

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SIO2 MEDICAL PRODUCTS, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 23-10366 (JTD)
)
) (Jointly Administered)
)

SOLICITATION AND VOTING PROCEDURES

PLEASE TAKE NOTICE THAT on June 9, 2023, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an order [Docket No. 378] (the “Disclosure Statement Order”): (a) authorizing the above-captioned debtors and debtors in possession (collectively, the “Debtors”) to solicit votes on the *Joint Chapter 11 Plan of Reorganization of SiO2 Medical Products, Inc., and Its Debtor Affiliates* [Docket No. 372] (as modified, amended, or supplemented from time to time, the “Plan”);² (b) approving the *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of SiO2 Medical Products, Inc., and Its Debtor Affiliates* [Docket No. 373] (the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages; (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan; and (e) granting related relief.

A. The Voting Record Date.

The Court has established **June 7, 2023**, as the record date for purposes of determining which holders of Claims in Class 3 (First Lien Term Loan Claims), Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims), and Class 6 (Athos Subordinated Claims) are entitled to vote on the Plan (the “Voting Record Date”).³

B. The Voting Deadline.

The Court has established **July 10, 2023, at 4:00 p.m., prevailing Eastern Time**, as the voting deadline (the “Voting Deadline”) for the Plan. The Debtors may extend the Voting Deadline, subject to the terms and conditions of the DIP Credit Agreement and the Restructuring

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: SiO2 Medical Products, Inc. (8467); Advanced Bioscience Labware, Inc. (1229); and Advanced Bioscience Consumables, Inc. (2510). The location of the Debtors’ principal place of business and service address in these chapter 11 cases is 2250 Riley Street, Auburn, Alabama 36832.

² Capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the Plan.

³ Any creditor who, as of the Voting Record Date, holds a claim that is subject to the Debtors’ Bar Date, files its Proof of Claim after the Voting Record Date but prior to the Bar Date, shall be sent Solicitation Package and/or Non-Voting Status Notice, as applicable, within two business days of the filing of its Proof of Claim.

Support Agreement and the consent rights set forth therein, without further order of the Court. To be counted as votes to accept or reject the Plan, all ballots (collectively, the “Ballots”) must be properly executed, completed, and delivered pursuant to the instructions provided on or with the Ballot.

C. Form, Content, and Manner of Notices.

1. The Solicitation Package.

The following materials shall constitute the solicitation package (the “Solicitation Package”):

- a. The Disclosure Statement Order (without exhibits, except for these Solicitation and Voting Procedures attached as Exhibit 1 to the Disclosure Statement Order);
- b. the Confirmation Hearing Notice, in substantially the form attached as Exhibit 8 to the Disclosure Statement Order;
- c. the Cover Letter in support of the Plan, in substantially the form attached as Exhibit 7 to the Disclosure Statement Order;
- d. (for Holders of Class 5 Claims only) the Committee’s cover letter (the “Committee Letter”) to Holders of Class 5 General Unsecured Claims regarding the Plan
- e. a Joint General Ballot and with applicable voting instructions, attached as Exhibit 3 to the Disclosure Statement Order, together with a pre-addressed, postage pre-paid return envelope;
- f. the approved Disclosure Statement (and exhibits thereto, including the Plan and all exhibits thereto); and
- g. such other materials as the Court may direct.

2. Distribution of the Solicitation Package.

The Solicitation Package shall provide certain materials of the Solicitation Package, including the Ballots, the Cover Letter, the Committee Letter, and the Confirmation Hearing Notice in a paper format. In addition, these Solicitation and Voting Procedures, the Disclosure Statement, the Plan, and the Order shall be made available on the Debtors' case website at <https://www.donlinrecano.com/smp>. Paper copies are available upon request by contacting the Donlin, Recano & Company, Inc., the claims and noticing agent retained by the Debtors in these chapter 11 cases (the "Claims and Noticing Agent") by: (a) writing via first class mail, to Donlin Recano & Company, Inc. re SiO2 Medical Products, Inc., P.O. Box 199043, Blythebourne Station, Brooklyn, NY 11219; (b) emailing DRCVote@DonlinRecano.com and requesting paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors' expense); or (c) calling the Debtors' restructuring hotline at 1 (800) 591-8236 (US toll free) or (212) 771-1128 (international).

