁹⁶ Plan, § 1.51 (“Designated Insurance Agreement” means any prepetition settlement agreement or any prepetition coverage-in-place agreement (including any related indemnity obligations thereunder) between Hopeman and one or more Asbestos Insurers (a) that does not currently provide rights in favor of Hopeman to continuing coverage or to payment of insurance proceeds or (b) as to, or on account of, which the Debtor did not receive any payment of insurance proceeds within the period of one year immediately preceding the Petition Date. For the avoidance of doubt, the term “Designated Insurance Agreement” (i) includes the Travelers 2005 Agreement, but (ii) does not include the Wellington Agreement. This defined term, or a substantially similar term, will be included in the Modifications.)

⁹⁷ Plan, § 6.1.

have been paid in full and the coverage period has expired prepetition.⁹⁸ All of the Asbestos Insurance Policies fit those criteria: the Debtor fully paid the premiums under the policies prior to the Petition Date, and their coverage periods expired prior to the Petition Date. (Combined Hr’g Tr. Day 1 at 137:12-14, 146:8-10.) The Asbestos Insurance Policies therefore are not Executory Contracts.

145. The fact that certain notice and cooperation obligations may exist under the Asbestos Insurance Policies does not render the policies executory. “Ministerial obligations,” such as “ongoing obligations of cooperation, retrospective premiums, deductibles, and notice,” cannot transform an otherwise non-executory insurance policy into an executory contract.⁹⁹

146. Similarly, the Asbestos CIP Agreements are not Executory Contracts. The Plan defines an “Asbestos CIP Agreement” as, among other things, “an agreement between Hopeman and an Asbestos Insurer” that “is based on, arises from, or is attributable to an Asbestos Insurance Policy” and which “establishes a framework or formula for the Asbestos Insurer’s payment of indemnity, liability, or defense costs to Hopeman with respect to Asbestos Personal Injury Claims.”¹⁰⁰ Such coverage-in-place agreements are not executory where, as here, the premiums have been paid and the agreements do not any contain any material continuing obligations by

⁹⁸ See, e.g., *Daileader v. Certain Underwriters at Lloyd’s London - Syndicate 1861*, 670 F. Supp. 3d 12, 47 (S.D.N.Y. 2023), *aff’d*, No. 23-690-CV, 2023 WL 7648381 (2d Cir. Nov. 15, 2023); *In re Fed.-Mogul Glob. Inc.*, 385 B.R. 560, 575 (Bankr. D. Del. 2008) (“[W]here the insured party ‘has fulfilled the central agreement to such contract, such as the obligation of the insured to pay the premium in exchange for the insurer’s defense, the contract is no longer executory.’”), *aff’d sub nom. In re Fed.-Mogul Glob. Inc.*, 684 F.3d 355 (3d Cir. 2012) (citation omitted); *In re Firearms Import & Export Corp.*, 131 B.R. 1009, 1014 (Bankr. S.D. Fla. 1991) (noting a debtor’s continuing obligation to make premium payments is the “sole basis” for holding an insurance policy to be executory).

⁹⁹ *Fed.-Mogul*, 385 B.R. at 575; see also *In re Ames Dep’t Stores, Inc.*, No. 93 CIV. 4014 (KMW), 1995 WL 311764, at *3 (S.D.N.Y. May 18, 1995) (“Courts considering insurance policies in which the policy periods have expired and the initial premiums have been paid routinely find that they are not executory contracts despite continuing obligations on the part of the insured.”).

¹⁰⁰ Plan, § 1.7.

Hopeman.¹⁰¹ To the extent the coverage-in-place agreements have continuing notification and cooperation obligations, those obligations are “ancillary” and any breach of those obligations would not be material.¹⁰²

147. While the Court agrees with the Plan Proponents that the Asbestos Insurance Policies and the Asbestos CIP Agreements are not Executory Contracts, to the extent any such agreements constitute Executory Contracts, the Court finds based on the unrefuted evidence presented that it is in the Debtor’s best interest to assume such agreements. (Combined Hr’g Tr. Day 1 at 42:22-44:4.)

148. Furthermore, while the Court agrees with the Plan Proponents that the Designated Insurance Agreements are not Executory Contracts, to the extent any such agreements constitute Executory Contracts, the Court finds based on the unrefuted evidence presented (Combined Hr’g Tr. Day 1 at 141:9–144:1) that it is in the Debtor’s best interest to reject such agreements. Among other things, the Plan’s definition of “Designated Insurance Agreement” includes the Travelers 2005 Agreement (Plan, § 1.51), which imposes an uncapped or unlimited obligation on Hopeman to indemnify Travelers. (Combined Hr’g Tr. Day 1 at 141:9-142:7.) If the Travelers 2005 Agreement were assumed as an Executory Contract, such indemnification obligations could potentially dilute the recoveries of other unsecured creditors or exhaust the finite cash resources that would be available post-reorganization. Moreover, Travelers is not currently providing any ongoing coverage under the Travelers 2005 Agreement, and there otherwise is no benefit being provided to the Estate by assuming it. The Court, therefore, finds that it is within Hopeman’s

¹⁰¹ In *In re Babcock & Wilcox, Co.*, the court found that coverage-in-place agreements were not executory where the premiums had been paid and the agreements did not contain any material obligations. No. 00-10992, 2004 WL 4945985, at *31-32 (Bankr. E.D. La. Nov. 9, 2004), *vacated on other grounds*, No. CIV. A. 05-232, 2005 WL 4982364 (E.D. La. Dec. 28, 2005).

¹⁰² See *id.* at *31.

business judgment and in the best interests of its estate and creditors to approve the rejection of the Travelers 2005 Agreement and any other Designated Insurance Agreement to the extent they are Executory Contracts. To the extent they are not Executory Contracts, the obligations arising under the Travelers 2005 Agreement and any other Designated Insurance Agreement, including the unlimited indemnification obligations, will be discharged along with the other prepetition claims against Hopeman. *See* 11 U.S.C. §§ 524(a) & 1141(d); Plan, §§ 10.1 & 10.2.

X. THE ASBESTOS TRUST’S ACCESS TO CERTAIN DOCUMENTS IN THE DOCUMENT REPOSITORY DOES NOT DESTROY OR WAIVE ANY PRIVILEGES

149. Section 8.3(l) of the Plan provides that, on the Effective Date, the Debtor shall transfer to Reorganized Hopeman all of the Debtor’s books and records necessary for the Asbestos Trust to investigate and resolve Channeled Asbestos Claims in accordance with Sections 8.3 and 8.16 of the Plan, the Asbestos Trust Agreement, and the Asbestos Trust Distribution Procedures. Section 8.3(l) of the Plan also expressly provides that “privileges belonging to [the Debtor] shall belong to Reorganized Hopeman as of the Effective Date, and the Asbestos Trust’s access to such books and records shall not result in the destruction or waiver of any applicable privileges pertaining to such books and records.”¹⁰³

150. The Court overrules objections from the Chubb Insurers and Travelers that this arrangement will result in privilege waivers.¹⁰⁴

151. Reorganized Hopeman will be a successor in interest to the Debtor and will own the privileges currently owned by the Debtor. In addition, the Asbestos Trust, which will own the Reorganized Debtor, also is the Debtor’s successor in interest with respect to the Debtor’s asbestos

¹⁰³ Plan, § 8.3(l).

¹⁰⁴ *See, e.g.*, Travelers Plan Obj., ¶ 95; Chubb Insurers Plan Obj., ¶¶ 126-28.

personal injury liabilities. As successors in interest, the Reorganized Debtor and the Asbestos Trust retain and may assert any applicable privileges.¹⁰⁵ The Court also finds that it has the authority under sections 105(a) and 1123(b)(6) of the Bankruptcy Code to order that privileges applicable to the debtor's books and records are retained notwithstanding the Asbestos Trust's access to such books and records.¹⁰⁶

152. The Court also finds that Reorganized Hopeman and the Asbestos Trust, which will be a Delaware statutory trust, will also have a common interest in the privilege attaching to the documents in the repositor.¹⁰⁷ Thus, the transfer of privileged information between two parties that share a common interest does not waive or destroy privilege.

¹⁰⁵ See *Owens-Illinois Inc. v. Rapid Am. Corp (In re The Celotex Corp.)*, 124 F.3d 619, 624 (4th Cir. 1997) ("Under the Confirmed Plan, the Asbestos Claims Trust is deemed the successor for all purposes to the liabilities of Celotex with respect to allowed amounts of asbestos related claims."); see also Del. R. Evid. 502(c) (stating that "[t]he privilege under this rule may be claimed by the client ... or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence") (the Asbestos Trust is a statutory trust under Delaware law).

¹⁰⁶ 11 U.S.C. §§ 105(a), 1123(b)(6). In analogous situations, courts have held that liquidating trusts established by confirmed plans can assert the attorney-client privilege of their predecessor debtor corporations. See, e.g., *Official Comm. of Unsecured Creditors of Hechinger Inv. Co. of Del, Inc. v. Fleet Retail Fin. Grp.*, 285 B.R. 601, 613 (D. Del. 2002) (holding that the liquidating trust could assert and waive the attorney-client privilege of the debtor corporation); *Whyte v. Williams (In re Williams)*, 152 B.R. 123, 129 (Bankr. N.D. Tex. 1992) (holding that the liquidating trustee had the power to invoke or waive evidentiary privileges in connection with the causes of action transferred to the trust under the confirmed plan).

¹⁰⁷ Rule 502(b) of the Delaware Uniform Rules of Evidence ensures that the attorney-client privilege will protect confidential communications involving separate clients so long as the clients share a common interest sufficient to justify invocation of such privilege. See Del. R. Evid. 502(b)(3) (stating that "[a] client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client ... by the client or the client's representative or the client's lawyer or a representative of the lawyer to a lawyer or a representative of a lawyer representing another in a matter of common interest"); see, e.g., *United States v. Doe*, 429 F.3d 450, 453 (3d Cir. 2005) (stating that the common interest privilege allows for two clients to discuss their affairs "so long as they have an 'identical (or nearly identical) legal interest as opposed to a merely similar interest'"); *U.S. Bank Nat'l Ass'n v. U.S. Timberlands Klamath Falls, L.L.C.*, C.A. No. 112-N, 2005 WL 2037353, at *1 (Del. Ct. Ch. June 9, 2005) (stating that the common-interest privilege extends to the protection of confidential communications involving separate clients "so long as the clients share a 'common interest' sufficient to justify invocation of the privilege"); see also *In re Grand Jury Subpoenas 89-3 & 89-4, John Doe 89-129 (Under Seal)*, 902 F.2d 244, 249 (4th Cir. 1990) (holding that "persons who share a common interest in litigation should be able to communicate with their respective attorneys and with each other to more effectively prosecute or defend their claims").

153. Finally, the Court finds that work-product doctrine protects the transfer of any privileged material from Reorganized Hopeman and/or the Debtor to the Asbestos Trust.¹⁰⁸ Here, the Asbestos Trust and Reorganized Hopeman will be non-adverse with respect to the subject Claims and share a common interest. Thus, providing the Asbestos Trust access to the Debtor's books and records to enable the Asbestos Trust to investigate and resolve Channeled Asbestos Claims in accordance with the Plan will not destroy, impair or waive the work-product privilege or any other privileges that may exist with respect to the documents.

154. Accordingly, the Court finds that it is appropriate for the Confirmation Order to contain language holding that the Asbestos Trust's access to the Debtor's books and records will not result in the destruction or waiver of any privileges or protections applicable thereto.

XI. THE ASBESTOS TRUST AND THE ASBESTOS PERMANENT CHANNELING INJUNCTION COMPLY WITH SECTION 524(g)

155. The Plan comports with the Bankruptcy Code's requirements for issuance of an injunction to enjoin entities from taking legal action to recover, directly or indirectly, payment in respect of Asbestos Claims or Demands against Reorganized Hopeman.

A. The Asbestos Trust Satisfies the Requirements of Section 524(g)(2)(B)(i).

156. **Section 524(g)(2)(B)(i)(I)** requires that an asbestos trust assume the liabilities of a debtor that, as of the petition date, has been named as a defendant in actions to recover damages for asbestos-related claims. 11 U.S.C. § 524(g)(2)(B)(i)(I). The Plan satisfies this requirement by its express terms, which state that "liability for all Channeled Asbestos Claims shall automatically, and without further act, deed, or court order, be channeled exclusively to and assumed by the Asbestos Trust" (Plan, § 4.4(b); *see also id.* § 8.3(h).) And, upon being channeled to the Asbestos

¹⁰⁸ *See Westinghouse Elec. Corp. v. Republic of the Philippines*, 951 F.2d 1414, 1428 (3d Cir. 1991).

Trust, the Channeled Asbestos Claims will be resolved in accordance with the Plan and the Asbestos Trust Documents.

157. **Section 524(g)(2)(B)(i)(II)** requires that the trust “be funded in whole or in part by the securities of 1 or more debtors involved in such plan and by the obligation of such debtor or debtors to make future payments, including dividends.” 11 U.S.C. § 524(g)(2)(B)(i)(II). The Plan satisfies this requirement by providing that all of the Reorganized Hopeman Common Stock will be issued to the Asbestos Trust. (Plan, § 8.6.) Moreover, Reorganized Hopeman is obligated to contribute any Excess Net Reserve Funds to the Asbestos Trust.¹⁰⁹ The unrefuted testimony at the Combined Hearing established: (i) that historically there was as much as a billion dollars in Asbestos Insurance Coverage, and over \$100,000,000 of which could be accessed by asbestos claimants under the Plan (Combined Hr’g Day 1 Tr. at 167:24–169:1); and (ii) Reorganized Hopeman will be sufficiently capitalized, and earn sufficient income from the Restructuring Transactions, to enable Reorganized Hopeman to provide funding to the Asbestos Trust and comply with its obligations under the Plan. (*Id.* at 172:12–181:5, 186:9–188:14.) Thus, the funding requirements of section 524(g)(2)(B)(i)(II) are satisfied.

158. The Objecting Insurers, however, contend that the Plan Proponents have not satisfied section 524(g)(2)(B)(i)(II) due to an implied “ongoing business” requirement that they argue is contained therein.¹¹⁰ The Plan Proponents disagree. The Plan Proponents argue that section 524(g)(2)(B)(i)(II) does not contain an ongoing-business requirement, and, even assuming *arguendo* that an ongoing-business requirement exists, such requirement is satisfied by the Plan.¹¹¹

¹⁰⁹ Plan, §§ 1.23 (defining the Asbestos Trust Contribution to include, among other things, the Excess Net Reserve Funds); 8.2(a)(ii) (providing for the “making of the Asbestos Trust Contribution, notwithstanding that the contribution of the Excess Net Reserve Funds *may occur after the Effective Date* ...”) (emphasis added).

¹¹⁰ See Chubb Insurers Plan Obj., ¶¶ 55-77; LMIC Plan Obj., ¶¶ 26-44; Travelers Plan Obj., ¶¶ 87-91.

¹¹¹ Confirmation Brief, ¶ 176.

159. Having carefully reviewed the arguments of the Plan Proponents and the Objecting Insurers, the authorities cited by each, and having conducted an independent review of the relevant law, the Court finds that the Plan Proponents have satisfied section 524(g)(2)(B)(i)(II) for the reasons that follow.

160. The Court “begins where all such inquiries must begin: with the language of the statute itself.”¹¹² Section 524(g)(2)(B)(i)(II) requires that the Asbestos Trust “be funded in whole or in part by the securities of 1 or more debtors involved in such plan and by the obligation of such debtor or debtors to make future payments, including dividends.”¹¹³ The Court agrees with the Plan Proponents that the plain language of section 524(g)(2)(B)(i)(II) is devoid of any reference to an ongoing-business requirement.¹¹⁴ Furthermore, the Court finds no ambiguity in section 524(g)(2)(B)(i)(II), and neither the Objecting Insurers nor the Plan Proponents have argued that it is ambiguous. Accordingly, “where, as here, the statute’s language is plain, the sole function of the [C]ourt[] is to enforce it according to its terms.”¹¹⁵ While the plain language of section 524(g)(2)(B)(i)(II), alone, is sufficient to dispose of the Objecting Insurers’ assertions regarding the ongoing-business requirement, the Court also finds that the alleged ongoing-business

¹¹² *U.S. v. Ron Pair Enters. Inc.*, 489 U.S. 235, 241 (1989) (internal citation omitted).

¹¹³ 11 U.S.C. § 524(g)(2)(B)(i)(II).

¹¹⁴ The Court finds this conclusion bolstered by the Fourth Circuit’s recent recitation of section 524(g)(2)(B)(i)(II)’s requirements in *Truck Ins. Exch. v. Kaiser Gypsum Co., Inc. (In re Kaiser Gypsum Co., Inc.)*, 135 F.4h 185 (4th Cir. 2025). In *Kaiser*, the Fourth Circuit, similarly, observed that “524(g)’s funding requirement ... mandates that the trust (1) be funded in whole or part by the securities of one or more involved debtors, and (2) by obligation of such debtor or debtors to make future payments, including dividends.” *Id.* at 198. Notably absent from the Fourth Circuit’s recitation of section 524(g)(2)(B)(i)(II)’s requirements is any mention of an ongoing-business requirement.

¹¹⁵ *Ron Pair Enters., Inc.*, 489 U.S. at 241 (internal citation and quotation marks omitted).

requirement stems from *dicta*, and that it would be inappropriate for the Court to graft such a requirement into section 524(g)(2)(B)(i)(II).¹¹⁶

161. While the Court holds that section 524(g)(2)(B)(i)(II) does not contain an ongoing-business requirement, the Court concludes that even if section 524(g)(2)(B)(i)(II) contained such a requirement it would be satisfied here. Pursuant to the Restructuring Transactions, “Reorganized Hopeman will acquire a minority interest, and receive net cash flows on account of that interest, in a multifamily property near Houston, Texas”¹¹⁷ The Court finds courts that have analyzed whether an ongoing-business requirement is satisfied have imposed a low bar, recognizing that Congress intended “[t]he asbestos trust/injunction mechanism established in the bill is available for use by *any asbestos company facing a similarly overwhelming liability*.”¹¹⁸ The Court also finds that the business Reorganized Hopeman will carry on through the Restructuring Transactions

¹¹⁶ The notion that section 524(g) imposes a so-called ongoing-business requirement stems from *dicta* in the Third Circuit’s decision in *In re Combustion Engineering, Inc.*, 391 F.3d 190 (3d Cir. 2004). In *Combustion*, the Third Circuit was called upon to address a number of challenges to a debtor’s section 524(g) plan, including arguments by a group of objecting insurers that the requirements of section 524(g)(2)(B)(i)(II) were not satisfied by the debtor’s plan. *Id.* at 248. In reviewing section 524(g)(2)(B)(i)(II), the Third Circuit mused that “[t]he **implication** of [section 524(g)(2)(B)(i)(II)’s funding] requirement is that the reorganized debtor must be a going concern, such that it is able to make future payments into the trust to provide an ‘evergreen’ funding source for future asbestos claimants.” *Id.* at 248 (emphasis added). Noting that “Combustion Engineering’s post-confirmation business operations would be, at most, minimal” the *Combustion Engineering* court observed that “it [was] **debatable** whether Combustion Engineering could satisfy § 524(g)(2)(B)(i)(II),” but declined to address the issue because “[w]hile the Objecting Insurers argue that § 524(g)(2)(B)(i)(II) is not satisfied, **they do not have standing to raise this matter. Therefore, we need not address it.**” *Id.* (emphasis added).

