

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

-----x	
In re:	: Case No. 16-11179
	:
FoodServiceWarehouse.com, LLC	: Chapter 11
	:
826 Focis Street, Suite 200	: Section “A”
Metairie, Louisiana, 70005	:
Tax ID Number: xx –xxx2620	:
	:
Debtor	:
-----x	

**CHAPTER 11 PLAN OF REORGANIZATION
FOODSERVICEWAREHOUSE.COM, LLC**

ARTICLE I

INTRODUCTION

FoodServiceWarehouse.com, LLC, as debtor and debtor-in-possession (the “Debtor”), in the captioned case pending before the Bankruptcy Court, hereby proposes this Chapter 11 Plan of Reorganization (the “Plan”) for the resolution of the outstanding Claims against and interests in the Debtor. All Creditors, Membership Interest holders (as these terms are defined herein) and other parties-in-interest should refer to the Disclosure Statement (as this term is defined herein) for a discussion of Debtor’s history, assets, and historical financial data, and for a summary and analysis of this Plan and certain related matters.

All holders of Claims against and Membership Interest holders of the Debtor are encouraged to read this Plan, the Disclosure Statement and the related solicitation materials in their entirety before voting to accept or reject this Plan.

Subject to the restrictions on modifications set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor expressly reserves the right to alter, amend, strike, withdraw or modify this Plan one or more times before the Effective Date.

ARTICLE II

DEFINITIONS AND RULES OF CONSTRUCTION

A. Definitions.

In addition to such other terms as are defined in other Sections of this Plan, the following terms (which appear in this Plan as capitalized terms) have the following meanings as used in this Plan.

1. “**Administrative Claim**” shall mean a claim for costs and expenses of administration of the Bankruptcy Case under section 503(b) of the Bankruptcy Code entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code.

2. “**Allowed Administrative Claim**” shall mean all or that portion of an Administrative Claim which has been allowed pursuant to a Final Order of the Bankruptcy Court.

3. “**Allowed Claim**” shall mean, except as otherwise allowed or provided for in the Plan or a Final Order of the Bankruptcy Court, a Claim, proof of which was timely and properly Filed or, if no proof of claim or proof of interest was Filed, which has been or hereafter is listed by the Debtor on its Schedules as liquidated in amount and not disputed or contingent, and, as to which:

(a) No objection to the allowance thereof has been interposed on or before the later of: (i) ninety (90) days after the Effective Date, or (ii) such other applicable period for objection as may be fixed or extended by the Court, or

(b) No claim for subordination of such claim has been filed 120 days from the Effective Date, or

(c) Any objection thereto has been determined by a Final Order to the extent such objection is determined in favor of the respective holder.

Unless otherwise specified herein or by order of the Court, an "Allowed Claim" shall not include any interest, fees, costs or other charges on such Claim accruing after the Petition Date.

4. **"Allowed Class ... Claim"** shall mean an Allowed Claim in the particular Class described.

5. **"Allowed Priority Tax Claim"** shall mean all or that portion of a Priority Tax Claim which has been allowed pursuant to a Final Order of the Bankruptcy Court.

6. **"Assets"** shall mean all the right, title and interest of the Debtor pursuant to section 541 of the Bankruptcy Code in and to property of whatever type or nature (real, personal, mixed, intellectual, tangible or intangible).

7. **"APA"** shall mean the agreement reached with Pride regarding the purchase of certain assets of the Debtor.

8. **"Avoidance Actions"** shall mean all of the Debtor's and the Estate's rights and claims under sections 541 through 553 of the Bankruptcy Code, inclusive, or under any similar or related state or federal statute or common law, whether or not an action is initiated on or before the Effective Date.

9. “**Ballot**” shall mean the form to be distributed with the Disclosure Statement to each holder of an Impaired Claim on which the holder is to indicate acceptance or rejection of the Plan.