The Debtors shall serve, or cause to be served, all of the materials in the Solicitation Package (excluding the Ballots) on the U.S. Trustee, counsel to the Committee, and all parties required to be notified under Bankruptcy Rule 2002 and Bankruptcy Local Rule 2002-1 (the "2002 List") as of the Voting Record Date. In addition, the Debtors shall mail, or cause to be mailed, the Solicitation Package to all holders of Claims in the Voting Classes by no later than **June 10, 2023**, who are entitled to vote, as described in section D below.

For purposes of serving the Solicitation Packages, the Debtors may rely on the address information for Voting Classes as compiled, updated, and maintained by the Claims and Noticing Agent as of the Voting Record Date. The Debtors and the Claims and Noticing Agent are not required to conduct any additional research for updated addresses based on undeliverable Solicitation Packages (including Ballots) or Non-Voting Status Notices.

To avoid duplication and reduce expenses, the Debtors will use commercially reasonable efforts to ensure that each holder of a Claim entitled to vote on the Plan receives no more than one Solicitation Package (and, therefore, one Ballot) and is only entitled to submit one Ballot on account of such holder's Claim.

3. Resolution of Disputed Claims for Voting Purposes; Resolution Event.

- a. The Debtors shall have until two days prior to the Voting Deadline to object to Proofs of Claims for purposes of voting on the Plan (the "Voting Claims Objection Deadline"). To the extent the Debtors wish to object to a Proof of Claim that is timely filed following the Voting Claims Objection Deadline but prior to the Voting Deadline, the Debtors shall promptly file such objection. Any such objection that remains pending as of the Confirmation Hearing Date will be heard on an emergency basis at the Confirmation Hearing.
- b. Absent a further order of the Court, the holder of a Claim in a Voting Class that is the subject of a pending objection on a "reduce and allow" basis shall be entitled to vote such Claim in the reduced amount contained in such objection.

- c. If a Claim in a Voting Class is subject to an objection other than a “reduce and allow” objection that is filed with the Court on or prior to the Voting Deadline: (i) the Debtors shall cause the applicable holder to be served with a Non-Voting Status Notice substantially in the form attached as Exhibit 6 to the Disclosure Statement Order (which notice shall be served together with such objection); and (ii) the applicable holder shall not be entitled to vote to accept or reject the Plan on account of such claim unless a Resolution Event (as defined herein) occurs as provided herein.
- d. A “Resolution Event” means the occurrence of one or more of the following events no later than two business days prior to the Voting Deadline:
- an order of the Court is entered allowing such Claim pursuant to section 502(b) of the Bankruptcy Code, after notice and a hearing;
 - an order of the Court is entered temporarily allowing such Claim for voting purposes only pursuant to Bankruptcy Rule 3018(a), after notice and a hearing;
 - a stipulation or other agreement is executed between the holder and the Debtors resolving the objection and allowing such Claim in an agreed upon amount; or
 - the pending objection is voluntarily withdrawn by the objecting party.
- e. To the extent an applicable Claim is in a Voting Class, no later than one business day following the occurrence of a Resolution Event, or as soon as reasonably practicable thereafter, the Debtors shall cause the Claims and Noticing Agent to distribute via email, hand delivery, or overnight courier service a Solicitation Package and a pre-addressed, postage pre-paid envelope, if applicable, to the relevant holder to the extent such holder has not already received a Solicitation Package.