In *Quigley*, the United States Bankruptcy Court for the Southern District of New York, correctly recognized that the *Combustion* court’s musings about an implicit ongoing-business requirement were *dicta*. In *re Quigley Co., Inc.*, 437 B.R. at 140 (“In ***dicta***, the *Combustion Engineering* Court stated the provision [section 524(g)(2)(B)(i)(II)] implied that the reorganized debtor must be a going concern, such that it is liable to make future payments into the trust to provide an evergreen funding source for future asbestos claimants.”) (emphasis added) (internal citation and quotation marks omitted); see *Flintkote*, 486 B.R. at 129 (“The Court of Appeals in *Combustion Engineering* stated, in *dicta*, that the “implication of [§ 524(g)(2)(B)(i)(II)] is that the reorganized debtor must be a going concern, such that it is able to make future payments into the trust to provide an ‘evergreen’ funding source for future asbestos claimants.” (citation omitted)).

¹¹⁷ Plan Supplement, Ex. F, at p. 1.

¹¹⁸ See *In re Flintkote*, 486 B.R. at 131 (emphasis in original) (internal citations omitted).

is consistent with businesses carried on by other debtors whose section 524(g) plans of reorganization were approved.¹¹⁹

162. Finally, the Court rejects the Objecting Insurers' attempt to, effectively, establish a passive-investment carveout.¹²⁰ Reorganized Hopeman's business, which involves obtaining an interest in an operating entity and receiving correspondent cash flows from such entity, is the

¹¹⁹ See, e.g., *In re Yarway Corp.*, Case No. 13-11025 (Bankr. D. Del. 2013), *Findings of Fact and Conclusions of Law in Support of Order Confirming the Plan of Reorganization for Yarway Corporation Under Chapter 11 of the Bankruptcy Code Proposed by Yarway Corporation and TYCO International PLC* [Docket No. 860], at pp. 10 (noting that debtor Yarway owned an interest in an entity, which, in turn, owns an interest in a joint venture which owns and operates a five-story commercial office building), p. 38 (finding "After the Effective Date, Reorganized Yarway will continue to own and manage its interest in STI Properties. STI Properties, in turn, is a member of a joint venture which owns and operates a commercial office building near Cleveland, Ohio. Accordingly, the Debtor will have an ongoing business after the Effective Date.") (internal citation omitted); *In re Flintkote Co.*, No. 04-11300 (Bankr. D. Del. Dec. 21, 2012), *Memorandum Opinion Overruling Objections to the Amended Joint Plan of Reorganization, Confirming Plan and Recommending the Affirmation of Confirmation and of the § 524(g) Injunction* [Docket No. 7253], at 8-9 ("Flintkote intends to allocate \$10 million of the working capital it will hold under the Plan for the purchase of seven additional properties by the end of the second year, post-effective date, with the goal of securing similar long-term, triple-net leases for each property." (footnote omitted)); *In re Sepco Corp.*, No. 16-50058 (Bankr. N.D. Ohio Mar. 24, 2020), *Order Confirming the Second Amended Plan of Reorganization, as Modified, for Sepco Corporation Under Chapter 11 of the Bankruptcy Code, and Report and Recommendation to the District Court* [Docket No. 732], at Ex. A (Plan), § 8.10 (describing "Restructuring Transactions" under which the debtor would acquire a minority ownership interest in, and receive rents from, an entity that owns an office building in Pennsylvania).

¹²⁰ In particular, the Court rejects the Objecting Insurers contention that Reorganized Hopeman's real estate ownership is not a true business and is instead merely a "passive investment" that cannot be considered a going concern. See LMIC Plan Obj. ¶¶ 34-36, 38, 40-41; Chubb Plan Obj. ¶¶ 66-68, 71, 73, 77, 80. The Objecting Insurers make this assertion despite the Bankruptcy Code not defining the term "business," and "Black's Law Dictionary defin[ing] 'business' very broadly, as '[a] commercial enterprise carried on for profit; a particular occupation or employment habitually engaged in for livelihood or gain.'" *Lucido*, 655 B.R. at 365 (quoting Black's Law Dictionary (11th ed. 2019)). LMIC attempts a thin analogy to a separate provision, § 524(g)(2)(B)(i)(III), see LMIC Plan Obj. ¶¶ 33-34 (citing *Fireman's Fund Insulation Co. v. Plant Insulation Co.* (*In re Plant Insulation Co.*), 734 F.3d 900, 917 (9th Cir. 2013)), and the Chubb Insurers seek to have § 524(g) interpreted through the lens of the Internal Revenue Code. See Chubb Plan Obj. ¶ 68 & nn. 138-39 (citing *Comm'r of Internal Rev. v. Groetzinger*, 480 U.S. 23, 27-32 (1987), *In re Voelker*, 123 B.R. 749, 752-53 (Bankr. E.D. Mich. 1990), and *Whipple v. Comm'r of Internal Rev.*, 373 U.S. 193, 202 (1963)). LMIC contends the ongoing-business requirement, and the fact that it excludes so-called "passive investments" can be understood through the Ninth Circuit's analysis of the "specified contingencies" language in § 524(g)(2)(B)(i)(III), LMIC Plan Obj. ¶¶ 34 (citing *Plant Insulation*, 734 F.3d at 915-17), but this is a separate subsection that no Objecting Insurer has asserted is otherwise at issue here. This is not how statutory interpretation works. The language of a statute must be ascertained in its own context, not through analogy to opinions interpreting different language in different statutory provisions. See, e.g., *N.C. All. for Retired Americans v. Hirsch*, 741 F. Supp. 3d 318, 342 (E.D.N.C. 2024) (noting that courts interpret "the words of a statute . . . in their context and with a view to their place in the overall statutory scheme" (quoting *King v. Burwell*, 576 U.S. 473, 492 (2015))). The Chubb Insurers' tax cases are inapposite for the same reason: they are entirely unrelated to § 524(g)(2)(B)(i)(II). That one bankruptcy court found a provision of the tax code useful by analogy 35 years ago in a chapter 12 family farm bankruptcy, see *Voelker*, 123 B.R. at 752-53, does not warrant this practice in a complex chapter 11 reorganization.

functional-equivalent of a debtor whose business consists of owning non-debtor operating subsidiaries.¹²¹

163. Indeed, while the Debtor no longer carried on its former ship-joining or cabinet-making operations at the time of the Petition Date, and had not for nearly 20 years, the Debtor did assert claims against its insurance policies and manage its insurance assets, including investing its cash and proceeds of insurance settlements in low-risk assets to generate a return to be used to satisfy claims,¹²² which is part of what the Reorganized Debtor will do after the Effective Date in addition to acquiring an interest in an operating entity. The Court finds that Section 524(g) does not require anything more.¹²³

164. **Section 524(g)(2)(B)(i)(III)** requires that the trust own, or by the exercise of rights granted under such plan would be entitled to own if specified contingencies occur, a majority of the voting shares “of each debtor.” 11 U.S.C. § 524(g)(2)(B)(i)(III). The Plan satisfies this requirement. The Plan provides that, upon the Effective Date, the Asbestos Trust will receive 100% of the Reorganized Hopeman Common Stock. (Plan, § 8.6) Accordingly, the Plan complies with the language of section 524(g)(2)(B)(i)(III).

¹²¹ Courts have confirmed chapter 11 plans of reorganization, including section 524(g) plans, where the debtor was a holding company whose business involved owning operating non-debtor subsidiaries. *See, e.g., In re Gulfmark Offshore, Inc.*, No. 17-11125 (Bankr. D. Del. June 27, 2017), *Disclosure Statement for Amended Chapter 11 Plan of Reorganization of Gulfmark Offshore, Inc.* [Docket No. 173], § II.C (“The Debtor is a holding company, the sole assets of which (other than bank accounts and the intercompany notes receivable), are shares and LLC interests in its immediate subsidiaries.”); *In re Specialty Prods. Holding Corp.*, No. BR 10-11779-JKF, 2013 WL 2177694, at *1-2 (Bankr. D. Del. May 20, 2013) (noting the 524(g) debtors’ history as holding companies); *In re XO Commc’ns, Inc.*, 330 B.R. 394, 400 (Bankr. S.D.N.Y. 2005) (“[Debtor] was a holding company formed under the laws of the State of Delaware (which changed its name to XO Communications, Inc. ... on October 20, 2000) whose subsidiaries provide telecommunication services in several states.”); *In re Williams Commc’ns Grp., Inc.*, 281 B.R. 216, 218 (Bankr. S.D.N.Y. 2002) (“[Debtor] is a non-operating holding company whose principal asset is its ownership of Williams Communications, LLC”).

¹²² Combined Hr’g Tr. Day 1 at 15:3–17:7.

¹²³ “[A]ll that [§ 524(g)(2)(B)(i)(II)] must accomplish is to ensure that the Trust receives a stake, of some value, in the reorganized debtor. The Trust must get a piece of the “goose that lays the golden eggs[.]” *Plant Insulation*, 734 F.3d at 914 (finding this subsection satisfied even where the trust paid \$2,000,000 for a \$500,000 share in the reorganized debtor along with a \$250,000 note).

165. **Section 524(g)(2)(B)(i)(IV)** requires an asbestos trust “to use its assets or income to pay claims and demands.” 11 U.S.C. § 524(g)(2)(B)(i)(IV). Here, the Asbestos Trust will assume the liability and responsibility for all Channeled Asbestos Claims¹²⁴ and will use its assets (*i.e.*, the Asbestos Trust Assets, which include the Asbestos Insurance Rights) to pay and satisfy Channeled Asbestos Claims in accordance with the Plan, the Asbestos Trust Agreement, and the Asbestos Trust Distribution Procedures, *id.*, thus satisfying the requirements of section 524(g)(2)(B)(i)(IV).

166. **Hopeman Is Entitled to a Discharge.** The Court overrules objections by the Chubb Insurers and LMIC that Hopeman is not entitled to a discharge.¹²⁵ The Debtor is entitled to a supplemental discharge under section 524 because it is entitled to a discharge under section 1141.

167. Pursuant to section 1141(d)(3) of the Bankruptcy Code: “The confirmation of a plan does not discharge a debtor if—(A) the plan provides for the liquidation of all or substantially all of the property of the estate; (B) the debtor does not engage in business after consummation of the plan; and (C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title.” 11 U.S.C. § 1141(d)(3). The Court finds that section 1141(d)(3)’s requirements are conjunctive and two of the three requirements do not apply here.

168. Section 1141(d)(3)(A) restricts a debtor’s entitlement to discharge where “the plan provides for the *liquidation* of all or substantially all of the property of the estate.”¹²⁶ The Plan itself reflects, and Mr. Lascell confirmed in his unrefuted testimony, that the Plan does not provide for the liquidation of all or substantially all of the property of the estate. (*See Combined Hr’g Tr.*

¹²⁴ Plan, § 8.3(a).

¹²⁵ Chubb Insurers Plan Obj., ¶¶ 55-65; LMIC Plan Obj., ¶¶ 24-26.

¹²⁶ 11 U.S.C. § 1141(d)(3)(A).

Day 1 at 35:7–36:13.) Instead, the Plan provides for the Debtor to emerge as Reorganized Hopeman, which will receive the Net Cash Reserve to consummate the Restructuring Transactions, including investing in a business and capitalizing the reorganized entity. Accordingly, the Plan and Mr. Lascell’s testimony support that Hopeman is reorganizing and not liquidating.

169. The Debtor, furthermore, will make the Asbestos Trust Contribution—which will *transfer, not liquidate*, the Asbestos Insurance Rights to the Asbestos Trust, the newly-formed owner of Reorganized Hopeman, to maintain the Debtor’s Asbestos Insurance Rights in their existing unliquidated form for the benefit of the holders of Channeled Asbestos Claims. The Debtor is not, for example, liquidating the Asbestos Insurance Policies the Chubb Insurers issued to Hopeman by selling back them back to the Chubb Insurers. Those Asbestos Insurance Rights, as well as all other Asbestos Insurance Rights the Debtor will contribute to the Asbestos Trust, are not being liquidated under the Plan.

170. Section 1141(d)(3)(B) restricts a debtor’s entitled to a discharge if “the debtor does not engage in business after consummation of the plan.”¹²⁷ Reorganized Hopeman will engage in business after the Effective Date. Through the Restructuring Transactions, Reorganized Hopeman will make investments that will result in it obtaining a minority interest in an operating entity which will generate cash flow through distributions and/or dividends for the foreseeable future.¹²⁸

¹²⁷ 11 U.S.C. § 1141(d)(3)(B).

¹²⁸ *See also In re Flintkote*, 486 B.R. at 132 (“[T]here is no requirement under § 1141(d) that a debtor continue the same business lines and activities that it engaged in pre-petition. The requirement under the statute in order to a receive a discharge, is simply to ‘engage in business after consummation of the plan.’ § 1141(d)(3)(B). There is no qualification in the statute that the business must be a pre-petition business, nor any language qualifying what level of business activity is sufficient.”); *see also* Combined Hr’g Tr. Day 1 at 172:12–181:9.

171. Accordingly, because the Plan does not provide for the liquidation of all or substantially all of the property of the estate and Reorganized Hopeman will be engaging in business after consummation of the Plan, the Court finds that the Debtor qualifies for a discharge pursuant to section 1141(d)(3).

B. The Asbestos Trust Satisfies the Requirements of Section 524(g)(2)(B)(ii).

172. Section 524(g)(2)(B)(ii) of the Bankruptcy Code requires the Court to make certain factual findings to support the issuance of a channeling injunction under section 524(g)(1)(A). As set forth below, Hopeman's history, the nature of asbestos-related litigation and the facts of this case all support the findings required for the issuance of the Asbestos Permanent Channeling Injunction under section 524(g)(1)(A).

173. *Section 524(g)(2)(B)(ii)(I)* requires the court to find that "the debtor is likely to be subject to substantial future Demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction." 11 U.S.C. § 524(g)(2)(B)(ii)(I).

174. Here, Hopeman's asbestos-related liabilities arise from Asbestos Claims asserted against it allegedly arising out of the asbestos-containing products used in its legacy ship joining business. (Lascell First Day Decl., ¶ 2; Combined Hr'g Tr. Day 1 at 18:4-16.) Since 1979, claimants have asserted more than 126,000 Asbestos Claims against Hopeman. (Lascell First Day Decl., ¶¶ 20-21; Combined Hr'g Tr. Day 1 at 19:3-6.) As of June 23, 2024, over 2,700 unresolved Asbestos Claims have been asserted against Hopeman. (Combined Hr'g Tr. Day 1 at 19:7-9.)

175. Based on the substantial number of Asbestos Claims asserted against Hopeman and related personal injury lawsuits that were filed in the past and were continuing to be filed prior to the Petition Date, Hopeman would likely be subject to substantial future Demands for payment

arising from the same or similar conduct or events that gave rise to the Channeled Asbestos Claims. (*Id.* at 140:11-23.) Accordingly, section 524(g)(2)(B)(ii)(I) is satisfied.

176. **Section 524(g)(2)(B)(ii)(II)** requires a court to find that “the actual amounts, numbers, and timing of such future demands cannot be determined.” 11 U.S.C. § 524(g)(2)(B)(ii)(II). Hopeman is unable to predict with any degree of confidence the amounts, numbers and timing of future Demands in respect of alleged Asbestos Claims. (Combined Hr’g Tr. Day 1 at 140:11-23.) Accordingly, section 524(g)(2)(B)(ii)(II) is satisfied.

177. **Section 524(g)(2)(B)(ii)(III)** requires a finding that “pursuit of such demands outside the procedures prescribed by such plan is likely to threaten the plan’s purpose to deal equitably with claims and future demands.” 11 U.S.C. § 524(g)(2)(B)(ii)(III). Under the Plan, Channeled Asbestos Claimants, current and future, will receive equitable treatment in accordance with the Asbestos Trust Distribution Procedures. Without the Plan confirmed under section 524(g): (i) future claimants’ interests would not be protected at all; and (ii) there would be no mechanism to bind future claimants to the mechanism provided in the Plan that provides an orderly process for the fair and equitable distribution of assets to asbestos claimants. Accordingly, the requirements of section 524(g)(2)(B)(ii)(III) are met.

178. **Section 524(g)(2)(B)(ii)(IV)** requires a court to find that, as part of the confirmation process, the terms of the channeling injunction proposed, including “any provisions barring actions against third parties,” are set forth in the plan of reorganization and the disclosure statement in support of the plan. 11 U.S.C. § 524(g)(2)(B)(ii)(IV)(aa). A court must also find that “a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan.” 11 U.S.C. § 524(g)(2)(B)(ii)(IV)(bb). As part of the confirmation process in the Chapter 11 Case, Hopeman

included the terms of the Asbestos Permanent Channeling Injunction, including provisions therein barring actions against any Protected Party, in both the Plan and the Disclosure Statement. (Plan § 10.3; Disclosure Statement § 10.3.) Hopeman also designated Class 4 under the Plan for all Channeled Asbestos Claims. The voting Claim holders in Class 4 overwhelmingly accepted the Plan, with 99.71% voting in favor of the Plan. (Voting Certification.)

179. Finally, **Section 524(g)(2)(B)(ii)(V)** requires a court to find that

the trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands, or other comparable mechanisms, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

11 U.S.C. § 524(g)(2)(B)(ii)(V). Here, the Asbestos Trust will pay Channeled Asbestos Claims in accordance with the Asbestos Trust Distribution Procedures, which contain mechanisms that provide reasonable assurance that the Asbestos Trust will value, and be in a financial position to pay, present Channeled Asbestos Claims and future asbestos-related Demands that involve similar claims in substantially the same manner as present claimants.

180. Specifically, the Asbestos Trust Distribution Procedures provide for the processing and payment of the Uninsured Asbestos Claims, including the uninsured portions of Insured Asbestos Claims, that would have been paid by the Debtor prepetition, on an impartial, first-in-first-out basis, while also permitting the Channeled Asbestos Claimants whose claims are Insured Asbestos Claims to pursue their Channeled Asbestos Claims in the tort system.¹²⁹ To ensure substantially equivalent treatment of all present and future Uninsured Asbestos Claims, the Administrative Trustee will be required to determine, with the consent of the Asbestos Trust

¹²⁹ Asbestos Trust Distribution Procedures, § 2.2.

Advisory Committee and the Future Claimants' Representative, the percentage of value that holders of present and future Uninsured Asbestos Claims are likely to receive from the Asbestos Trust (i.e., the Payment Percentage).¹³⁰

181. This determination will take account of, among other things, estimates of the Asbestos Trust's assets and liabilities (including projected expenses).¹³¹ Further, at least once every three years, the Administrative Trustee will be required to reconsider the then-applicable Payment Percentage based on current information.¹³² In determining whether to adjust the Payment Percentage, the Administrative Trustee is obligated to assess whether the then-applicable Payment Percentage is based on accurate, current information, and, if after reconsideration, the Administrative Trustee believes a change to the Payment Percentage is necessary, then the Administrative Trustee may effectuate such change with the consent of the Asbestos Trust Advisory Committee and the Future Claimants' Representative.¹³³ Each Distribution made to an asbestos claimant will reflect the Payment Percentage in effect at the time of such Distribution.¹³⁴ To further ensure equitable treatment of similarly-situated claims, in the event the Administrative Trustee determines it appropriate to increase the Payment Percentage, and such proposed increased Payment Percentage is subsequently adopted in accordance with the terms of the Asbestos Trust Distribution Procedures, the Administrative Trustee will be required to make supplemental

¹³⁰ *Id.* at § 4.1.

¹³¹ *Id.* at § 2.2.

¹³² *Id.* at § 4.2.

¹³³ *Id.*

¹³⁴ *Id.* at § 4.3.

payments to all asbestos claimants who previously liquidated their Asbestos Personal Injury Claims based on a lower Payment Percentage.¹³⁵

182. Accordingly, the Asbestos Trust Distribution Procedures provide reasonable assurance that the Asbestos Trust will value, and be in a financial position to pay, present Asbestos Personal Injury Claims and future asbestos-related Demands in substantially the same manner. The Plan and the Asbestos Trust Distribution Procedures contemplated therein satisfy the requirements in section 524(g)(2)(B)(ii)(V).