10. “**Balloting Deadline**” shall mean the date and time, as set by an Order of the Bankruptcy Court and set forth in the Disclosure Statement, by which all Ballots must be received at the address set forth used for voting on the Plan; as such date may be extended by an order.

11. “**Bankruptcy Case**” shall mean the case for relief filed by the Debtor under Chapter 11 of the Bankruptcy Code through an order granting final decree, an order converting the case to Chapter 7 or an order dismissing the case.

12. “**Bankruptcy Code**” shall mean Title 11 of the United States Code, or the Bankruptcy Reform Act of 1978, as amended.

13. “**Bankruptcy Court**” shall mean the United States Bankruptcy Court for the Eastern District of Louisiana, or, in the event such court ceases to exercise jurisdiction over the Reorganization Case, such court or adjunct thereof that exercises jurisdiction over the Reorganization Case in lieu of the United States Bankruptcy Court for the Eastern District of Louisiana.

14. “**Bankruptcy Rules**” shall mean collectively, the (a) Federal Rules of Bankruptcy Procedure, (b) Federal Rules of Civil Procedure and, (c) Local Rules of the Bankruptcy Court, as applicable from time to time in the Reorganization Case or proceedings therein, as the case may be.

15. “**Bar Date**” shall mean the deadline for filing proofs of claim asserting a Claim that arose or is deemed to arise on or before the Petition Date, as established by the Bar Date Order, the Plan or other order of the Bankruptcy Court.

16. “**Bar Date Order**” shall mean the Order Granting Motion to (A) Set Last Day to File Proofs of Claim, (B) Approving the Bar Date Notice, and (C) Authorizing the Debtor to Provide Notice of the Bar Date [ECF Dkt. # 105] establishing September 19, 2016 as the deadline to file a proof of claim and establishing November 16, 2016 as the deadline for governmental units to file a proof of claim.

17. “**Business Day**” shall mean any day other than a Saturday, Sunday or Federal holiday in the United States.

18. “**Carve Out**” as defined in the Final Cash Collateral Order.

19. “**Cash**” shall mean cash or cash equivalents.

20. “**Causes of Action**” shall mean any and all claims, demands, Avoidance Actions, defenses, suits, judgments, chooses in action, licenses, privileges, agreements, and all other rights and remedies (legal or equitable) of the Debtor and the Estate, for or on behalf of creditors and/or the Debtor and/or the Estate, including but not limited to any and all claims and/or Causes of Action by the Estate and/or the Debtor, against any and all creditors, governmental units, or other persons, of every kind or nature, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, matured or unmatured, whether arising before, on or after the Petition Date, in contract or in tort, at law or in equity, and whether or not brought as of the Effective Date, including but not limited to those for (i) damages, (ii) the recovery of monies, (iii) lien avoidance, subordination, surcharge, recharacterization, setoff, counterclaim, contribution or

recoupment, (iv) tax refunds, (v) claims and defenses such as fraud, mistake, duress and usury, (vi) claims on contracts or for breaches of duties imposed by law, (vii) injunctive, equitable or other relief, (viii) claims and Causes of Action that may be asserted derivatively on behalf of the Debtor, the Estate, or the Reorganized Debtor, (ix) claims and Causes of Action pursuant to section 362 of the Bankruptcy Code, and (x) all Avoidance Actions.

21. **“Claim”** shall have the meaning set forth in section 101(5) of the Bankruptcy Code and shall exclude a class action claim.

22. **“Class”** shall mean a category of holders of Claims or Membership Interests classified together pursuant to section 1123(a)(11) of the Bankruptcy Code.

23. **“Confirmation Date”** shall mean the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court.

24. **“Confirmation Hearing”** shall mean the hearing held pursuant to section 1128(a) of the Bankruptcy Code at which the Bankruptcy Court considers confirmation of the Plan, including any continuances thereof.

25. **“Confirmation Order”** shall mean the order of the Bankruptcy Court entered following the Confirmation Hearing that confirms the Plan.

26. **“Debtor”** shall mean FoodServiceWarehouse.com, LLC.