4. Non-Voting Status Notices for Unimpaired Classes and Classes Deemed to Reject the Plan.

Certain holders of Claims and Interests that are not classified pursuant to section 1123(a)(1) of the Bankruptcy Code, or who are not entitled to vote because they are Unimpaired or otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code, will receive only the *Notice of Non-Voting Status and Opt Out of Releases to Holders of Unimpaired Claims or Interests Conclusively Presumed to Accept the Plan*, substantially in the form attached as Exhibit 4 to the Disclosure Statement Order. Certain holders of Claims who are not entitled to vote because they are deemed to reject the Plan under section 1126(g) of the Bankruptcy Code will receive the *Notice of Non-Voting Status and Opt Out of Releases to Holders of Impaired Claims or Interests Conclusively Deemed to Reject the Plan*, substantially in the form attached as Exhibit 5 to the Disclosure Statement Order. Such notice will instruct these holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). Such notice will also include a form by which all holders or potential holders of Claims or Interests can elect

to opt out of the third-party release provision included in the Plan. The holders of claims may affirmatively opt out by completing and returning the form (the paper version or electronically) or file an objection with the Court on or before **July 10, 2023, at 4:00 p.m., prevailing Eastern Time.**

5. Notices Regarding Executory Contracts and Unexpired Leases.

Counterparties to Executory Contracts or Unexpired Leases that receive an Assumption Notice or a Rejection Notice, substantially in the forms attached as Exhibit 10 and Exhibit 11 to the Disclosure Statement Order, respectively, may file an objection to the Debtors' proposed assumption, rejection, and/or cure amount, as applicable. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or assumption and assignment or related cure amount must be Filed, served, and actually received by the Debtors by no later than fourteen (14) days after actual receipt of this Notice, *provided* that, if the Debtors modify the Assumed Executory Contract or Unexpired Lease List, any party affected by such modifications shall have fourteen (14) days to object to the proposed modified treatment from the date of their receipt of notice of such modification. Any objection by a counterparty to an Executory Contract or Unexpired Lease in connection with the rejection of the Executory Contract(s) and Unexpired Lease(s) and/or related rejection damages proposed in connection with the Plan must be filed with the Court by **July 10, 2023, at 4:00 p.m., prevailing Eastern Time.** For the avoidance of doubt, any creditor who, as of the Voting Record Date, holds a claim that is subject to the Debtors' Bar Date, files its Proof of Claim after the Voting Record Date but prior to the Bar Date, shall be sent the Solicitation Package and/or Notice of Non-Voting Status, as applicable, within two business days of filing its Proof of Claim.

D. Voting and Tabulation Procedures.

1. Holders of Claims Entitled to Vote.

Only the following holders of Claims in the Voting Classes shall be entitled to vote with regard to such Claims:

- a. holders of Claims who on or before the Voting Record Date, have filed a Proof of Claim prior to the Voting Deadline that (i) has not been expunged, disallowed, disqualified, withdrawn, or superseded prior to the Voting Record Date and (ii) is not the subject of a pending objection, other than a "reduce and allow" objection, filed with the Court prior to the Voting Deadline, pending a Resolution Event as provided herein; *provided* that a holder of a Claim that is the subject of a pending objection on a "reduce and allow" basis shall receive a Solicitation Package and be entitled to vote such Claim in the reduced amount contained in such objection;
- b. holders of Claims who have timely filed a Proof of Claim after the Voting Record Date but prior to the Voting Deadline that (i) has not been expunged, disallowed, disqualified, withdrawn, or superseded prior to the Voting Deadline and (ii) is not the subject of a pending objection, other than a "reduce and allow" objection, filed with the Court prior to the Voting Deadline, pending a Resolution Event as provided herein;

provided that a holder of a Claim that is the subject of a pending objection on a “reduce and allow” basis shall receive a Solicitation Package and be entitled to vote such Claim in the reduced amount contained in such objection;

- c. holders of Claims that are listed in the Schedules; *provided* that Claims that are scheduled as contingent, unliquidated, or disputed (excluding such scheduled disputed, contingent, or unliquidated Claims that have been paid or superseded by a timely Filed Proof of Claim prior to the Voting Deadline) shall be disallowed for voting purposes (unless the applicable Claims Bar Date has not yet expired, in which case such scheduled claims would be allowed to vote in the amount of \$1.00);
- d. holders of Claims that arise (i) pursuant to an agreement or settlement with the Debtors, as reflected in a document filed with the Court, (ii) in an order entered by the Court, or (iii) in a document executed by the Debtors pursuant to authority granted by the Court, in each case regardless of whether a Proof of Claim has been filed;
- e. holders of Disputed Claims that have been temporarily allowed to vote on the Plan pursuant to Bankruptcy Rule 3018; and
- f. the assignee of any Claim that was transferred on or before the Voting Record Date by any Entity described in subparagraphs (a) through (d) above; *provided* that such transfer or assignment has been fully effectuated pursuant to the procedures set forth in Bankruptcy Rule 3001(e) and such transfer is reflected on the Claims Register on the Voting Record Date.