C. The Extension of the Asbestos Permanent Channeling Injunction to Third Parties Is Appropriate.

183. Section 524(g)(4)(A)(ii) designates certain entities that are protected by a channeling injunction entered pursuant to section 524(g)(1)(A). Specifically, section 524(g)(3)(A)(ii) provides that a channeling injunction entered pursuant to section 524(g)(1)(A):

may bar any action directed against a third party who is identifiable from the terms of such injunction (by name or as part of an identifiable group) and is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor to the extent such alleged liability of such third party arises by reason of—

(I) the third party's ownership of a financial interest in the debtor, a past or present affiliate of the debtor, or a predecessor in interest of the debtor;

(II) the third party's involvement in the management of the debtor or a predecessor in interest of the debtor, or service as an officer, director or employee of the debtor or a related party;

(III) the third party's provision of insurance to the debtor or a related party; or

(IV) the third party's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the debtor or a related party, including but not limited to —

(aa) involvement in providing financing (debt or equity), or advice to an entity involved in such a transaction; or

¹³⁵ *Id.* at § 4.3.

(bb) acquiring or selling a financial interest in an entity as part of such a transaction.

11 U.S.C. § 524(g)(4)(A)(ii). As required by section 524(g)(4)(A)(ii), each Protected Party under the Plan is either identifiable from the terms of the injunction or is a member of an identifiable group. (Plan, § 1.95.) In addition, the Plan defines Protected Party to include those parties that fit within the categories listed in section 524(g)(4)(A) of the Bankruptcy Code. (*Id.*) Accordingly, the Court may extend the Asbestos Permanent Channeling Injunction to protect all Protected Parties from liability for any Channeled Asbestos Claims.

D. The Court Has Appointed a Legal Representative to Protect the Rights of Persons Who Might Subsequently Assert Demands.

184. In accordance with section 524(g)(4)(B)(i), the Future Claimants' Representative was appointed as part of proceedings leading to issuance of the Asbestos Permanent Channeling Injunction for the purpose of protecting the rights of all persons, whether known or unknown, that might subsequently assert, directly or indirectly, against Hopeman a Channeled Asbestos Claim that is a Demand addressed in the Asbestos Permanent Channeling Injunction and transferred to the Asbestos Trust. Accordingly, the Plan Proponents have met the requirements of section 524(g)(4)(B)(i).

E. Entry of the Asbestos Permanent Channeling Injunction Is Fair and Equitable with Respect to Future Asbestos Claimants.

185. Section 524(g)(4)(B)(ii) requires a court to determine that entry of the channeling injunction, and the protection from liability that is afforded to the parties named therein, "is fair and equitable with respect to the persons that might subsequently assert such demands, in light of the benefits provided, or to be provided, to such trust on behalf of such debtor or debtors or such third party." 11 U.S.C. § 524(g)(4)(B)(ii). In accordance with that section, the Debtor and/or Reorganized Hopeman, on behalf of all of the Protected Parties, are contributing certain assets to

the Asbestos Trust.¹³⁶ On the Effective Date, (a) the Debtor and/or the Reorganized Debtor will contribute the Asbestos Trust Assets to the Asbestos Trust; (b) one-hundred percent (100%) of Reorganized Hopeman's Common Stock will be issued to the Asbestos Trust; and (c) Reorganized Hopeman will contribute the Excess Net Reserve Funds, if any, to the Asbestos Trust.

186. The contribution of the Asbestos Trust Assets, including the contribution of Asbestos Insurance Rights, will enable the Asbestos Trust to make substantial, meaningful distributions to the holders of Channeled Asbestos Claims. In light of these benefits, the Court finds that the Asbestos Permanent Channeling Injunction is fair and equitable.

XII. COMPREHENSIVE SETTLEMENT OF CLAIMS AND CONTROVERSIES

187. Pursuant to section 1123(b) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided under the Plan, the provisions in the Plan, including the settlement of certain estate claims set forth in Section 10.9 and the releases set forth in Sections 10.5 10.6, and 10.7, constitute a good-faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Claim, Channeled Asbestos Claim, or Interest or any distribution to be made pursuant to the Plan on account of any Allowed Claim, Channeled Asbestos Claim, or Interest.

XIII. SATISFACTION OF CONDITIONS TO CONFIRMATION

188. Section 11.1 of the Plan contains conditions precedent to Confirmation that must be satisfied or duly waived pursuant to Section 11.3 of the Plan. The conditions precedent set forth in Section 11.1 have been satisfied.

¹³⁶ Plan, § 8.3.

189. Concerning the establishment of the Asbestos Trust and issuance of the Asbestos Permanent Channeling Injunction, the Court specifically finds:

a. The Asbestos Permanent Channeling Injunction is to be implemented in connection with the Plan and the Asbestos Trust.

b. The Asbestos Trust, as of the Effective Date, shall assume all liability and responsibility, financial and otherwise, for all Channeled Asbestos Claims, and, upon such assumption, no Protected Party shall have any liability or responsibility, financial or otherwise, therefor.

c. As of the Petition Date, Hopeman has been named as a defendant in a personal injury or wrongful death action seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products.

d. The Asbestos Trust will be funded in whole or in part by securities of Reorganized Hopeman and by the Asbestos Trust Contribution.

e. The Asbestos Trust will own 100% of the Reorganized Hopeman Common Stock.

f. The Asbestos Trust shall use its assets or income to pay Channeled Asbestos Claims.

g. Hopeman is likely to be subject to substantial future Demands for payment arising out of the same or similar conduct or events that gave rise to the Claims that are addressed by the Asbestos Permanent Channeling Injunction.

h. The actual amounts, numbers and timing of such future Demands cannot be determined.

i. Pursuit of such Demands outside the procedures prescribed by the Plan is likely to threaten the Plan's purpose to deal equitably with Claims and future Demands.

j. The terms of the Asbestos Permanent Channeling Injunction, including any provisions barring actions against third parties pursuant to section 524(g)(4)(A) of the Bankruptcy Code, are set out in the Plan.

k. The Plan establishes, in Class 4 (Channeled Asbestos Claims), a separate class of the claimants whose Claims are to be addressed by the Asbestos Trust.

l. At least two-thirds in amount and 75% in number of those voting Claims in Class 4 (Channeled Asbestos Claims) have voted in favor of the Plan.

m. Pursuant to court orders or otherwise, the Asbestos Trust shall operate through mechanisms, such as structured, periodic or supplemental payments, pro rata distributions, matrices or periodic review of estimates of the numbers and values of Channeled Asbestos Claims, that provide reasonable assurance that the Asbestos Trust shall value, and be in a financial position to pay, Channeled Asbestos Claims in substantially the same manner.

n. Each Protected Party is identifiable from the terms of the Asbestos Permanent Channeling Injunction by name or as part of an identifiable group, and each Protected Party is or may be alleged to be directly or indirectly liable for the conduct of, Claims against or Demands on Hopeman to the extent that such alleged liability arises by reason of one or more of the following:

i. such Entity's ownership of a financial interest in Hopeman or Reorganized Hopeman, or any past or present Affiliate of any Hopeman or Reorganized Hopeman, or any predecessor in interest of Hopeman or Reorganized Hopeman;

ii. such Entity's involvement in the management of Hopeman or Reorganized Hopeman or predecessor in interest of Hopeman or Reorganized Hopeman;

iii. such Entity's service as an officer, director or employee of Hopeman, Reorganized Hopeman, any past or present Affiliate of any of Hopeman or Reorganized Hopeman, or any predecessor in interest of Hopeman or Reorganized Hopeman or Entity that owns or at any time has owned a financial interest in Hopeman or Reorganized Hopeman, or any predecessor in interest of Hopeman or Reorganized Hopeman; or

iv. such Entity's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of Hopeman, Reorganized Hopeman, any past or present Affiliate of Hopeman or Reorganized Hopeman, any predecessor in interest of Hopeman or Reorganized Hopeman or of an Entity that owns or at any time has owned a financial interest Hopeman or Reorganized Hopeman, any past or present affiliate of Hopeman or Reorganized Hopeman, or any predecessor in interest of Hopeman or Reorganized Hopeman, including (A) involvement in providing financing (debt or equity) or advice to an Entity involved in such a transaction or (B) acquiring or selling financial interest in any Entity as part of such transaction.

o. The Future Claimants' Representative was appointed as part of proceedings leading to issuance of the Asbestos Permanent Channeling Injunction for the purpose of protecting the rights of all persons, whether known or unknown, that might subsequently assert, directly or indirectly, against Hopeman a Channeled Asbestos Claim that is a Demand addressed in the Asbestos Permanent Channeling Injunction and transferred to the Asbestos Trust.

p. Identifying each Protected Party (by name or as part of an identifiable group, as applicable) in the Asbestos Permanent Channeling Injunction is fair and equitable with respect to individuals that might subsequently assert Demands against each such Protected Party, in light of the benefits provided, or to be provided, to the Asbestos Trust by or on behalf of any such Protected Party.

q. The Plan and the Asbestos Trust Documents comply with section 524(g) of the Bankruptcy Code in all respects.

r. The Plan and Exhibits are a fair, equitable and reasonable resolution of the liability of Hopeman for the Channeled Asbestos Claims.

s. The Future Claimants' Representative has adequately and completely fulfilled her duties, responsibilities and obligations as the representative for the individuals referred to in finding (p) above in accordance with section 524(g) of the Bankruptcy Code.

t. Adequate and sufficient notice of the Plan and the Confirmation Hearing, as well as all deadlines for objecting to the Plan, has been given (i) in accordance with the solicitation procedures governing such service and (ii) in substantial compliance with Bankruptcy Rules 2002(b), 3017 and 3020(b). Such transmittal and service were adequate and sufficient, and no other or further notice is or shall be required.

u. Hopeman's conduct in connection with and throughout the Chapter 11 Case, including its negotiations with the Committee and the Future Claimants' Representative, Hopeman's commencement of this Chapter 11 Case, and the drafting, negotiation, proposing, confirmation, and consummation of the Plan, does not and has not violated any Asbestos Insurance Cooperation Obligations, nor were such events or conduct a breach of any express or implied covenant of good faith and fair dealing.

XIV. THE PLAN DOES NOT IMPACT INSURERS' RIGHTS

190. The Plan itself does not impact Insurers' rights under their policies. Sections 6.2 and 8.18 of the Plan make this clear. These sections expressly provide:

6.2. Asbestos Insurance Agreements. For the avoidance of doubt, none of the Asbestos Insurance Policies or Asbestos CIP Agreements are being *rejected, altered, or otherwise modified pursuant to this Plan, and all parties' respective rights, duties, defenses, obligations and liabilities thereunder are hereby preserved*, except to the extent of an Asbestos Insurance Policy or Asbestos CIP Agreement that is the subject of *and only to the extent contemplated by and provided for in* an Asbestos Insurance Settlement *and only to the extent approved pursuant to entry of an order by the Bankruptcy Court or the District Court.*¹³⁷

8.18. Insurance Neutrality. *Nothing in the Plan, the Plan Documents, the Confirmation Order, any finding of fact and/or conclusion of law with respect to the confirmation of the Plan, or any order or opinion entered on appeal from the Confirmation Order shall limit the right of any insurer to assert any coverage defense; provided, however,* that (a) the transfer of rights in and under the Asbestos Insurance Rights to the Asbestos Trust is valid and enforceable and transfers such rights under the Asbestos Insurance Rights as Hopeman or Reorganized Hopeman *may have*, and that such transfer shall not affect the liability of any insurer, and (b) the discharge and release of Hopeman and Reorganized Hopeman from all Claims and the injunctive protection provided to Hopeman, Reorganized Hopeman, and the Protected parties with respect to Claims as provided herein shall not affect the liability of any insurer, except to the extent any such insurer is a Settled Asbestos Insurer. Notwithstanding anything in this Section 8.18 to the contrary, nothing in this Section 8.18 shall affect or limit, or be construed as affecting or limiting, (1) the binding effect of the Plan and the Confirmation Order on Hopeman, Reorganized Hopeman, the Asbestos Trust, or the beneficiaries of the Asbestos Trust or (2) the protection afforded to any Settled Asbestos Insurer by the Asbestos Permanent Channeling Injunction. Further, nothing in this Section 8.18 is intended or shall be construed to preclude otherwise applicable principles of res judicata or collateral estoppel from being applied against any insurer with respect to

¹³⁷ Plan, § 6.2 (emphases added).

any issue that is actually litigated by such insurer as part of its objections to confirmation of the Plan.

Id. at § 8.18 (emphases added) (hereinafter, Plan §§ 6.2 and 8.18 will be referred to, collectively, as the “Insurance-Neutrality Provisions”). The Insurance-Neutrality Provisions are consistent with provisions in other section 524(g) plans that courts have concluded were insurance neutral.¹³⁸ Thus, the Plan neither increases the Objecting Insurers’ prepetition obligations nor impermissibly impairs their prepetition rights.

191. The recent out-of-circuit *AIO US, Inc.* decision does not affect this analysis. There, the court acknowledged that “basic principles of insurance and bankruptcy law clash in a way that makes the goal of ‘neutrality’—while it sounds laudable and is easy enough to articulate—a very difficult one to achieve in practice.” *In re AIO US, Inc.*, No. 24-11836 (CTG), 2025 WL 2426380, at *16 (Bankr. D. Del. Aug. 21, 2025). As the *AIO* court notes, “the basic insurance bargain presumes that the insured’s liability will be determined in the tort system.” *Id.* Here, unlike in *AIO*, the Channeled Asbestos Claims will be largely, if not entirely, resolved in the tort system in accordance with the Plan and Asbestos Trust Documents, leaving the “basic insurance bargain” intact. *See id.* Indeed, the Plan expressly provides that only *Uninsured* Asbestos Claims will be processed and, if eligible, paid by the Asbestos Trust (*see* Plan § 8.16). Accordingly, the *AIO* court’s concerns that the “mechanism of liquidating claims [by a trust in mass-tort bankruptcies] is very different from the process contemplated by the debtor’s insurance policies” are not present

¹³⁸ *See, e.g., Combustion Eng’g*, 391 F.3d at 202 (describing “neutrality” provisions as “protect[ing] the debtors’ and insurers’ prepetition rights under certain insurance policies”); *Mt. McKinley Ins. Co. v. Pittsburgh Corning Corp.*, 518 B.R. at 329 (explaining that plan was insurance neutral where it “did not dramatically increase the ‘quantum of liability,’ harm ... [the insurer’s] contractual rights, or increase its administrative burdens.”); *Kaiser Findings and Conclusions* at 51-52 (finding plan to be insurance neutral where it “expressly preserve[d] all ‘Insurer Coverage Defenses,’” stating that the discharge and release provided in connection with the plan would not affect the insurers’ liability, and provided that the reorganized debtors would continue abiding by their cooperation obligations set out in the asbestos insurance policies).

here. *See id.* at *17. Thus, the Insurance-Neutrality Provisions here are sufficient given the pass-through nature of the Plan. *See id.* at *16-17.

192. The Court rejects arguments by the Chubb Insurers and Travelers that the Plan improperly impairs their rights under their respective insurance policies. The fact that the Chubb Insurers or Travelers want the Plan to include their different, preferred language with respect to insurance neutrality is irrelevant. “There is nothing that requires Debtors to negotiate a plan that is ‘insurance neutral,’ which is not a concept in the Bankruptcy Code.” *In re Boy Scouts of Am. and Del. BSA, LLC*, 642 B.R. 504, 648 (Bankr. D. Del. 2022) (emphasis added), *aff’d*, 650 B.R. 87 (D. Del. 2023), *aff’d in part, rev’d in part, dismissed in part*, 137 F.4th 126 (2025).

193. Travelers argues that principles of “insurance neutrality,” as articulated in the recent *AIO* decision, require that the Travelers 2005 Agreement—including its putative rights thereunder to receive unlimited indemnification from Hopeman—be treated as if it were an assumed Executory Contract or otherwise not discharged or not impaired by the Plan. Travelers’ argument is unavailing. In addressing insurance neutrality, the *AIO* court was referring to the **debtors’ coverage rights** under applicable insurance policies and that those rights should be no greater or lesser in bankruptcy than they were before bankruptcy. *See AIO US*, 2025 WL 2426380, at *15 (stating that **a debtor’s** property rights, “including insurance policies,” that are brought into the bankruptcy “are defined by non-bankruptcy law” and that, “unless there is some bankruptcy-related reason that requires otherwise, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding”) (footnotes and internal quotation marks omitted). Here, by contrast, Travelers is focusing on **its** rights under the Travelers 2005 Agreement, particularly its putative rights to receive unlimited indemnification from Hopeman, **as a potential creditor of Hopeman**. And, as a potential creditor of Hopeman,

Travelers is subject to the same Bankruptcy Code provisions as Hopeman's other creditors, such as rejection of Executory Contracts, impairment of Claims under the Plan, and the discharge of Claims under Chapter 11. *See* 11 U.S.C. §§ 365(a), 1123(a)(3), & 1141(d). Travelers' appeals to "insurance neutrality" do not exempt it from those provisions. Indeed, contrary to what Travelers suggests, *insurance neutrality* does not mean "insurer advantage," even under the *AIO* decision. Accordingly, Travelers' objections are overruled.

194. LMIC complains that the Plan improperly seeks to transfer property to the Asbestos Trust that is not property of the Estate because Hopeman released and sold its rights under the LMIC policies back to LMIC prior to the Petition Date. (*See* LMIC Plan Objection, ¶ 45). This objection lacks merit. The Disclosure Statement and the Plan make clear that Hopeman does not contend that it has any rights in the LMIC policies. *See* Disclosure Statement, § IV.E; Plan § 6.2. Mr. Lascell testified that Hopeman released its rights under the LMIC policies and that the Plan only purports to transfer rights, if any, under policies that are held by Hopeman. (Combined Hr'g Tr. Day 1 at 74:19-24 and 77:5-14.)

195. The Court rejects LMIC's contention that the Plan needs to more explicitly clarify LMIC's rights and obligations beyond what is set forth in section 6.2 of the Plan, finding that such amendment is unnecessary. In a recent opinion, the Third Circuit rejected the efforts of certain insurers to amend the language of a confirmable plan "to determine the extent to which the Certain Insurers' rights and defenses are preserved." *In re Boy Scouts of Am.*, 137 F.4th 126, 165 (3d Cir. 2025). The court found, *inter alia*, the following plan language sufficient: "The rights and obligations, if any, of any Non-Settling Insurance Company relating to these [trust distribution procedures], or any provision hereof, shall be determined pursuant to the terms and provisions of the Insurance Policies and applicable law." *Id.* at 165. Accordingly, the Third Circuit "decline[d]

to rewrite the Plan and fasten suspenders to this already well-secured belt.” *Id.* at 166. So too, here, no further language is needed to clarify the status of Hopeman’s rights vis-à-vis LMIC.

196. The Court also rejects LMIC’s contention that the Plan must be amended regarding the scope of the Asbestos Trust’s ability to intervene in Insurance Policy Actions in accordance with section 8.13(c)(v) of the Plan. The Plan makes clear in which actions the Asbestos Trust may intervene. Section 8.13(c)(v) provides in relevant part that the Asbestos Trust “may ... intervene in any Insurance Policy Action at any time” because, *inter alia*, the Asbestos Trust has “an interest relating to the Asbestos Insurance Coverage.” The provision would enable the Asbestos Trust to intervene in Insurance Policy Actions in which issues are being decided that could have bearing on, and could adversely affect, the Asbestos Insurance Rights transferred to the Asbestos Trust. The intent of the provision, therefore, is to enable the Asbestos Trust to take steps to protect its most valuable assets—the Asbestos Insurance Rights. If the Asbestos Trust seeks to intervene in an Insurance Policy Action in which LMIC is a defendant, LMIC is free to oppose intervention on the basis that Hopeman released its coverage rights under the LMIC policies, as acknowledged in section 6.2 of the Plan. The Plan is expressly preserving the Asbestos Trust’s ability to intervene, if necessary, to protect its corpus, and no further clarification or amendment of that provision is required. *See In re Manchester, Inc.*, No. 08-30703-BJH-11, 2009 WL 2243592, at *3 (Bankr. N.D. Tex. July 16, 2009) (“[D]id the Plan ‘expressly retain the right to pursue such actions’ and was the reservation of the claims ‘specific and unequivocal?’ If so, the Litigation Trustee has standing to pursue the claims.”) (quoting *In re United Operating, LLC*, 540 F.3d 351, 355 (5th Cir. 2008)).