27. **“Debtor in Possession”** shall mean the Debtor between the Petition Date and the Effective Date.

28. **“Deficiency”** shall mean a claim that arises when the value of collateral is insufficient to satisfy an Allowed Secured Claim.

29. **“Disallowed Claim”** shall mean (a) a Claim, or any portion thereof, that has been disallowed by a Final Order or a settlement, (b) a Claim or any portion thereof that is Scheduled at zero or as contingent, disputed, or unliquidated and as to which a proof of claim bar date has been established but no proof of claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law, or (c) a Claim or any portion thereof that is not Scheduled and as to which a proof of claim bar date has been established but no proof of claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law.

30. **“Disclosure Statement”** shall mean the Disclosure Statement for the Debtor to accompany the Plan, as modified or amended, filed with and approved by the Bankruptcy Court on [____, 201__].

31. **“Disputed Claim”** shall mean any Claim that is not an Allowed Claim nor a Disallowed Claim. In the event that any part of a Claim is disputed, such Claim in its entirety shall be deemed to constitute a Disputed Claim or Disputed Membership Interest for purposes of distribution under the Plan unless a Final Order has been entered providing otherwise. Without limiting any of the foregoing, a Claim that is the subject of a pending objection, motion, complaint, counterclaim, setoff, Avoidance Claims, litigation claim or other defense, or any other proceeding seeking to disallow, subordinate or estimate such Claim, shall be deemed to constitute a Disputed Claim.

32. “**Effective Date**” shall be thirty (30) days after the Confirmation Order becomes a Final Order.

33. “**Estate**” shall mean the estate created in the Bankruptcy Case under section 541 of the Bankruptcy Code.

34. “**File**” or “**Filed**” shall mean filed with the Bankruptcy Court in the Reorganization Case, as reflected on the official docket of the Bankruptcy Court for the Reorganization Case.

35. “**Final Order**” shall mean an order or judgment of the Bankruptcy Court or other applicable court as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtor or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other applicable court shall have been affirmed by the highest court to which such order or judgment was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired, with no further appeal, petition for certiorari or motion for reargument or rehearing pending; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule of the Bankruptcy Rules, may be filed with respect to such order or judgment shall not render such order or judgment not to be a Final Order.

36. “**IberiaBank**” shall mean IberiaBank, N.A.

37. “**Impaired**” shall mean a Claim or a Class of Claims or a Membership Interest that is impaired within the meaning of Section 1124 of the Bankruptcy Code.

38. “**Insider**” shall mean any person or entity within in the mearing of Section 101(31) of the Bankruptcy Code.

39. “**Lien Assets**” shall mean the Plan Assets subject to a security interest in favor of IberiaBank and Pride.

40. “**Lien Claimants**” shall mean those creditors of the Debtor who, on the Petition Date, possessed a lien against property of the Bankruptcy Estate.

41. “**Liquidating Trustee**” shall mean the Liquidating Trustee of the Plan Trust, as provided in the Plan Trust Agreement. The initial Liquidating Trustee will be determined and approved at Plan Confirmation.

42. “**Member**” shall mean the Member of the Debtor.

43. “**Membership Interest**” shall mean the legal, equitable, contractual and other rights and ownership interests of the Member in and with respect to the Debtor as of the Petition Date.

44. “**Other Assets**” shall mean Plan Assets that are not subject to a security interest in favor of IberiaBank and Pride.

45. “**Petition Date**” shall mean May 20, 2016.

46. “**Plan**” shall mean this chapter 11 plan filed by the Debtor, either in its present form or as it may be altered, amended, or modified from time to time by the Debtor or the Liquidating Trustee in accordance with the Bankruptcy Code and Bankruptcy Rules.