2. Establishing Claim Amounts for Voting Purposes.

Claims in Classes 3, 4, 5, and 6. For voting purposes, claim amounts for Claims in Class 3 (First Lien Term Loan Claim), Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims), and Class 6 (Athos Subordinated Claims) will be established by reference to the Plan.

3. Voting and Ballot Tabulation Procedures.

The following voting procedures and standard assumptions shall be used in tabulating Ballots, subject to the Debtors’ right to waive any of the below specified requirements for completion and submission of Ballots so long as such requirement is not otherwise required by the Bankruptcy Code, Bankruptcy Rules, or Bankruptcy Local Rules:

- a. except as otherwise provided in the Solicitation and Voting Procedures, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline (as the same may be extended by the Debtors), the Debtors, in their sole discretion, shall be entitled to reject such Ballot as invalid and, therefore, not count it in connection with Confirmation of the Plan;

- b. the Debtors will file with the Court by no later than two business days before the Confirmation Hearing a voting report (the “Voting Report”). The Voting Report shall, among other things, delineate every Ballot that does not conform to the voting instructions or that contains any form of irregularity including, but not limited to, those Ballots that are late or (in whole or in material part) illegible, unidentifiable, lacking signatures, or lacking necessary information, received via facsimile, or damaged (in each case, an “Irregular Ballot”). The Voting Report shall indicate the Debtors’ intentions with regard to each Irregular Ballot;
- c. the method of delivery of Ballots to be sent to the Claims and Noticing Agent is at the election and risk of each holder. Except as otherwise provided, a Ballot will be deemed delivered only when the Claims and Noticing Agent actually receives the properly executed Ballot;
- d. an executed Ballot is required to be submitted by the Entity submitting such Ballot. Delivery of a Ballot to the Claims and Noticing Agent by facsimile, telecopy, electronic mail, or any electronic means other than the Claims and Noticing Agent’s online portal will not be valid;
- e. no Ballot should be sent to the Debtors, the Debtors’ agents (other than the Claims and Noticing Agent), or the Debtors’ financial or legal advisors, and if so sent will not be counted;
- f. if multiple Ballots are received from the same holder with respect to the same Claim prior to the Voting Deadline, the last properly executed Ballot timely received will be deemed to reflect that voter’s intent and will supersede and revoke any prior received Ballot;
- g. holders must vote all of their Claims within a particular Class either to accept or reject the Plan and may not split any votes. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, to the extent there are multiple Claims within the same Class, the applicable Debtor may, in its discretion, aggregate the Claims of any particular holder within a Class for the purpose of counting votes;
- h. holders of Claims that may be asserted against multiple Debtors must vote such Claims either to accept or reject the Plan at each such Debtor and may not vote any such Claim to accept at one Debtor and reject at another Debtor. Accordingly, a Ballot that rejects the Plan for a Claim at one Debtor and accepts the Plan for the same Claim at another Debtor will not be counted;
- i. a person signing a Ballot in its capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity of a holder of Claims must indicate such capacity when signing;
- j. the Debtors, subject to a contrary order of the Court, may waive any defects or irregularities as to any particular Irregular Ballot at any time, either before or after the close of voting, and any such waivers will be documented in the Voting Report or a supplemental voting report, as applicable;