- a. The Transfer of the Asbestos Insurance Rights to the Asbestos Trust is Permissible.

197. The Plan provides for the transfer of the Asbestos Insurance Rights to the Asbestos Trust on the Effective Date.¹³⁹ The Chubb Insurers and Travelers challenge the transfer of the Asbestos Insurance Rights to the Asbestos Trust on two grounds. First, they claim that the structure of the contemplated transfer violates the *cum onere* principle. Second, they take issue with certain provisions of the Plan which they characterize as impermissibly seeking declaratory judgments regarding the impact, *inter alia*, of the transfer of the Asbestos Insurance Rights. The Court rejects both of these arguments.

- b. The Transfer of the Asbestos Insurance Rights to the Asbestos Trust Does Not Violate The *Cum Onere* Principle.

198. The Chubb Insurers and Travelers object to the fact that the Plan would transfer the Asbestos Insurance Rights to the Asbestos Trust while leaving the ministerial obligations under the Asbestos Insurance Policies (e.g., providing notice and cooperation) with Reorganized Hopeman.¹⁴⁰ They argue that separating the insurance rights from the obligations harms them and violates the principle of *cum onere*, under which the burdens of an assigned contract must accompany the contract's benefits.¹⁴¹ They cite cases for the proposition that the *cum onere* principle applies to transfers of property under section 363 of the Bankruptcy Code as well as to

¹³⁹ See Plan, § 8.2(a)(ii)-(iii) (providing for the making of the Asbestos Trust Contribution and the vesting of the Asbestos Trust Assets in the Asbestos Trust on the Effective Date).

¹⁴⁰ Chubb Insurers Plan Obj., ¶¶ 124-25; Travelers Plan Obj., ¶¶ 24-31.

¹⁴¹ Chubb Ins. Obj. ¶ 125; Travelers Ins. Obj. ¶ 29. Generally, under the *cum onere* principle, “[w]hen an executory contract or lease is assumed, it must be assumed *cum onere*, with all of its benefits and burdens.” *In re E-Z Serve Convenience Stores, Inc.*, 289 B.R. 45, 49 (Bankr. M.D.N.C. 2003) (citing *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 53 (1984)).

the assumption and assignment of executory contracts under section 365.¹⁴² The Court overrules the *cum onere* objection.

199. First, the Plan’s contemplated transfer of the Asbestos Insurance Rights to the Asbestos Trust does not alter the coverage defenses, if any, that Non-Settling Insurers could assert due to failures of Reorganized Hopeman to perform its ministerial obligations under the policies. The Plan does not extinguish the Debtor’s obligations under the Asbestos Insurance Policies; those obligations apply to Reorganized Hopeman, which will be owned and controlled by the Asbestos Trust. In addition, the Plan expressly preserves those obligations as the “Asbestos Insurance Cooperation Obligations” and preserves any coverage defenses that the Non-Settling Asbestos Insurers may have, *see* Plan, § 8.18, including any defenses to coverage that might arise from a possible future failure by Reorganized Hopeman to comply with conditions precedent to coverage. The owner of the Asbestos Insurance Rights, which will be the Asbestos Trust, is subject to coverage defenses.¹⁴³ To the extent Insurers believe the actions or inaction of either Reorganized Hopeman or the Asbestos Trust give rise to a coverage defense, the Plan makes clear that Insurers can assert any such claim or defense. The proposed transfer of the Asbestos Insurance Rights under the Plan is therefore proper.

200. Second, the *cum onere* principle’s application is limited to sections 363 and 365 of the Bankruptcy Code. Section 1123(a)(5) of the Bankruptcy Code, however, controls here. Section 1123(a)(5) provides, in relevant part, that “Notwithstanding any otherwise applicable

¹⁴² *See* Chubb Ins. Obj. ¶ 125 & nn. 250-51; Travelers Ins. Obj. ¶ 29.

¹⁴³ Section 8.18 of the Plan also expressly provides that “notwithstanding that the Asbestos Insurance Obligations will remain with Reorganized Hopeman while the Asbestos Insurance Rights will be transferred to the Asbestos Trust, the Asbestos Trust’s rights in and claims against the Asbestos Insurance Policies shall be subject to any coverage defenses that any Non-Settling Asbestos Insurer may have as a result of Reorganized Hopeman’s failure, if any, to comply with the Asbestos Insurance Cooperation Obligations.”

nonbankruptcy law, a plan shall— ... (5) provide adequate means for the plan’s implementation, such as— ... (B) the transfer of all or any part of the property of the estate to one or more entities, whether organized before or after the confirmation of the plan.”¹⁴⁴ Courts, including the Fourth Circuit, have held that section 1123(a)(5) broadly preempts applicable state law.¹⁴⁵ Indeed, in analyzing section 1123(a)(5)’s scope, the Fourth Circuit recognized that:

[Section] 1123(a)(5) is *an empowering statute* ... “That is, the *plan may propose such actions notwithstanding nonbankruptcy law or agreements*” ... Section 1123(a)(5)(D) then does not simply provide a means to exercise the debtor’s pre-bankruptcy rights; *it enlarges the scope of those rights, thus enhancing the ability of a trustee or debtor in possession to deal with property of the estate.*

FCX, 853 F.2d at 1155 (emphases added) (quoting 5 COLLIER ON BANKRUPTCY ¶ 1123.01, at 1123-10). Instructive here, the Fourth Circuit explained the import of section 1123(a)(5) being an “empowering” statute in rejecting an argument that attempted to limit the scope of section 1123(a)(5) to that of section 363(b) a mere “enabling” statute:

For its part, *Universal* reminds us of *In re Schauer*, 62 B.R. 526 (Bkrcty.D.Minn.1986), *aff’d*, 835 F.2d 1222 (8th Cir.1987), which held that state law restrictions on the transfer of patronage

¹⁴⁴ 11 U.S.C. § 1123(a)(5)(B) (emphases added).

¹⁴⁵ *Universal Coop., Inc. v. FCX, Inc. (In re FCX, Inc.)*, 853 F.2d 1149, 1154 (4th Cir. 1988) (“In 1984, the opening clause of § 1123(a) was amended to read: ‘Notwithstanding any otherwise applicable nonbankruptcy law, a plan shall’ *By its plain language then, § 1123(a)(5)(D) overrides nonbankruptcy law restrictions on the distribution of collateral to satisfy a claim secured by the same.* Accordingly, § 1123(a)(5)(D) supersedes the discretionary power over surrender of the patronage certificates bestowed on Universal’s board by its by-laws.”) (emphasis added); *see also In re LandAmerica Fin. Grp.*, 470 B.R. 759, 780 (Bankr. E.D. Va. 2012) (“The Fourth Circuit has held that the scope of preemption under § 1123(a) of the Bankruptcy Code *is broad enough to preempt any state law that would restrict the objectives and operation of a debtor’s reorganization plan.*”) (emphases added) (citing *In re FCX*, 853 F.2d 1149); *Cisneros v. Alpine Ridge Grp.*, 508 U.S. 10, 18 (1993) (observing that courts have generally interpreted similar “notwithstanding” language as superseding all other laws); *In re Fed.-Mogul Glob. Inc.*, 684 F.3d 355, 370 (3d Cir. 2012) (agreeing with the district court that § 1123(a)(5)’s preemptory clause encompassed private contracts and recognizing that “[t]he Fourth Circuit endorsed this view when it held that § 1123(a) preempts the contractual provisions of patronage certificates [in *In re FCX*].”) (internal citation omitted); *Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass’n*, 499 U.S. 117, 130 (1991) (concluding the phrase “all other law” in a preemption provision preempts private contracts, and reasoning “[S]ince a contract has no legal force apart from the [state] law that acknowledges its binding character ... [the preemptive language at issue] effects an override of contractual obligations ... by suspending application of law that makes the contract binding.”).

certificates similar to those at issue here were not preempted by the Bankruptcy Code. *In re Schauer*, however, is distinguishable on two grounds. ***First, the trustee there did not rely on § 1123(a)(5)(D), but argued that § 363(b)(1) and § 704 provided authority for the trustee to sell patronage certificates without the issuing cooperatives approval as required under the cooperative's by-laws. Second, and more importantly, § 363(b)(1) and § 704 are substantively different from § 1123(a)(5)(D). Neither § 363(b)(1), nor § 704, is an empowering statute in the sense that new rights or powers for dealing with the property of the estate are created.*** Section 704 is simply a directive to the trustee of its duties; ***§ 363(b)(1) permits the trustee to “use, sell, or lease” property of the estate but evinces no intent to enlarge the trustee's rights to take such actions beyond the debtor's pre-bankruptcy rights. As the Eighth Circuit noted in In re Schauer, § 363(b)(1) and § 704 are no more than “enabling statutes that give the trustee the authority to sell or dispose of property if the debtor[] would have had the same right under state law.” In re Schauer, 835 F.2d at 1225. Stated differently, these sections provide a means within the context of a bankruptcy proceeding for the exercise of a debtor's pre-bankruptcy rights to dispose of its property.***

Id. at 1154-55 (emphases added) (alterations in original).

201. Furthermore, the transfer of rights under a debtor's insurance policies to a trust is valid and enforceable under section 1123(a)(5), notwithstanding any anti-assignment provisions contained in the policies themselves. *See, e.g., In re Fed.-Mogul Glob. Inc.*, 684 F.3d at 369-381 (holding that a chapter 11 plan may provide for the transfer of “insurance rights” to a 524(g) trust in accordance with section 1123(a)(5)).¹⁴⁶

202. For the foregoing reasons, the Chubb Insurers' and Travelers' *cum onere* argument is unavailing and the related objections are overruled.

¹⁴⁶ *See also In re Boy Scouts of Am. and Del. BSA, LLC*, 650 B.R. 87, 144 (D. Del. 2023) (observing that “[d]ebtors routinely assign their insurance policy interests to a settlement trust”), *aff'd in part, rev'd in part, and dismissed in part on other grounds*, 137 F.4th 126 (3d Cir. 2025).

c. The Plan Proponents Do Not Seek Impermissible Declaratory Judgments.

203. Contrary to arguments raised by the Chubb Insurers and Travelers, the Plan does not make impermissible declaratory judgments.

204. First, the Chubb Insurers and Travelers object to the carve-outs, *see* (a)-(b) emphasized below, to Section 8.18 of the Plan:

8.18. Insurance Neutrality. Nothing in the Plan, the Plan Documents, the Confirmation Order, any finding of fact and/or conclusion of law with respect to the confirmation of the Plan, or any order or opinion entered on appeal from the Confirmation Order shall limit the right of any insurer to assert any coverage defense; provided, however, that ***(a) the transfer of rights in and under the Asbestos Insurance Rights to the Asbestos Trust is valid and enforceable and transfers such rights under the Asbestos Insurance Rights as Hopeman or Reorganized Hopeman may have, and that such transfer shall not affect the liability of any insurer, and (b) the discharge and release of Hopeman and Reorganized Hopeman from all Claims and the injunctive protection provided to Hopeman, Reorganized Hopeman, and the Protected Parties with respect to Claims as provided herein shall not affect the liability of any insurer, except to the extent any such insurer is a Settled Asbestos Insurer ...***

Plan, § 8.18 (emphasis added).

205. The Court finds that the Plan Proponents are not seeking a declaratory judgment through these carveouts. The Court’s authority to rule on the appropriateness of the Plan, including the transfer of the Asbestos Insurance Rights provided for thereunder, stems from the fact that this is a “core” issue.”¹⁴⁷ It is black-letter law that the Debtor’s insurance policies and rights thereunder constitute property of the estate.¹⁴⁸

¹⁴⁷ *See, e.g.*, 28 U.S.C. §§ 1334(e), 157(b)(1); *see also Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440, 447 (2004) (“Bankruptcy courts have exclusive jurisdiction over a debtor’s property, wherever located, and over the estate.”).

¹⁴⁸ *In re Boy Scouts of Am.*, 137 F.4th at 164-65.

206. As this Court found above, the transfer of the Asbestos Insurance Rights to the Asbestos Trust is permissible. Accordingly, this Court can make the finding contemplated in subclause (a) of Section 8.18 of the Plan.

207. This Court also finds that there is nothing improper about the second of the two carveouts in subclause (b) of Section 8.18, which merely provides that the discharge, release, and injunction provisions of the Plan do not impact the liability of any insurer.¹⁴⁹

208. Lastly, the Court rejects the Chubb Insurers' argument that Section 11.1(g)(xxvii) of the Plan improperly seeks a declaratory judgment.¹⁵⁰ This provision of the Plan prevents the Insurers from arguing that the Debtor breached the Asbestos Insurance Cooperation Obligations by its conduct in this bankruptcy case, and is consistent with language in the *Kaiser Gypsum* plan recently confirmed by the Fourth Circuit.¹⁵¹ Mr. Van Epps also provided unrefuted testimony supporting that the Debtor has not breached its Asbestos Insurance Cooperation Obligations in this bankruptcy case. (Combined Hr'g Tr. Day 1 at 144:23–145:7; Combined Hr'g Tr. Day 1 at 162:16-21.)

¹⁴⁹ This is merely a restatement of black-letter law: "Generally, however, a discharge operates only for the benefit of the debtor against its creditors and '**does not affect the liability of any other entity.**'" *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 215 (2024) (quoting 11 U.S.C. § 524(e)) (emphasis added).

¹⁵⁰ Section 11.1(G)(xxvii) of the Plan provides that "Hopeman's conduct in connection with and throughout the Chapter 11 Case, including its negotiations with the Committee and the Future Claimants' Representative, Hopeman's commencement of this Chapter 11 Case, and the drafting, negotiation, proposing, confirmation, and consummation of the Plan, does not and has not violated any Asbestos Insurance Cooperation Obligations, nor were such events or conduct a breach of any express or implied covenant of good faith and fair dealing."

¹⁵¹ See *In re Kaiser Gypsum Co.*, No. 16-31602 (JCW), *Third Amended Plan of Reorganization of Kaiser Gypsum Company, Inc. and Hanson Permanente Cement, Inc.*, Art. VIII.A.3.u (requiring as condition precedent to confirmation that the bankruptcy and district courts find that debtors have not been in violation of their cooperation obligations or any express or implied covenant of good faith and fair dealing) (Bankr. W.D.N.C. Sept. 24, 2020) [Docket No. 2481]; *In re Kaiser Gypsum Co.*, No. 16-31602 (JCW), *Order Recommending Entry of Proposed Findings of Fact and Conclusions of Law and Order Confirming Joint Plan of Reorganization*, § J.2.v (finding that debtors did not violate their cooperation obligations or any express or implied covenant of good faith and fair dealing) (Bankr. W.D.N.C. Sept. 28, 2020) [Docket No. 2486]; *In re Kaiser Gypsum Co.*, No. 16-31602 (JCW), *Findings of Fact and Conclusions of Law Regarding Confirmation of the Joint Plan of Reorganization of Kaiser Gypsum Company, Inc. and Hanson Permanente Cement, Inc., as Modified*, § J.2.v (district court finding the same) (Bankr. W.D.N.C. July 28, 2021) [Docket No. 2745].

209. For the reasons set forth above, Travelers and the Chubb Insurers declaratory judgment objections are overruled.

1. The Plan Does Not Impose Additional Obligations On Asbestos Insurers.

210. The Court also overrules objections from the Chubb Insurers and Travelers that the Plan impairs their rights under their respective Asbestos Insurance Policies by, allegedly, relieving Reorganized Hopeman of any obligation it may otherwise have to defend against Channeled Asbestos Claims.

211. Contrary to arguments raised by the Chubb Insurers, section 5.2(a)(ii) of the Asbestos Trust Distribution Procedures does not provide for the “tender” of lawsuits to the Non-Settling Asbestos Insurers for defense and payment. Instead, section 5.2(a)(ii) of the Asbestos Trust Distribution Procedures provides that the Asbestos Trust “shall provide notice of such action, as appropriate, to all Non-Settling Asbestos Insurers.”¹⁵²

212. Section 8.12(b) of the Plan also does not relieve Reorganized Hopeman from complying with the Asbestos Insurance Cooperation Obligations. Section 8.12(b) expressly provides, in relevant part, that “Reorganized Hopeman, the Asbestos Trust, and Wayne shall have no obligation to answer, appear, or otherwise participate in [actions commenced by Channeled Asbestos Claimants against them] in any respect other than as set forth in this Plan and as may be necessary to comply with applicable Asbestos Insurance Cooperation Obligations.”¹⁵³

213. The Court also rejects Travelers argument that that the Plan deprives it of claims it allegedly has against the proceeds of the Certain Settling Insurers Settlement.¹⁵⁴ Initially, the

¹⁵² Asbestos Trust Distribution Procedures, § 5.2(a)(ii).

¹⁵³ Plan, § 8.12(b) (emphasis added).

¹⁵⁴ The Court finds that Travelers, as a potential unsecured creditor, has no entitled to adequate protection.. *In re SunEdison, Inc.*, 562 B.R. 243, 252 (Bankr. S.D.N.Y. 2017) (“Unsecured creditors ... do not have an interest in

Court finds that Travelers, as a potential unsecured creditor, has no entitlement to adequate protection.¹⁵⁵ In addition, the judgment reduction provision in the Plan contained in section 8.13(c)(i) protects Travelers from the loss of any contribution rights arising from the Certain Settling Insurers Settlement.¹⁵⁶ The Certain Settling Insurers are “Settled Asbestos Insurers” under the Plan. While the Certain Settling Insurers Settlement was approved prior to confirmation of the Plan, the Certain Settling Insurers are within the protection of the Asbestos Permanent Channeling Injunction in section 10.3 of the Plan as a “Protected Party” defined in Section 1.95 of the Plan. Accordingly, Travelers will have the benefit of the judgment reduction provision in section 8.13(c)(i) should it have liability to a Channeled Asbestos Claimant. Travelers thus loses nothing by the transfer of the settlement proceeds to the Asbestos Trust.

214. Accordingly, the Court overrules the objections of the Chubb Insurers and Travelers on these issues.

property of the estate that merits adequate protection, and *there is no express statutory requirement that unsecured creditors receive adequate protection.*”) (emphasis added).

¹⁵⁵ *In re SunEdison, Inc.*, 562 B.R. 243, 252 (Bankr. S.D.N.Y. 2017) (“Unsecured creditors ... do not have an interest in property of the estate that merits adequate protection, and *there is no express statutory requirement that unsecured creditors receive adequate protection.*”) (emphasis added).

¹⁵⁶ Plan, § 8.13(c)(i) (“If any Non-Settling Asbestos Insurer against whom an Insurance Policy Action is brought asserts as a defense that it would have a claim as a result of contribution rights against one or more Settled Asbestos Insurers with respect to the Channeled Asbestos Claimant’s claim that it could have asserted but for the Asbestos Permanent Channeling Injunction (“**Contribution Claim**”), the liability, if any, of the Non-Settling Asbestos Insurer to the Channeled Asbestos Claimant shall be reduced dollar-for-dollar by the amount, if any, of any judgment establishing the Contribution Claim in accordance with Section 8.13.”). The Certain Settling Insurers are “Settled Asbestos Insurers” under the Plan.