47. **“Plan Expenses”** shall mean all actual and necessary costs and expenses incurred on and after the Effective Date in connection with the Wind Down and the administration of the Plan, including, but not limited to, the costs, expenses and legal fees incurred and related to: (i) filing and prosecuting objections to Claims; (ii) investigating, litigating, settling, negotiating, pursuing or otherwise associated with Causes of Action, including, but not limited to, attorneys' fees, accounting fees, expert witness fees, and all costs relating to obtaining and distributing recoveries from such Causes of Action; (iii) performing the duties set forth in the Plan; and (iv) all fees payable pursuant to section 1930 of Title 28 of the United States Code.

48. **“Plan Assets”** shall mean all assets of the Estate of the Debtor existing on the date of confirmation, and shall include without limitation, all retained Causes of Action, the Plan Funds, all insurance policies as listed in the Disclosure Statement, any and all other information, documents, electronic information, stored information and documents, communications, intellectual property, intellectual technology, domain names, brand names and any other assets transferred to the Plan Trust.

49. **“Plan Funds”** shall mean cash realized from the conversion of Plan Assets to cash.

50. **“Plan Trust”** shall mean the trust created pursuant to the Plan Trust Agreement, the purpose of which include, without limitation, (i) the receipt of Plan Assets; (ii) the conversion of Plan Assets to Cash; (iii) objections to the prosecution or settlement of claims against the Debtor, (iv) the prosecution or settlement of avoidance actions; and (v) the

performance of all other obligations pursuant to this Plan, the Plan Trust Agreement, and any other orders entered by the Bankruptcy Court.

51. **“Plan Trust Agreement”** shall mean the Plan Trust Agreement to be dated the Effective Date establishing the terms and conditions of the Plan Trust, substantially in the form attached to this Plan as Exhibit 1.

52. **“Plan Trust Expense Reserve”** shall mean the reserve established for the payment of expenses incurred by the Liquidating Trustee in accordance with the obligations under the Plan and the Plan Trust Agreement.

53. **“Pride”** shall mean Pride Marketing and Procurement, Inc.

54. **“Pride Sale”** shall mean the sale of assets by the Debtor to Pride or any other higher bidder pursuant to the APA.

55. **“Priority Claims”** shall mean a Priority Tax Claim or a Claim entitled to a priority pursuant to section 507(a). Any entity that paid a Claim on behalf of the Debtor that would have been entitled to a priority absent the Claim having been paid by said entity, shall have a Priority Claim.

56. **“Priority Tax Claim”** shall mean any Claim that is due on an accrual basis through the petition date entitled to priority in payment under section 507(a) (8) of the Bankruptcy Code, but only to the extent it is entitled to priority under such section.

57. **“Professional”** shall mean a person or entity employed in accordance with sections 327 and/or 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 and 331 of the Bankruptcy Code.

58. **“Professional Fee Claim”** shall mean those fees and expenses claimed by Professionals pursuant to sections 330, 331 or 503 of the Bankruptcy Code, and unpaid as of the Effective Date.

59. **“Pro Rata Share”** shall mean, with respect to any distribution on account of an Allowed Claim, a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Allowed Claim bears to the aggregate amount of all Allowed Claims in such Class.

60. **“Purchaser”** shall mean such other person or entity that submits an accepted higher bid approved by the Bankruptcy Court at Plan Confirmation for all or part of the assets identified in the Pride Sale and APA or any Other Assets of Debtor not sold pursuant to the Pride Sale in accordance with the terms of the Plan and/or with whom the Debtor or, if after the Effective Date, the Liquidating Trustee, consummate an asset purchase agreement.

61. **“Record Date”** shall mean the record date for determining an entitlement to receive distributions under the Plan on account of Allowed Claims, which date shall be the later of the Effective Date or entry of an order by Bankruptcy Court allowing the Claim.

62. **“Reorganized Debtor”** shall mean the Debtor after the Effective Date.