- k. neither the Debtors, nor any other Entity, will be under any duty to provide notification of defects or irregularities with respect to delivered Ballots other than as provided in the Voting Report, nor will any of them incur any liability for failure to provide such notification;
- l. unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured by the holder of Claims or their Nominee prior to the Voting Deadline or such Ballots will not be counted;
- m. in the event a designation of lack of good faith is requested by a party in interest under section 1126(e) of the Bankruptcy Code, the Court will determine whether any vote to accept and/or reject the Plan cast with respect to that Claim will be counted for purposes of determining whether the Plan has been accepted and/or rejected;
- n. subject to any order of the Court, the Debtors reserve the right to reject any and all Ballots not in proper form, the acceptance of which, in the opinion of the Debtors, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules; *provided* that any such rejections will be documented in the Voting Report;
- o. if a Claim has been estimated or a Claim has otherwise been Allowed only for voting purposes by order of the Court, such Claim shall be temporarily Allowed in the amount so estimated or Allowed by the Court for voting purposes only, and not for purposes of allowance or distribution;
- p. if an objection to a Claim is filed, such Claim shall be treated in accordance with the procedures set forth herein;
- q. the following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (i) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of such Claim; (ii) any Ballot cast by any Entity that does not hold a Claim in a Voting Class; (iii) any Ballot cast for a Claim scheduled as unliquidated, contingent, or disputed for which no Proof of Claim was timely filed by the Voting Record Date (unless the applicable bar date has not yet passed, in which case such Claim shall be entitled to vote in the amount of \$1.00); (iv) any unsigned Ballot or Ballot lacking an original signature; (v) any Ballot not marked to accept or reject the Plan or marked both to accept and reject the Plan; and (vi) any Ballot submitted by any Entity not entitled to vote pursuant to the procedures described herein;
- r. after the Voting Deadline, no Ballot may be withdrawn or modified without the prior written consent of the Debtors; *provided*, for the avoidance of doubt, upon the occurrence of a Termination Date (as defined in the Restructuring Support Agreement) prior to the Confirmation Order being entered by the Court, any and all consents or ballots tendered by the parties subject to such termination before the Termination Date shall be deemed, for all purposes, to be null and void from the first instance and shall be allowed to be withdrawn or modified pursuant to the Restructuring Support Agreement;

- s. the Debtors are authorized to enter into stipulations with the holder of any Claim agreeing to the amount of a Claim for voting purposes. The Debtors will provide notice to the Committee and the Initial Plan Sponsors of any such stipulation as soon as reasonably practicable following entry into the stipulation;
- t. where any portion of a single Claim has been transferred to a transferee, all holders of any portion of such single Claim will be (i) treated as a single creditor for purposes of the numerosity requirements in section 1126(c) of the Bankruptcy Code (and for the other voting and solicitation procedures set forth herein), and (ii) required to vote every portion of such Claim collectively to accept or reject the Plan. In the event that (x) a Ballot, (y) a group of Ballots within a Voting Class received from a single creditor, or (z) a group of Ballots received from the various holders of multiple portions of a single Claim partially reject and partially accept the Plan, such Ballots shall not be counted; and
- u. for purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate Claims held by a single creditor in a particular Class will be aggregated and treated as if such creditor held one Claim in such Class, and all votes related to such Claim will be treated as a single vote to accept or reject the Plan; *provided* that if separate affiliated entities hold Claims in a particular Class, these Claims will not be aggregated and will not be treated as if such creditor held one Claim in such Class, and the vote of each affiliated entity will be counted separately as a vote to accept or reject the Plan.

E. Amendments to the Plan and Solicitation and Voting Procedures.

The Debtors reserve the right to make non-substantive or immaterial changes to the Disclosure Statement, Plan (including, for the avoidance of doubt, the Plan Supplement), Ballots, Confirmation Hearing Notice, and related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors, if any, and to make conforming changes among the Disclosure Statement, the Plan, and any other materials in the Solicitation Package before their distribution; *provided* that all such modifications shall be made in accordance with the terms of the document being modified, the Plan and the consent requirements contained in the Restructuring Support Agreement and the DIP Credit Agreement and except to the extent Court approval and/or resolicitation of the Plan is required. The Debtors shall notice the U.S. Trustee of any amendments described herein.