CONCLUSIONS OF LAW

I. JURISDICTION AND VENUE

215. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Hopeman was and is qualified to be a debtor under section 109 of the Bankruptcy Code. Venue of the Chapter 11 Case is proper under 28 U.S.C. §§ 1408 and continues to be proper.

II. EXEMPTIONS FROM TAXATION

216. Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp tax or similar tax: (i) the creation of any Encumbrances; (ii) the making or assignment of any lease or sublease; (iii) the execution and implementation of the Asbestos Trust Agreement, including the creation of the Asbestos Trust and any transfers to or by the Asbestos Trust; (iv) any Restructuring Transaction; or (v) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments, applications, certificates or statements executed or filed in connection with any of the foregoing or pursuant to the Plan.

III. APPROVAL OF DISCLOSURE STATEMENT

217. The Disclosure Statement is approved as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.

IV. LMIC LACKS STANDING TO OBJECT

218. While the Court addresses and overrules LMIC's objections herein on the merits, the Court agrees with the Plan Proponents that LMIC lacks standing to object to the Plan for two reasons: (i) LMIC is not a creditor of the Debtor by virtue of the LMIC POC Expungement Order and, therefore, cannot invoke creditor status for standing under section 1109(b) of the Bankruptcy

Code; and (ii) the Debtor does not assert that it has rights under any policies issued by LMIC, which the Debtor settled long ago, and it does not purport to transfer any rights it does not have.

219. The Supreme Court, in reaching its holding in *Truck Ins. Exch. v. Kaiser Gypsum Co., Inc.*, that insurers, generally, constitute parties-in-interest for purposes of section 1109(b), emphasized that “[w]here a proposed plan allows a party to put its hands into other people’s pockets, the ones with pockets are entitled to be fully heard and to have their legitimate objections addressed.”¹⁵⁷

220. Here, the Plan does no such thing. Instead, the Plan merely preserves the status quo vis-à-vis LMIC and third-party claimants. It provides that such claimants may sue Non-Settling Asbestos Insurers, like LMIC, but only to the extent such claimants may do so under applicable nonbankruptcy law.¹⁵⁸ Whatever rights claimants have to LMIC’s coverage exist under state law. The Plan neither enhances nor diminishes those rights, nor does the Plan impair or otherwise alter any defenses LMIC may have to such claimants’ claims.

221. The Court also finds that the inclusion of LMIC in the definition of “Non-Settling Asbestos Insurer” merely clarifies that LMIC is not a “Settling Asbestos Insurer” within the meaning of the Plan. That simply makes clear that LMIC is not getting a release as part of the

¹⁵⁷ 602 U.S. 264, 282 (2024) (internal citation and quotation marks omitted).

¹⁵⁸ See Plan, §§ 8.13(d) (“In addition to the rights and remedies set forth in this Section 8.13, on and after the Effective Date, Channeled Asbestos Claimants may, only to the extent permitted or provided under applicable nonbankruptcy law, bring such Insurance Policy Actions against a Non-Settling Asbestos Insurer of Hopeman or Wayne with respect to potential liability of any Designated Person, subject to the terms and conditions set forth in Section 8.13(c)”); 6.2 (expressly providing that none of the Asbestos Insurance Policies “are being rejected, altered, or otherwise modified pursuant to this Plan, and all parties’ respective rights, duties, defenses, obligations and liabilities thereunder are hereby preserved”); 8.18 (Nothing in the Plan, the Plan Documents, the Confirmation Order, any finding of fact and/or conclusion of law with respect to the confirmation of the Plan, or any order or opinion entered on appeal from the Confirmation Order shall limit the right of any insurer to assert any coverage defense”).

Plan and that claimants continue to have whatever rights they have against LMIC, if any, under applicable nonbankruptcy law.

222. The Court concludes that if state law permits third-party claimants to sue LMIC, then the Plan does not prohibit them from doing so. Similarly, if state law does not permit third-party claimants to sue LMIC, the Plan does not give them a right to do so. LMIC's rights, claims, and defenses as to these issues are all unimpacted by the Plan.

223. Accordingly, LMIC is neither a creditor of the Debtor that has any rights or claims against the Debtor nor an insurer against which the Debtor asserts rights or claims. Nothing in the Plan alters LMIC's liability or the rights of the holders of Channeled Asbestos Claimants against LMIC, or vice-versa. Accordingly, LMIC lacks standing to object to the Plan.

V. COMPLIANCE WITH SECTION 1129 OF THE BANKRUPTCY CODE

224. As set forth in Section VIII of the Findings of Fact above, which is incorporated fully herein, the Plan complies in all respects with the applicable requirements of section 1129 of the Bankruptcy Code (other than section 1129(a)(8) of the Bankruptcy Code). Notwithstanding section 1129(a)(8), the Plan may still be confirmed because it does not discriminate unfairly, and is fair and equitable, with respect to Class 5, the only impaired Class that did not accept the Plan.

VI. COMPLIANCE WITH SECTION 524(g) OF THE BANKRUPTCY CODE.

225. As set forth in Section XI of the Findings of Fact above, which is incorporated fully herein, the Plan complies in all respects with the applicable requirements of section 524(g) of the Bankruptcy Code.

VII. TRANSFER OF BOOKS AND RECORDS TO THE ASBESTOS TRUST.

226. Notwithstanding anything to the contrary in the Plan or the Confirmation Order, holders of Asbestos Personal Injury Claims or the Debtors' insurers may pursue and obtain

information stored in Hopeman's books and records (including electronic records) through discovery to the full extent permitted by applicable law.

227. For the avoidance of doubt, privileges belonging to Hopeman on the Petition Date in such books and records shall belong to Reorganized Hopeman as of the Effective Date, and the Asbestos Trust's access to such books and records shall not result in the destruction or waiver of any applicable privileges pertaining to such books and records.

VIII. APPROVAL OF THE SETTLEMENTS AND RELEASES PROVIDED UNDER THE PLAN.

228. The settlement of certain estate claims and the releases set forth in Article X of the Plan, including the releases of nondebtor parties pursuant to the general releases in Section 10.6, are (i) integral to the terms, conditions and settlements contained in the Plan, (ii) appropriate in connection with Hopeman's reorganization and (iii) supported by reasonable consideration. In light of all of the circumstances, the settlements and releases contained in Article X of the Plan are fair, equitable and in the best interests of the Estates.

IX. CONCLUSION

229. For the foregoing reasons, the Bankruptcy Court submits these Proposed Findings of Fact and Conclusions of Law to the District Court and recommends confirmation of the Plan.

Signed: _____, 2025

United States Bankruptcy Judge

EXHIBIT B

Amended Proposed Confirmation Order

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
:
:
:

**ORDER CONFIRMING THE AMENDED PLAN OF REORGANIZATION OF
HOPEMAN BROTHERS, INC. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE
AND APPROVING ADEQUACY OF THE DISCLOSURE STATEMENT**

INTRODUCTION

WHEREAS, Hopeman Brothers, Inc. (“Hopeman” or the “Debtor”), the debtor and debtor-in-possession in the above-captioned Chapter 11 Case, and the Official Committee of Unsecured Creditors (the “Committee”, and collectively with Hopeman, the “Plan Proponents”) proposed the *Amended Plan of Reorganization of Hopeman Brothers, Inc. under Chapter 11 of the Bankruptcy Code*, dated May 21, 2025 [Docket No. 766] (as modified by the *Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated August 21, 2025 [Docket No. 1141] (the “Modified Plan”) and Second Modified Plan (defined below), and as may be further amended, modified, or supplemented from time to time, the “Plan”);¹

WHEREAS, on May 21, 2025, the Bankruptcy Court entered an order [Docket No. 782] (the “Solicitation Procedures Order”) (a) conditionally approving the *Disclosure Statement with Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 767] (as may be modified from time to time, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy

¹ Capitalized terms used, but not otherwise defined herein, have the meanings given to them in the Plan and the Disclosure Statement. The rules of interpretation set forth in Article I.B of the Plan apply to the Findings of Fact and Conclusions of Law (the “Findings and Conclusions”), which are being issued concurrently herewith, and to this Order (the “Confirmation Order”). In addition, in accordance with Article I.A of the Plan, any term used in the Plan, the Findings and Conclusions or this Confirmation Order that is not defined in the Plan, the Disclosure Statement, the Findings and Conclusions or this Confirmation Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, has the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

A copy of the Plan (without the Exhibits thereto) is attached to this Confirmation Order as Exhibit A and is incorporated herein by reference.

Code, (b) approving the solicitation procedures annexed as Exhibit 1 to the Solicitation Procedures Order (such procedures, the “Solicitation Procedures”), (c) approving the solicitation materials and notices to be distributed in connection with the solicitation of the Plan, (d) authorizing Hopeman to solicit votes on the Plan, and (e) scheduling a hearing for July 1, 2025 at 10:00 a.m. (as adjourned to August 25, 2025, at 10:00 a.m. the “Combined Hearing”) to consider Confirmation of the Plan and final approval of the adequacy of the Disclosure Statement;

WHEREAS, an affidavit of service was executed by Kurtzman Carson Consultants, LLC d/b/a Verita Global, the Bankruptcy Court-appointed claims and noticing agent (the “Solicitation Agent”), with respect to the mailing of notice of the Combined Hearing and solicitation materials in respect of the Plan in accordance with the Solicitation Procedures Order (the “Affidavit of Service”) and was filed with the Bankruptcy Court on June 12, 2025 [Docket No. 864];

WHEREAS, on June 5, 2025, Hopeman filed the *Affidavit of Publication of the Notice of Combined Hearing for Approval of Disclosure Statement and Confirmation of Plan* [Docket No. 844] (the “Publication Affidavit”);

WHEREAS, on July 25, 2025, Hopeman filed the *Declaration of Jeffrey R. Miller with Respect to the Tabulation of Votes on the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 1077] (the “Voting Certification”) attesting to the results of the tabulation of the properly executed and timely received Ballots for the Plan as follows:

Class 3 Claimants. The Plan Proponents received 1 acceptance out of 1 vote from holders of Class 3 General Unsecured Claims, with Class 3 claimants who voted in favor of the Plan holding Claims in the amount of \$7,005.44 for voting purposes only, such acceptances being 100 percent in number and 100 percent in amount of all ballots received from holders of Class 3 General Unsecured Claims entitled to vote on the Plan;

Class 4 Claimants. The Plan Proponents received 2,409 acceptances out of 2,416 votes from holders of Class 4 Channeled Asbestos Claims, with Class 4 claimants who voted in favor of the Plan holding Claims in the amount of \$2,409.00 for voting purposes only, such acceptances being 99.71 percent in number and 99.71 percent in amount of all ballots received from holders of Class 4 Channeled Asbestos Claims;

WHEREAS, the only opposition to the Plan came from certain of the Debtor's historical insurers: Century Indemnity Company ("Century"),² Westchester Fire Insurance Company ("Westchester" and together with Century, the "Chubb Insurers"), Liberty Mutual Insurance Company ("LMIC"), The Travelers Indemnity Company ("Travelers Indemnity"), Travelers Casualty and Surety Company ("Travelers Casualty"), St. Paul Fire and Marine Insurance Company ("St. Paul" and together with Travelers Indemnity and Travelers Casualty, collectively, "Travelers"), and Hartford Accident and Indemnity Company and First State Insurance Company ("Hartford" and together with the Chubb Insurers, LMIC, and Travelers, collectively, the "Objecting Insurers");³

² In its capacity as the successor to CCI Insurance Company, as successor to Insurance Company of North America.

³ The following are the objections to the Plan that were filed by the Objecting Insurers: (i) *Hartford's Limited Objection to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 942] (as supplemented by *Hartford's Joinder to Objections to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 965], the "Hartford Plan Objection"); (ii) the *Objections of the Travelers Indemnity Company, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company to (I) Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and (II) the Disclosure Statement With Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc.* filed under seal at Docket No. 949 and publicly-available, with redactions, at Docket No. 944 (the "Travelers Plan Objection"); (iii) *Liberty Mutual Insurance Company's Objection to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket No. 954 and publicly-available, with redactions, at Docket No. 953 (the "LMIC Plan Objection"); and (iv) *Chubb Insurers' Objection to (1) Final Approval of Disclosure Statement and (2) Confirmation of Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket Nos. 959-960 and publicly available, with redactions, at Docket No. 958 (the "Chubb Insurers Plan Objection" and together with the Hartford Objection, the Travelers Objection, and the LMIC Objection, collectively, the "Plan Objections").

WHEREAS, the Plan Proponents filed a memorandum of law in support of Confirmation of the Plan and final approval of the Disclosure Statement, and in reply to the Plan Objections [Docket No. 1076] (the “Confirmation Brief”);

WHEREAS, the Plan Proponents filed a supplemental memorandum of law in support of Confirmation of the Plan and final approval of the Disclosure Statement, and in reply to the Plan Objections [Docket No. 1119] (the “Supplemental Confirmation Brief”);

WHEREAS, on September 5, 2025, the Plan Proponents filed the *Second Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, [Docket No. 1185] (the “Second Modified Plan”) that modified the Plan to address, *inter alia*, the resolution of the Hartford Plan Objection;

WHEREAS, section 524(g)(3)(A) of the Bankruptcy Code requires “the order confirming the plan of reorganization [pursuant to 524(g)] [to be] issued or affirmed by the district court that has jurisdiction over the reorganization case” 11 U.S.C. § 524(g)(3)(A);

WHEREAS, the Bankruptcy Court entered the Proposed Findings of Fact and Conclusions of Law [Docket No. [●]] (the “Proposed Findings and Conclusions”), including the findings that (a) the Bankruptcy Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, (b) final approval of the adequacy of the Disclosure Statement and confirmation of the Plan are core proceedings within the meaning of 28 U.S.C. §157(b)(2), (c) Hopeman was and is qualified to be a “debtor” under section 109 of the Bankruptcy Code, (d) venue of the Chapter 11 Case is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and continues to be proper, and (e) the evidence admitted in support of the Plan and Disclosure Statement at the Combined Hearing is persuasive and credible;

WHEREAS, the Bankruptcy Court entered its Order recommending entry of an Order by this Court confirming the Plan and approving the adequacy of the Disclosure Statement on a final basis [Docket No. [●]] (the “Recommendation Order”);

WHEREAS, this Court has reviewed the Plan, the Disclosure Statement, the Solicitation Procedures Order, the Voting Certification, the Affidavit of Service, the Publication Affidavit, the Confirmation Brief, the Supplemental Confirmation Brief, the Second Modified Plan, the Proposed Findings and Conclusions, the Recommendation Order, and the other pleadings before the Court in connection with the Confirmation of the Plan and approval of the Adequacy of the Disclosure Statement, on a final basis, including the Plan Objections;

WHEREAS, the Disclosure Statement contains summaries, descriptions and information (as applicable) concerning: (i) the nature and history of Hopeman’s business and liabilities; (ii) events leading up to the filing of the Chapter 11 Case; (iii) the terms of the Plan, including the treatment of holders of Claims and Equity Interests under the Plan; (iv) the terms of the Asbestos Trust Documents, including the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures; (v) financial information and projections; (vi) an overview of the requirements for confirmation of the Plan; (vii) effect of confirmation of the Plan, including the channeling of the Asbestos Claims to the Asbestos Trust pursuant to the Asbestos Permanent Channeling Injunction; (viii) a discussion of risk factors affecting the implementation of the Plan; (ix) certain federal income tax consequences of the Plan; and (x) solicitation of holders of General Unsecured Claims and Asbestos Claims;

WHEREAS, the Disclosure Statement further provides sufficient notice of the injunction, exculpation, and release provisions in the Plan, including the Asbestos Permanent Channeling Injunction;

WHEREAS, this Court has considered the arguments of counsel made on the record at the Combined Hearing;

WHEREAS, this Court has considered all evidence admitted into the record at the Combined Hearing;

WHEREAS, the Court has taken judicial notice of the papers and pleadings on file in the Chapter 11 Case, including any related adversary proceedings;

WHEREAS the Court has made a *de novo* review of the record, including the Bankruptcy Court's proposed findings of fact and conclusions of law submitted in this matter;

WHEREAS, this Court has separately approved and entered the Findings of Fact and Conclusions of Law [Docket No. [●]] (the "Findings and Conclusions"), including the findings that (a) this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, (b) final approval of the adequacy of the Disclosure Statement and confirmation of the Plan are core proceedings within the meaning of 28 U.S.C. §157(b)(2), (c) Hopeman was and is qualified to be a "debtor" under section 109 of the Bankruptcy Code, (d) venue of the Chapter 11 Case is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and continues to be proper; and

WHEREAS, the Findings and Conclusions establish just cause for the relief granted herein;

THE COURT HEREBY ORDERS THAT:

I. GENERAL PROVISIONS REGARDING CONFIRMATION OF THE PLAN AND APPROVAL OF PLAN-RELATED DOCUMENTS.

A. MODIFICATIONS TO THE PLAN

1. Subsequent to solicitation, the Plan Proponents made certain modifications to the Plan and the Plan Documents (the "Plan Modifications"). Pursuant to section 1127 of the Bankruptcy Code, the Plan Modifications, including any such modifications set forth in this

Confirmation Order, constitute technical or clarifying changes or modifications that do not otherwise materially and adversely affect or change the treatment of any other Claim or Interest under the Plan. The filing with the Court of the Plan and Plan Documents as modified by the Plan Modifications that were made prior to the Combined Hearing, and the disclosure of the Plan Modifications on the record at the Combined Hearing, constitute due and sufficient notice thereof.

2. Pursuant to 1127(a) of the Bankruptcy Code and Rule 3019(a) of the Bankruptcy Rules, the Plan Modifications are authorized and approved in all respects.

B. CONFIRMATION OF THE PLAN.

3. The Plan, including all Exhibits thereto and the Plan Supplement, is CONFIRMED in each and every respect, pursuant to section 1129 of the Bankruptcy Code; provided, however, that if there is any direct conflict between the terms of the Plan or any Exhibit thereto and the terms of this Confirmation Order, the terms of this Confirmation Order shall control. All objections to the Plan, other than those withdrawn with prejudice in their entirety prior to, or on the record at, the Combined Hearing, are either resolved on the terms set forth herein or overruled in their entirety. The Findings and Conclusions are hereby incorporated by reference in their entirety, as if they were fully set forth herein.

C. SATISFACTION OF THE REQUIREMENTS OF SECTION 524(G)

4. For the reasons set forth in the Findings and Conclusions, the Plan satisfies each of the requirements of section 524(g) of the Bankruptcy Code.

D. CONDITIONS TO CONFIRMATION AND CONSUMMATION OF THE PLAN.

5. Nothing in this Confirmation Order or in the Findings and Conclusions shall in any way affect the provisions of Article XI of the Plan, which includes provisions regarding (i) the

conditions precedent to confirmation of the Plan and to the occurrence of the Effective Date of the Plan, (ii) the Plan Proponents' ability to waive such conditions, and (iii) the effect that the nonoccurrence of such conditions may have with regard to the Plan and this Confirmation Order. Upon the satisfaction or waiver of the conditions contained in Section 11.2 of the Plan and the occurrence of the Effective Date, substantial consummation of the Plan, within the meaning of section 1127 of the Bankruptcy Code, shall be deemed to occur.

E. EFFECTS OF CONFIRMATION.

6. Subject to Section I.D of this Confirmation Order, notwithstanding any otherwise applicable law, immediately upon the entry of this Confirmation Order, the terms of the Plan and this Confirmation Order shall be binding upon all Entities, including Hopeman, Reorganized Hopeman, any and all holders of Claims, Demands, or Interests (irrespective of whether such Claims or Interests are Impaired under the Plan or whether the holders of such Claims or Interests accepted, rejected or are deemed to have accepted or rejected the Plan), any and all nondebtor parties in interest, including nondebtor parties to Executory Contracts and Unexpired Leases with Hopeman and any and all Entities who are parties to or are subject to the settlements, compromises, releases, waivers, discharges and injunctions described herein and in the Findings and Conclusions and the respective heirs, executors, administrators, trustees, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, guardians, successors or assigns, if any, of any of the foregoing.

F. APPROVAL, MODIFICATION AND EXECUTION OF PLAN-RELATED DOCUMENTS.

7. The Plan and all Exhibits thereto, substantially in the form as they exist at the time of the entry of this Confirmation Order, including the documents relating to the Asbestos Trust, are approved in all respects.

8. All relevant parties, including Hopeman, Reorganized Hopeman, the Asbestos Trust, and the Trustees of the Asbestos Trust, shall be authorized, without further action by this Court or the Bankruptcy Court, to execute the applicable Plan Documents and make modifications to such documents in accordance with the Plan's terms, including Section 12.3 of the Plan, and the terms of the Plan Documents, if applicable, between the time of entry of this Confirmation Order and the Effective Date of the Plan.

9. The Plan Proponents are hereby authorized to amend or modify the Plan at any time prior to the substantial consummation of the Plan, but only in accordance with section 1127 of the Bankruptcy Code and Section 12.3 of the Plan. In addition, without the need for further order or authorization of this Court or the Bankruptcy Court, or further notice to any Entities, but subject to the express provisions of this Confirmation Order and Section 12.3 of the Plan, the Plan Proponents shall be authorized and empowered to make modifications to the Plan Documents, including Exhibits to the Plan and documents forming part of the evidentiary record at the Confirmation Hearing, consistent with the terms of such documents in their reasonable business judgment as may be necessary.

II. CLAIMS BAR DATES AND OTHER CLAIMS MATTERS.

A. GENERAL BAR DATE FOR ADMINISTRATIVE EXPENSE CLAIMS.

10. Except as otherwise provided in Section 2.1 of the Plan and II.B of this Confirmation Order below, unless previously filed, requests for payment of Administrative Expense Claims must be filed with the Bankruptcy Court and served on Reorganized Hopeman no later than the first Business Day that is thirty (30) calendar days after the Effective Date. Holders of Administrative Expense Claims that are required to file and serve a request for payment of such Administrative Expense Claims and that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred from asserting such Administrative Expense Claims against Hopeman, Reorganized Hopeman, or its property and such Administrative Expense Claims shall be deemed disallowed in their entirety and discharged as of the Effective Date. Objections to such requests must be filed and served on the requesting party on or before the thirtieth (30th) calendar day after the Administrative Expense Claim Bar Date, as the same may be modified or extended from time to time by order of the Bankruptcy Court.

B. BAR DATES FOR CERTAIN ADMINISTRATIVE EXPENSE CLAIMS.

1. Professional Compensation.

11. Professionals or other Entities asserting a Professional Fee Claim for services rendered before the Effective Date must file with the Bankruptcy Court and serve on counsel to Reorganized Hopeman and such other Entities who are designated by the Bankruptcy Rules, this Confirmation Order, or other order of the Bankruptcy Court a final fee application no later than forty-five (45) days after the Effective Date. A Professional may include any outstanding, non-filed monthly or interim request for payment of a Professional Fee Claim in its final fee application. To the extent necessary, this Confirmation Order shall amend and supersede any previously

entered order of the Bankruptcy Court regarding the payment of Professional Fee Claims. Any pending, interim requests for a Professional Fee Claim shall be resolved in the ordinary course or, if sooner, in connection with the particular Professional's final fee application.

2. Ordinary Course Liabilities.

12. Holders of Administrative Expense Claims based on liabilities incurred by Hopeman in the ordinary course of its business shall not be required to file or serve any request for payment of such Administrative Expense Claims. Such Administrative Expense Claims shall be satisfied pursuant to Section 2.1 of the Plan.

C. BAR DATE FOR REJECTION DAMAGES CLAIMS.

13. Notwithstanding anything in the Bankruptcy Court's *Order (I) Establishing Bar Dates for Submitting Proofs of Non-Asbestos Claim; (II) Approving Procedures for Submitting Proofs of Non-Asbestos Claim; (III) Approving Notice Thereof; (IV) Approving a Tailored Proof of Non-Asbestos Claim Form; and (V) Granting Related Relief* [Docket No. 193] (the "Bar Date Order") to the contrary, if the rejection of an Executory Contract pursuant to Section 6.1 of the Plan gives rise to a Claim by the other non-Debtor party or parties to such contract, such Claim shall be forever barred and shall not be enforceable against Hopeman and Reorganized Hopeman its successors or its property unless a Proof of Claim is filed with the Bankruptcy Court and served upon counsel for Hopeman or Reorganized Hopeman, as applicable, on or before thirty (30) days after entry of the Confirmation Order; or (b) if such Executory Contract is rejected pursuant to a Final Order of the Bankruptcy Court granting a motion filed by Hopeman to reject such Executory Contract, thirty (30) days after entry of such order.

III. APPROVAL OF EXECUTORY CONTRACT PROVISIONS AND RELATED PROCEDURES.

14. The Executory Contract provisions of Article VI of the Plan are hereby approved. This Confirmation Order shall constitute an order of the Court approving the assumptions and rejections set forth in Sections 6.1 and 6.2 of the Plan, pursuant to section 365 of the Bankruptcy Code, and such assumptions and rejections shall be effective as of the Effective Date.

IV. MATTERS RELATING TO IMPLEMENTATION OF THE PLAN.

A. ACTIONS IN FURTHERANCE OF THE PLAN.

15. Hopeman, Reorganized Hopeman, and any officers thereof (the “Responsible Officers”), are authorized to, without further actions by this Court or the Bankruptcy Court: (i) take any and all actions necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order, and the transactions contemplated thereby or hereby, including those transactions identified in Article VIII of the Plan; and (ii) execute and deliver, adopt or amend, as the case may be, any contracts, instruments, releases and agreements necessary to implement, effectuate and consummate the Plan, including those contracts, instruments, releases and agreements identified in Article VIII of the Plan and the Plan Supplement.

16. To the extent that, under applicable non-bankruptcy law, any of the foregoing actions would otherwise require the consent or approval of the stockholders or directors of Hopeman or Reorganized Hopeman, this Confirmation Order shall, pursuant to section 1142 of the Bankruptcy Code and any applicable non-bankruptcy law, constitute such consent or approval, and such actions are deemed to have been taken by unanimous action of the stockholders or directors of Hopeman or Reorganized Hopeman.

17. The approvals and authorizations specifically set forth in this Confirmation Order are nonexclusive and are not intended to limit the authority Hopeman, Reorganized Hopeman, or any Responsible Officer have to take any and all actions necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order, or the transactions contemplated thereby or hereby, subject to provisions in the Plan that require Hopeman or Reorganized Hopeman to seek approval from other parties. In addition to the authority to execute and deliver, adopt or amend, as the case may be, the contracts, instruments, releases and other agreements specifically approved in this Confirmation Order, Hopeman or Reorganized Hopeman is authorized and empowered, without further action by this Court or the Bankruptcy Court or Hopeman or Reorganized Hopeman's stockholders or directors, to take any and all such actions as any of its Responsible Officers may determine are necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order, or the transactions contemplated thereby or hereby, subject to any applicable provisions in the Plan that require Hopeman or Reorganized Hopeman to seek approval from other Parties.

B. CREATION OF ASBESTOS TRUST.

18. On the Effective Date, the Asbestos Trust shall be created in accordance with the Plan Documents, the Asbestos Trust Documents, and section 524(g) of the Bankruptcy Code. Subject to the provisions of the Plan, and in consideration of the transfer of the Asbestos Trust Assets to the Asbestos Trust, the Asbestos Trust shall assume all liabilities and responsibility for all Channeled Asbestos Claims, and, among other things, to: (1) direct the processing, liquidation, and payment of all compensable Channeled Asbestos Claims in accordance with this Plan, the Asbestos Trust Documents, and the Confirmation Order; (2) preserve, hold, manage, and maximize the assets of the Asbestos Trust for use in paying and satisfying Channeled Asbestos

Claims; and (3) qualify at all times as a qualified settlement fund. The Asbestos Trust shall use the Asbestos Trust's assets and income, as permitted by this Confirmation Order, the Plan, and the Asbestos Trust Documents, including, without limitation, to resolve Channeled Asbestos Claims in accordance with the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures in such a way that holders of Channeled Asbestos Claims are treated fairly, equitably, and reasonably in light of the finite assets available to satisfy such claims, and shall otherwise comply in all respects with the requirements of a trust set forth in section 524(g)(2)(B) of the Bankruptcy Code. On the Effective Date, all right, title, and interest in and to the Asbestos Trust Assets, and any proceeds thereof, will be transferred to, and indefeasibly vested in, the Asbestos Trust, free and clear of all Claims, Demands, Equity Interests, Encumbrances, and other interests of any Entity, without any further action of the Bankruptcy Court or any Entity, but subject to Sections 8.3 and 8.5 of the Plan. The Asbestos Trust and the Trustees of the Asbestos Trust are authorized and empowered to receive the property to be transferred to the Asbestos Trust pursuant to Section 8.3 of the Plan.

19. Pursuant to any applicable non-bankruptcy law and section 1142 of the Bankruptcy Code, without further action by this Court or the Bankruptcy Court or the stockholders or directors of Hopeman or Reorganized Hopeman, the Responsible Officers are authorized and directed to execute, deliver and perform their obligations under the Asbestos Trust Agreement and to execute, deliver, file and record all such other contracts, instruments, agreements and documents and take all such other actions as the Responsible Officers of Hopeman or Reorganized Hopeman may determine are necessary, appropriate or desirable in connection therewith. The Asbestos Trust Agreement, as in effect on the Effective Date, shall be substantially in the form of Exhibit A to the

Plan. The Asbestos Trust Distribution Procedures shall be substantially in the form of Exhibit B to the Plan.

C. TRANSFERS OF PROPERTY TO, AND ASSUMPTION OF CERTAIN LIABILITIES BY, THE ASBESTOS TRUST.

1. Transfer of Books and Records to the Asbestos Personal Injury Trust.

20. As set forth in Section 8.3(l) of the Plan, on the Effective Date, Hopeman shall transfer to Reorganized Hopeman all of Hopeman's books and records (including electronic records) necessary for the Asbestos Trust to investigate and resolve Channeled Asbestos Claims in accordance with Section 8.3 and Section 8.16 of the Plan, the Asbestos Trust Agreement and Asbestos Trust Distribution Procedures, including the books and records presently stored in Hopeman's warehouse in Waynesboro, Virginia, and in storage at, or near, the offices of Hopeman's prepetition claims administrator Special Claim Services, Inc. Notwithstanding anything to the contrary herein, holders of Asbestos Personal Injury Claims and other parties may pursue and obtain information stored in Hopeman's books and records (including electronic records) through discovery to the full extent permitted by applicable law. For the avoidance of doubt, privileges belonging to Hopeman on the Petition Date, and/or prior to the occurrence of the Effective Date, in such books and records shall belong to Reorganized Hopeman as of the Effective Date, and the Asbestos Trust's access to such books and records shall not result in the destruction or waiver of any applicable privileges pertaining to such books and records.

2. Funding the Asbestos Trust.

21. On the Effective Date, Hopeman or Reorganized Hopeman shall make the Asbestos Trust Contribution in accordance with Sections 8.2 and 8.3 of the Plan, except that the contribution

of the Excess Net Reserve Funds may occur after the Effective Date but, in any event, shall be deemed to have occurred as of the Effective Date in accordance with Section 8.2 of the Plan.

3. Transfer of the Asbestos Insurance Rights

22. On the Effective Date, by virtue of confirmation, without further notice, action, or deed, the Asbestos Insurance Rights shall be automatically transferred to, and indefeasibly vested in, the Asbestos Trust, and the Asbestos Trust shall thereby become the estate representative pursuant to sections 1123(a)(5) and 1123(b)(3)(B) of the Bankruptcy Code, with the exclusive right to enforce any and all of the Asbestos Insurance Rights against any Entity, subject to the provisions of Section 8.13 and Section 8.15 of the Plan, and the Proceeds of the recoveries of any such Asbestos Insurance Rights shall be the property of, and shall be deposited in, the Asbestos Trust. The Asbestos Insurance Rights shall be indefeasibly vested in the Asbestos Trust free and clear of all Claims, Demands, Equity Interests, Encumbrances, and other interests of any Entity.

4. Authority of the Asbestos Trust

23. As of the Effective Date, without any further action of the Bankruptcy Court or any Entity, except as otherwise expressly set forth in the Plan including, without limitation, the rights reserved to HII under Section 8.15 of the Plan, the Asbestos Trust shall be empowered to initiate, prosecute, enforce, sue on, defend, settle, compromise, and resolve (or decline to do any of the foregoing) all claims, rights, Causes of Action, suits and proceedings, whether in law or in equity, whether known or unknown, related to or arising from any asset, liability, or responsibility of the Asbestos Trust, including any actions arising from or related to the Asbestos Insurance Rights, in any court of competent jurisdiction consistent with applicable law.

5. Assumption of Certain Liability and Responsibility by the Asbestos Trust.

24. On the Effective Date, in consideration for the property transferred to the Asbestos Trust, and except as provided in Sections 8.12, 8.13, and 8.15 of the Plan, all Channeled Asbestos Claims shall be transferred and channeled to, and assumed by, the Asbestos Trust pursuant to the Asbestos Permanent Channeling Injunction, and shall be resolved, liquidated, and (if eligible for payment) paid in accordance with the Asbestos Trust Agreement, the Asbestos Trust Distribution Procedures, and any other Asbestos Trust Document. The Asbestos Trust shall have no liability for any Claims other than Channeled Asbestos Claims and Asbestos Trust Expenses, and no Claims other than Channeled Asbestos Claims and Asbestos Trust Expenses shall be transferred and channeled to, or assumed by, the Asbestos Trust. Notwithstanding the Asbestos Trust's assumption of liability and responsibility for Channeled Asbestos Claims, such assumption shall not itself operate or be construed as a release, accord and satisfaction, mutual rescission, or novation of Hopeman's obligations on account of such Claims for purposes of any Asbestos Insurance Rights solely to the extent of actions or suits against Reorganized Hopeman directly in accordance with Section 8.12 of the Plan (subject, however, to the discharge of any "personal liability" of Hopeman as that term is used in section 524(a) of the Bankruptcy Code and as provided in Article X of the Plan).

6. Transfer of Rights and Defenses Related to Channeled Asbestos Claims

25. On the Effective Date, all claims, defenses, rights and Causes of Action of Hopeman arising from or related to Channeled Asbestos Claims shall be transferred and assigned to the Asbestos Trust. In accordance with section 1123(b) of the Bankruptcy Code, the Asbestos Trust shall retain and may enforce such claims, defenses, rights, and Causes of Action relating to

Channeled Asbestos Claims in any court of competent jurisdiction against any Entity other than a Protected Party, and shall retain and may enforce all defenses and counterclaims to all Asbestos Claims or Demands asserted against the Asbestos Trust, including setoff, recoupment, and any rights under section 502(d) of the Bankruptcy Code. The Asbestos Trust shall be deemed to be the appointed representative of Hopeman and Reorganized Hopeman, and may, pursue, litigate, compromise, and settle any rights, claims, or Causes of Action transferred to it, as appropriate.

7. Institution and Maintenance of Legal and Other Proceedings

26. From and after the Effective Date, the Asbestos Trust shall be empowered and entitled, in its sole and absolute discretion and at its own expense, to pursue, compromise, or settle all legal actions and other proceedings related to any asset, liability, or responsibility of the Asbestos Trust that is not released pursuant to the Plan.

8. Payments and Distributions from the Asbestos Trust.

27. The sole and exclusive source of payment or recovery of a Channeled Asbestos Claimant on account of his Channeled Asbestos Claim shall be the Asbestos Insurance Coverage applicable to such Channeled Asbestos Claim, as provided in Section 8.12, Section 8.13, and Section 8.15 of the Plan, unless the Channeled Asbestos Claim (a) is an Uninsured Asbestos Claim, or (b) becomes an Uninsured Asbestos Claim before the Channeled Asbestos Claimant receives payment in full of any judgment obtained against Reorganized Hopeman or the Non-Settling Asbestos Insurer, or settlement reached with a Non-Settling Asbestos Insurer, in accordance with Sections 8.12, 8.13, or 8.15 of the Plan. A Channeled Asbestos Claim shall become an Uninsured Asbestos Claim when (i) the Asbestos Trust has settled, in accordance with an Asbestos Insurance Settlement, all rights to the Asbestos Insurance Coverage applicable to the Channeled Asbestos Claim, or (ii) any Asbestos Insurance Coverage that otherwise may be applicable to such

Channeled Asbestos Claim becomes unavailable due to exhaustion of the relevant Asbestos Insurance Coverage or due to a Final Order ruling on a coverage issue or defense, in which event such Channeled Asbestos Claimant may seek payment or distribution on account of his Channeled Asbestos Claim from the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures. Any treatment of a Channeled Asbestos Claim that is partially an Insured Asbestos Claim and partially an Uninsured Asbestos Claim shall be set forth in the Asbestos Trust Distribution Procedures. Notwithstanding any provision in this Plan or any other Plan Document to the contrary, a Channeled Asbestos Claimant shall not be entitled to receive a payment or distribution on account of his Channeled Asbestos Claim from the Asbestos Trust unless and until his Channeled Asbestos Claim is eligible for payment or distribution from the Asbestos Trust under the Asbestos Trust Distribution Procedures.

9. Indemnification by the Asbestos Trust.

28. The Asbestos Trust shall, pursuant to the terms of the Asbestos Trust Agreement, indemnify and hold harmless the Protected Parties for any liability or alleged liability arising out of, or resulting from, or attributable to, a Channeled Asbestos Claim, including fines and penalties resulting from the Asbestos Trust's failure to comply with Section 8.14 of the Plan or the Asbestos Trust Agreement. Indemnification claims arising under Section 8.3(o) of the Plan or this paragraph 28 will not be subject to the Asbestos Trust Distribution Procedures.

D. ACTIONS TO OBTAIN BENEFITS OF ASBESTOS INSURANCE COVERAGE

1. Actions Against Reorganized Hopeman or Wayne.

29. Except as otherwise permitted under Section 8.16 of the Plan, on and after the Effective Date, a Channeled Asbestos Claimant shall have the right to initiate, commence,

continue, or prosecute an action against Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust), and, where permitted by applicable nonbankruptcy law, any Non-Settling Asbestos Insurer for Wayne, in a court of competent jurisdiction to obtain the benefit of Asbestos Insurance Coverage.

30. If a Channeled Asbestos Claimant commences such an action on account of its Channeled Asbestos Claim, the complaint shall name Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust) or any Non-Settling Asbestos Insurer for Wayne as a defendant and shall be deemed by operation of law to be an action against Reorganized Hopeman or any Non-Settling Asbestos Insurer for Wayne, as applicable. Such an action may be filed in any court where Hopeman was subject to *in personam* jurisdiction as of the Petition Date or any other court of competent jurisdiction. Any such action shall be served on the Asbestos Trust, which shall provide notice of such action, as appropriate, to all Non-Settling Asbestos Insurers. Notwithstanding the foregoing, Reorganized Hopeman, the Asbestos Trust, and Wayne shall have no obligation to answer, appear, or otherwise participate in the action in any respect other than as set forth in this Plan and as may be necessary to comply with applicable Asbestos Insurance Cooperation Obligations.

31. Any liability of Reorganized Hopeman or Wayne to any Entity, including any Channeled Asbestos Claimant or Asbestos Insurer, that is based on, arises from, or is attributable to any action commenced under Section 8.12 of the Plan shall be enforceable only against the Asbestos Insurance Coverage provided by the Non-Settling Asbestos Insurers and not against any other asset, including any other Asbestos Insurance Right, of the Asbestos Trust or Reorganized Hopeman

2. Actions Against Non-Settling Asbestos Insurers.

32. Except as otherwise permitted under Section 8.13 or 8.15 of the Plan, the Asbestos Trust shall have the exclusive right to pursue, monetize, settle, or otherwise obtain the benefit of the Asbestos Insurance Rights, including with respect to any unpaid insurance Proceeds applicable to a judgment or settlement obtained or entered into by a Channeled Asbestos Claimant in accordance with Section 8.12 of the Plan.

33. If a Channeled Asbestos Claimant has entered into an enforceable settlement agreement with a Non-Settling Asbestos Insurer pertaining to such claimant's Channeled Asbestos Claim and such Non-Settling Asbestos Insurer has not timely paid or has refused to pay the amount provided in such settlement, such Channeled Asbestos Claimant may commence a breach-of-contract action or other form of collection action against such Non-Settling Asbestos Insurer to recover the settlement payment owed.

34. Any Channeled Asbestos Claimant who (1) has obtained a judgment against Reorganized Hopeman or Wayne in accordance with Section 8.12 of the Plan, or (2) has the right under applicable nonbankruptcy law to name, join, or substitute as a defendant an Asbestos Insurer, may, to obtain the benefits of Asbestos Insurance Coverage, commence a judgment-enforcement action or a direct action against the relevant Non-Settling Asbestos Insurer ("Insurance Policy Action") in accordance with the terms of Section 8.13 of the Plan, subject to the following conditions:

(a) If any Non-Settling Asbestos Insurer against whom an Insurance Policy Action is brought asserts as a defense that it would have a claim as a result of contribution rights against one or more Settled Asbestos Insurers with respect to the Channeled Asbestos Claimant's claim that it could have asserted but for the Asbestos Permanent Channeling Injunction

(“Contribution Claim”), the liability, if any, of the Non-Settling Asbestos Insurer to the Channeled Asbestos Claimant shall be reduced dollar-for-dollar by the amount, if any, of any judgment establishing the Contribution Claim in accordance with Section 8.13 of the Plan.

(b) In determining the amount of any Contribution Claim that operates to reduce the liability of a Non-Settling Asbestos Insurer in any Insurance Policy Action, the Channeled Asbestos Claimant may assert the legal or equitable rights or defenses, if any, of the Settled Asbestos Insurers with respect to such Contribution Claims, and for purposes of Section 8.13(c)(ii) of the Plan, all Settled Asbestos Insurers, in exchange for their status as a Protected Party and for receiving the benefits of the Asbestos Permanent Channeling Injunction, shall be deemed to have transferred or assigned such legal or equitable rights or defenses to Channeled Asbestos Claimants; provided that the Channeled Asbestos Claimant shall not be permitted to argue that any Contribution Claims are not properly asserted against the Channeled Asbestos Claimant or that the Asbestos Permanent Channeling Injunction bars or affects in any way such Contribution Claims in connection with the Channeled Asbestos Claimant’s claim against the Non-Settling Asbestos Insurer.

(c) If a court reduces the amount of liability of a Non-Settling Asbestos Insurer in an Insurance Policy Action based on the share attributable to a Settled Asbestos Insurer consistent with Section 8.13 of the Plan, the Channeled Asbestos Claimant whose judgment has been reduced may seek payment from the Asbestos Trust for all or a portion of the amount of the judgment reduction attributable to the Settled Asbestos Insurer’s share, but only as permitted by and in accordance with the Asbestos Trust Distribution Procedures.

(d) If the Asbestos Trust enters into an Asbestos Insurance Settlement with an Asbestos Insurer that is a party to a pending Insurance Policy Action, and if such Asbestos Insurance Settlement is approved by the Bankruptcy Court, the Channeled Asbestos Claimant pursuing such Insurance Policy Action shall (i) be deemed to release any rights transferred to it via the Trust Transfer, without further notice or action by any Entity, and (ii) terminate its Insurance Policy Action with respect to that Asbestos Insurer. The Channeled Asbestos Claimant shall have the right to submit an Uninsured Asbestos Claim to the Asbestos Trust for payment in accordance with, and as permitted by, the Asbestos Trust Distribution Procedures, as set forth in Section 8.16 of the Plan.

(e) The Asbestos Trust may seek to intervene in any Insurance Policy Action at any time. A Channeled Asbestos Claimant pursuing an Insurance Policy Action shall not object to or oppose any request or motion of the Asbestos Trust to intervene in such Insurance Policy Action. For purposes of establishing the grounds in favor of the Asbestos Trust's request or motion to intervene, this Confirmation Order includes the following finding: The Asbestos Trust shall have, and is deemed to have, an interest relating to the Asbestos Insurance Coverage that is the subject of any Insurance Policy Action, and shall be, and is deemed to be, so situated that disposing of the Insurance Policy Action may, as a practical matter, impair or impede the Asbestos Trust's ability to protect its interest, and no party to the Insurance Policy Action can adequately represent that interest.

35. In addition to the rights and remedies set forth in Section 8.13 of the Plan, on and after the Effective Date, Channeled Asbestos Claimants may, only to the extent permitted or provided under applicable nonbankruptcy law, bring such Insurance Policy Actions against a Non-Settling Asbestos Insurer of Hopeman or Wayne with respect to potential liability of any

Designated Person, subject to the terms and conditions set forth in Section 8.13(c) of the Plan. For the avoidance of doubt, no Designated Person shall be named as a defendant in any such Insurance Policy Actions.

36. If a Channeled Asbestos Claimant intends to pursue an Extracontractual Claim against a Non-Settling Asbestos Insurer, the Channeled Asbestos Claimant shall send written notice to the Asbestos Trust, requesting the Asbestos Trust's leave to pursue such Extracontractual Claim. Within fourteen (14) calendar days after receiving the Channeled Asbestos Claimant's request, the Asbestos Trust shall respond in writing that it is either granting or denying the Channeled Asbestos Claimant's request.

(a) The Asbestos Trust's notice to the Channeled Asbestos Claimant of its decision to grant the Channeled Asbestos Claimant's request to pursue an Extracontractual Claim shall legally operate as, or shall effect, to the extent permitted or authorized by applicable nonbankruptcy law and without further notice to or action by any Entity, a transfer to the Channeled Asbestos Claimant of the Asbestos Trust's rights to pursue such Extracontractual Claim ("Trust Transfer"). The Channeled Asbestos Claimant shall thereupon have standing and authority to pursue, settle, or resolve such Extracontractual Claim within his or her absolute discretion, subject to the terms set forth in Section 8.13 of the Plan.

(b) The Asbestos Trust may deny a Channeled Asbestos Claimant's request for leave to pursue an Extracontractual Claim if (i) the Asbestos Trust has determined that it is not able or permitted under applicable nonbankruptcy law to transfer or assign the Extracontractual Claim to the requesting Channeled Asbestos Claimant; (ii) the Asbestos Trust intends, within ninety (90) calendar days after receiving the Channeled Asbestos Claimant's request, to commence litigation (or arbitration, to the extent required by the applicable Asbestos Insurance Policy or

Asbestos CIP Agreement) against the relevant Non-Settling Asbestos Insurer with respect to the applicable Channeled Asbestos Claimant's claim; or (iii) the Asbestos Trust has already commenced such litigation or arbitration, which is pending or has been resolved. Such litigation commenced by the Asbestos Trust may include, or pertain to, multiple other Channeled Asbestos Claims or seek a declaration of rights generally with respect to the Non-Settling Asbestos Insurers' obligations in connection with Channeled Asbestos Claims.

3. Special Provision Pertaining to HII

37. Notwithstanding any provision of the Plan or any other Plan Document to the contrary, on and after the Effective Date, HII may, (a) to the extent it is the holder of one or more Asbestos Indirect Claims, and (b) only to the extent permitted or provided under applicable nonbankruptcy law, file claims, crossclaims, or third-party demands in a court of competent jurisdiction (including in any state court lawsuits) against Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust) or Wayne, or pursue direct actions against any Non-Settling Asbestos Insurer of Hopeman or Wayne, including to bring an action against a Non-Settling Asbestos Insurer of Hopeman or Wayne with respect to the potential liability of any Designated Person. For the avoidance of doubt, such Designated Persons will not be named as defendants in any such actions. Reorganized Hopeman, the Asbestos Trust, and Wayne shall have no obligation to answer, reply, appear, or otherwise participate in any action in which HII has filed a claim, crossclaim, third-party demand, or in any such direct action, other than as necessary to maintain coverage under the Asbestos Insurance Policies. Any judgment that may be obtained in connection with such a claim, crossclaim, third-party demand, or direct action cannot be enforced against the assets of Reorganized Hopeman or the Asbestos Trust, other than from the Asbestos Insurance Coverage. To the extent Hopeman's Asbestos Insurance Rights become subject to

Asbestos Insurance Settlements and such Asbestos Insurance Rights are liquidated by the Trust, HII may submit Asbestos Indirect Claims to the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures. For the avoidance of doubt, the foregoing in no way limits HII's ability to seek payment or any other form of relief that may be made available according to the provisions contained within the Asbestos Trust Distribution Procedures, this Plan, or any other Plan Document. For the further avoidance of doubt, HII need not execute an Asbestos Personal Injury Claimant Release to obtain the benefits of Section 8.15 of the Plan. Notwithstanding any provision of the Asbestos Trust Distribution Procedures, the Plan or any other Plan Document to the contrary, the rights contained within Section 8.15 of the Plan may not be impaired, impeded, abridged, or otherwise modified at any time (whether before or after entry of the Confirmation Order) without the prior written consent of HII; *provided, however*, that the foregoing shall not be construed to vest HII with consent or veto rights as to a proposed Asbestos Insurance Settlement described in Section 8.17 of the Plan, or to override, expand, or otherwise modify HII's consultation rights granted under Section 8.17 of the Plan.

E. RELEASE OF ENCUMBRANCES.

38. Except as otherwise provided in the Plan or in any of the Plan Documents, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article V of the Plan, all Encumbrances, if any, against the property of Hopeman's Estate shall be fully released and discharged, and all of the right, title and interest of any holder of such Encumbrances, including any rights to any collateral thereunder, shall revert to Reorganized Hopeman and its successors and assigns.

F. EXEMPTIONS FROM TAXATION.

39. Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp tax or similar tax: (i) the creation of any Encumbrances; (ii) the making or assignment of any lease or sublease; (iii) the execution and implementation of the Asbestos Trust Agreement, including the creation of the Asbestos Trust and any transfers to or by the Asbestos Trust; (iv) any Restructuring Transaction; and (v) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments, applications, certificates or statements executed or filed in connection with any of the foregoing or pursuant to the Plan.

V. SETTLEMENTS, RELEASES AND EXCULPATION PROVISIONS.

40. The Plan settlement, release, exculpation and injunction provisions as set forth in Article X of the Plan are approved in all respects, are incorporated herein in their entirety, are so ordered and shall be immediately effective on the Effective Date without further action by this Court, the Bankruptcy Court, any of the parties to such provisions or any other party.

VI. OBJECTIONS TO CONFIRMATION.

41. For the reasons set forth in the Findings and Conclusions, each of the Plan Objections are hereby overruled in their entirety.

VII. DISCHARGE AND INJUNCTIONS.

A. DISCHARGE OF HOPEMAN AND REORGANIZED HOPEMAN.

42. Except as specifically provided in the Plan, any of the other Plan Documents, or this Confirmation Order, pursuant to sections 524 and 1141(d)(1)(A) of the Bankruptcy Code, and effective upon the occurrence of the Effective Date, Hopeman and Reorganized Hopeman are

discharged from any and all Claims and Demands of any nature whatsoever, including, without limitation, to the fullest extent permitted by law, Channeled Asbestos Claims, and liabilities that arose before the Confirmation Date and all debts of the kind specified in sections 502(g), 502(h) and 502(i) of the Bankruptcy Code whether or not: (a) a Proof of Claim based on such Claim was filed under section 501 of the Bankruptcy Code, or such Claim was listed on any of Hopeman's Schedules; (b) such Claim is or was allowed under section 502 of the Bankruptcy Code; or (c) the holder of such Claim has voted on or accepted the Plan. Except as otherwise specifically provided for in the Plan, as of the Effective Date, the rights provided in the Plan to holders of Claims, Demands, and Equity Interests shall be in exchange for and in complete satisfaction, settlement and discharge of all Claims (including, to the fullest extent permitted by law, Asbestos Claims and Demands) against, Liens on, and Equity Interests in Hopeman, Reorganized Hopeman, and all of their respective assets and properties. Notwithstanding the foregoing or anything else in the Plan or this Confirmation Order, no release or discharge of any of the Released Parties, Hopeman or Reorganized Hopeman, or any of their respective present or former directors, officers, employees, members, subsidiaries, predecessors, successors, attorneys, accountants, investment bankers, financial advisors, appraisers, or representatives and agents, in each case acting in such capacity, shall diminish, reduce or eliminate the duties or obligations of any Asbestos Insurer under any Asbestos Insurance Policy.

B. DISCHARGE INJUNCTION.

43. Except as specifically provided in the Plan (including Section 8.12, Section 8.13, Section 8.15, and Section 8.16 thereof), any of the other Plan Documents, or this Confirmation Order, all Entities who have held, hold, or may hold Claims (including, to the fullest extent permitted by law, Asbestos Claims and Demands) against Hopeman are permanently enjoined, on

and after the Effective Date, from: (a) commencing or continuing in any manner any action or other proceeding of any kind against Hopeman, Reorganized Hopeman, or their respective property with respect to such Claim or Demand, other than to enforce any right to a Distribution pursuant to the Plan or any other right provided under this Plan; (b) enforcing, attaching, collecting, or recovering by any manner or means of any judgment, award, decree, or order against Hopeman, Reorganized Hopeman, or their respective property with respect to such Claim or Demand; (c) creating, perfecting, or enforcing any Encumbrance of any kind against Hopeman, Reorganized Hopeman, or their respective property with respect to such Claim or Demand; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due to Hopeman or against the property or interests in property of Hopeman, with respect to such Claim or Demand; and/or (e) commencing or continuing any action, in any manner, against Hopeman, Reorganized Hopeman, or their respective property that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. The foregoing injunction shall extend to the successors of Hopeman (including, without limitation, Reorganized Hopeman) and their respective properties and interests in property. The discharge provided in this provision shall void any judgment obtained against Hopeman at any time, to the extent that such judgment relates to a discharged Claim or Demand.

C. ASBESTOS PERMANENT CHANNELING INJUNCTION.

44. Pursuant to sections 105(a) and 524(g) of the Bankruptcy Code, and except as otherwise provided in the Plan (including Article VIII thereof), any of the other Plan Documents, and this Confirmation Order, the following injunction is hereby issued and shall take effect upon the occurrence of the Effective Date:

1. Scope of Injunction.

45. All Entities that have held or asserted, or hold or assert, or may hold or assert in the future any Channeled Asbestos Claim shall be permanently stayed, restrained, and enjoined from taking any action for the purpose of directly, indirectly, or derivatively collecting, recovering, or receiving payment, satisfaction, or recovery on account of any such Channeled Asbestos Claim, including:

(a) commencing, conducting, or continuing in any manner, directly, indirectly, or derivatively, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum against or affecting any Protected Party or any property or interest in property of any Protected Party;

(b) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any Protected Party or any property or interest in property of any Protected Party;

(c) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any Protected Party or any property or interest in property of any Protected Party;

(d) setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any Protected Party or any property or interest in property of any Protected Party; and

(e) proceeding in any manner and in any place with regard to any matter that is within the scope of the matters designated by the Plan to be subject to resolution by the Asbestos

Trust, except in conformity and compliance with the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures.

2. Reservations.

46. Notwithstanding anything to the contrary above, this Asbestos Permanent Channeling Injunction shall not stay, restrain, bar, or enjoin:

(a) the rights of Entities to the treatment accorded them under Article IV of this Plan, as applicable, including the rights of Channeled Asbestos Claimants to have their Channeled Asbestos Claims resolved in accordance with the Asbestos Trust Distribution Procedures;

(b) the rights of Entities to assert any Channeled Asbestos Claim against the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures, or any claim for payment of an Asbestos Trust Expense against the Asbestos Trust;

(c) the rights of Channeled Asbestos Claimants to assert any and all claims or causes of action against any Entities that are not Protected Parties;

(d) the rights of the Asbestos Trust or, if applicable, Reorganized Hopeman to prosecute a claim or cause of action based on, arising from, or attributable to any of the Asbestos Trust Assets against any Entity that is not a Protected Party;

(e) any action or suit against Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust) or Wayne that strictly conforms to the requirements of Section 8.12 of the Plan.

(f) any action, suit, or Insurance Policy Action permitted or authorized under Section 8.13 of the Plan against any Non-Settling Asbestos Insurer; or

(g) any claim, crossclaim, or third-party demand in a court of competent jurisdiction (including in any state court lawsuits) against Reorganized Hopeman (or, if deemed

an indispensable party, the Asbestos Trust) or Wayne, or any direct action against any Non-Settling Asbestos Insurer of Hopeman or Wayne, in each case that strictly conforms to the requirements of Section 8.15 of the Plan.

3. Protected Parties Under the Asbestos Permanent Channeling Injunction.

47. For purposes the Asbestos Permanent Channeling Injunction, “Protected Party” means any of the following parties:

- (a) Hopeman;
- (b) Reorganized Hopeman;
- (c) current and former directors, officers, or employees of Hopeman, or any past or present Affiliate of Hopeman, solely in their respective capacities as such; and
- (d) each Settled Asbestos Insurer, solely in its capacity as such.

D. NO ACTIONS ON ACCOUNT OF RELEASED CLAIMS.

48. Except as provided in the Plan, as of the Effective Date, all Releasing Parties that have held, currently hold or may hold any claims, commitments, obligations, suits, judgments, damages, demands, debts, Causes of Action or liabilities that are released pursuant to the Plan shall be permanently enjoined from taking any of the following against a Released Party, or any of its property, on account of such released claims, commitments, obligations, suits, judgments, damages, demands, debts, Causes of Action or liabilities: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting or enforcing any Encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to any Released Party; and (v) commencing or continuing any

action, in any manner, in any place that does not comply with or is inconsistent with the provisions of this Plan.

VIII. APPROVAL OF THE ADEQUACY OF THE DISCLOSURE STATEMENT

49. The Disclosure Statement complies with all aspects of section 1125 because it contains information that is reasonably practicable to permit a hypothetical creditor to make an informed judgment about the Plan.

50. Article VIII of the Disclosure Statement also describes in detail the entities subject to the injunction under the Plan and the acts that they are enjoined from pursuing. Further, the language describing the injunctions and acts enjoined is described in specific and conspicuous language in the Disclosure Statement, making it clear to anyone who reads it.

51. Accordingly, the Disclosure Statement contains adequate information as required by section 1125 of the Bankruptcy Code and is approved on a final basis.

IX. DISSOLUTION OF THE COMMITTEE, AND APPOINTMENT OF POST-EFFECTIVE DATE FUTURE CLAIMANTS REPRESENTATIVE

52. In accordance with Section 9.1 of the Plan, on the Effective Date, the Committee shall dissolve and its members, Professionals, and agents shall be released and discharged from any further authority, duties, obligations and responsibilities in the Chapter 11 Case and under the Bankruptcy Code. Effective as of the dissolution of the Committee, the Asbestos Trust Advisory Committee shall succeed to, and exclusively hold, the attorney-client privilege and any other privilege held by the Committee and shall enjoy the work product protections that were applicable or available to the Committee before its dissolution.

53. The court-appointed Future Claimants' Representative Marla R. Eskin (or any court-appointed alternative or successor) is identified in Section 1.69 of the Plan to continue to

serve, and is hereby appointed to serve, as the Future Claimants' Representative on and after the Effective Date (the "Post-Effective Date Future Claimants' Representative") in accordance with the Asbestos Trust Agreement. The Post-Effective Date Future Claimants' Representative shall have the functions, duties, and rights provided in, and shall serve in accordance with, the Asbestos Trust Agreement. In addition to the foregoing, the Post-Effective Date Future Claimants' Representative also may, at her option, participate in any: (1) appeal of the Confirmation Order; (2) hearing on a Professional Fee Claim; and (3) any adversary proceeding pending on the Effective Date to which the Future Claimants' Representative was a party. Successors to the Post-Effective Date Future Claimants' Representatives will be appointed as provided in the Asbestos Trust Agreement.

X. RETENTION OF JURISDICTION.

A. RETENTION OF JURISDICTION BY THE BANKRUPTCY COURT.

54. Notwithstanding the entry of this Confirmation Order and the occurrence of the Effective Date, pursuant to Article XII of the Plan, the Bankruptcy Court and, to the extent the Bankruptcy Court lacks authority to enter a final judgment in accordance with the Article III of the United States Constitution or, otherwise, lacks subject-matter jurisdiction to address an issue, this Court, shall retain, to the fullest extent permitted by law, exclusive jurisdiction over all matters arising out of or related to the Chapter 11 Case, the Plan, including jurisdiction over the matters set forth in Section 12.1 of the Plan, and the implementation, interpretation, or enforcement of this Confirmation Order.

B. JURISDICTION RELATING TO RESOLUTION OF CLAIMS UNDER THE ASBESTOS TRUST DISTRIBUTION PROCEDURES.

55. Notwithstanding anything to the contrary in Article XII of the Plan, the resolution of Channeled Asbestos Claims and the forum in which such resolution will be determined shall be governed by and in accordance with the Asbestos Trust Distribution Procedures.

C. OTHER PROCEEDINGS.

56. Notwithstanding any term or provision herein to the contrary, nothing in the Plan Documents shall detract from or contravene any jurisdictional or other provisions, including Sections 8.12, 8.13, and 8.15 of the Plan, that permit or require legal actions or proceedings to be brought in a court that is not the Bankruptcy Court or this Court. Notwithstanding anything in Section 12.1 of the Plan to the contrary, the Asbestos Trust may initiate, prosecute, defend, and resolve all legal actions and other proceedings related to or arising from any asset, liability, or responsibility of the Asbestos Trust, including any Causes of Action arising from or related to the Asbestos Insurance Rights and Channeled Asbestos Claims, outside of the Bankruptcy Court and in any court of competent jurisdiction, in accordance with Section 8.3 of the Plan. In addition, notwithstanding anything in Section 12.1 of the Plan to the contrary, Channeled Asbestos Claimants may bring Extracontractual Claims in accordance with Section 8.13(e) of the Plan outside of the Bankruptcy Court and in any court of competent jurisdiction. The Asbestos Trust shall not be entitled to assert that its right in and/or claims against the Asbestos Insurance Policies are unaffected by any breach of the Asbestos Insurance Cooperation Obligations by Reorganized Hopeman.

XI. NOTICE OF ENTRY OF CONFIRMATION ORDER.

57. Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c), Reorganized Hopeman is directed to serve, within twenty (20) business days after the occurrence of the Effective Date, a notice of the entry of this Confirmation Order, which shall include notice of the Bar Dates established by the Plan and this Confirmation Order and notice of the Effective Date, substantially in the form attached hereto as Exhibit B and incorporated herein by reference (the “Confirmation Notice”), on all parties that received notice of the Confirmation Hearing; provided, however, that, with respect to Channeled Asbestos Claims, Reorganized Hopeman shall be obligated to serve the Confirmation Notice only on counsel to holders of Channeled Asbestos Claims, to the extent that the holders of such Claims are represented by known counsel, unless such counsel requests otherwise in writing within ten (10) days of service of the Confirmation Notice.

58. As soon as practicable after the entry of this Confirmation Order, Reorganized Hopeman shall make copies of this Confirmation Order and the Confirmation Notice available on the website established by Kurtzman Carson Consultants, LLC d/b/a Verita Global for the Chapter 11 Case, available at <https://veritaglobal.net/hopeman>.

XII. ORDER OF THE COURT.

59. The Plan is hereby confirmed in its entirety pursuant to section 1129 of the Bankruptcy Code, and the Asbestos Permanent Channeling Injunction is hereby issued pursuant to section 524(g) of the Bankruptcy Code.

THIS ORDER IS HEREBY DECLARED TO BE IN
RECORDABLE FORM AND SHALL BE ACCEPTED BY ANY
RECORDING OFFICER FOR FILING AND RECORDING
PURPOSES WITHOUT FURTHER OR ADDITIONAL ORDERS,
CERTIFICATIONS OR OTHER SUPPORTING DOCUMENTS.

Signed: _____, 2025

United States District Judge

EXHIBIT A

The Plan

(to come)

EXHIBIT B

Confirmation Notice

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
:
:
:

**NOTICE OF (I) ENTRY OF ORDER CONFIRMING AMENDED PLAN OF HOPEMAN
BROTHERS, INC. UNDER CHAPTER 11 OF THE BANKRUPTCY CODE
AND (II) OCCURRENCE OF THE EFFECTIVE DATE OF THE PLAN**

PLEASE TAKE NOTICE

1. **Confirmation of the Plan.** On _____, 2025, the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the “Bankruptcy Court”), entered its findings of fact and conclusions of law (Docket No. ____) and Order (Docket No. ____) recommending that the United States District Court for the Eastern District of Virginia, Richmond Division (the “District Court”), issue the proposed order (the “Confirmation Order”) confirming the *Amended Plan of Reorganization of Hopeman Brothers, Inc. under Chapter 11 of the Bankruptcy Code*, dated May 21, 2025 [Docket No. 766] (as modified by the *Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated August 21, 2025 [Docket No. 1141] and *Second Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated September 5, 2025 [Docket No. 1185], and as may be further amended, modified, or supplemented from time to time, the “Plan”).¹ On _____, 2025, the District Court issued the Confirmation Order.

Copies of the Confirmation Order, the Plan and all documents filed in these chapter 11 cases are available free of charge by visiting <https://www.veritaglobal.net/hopeman>. You may also obtain copies of the pleadings by visiting the Bankruptcy Court’s website at <https://www.vaeb.uscourts.gov/> in accordance with the procedures and fees set forth therein.

2. **Effective Date.** The Effective Date of the Plan occurred on _____ and, as a result, the Plan has been substantially consummated.

3. **Administrative Expense Bar Date.** Except as otherwise provided in Section 2.1 of the Plan and except with respect to Professional Fee Claims, requests for payment of Administrative Expense Claims must be filed and served on Reorganized Hopeman on or before the first Business Day that is thirty (30) calendar days after the Effective Date, which is _____, 2025. HOLDERS OF ADMINISTRATIVE EXPENSE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT AND THAT DO NOT TIMELY FILE AND SERVE SUCH A REQUEST SHALL BE FOREVER BARRED FROM ASSERTING SUCH ADMINISTRATIVE EXPENSE CLAIMS AGAINST HOPEMAN, REORGANIZED HOPEMAN, OR THEIR RESPECTIVE PROPERTY, AND SUCH ADMINISTRATIVE EXPENSE CLAIMS SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE EXPENSE CLAIMS.

4. **Professional Fee Claims.** All final requests for Professional Fee Claims shall be filed no later than forty-five (45) days after the Effective Date, which is _____, 2025.

5. **Rejection Damages Claims.** Unless otherwise provided by an order of the Bankruptcy Court, any proofs of claim based on the rejection of an Executory Contract pursuant to the Plan or otherwise must be filed with the Bankruptcy Court and served upon counsel for Hopeman or Reorganized Hopeman, as applicable, no later than thirty (30) days after the later of the Effective Date, which is _____, 2025.

6. **Asbestos Permanent Channeling Injunction.** Pursuant to sections 105(a) and 524(g) of the Bankruptcy Code, and except as otherwise provided in the Plan (including Article VIII of the

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Plan.

Plan), any of the other Plan Documents, and the Confirmation Order, the Plan and Confirmation Order shall provide for the issuance of the following Asbestos Permanent Channeling Injunction effective as of the Effective Date:

(a) Scope of Injunction. All Entities that have held or asserted, or hold or assert, or may hold or assert in the future any Channeled Asbestos Claim shall be permanently stayed, restrained, and enjoined from taking any action for the purpose of directly, indirectly, or derivatively collecting, recovering, or receiving payment, satisfaction, or recovery on account of any such Channeled Asbestos Claim, including:

- (i) commencing, conducting, or continuing in any manner, directly, indirectly, or derivatively, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum against or affecting any Protected Party or any property or interest in property of any Protected Party;
- (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any Protected Party or any property or interest in property of any Protected Party;
- (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any Protected Party or any property or interest in property of any Protected Party;
- (iv) setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any Protected Party or any property or interest in property of any Protected Party; and
- (v) proceeding in any manner and in any place with regard to any matter that is within the scope of the matters designated by the Plan to be subject to resolution by the Asbestos Trust, except in conformity and compliance with the Asbestos Trust Agreement and the Asbestos Trust Distribution Procedures.

(b) Reservations. Notwithstanding anything to the contrary above, this Asbestos Permanent Channeling Injunction shall not stay, restrain, bar, or enjoin:

- (i) the rights of Entities to the treatment accorded them under Article IV of the Plan, as applicable, including the rights of Channeled Asbestos Claimants to have their Channeled Asbestos Claims resolved in accordance with the Asbestos Trust Distribution Procedures;

- (ii) the rights of Entities to the treatment accorded them under Article IV of the Plan, as applicable, including the rights of Channeled Asbestos Claimants to have their Channeled Asbestos Claims resolved in accordance with the Asbestos Trust Distribution Procedures;
- (iii) the rights of Entities to assert any Channeled Asbestos Claim against the Asbestos Trust in accordance with the Asbestos Trust Distribution Procedures, or any claim for payment of an Asbestos Trust Expense against the Asbestos Trust;
- (iv) the rights of Channeled Asbestos Claimants to assert any and all claims or causes of action against any Entities that are not Protected Parties;
- (v) the rights of the Asbestos Trust or, if applicable, Reorganized Hopeman to prosecute a claim or cause of action based on, arising from, or attributable to any of the Asbestos Trust Assets against any Entity that is not a Protected Party;
- (vi) any action or suit against Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust) or Wayne that strictly conforms to the requirements of Section 8.12 of the Plan;
- (vii) any action, suit, or Claimant Action permitted or authorized under Section 8.13 of the Plan against any Non-Settling Asbestos Insurer; or
- (viii) any claim, crossclaim, or third-party demand in a court of competent jurisdiction (including in any state court lawsuits) against Reorganized Hopeman (or, if deemed an indispensable party, the Asbestos Trust) or Wayne, or any direct action against any Non-Settling Asbestos Insurer of Hopeman or Wayne, in each case that strictly conforms to the requirements of Section 8.15 of the Plan.

7. **Binding Effect.** The Plan and the provisions thereof are binding on every holder of a claim or interest against or in the Debtor, regardless of whether the claim or interest of such holder is impaired under the Plan and regardless of whether such holder accepted the Plan.

[Remainder of Page Intentionally Left Blank]

Dated: _____, 2025
Richmond, Virginia

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EXHIBIT C

Amended Proposed Recommendation Order

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
:
:
:

**ORDER RECOMMENDING ENTRY OF (I) PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW AND (II) ORDER CONFIRMING THE
AMENDED PLAN OF REORGANIZATION OF HOPEMAN BROTHERS, INC.
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE AND
APPROVING ADEQUACY OF THE DISCLOSURE STATEMENT**

WHEREAS, Hopeman Brothers, Inc. (“Hopeman” or the “Debtor”), the debtor and debtor-in-possession in the above-captioned Chapter 11 Case, and the Official Committee of Unsecured Creditors (the “Committee”, and collectively with Hopeman, the “Plan Proponents”) proposed the *Amended Plan of Reorganization of Hopeman Brothers, Inc. under Chapter 11 of the Bankruptcy Code*, dated May 21, 2025 [Docket No. 766] (as modified by the *Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated August 21, 2025 [Docket No. 1141] (the “Modified Plan”) and Second Modified Plan (defined below), and as may be further amended, modified, or supplemented from time to time, the “Plan”);¹

WHEREAS, on May 21, 2025, this Court entered an order [Docket No. 782] (the “Solicitation Procedures Order”) (a) conditionally approving the *Disclosure Statement with Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 767] (as may be modified from time to time, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code, (b) approving the solicitation procedures annexed as Exhibit 1 to the Solicitation Procedures Order, (c) approving the solicitation materials and notices to be distributed in connection with the solicitation of the Plan, (d) authorizing Hopeman to solicit votes on the Plan, and (e) scheduling a hearing for July 1, 2025 at 10:00 a.m. (as adjourned to August 25, 2025, at 10:00 a.m. the “Combined Hearing”) to consider Confirmation of the Plan and final approval of the adequacy of the Disclosure Statement;

WHEREAS, an affidavit of service was executed by Kurtzman Carson Consultants, LLC d/b/a Verita Global, the Bankruptcy Court-appointed claims and noticing agent (the “Solicitation

¹ Capitalized terms used herein have the meanings given to them in the Plan.

Agent”), with respect to the mailing of notice of the Combined Hearing and solicitation materials in respect of the Plan in accordance with the Solicitation Procedures Order (the “Affidavit of Service”) and was filed with this Court on June 12, 2025 [Docket No. 864];

WHEREAS, on June 5, 2025, Hopeman filed the *Affidavit of Publication of the Notice of Combined Hearing for Approval of Disclosure Statement and Confirmation of Plan* [Docket No. 844] (the “Publication Affidavit”);

WHEREAS, on July 25, 2025, Hopeman filed the *Declaration of Jeffrey R. Miller with Respect to the Tabulation of Votes on the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 1077] (the “Voting Certification”) attesting to the results of the tabulation of the properly executed and timely received Ballots for the Plan as follows:

Class 3 Claimants. The Plan Proponents received 1 acceptance out of 1 vote from holders of Class 3 General Unsecured Claims, with Class 3 claimants who voted in favor of the Plan holding Claims in the amount of \$7,005.44 for voting purposes only, such acceptances being 100 percent in number and 100 percent in amount of all ballots received from holders of Class 3 General Unsecured Claims entitled to vote on the Plan;

Class 4 Claimants. The Plan Proponents received 2,409 acceptances out of 2,416 votes from holders of Class 4 Channeled Asbestos Claims, with Class 4 claimants who voted in favor of the Plan holding Claims in the amount of \$2,409.00 for voting purposes only, such acceptances being 99.71 percent in number and 99.71 percent in amount of all ballots received from holders of Class 4 Channeled Asbestos Claims;

WHEREAS, the only opposition to the Plan came from certain of the Debtor’s historical insurers: Century Indemnity Company (“Century”),² Westchester Fire Insurance Company (“Westchester” and together with Century, the “Chubb Insurers”), Liberty Mutual Insurance

² In its capacity as the successor to CCI Insurance Company, as successor to Insurance Company of North America.

Company (“LMIC”), The Travelers Indemnity Company (“Travelers Indemnity”), Travelers Casualty and Surety Company (“Travelers Casualty”), St. Paul Fire and Marine Insurance Company (“St. Paul” and together with Travelers Indemnity and Travelers Casualty, collectively, “Travelers”), and Hartford Accident and Indemnity Company and First State Insurance Company (“Hartford” and together with the Chubb Insurers, LMIC, and Travelers, collectively, the “Objecting Insurers”).³

WHEREAS, the Plan Proponents filed a memorandum of law in support of Confirmation of the Plan and reply to the Plan Objections [Docket No. 1076] (the “Confirmation Brief”);

WHEREAS, the Plan Proponents filed a supplemental memorandum of law in support of Confirmation of the Plan and reply to the Plan Objections [Docket No. 1119] (the “Supplemental Confirmation Brief”)

WHEREAS, on September 5, 2025, the Plan Proponents filed the *Second Modified Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, [Docket No. 1185] (the “Second Modified Plan”) that modified the Plan to address, *inter alia*, the resolution of the Hartford Plan Objection;

³ The following are the objections to the Plan that were filed by the Objecting Insurers: (i) *Hartford’s Limited Objection to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 942] (as supplemented by *Hartford’s Joinder to Objections to Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 965], the “Hartford Plan Objection”); (ii) the *Objections of the Travelers Indemnity Company, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company to (I) Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code and (II) the Disclosure Statement With Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc.* filed under seal at Docket No. 949 and publicly-available, with redactions, at Docket No. 944 (the “Travelers Plan Objection”); (iii) *Liberty Mutual Insurance Company’s Objection to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket No. 954 and publicly-available, with redactions, at Docket No. 953 (the “LMIC Plan Objection”); and (iv) *Chubb Insurers’ Objection to (1) Final Approval of Disclosure Statement and (2) Confirmation of Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code* filed under seal at Docket Nos. 959-960 and publicly available, with redactions, at Docket No. 958 (the “Chubb Insurers Plan Objection” and together with the Hartford Objection, the Travelers Objection, and the LMIC Objection, collectively, the “Plan Objections”).

WHEREAS, this Court has reviewed the Plan, the Disclosure Statement, the Solicitation Procedures Order, the Voting Certification, the Affidavit of Service, the Publication Affidavit, the Confirmation Brief, the Supplemental Confirmation Brief, the Second Modified Plan, and the other pleadings before this Court in connection with the Confirmation of the Plan, including the Plan Objections;

WHEREAS, this Court has considered the arguments of counsel made on the record at the Combined Hearing;

WHEREAS, this Court has considered all evidence presented and admitted into the record at the Combined Hearing;

WHEREAS, this Court has taken judicial notice of the papers and pleadings on file in the Chapter 11 Case, including any related adversary proceedings;

WHEREAS, section 524(g)(3)(A) of the Bankruptcy Code requires “the order confirming the plan of reorganization [pursuant to 524(g)] [to be] issued or affirmed by the district court that has jurisdiction over the reorganization case;”

WHEREAS, this Court has separately entered the Proposed Findings of Fact and Conclusions of Law [Docket No. [●]] (the “Proposed Findings and Conclusions”), including the findings that (a) this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, (b) final approval of the adequacy of the Disclosure Statement and confirmation of the Plan are core proceedings within the meaning of 28 U.S.C. §157(b)(2), (c) Hopeman was and is qualified to be a debtor under section 109 of the Bankruptcy Code, (d) venue of the Chapter 11 Case is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and continues to be proper, and (e) the evidence admitted in support of the Plan and Disclosure Statement at the Combined Hearing is persuasive and credible; and

WHEREAS, the Proposed Findings and Conclusions establish just cause for the relief granted herein;

THE COURT HEREBY ORDERS THAT:

1. This Court directs the Clerk of this Court to docket this Order and its attachments in this Court and transmit a copy of this Order and the Proposed Findings and Conclusions to the District Court.
2. This Court recommends that the District Court adopt the Proposed Findings and Conclusions and issue the Confirmation Order attached hereto as Exhibit A.
3. The Plan Proponents are authorized to take all actions necessary or appropriate to implement the relief granted in this Order.
4. This Court shall retain jurisdiction to hear and determine all matters arising from or related to interpretation, implementation or enforcement of this Order

Signed: _____, 2025

United States Bankruptcy Judge

WE ASK FOR THIS:

/s/ Henry P. (Toby) Long, III

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**CERTIFICATION OF ENDORSEMENT
UNDER BANKRUPTCY LOCAL RULE 9022-1(C)**

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III
Henry P. (Toby) Long, III