63. **“Retained Causes of Action”** or **“Retained Claims”** shall mean Claims and Causes of Action, rights and interests retained by the Debtor or transferred to the Plan Fund to be pursued by the Liquidating Trustee on behalf of the Estate for the benefit of the Classes as determined in the Plan after the Effective Date and not settled pursuant to the Plan, including but not limited to those set forth in the Plan, which shall include but shall not be limited to: (i) any

derivative Causes of Action of the Debtor or the Debtor in Possession pursuant to the Bankruptcy Code or any other statute or legal theory or theory under equity, including any avoidance or recovery actions under sections 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code; (ii) any rights to, claims, or Causes of Action for recovery under any policies of insurance issued to or on behalf of the Debtor or the Debtor in Possession, including without limitation all tax refunds and insurance proceeds, and any rights, Claims, and Causes of Action against any third parties ; and (iii) any and all claims and Causes of Action (including all derivative Causes of Action) of the Debtor, the Debtor in Possession and/or the Estate against any former or current manager, management committee members, director or officer of the Debtor arising under state or other non-bankruptcy law or arising under the Bankruptcy Code, in this Bankruptcy Case, or in any way related to the Bankruptcy Case, or under and/or pursuant to any statute or legal or equitable theory that is in any manner arising from, connected with or related to any act or omission of such manager, director or officer that occurred prior to the Effective Date, except only those Causes of Action that are specifically and expressly released as of the Effective Date under this Plan.

64. “**Sale Proceeds**” shall mean the proceeds of the sale or transfer of any Plan Assets.

65. “**Scheduled**” shall mean the claims set forth, stated or listed on the Schedules that are **not** disputed and/or liquidated and/or contingent.

66. “**Schedules**” shall mean the Schedules of Assets and Liabilities and List of Equity Security Holders Filed by the Debtor under the Bankruptcy Rules, as the same have been or may be amended from time to time before the Effective Date.

67. “**Secured Claim**” shall mean a Claim by a creditor possessing a valid and perfected security interest as such term is defined in the Bankruptcy.

68. “**Statement of Financial Affairs**” shall mean the Statement of Financial Affairs Filed by the Debtor under the Bankruptcy Rules, as the same have been or may be amended from time to time before the Effective Date.

69. “**Unsecured Claim**” shall mean any Claim that is not an Administrative Claim, Priority Claim, Secured Claim, or a Claim otherwise specifically classified in another Class in the Plan including any Deficiency Claim of a Secured Creditor and meets the requirements of §§ 502(b) and 101(5).

70. “**U.S. Trustee**” shall mean the United States Trustee for the Eastern District of Louisiana.

71. “**U.S. Trustee Fees**” shall mean fees due to the U.S. Trustee by the Debtor or Reorganized Debtor arising under 28 U.S.C. § 1930(a)(6) or otherwise, and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

72. “**Wind Down**” shall mean the wind down and liquidation of the Debtor in accordance with the Plan.

B. Governing Law

Subject to the provisions of any contract, by-laws, instruments or other agreements or documents entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with federal law, including the Bankruptcy Code and Bankruptcy Rules.

C. Computation of Time

In computing any period of time prescribed or allowed this Plan, the provisions of Bankruptcy Rule 9006(a) will apply.

D. Rule of Construction

All terms not expressly defined herein shall have the respective meanings given such terms in section 101 of the Bankruptcy Code or as otherwise defined in applicable of the Bankruptcy Code shall apply to construction of the Plan.

ARTICLE III

CLASSIFICATION OF CLAIMS AND MEMBERSHIP INTEREST

A. Claims are divided into the following Classes under the Plan:

- 3.1 Class 1: Secured Claim of IberiaBank, N.A.
- 3.2 Class 2: Secured Claim of Pride
- 3.3 Class 3: Secured Claim of Financial Pacific Leasing, LLC and Wells Fargo Capital Finance, LLC
- 3.4 Class 4: Secured Claim of Commercial Lending New Orleans
- 3.5 Class 5: Secured Claim of ITW Food Equipment Group, LLC
- 3.6 Class 6: Secured Claim of PHP Capital, LLC
- 3.7 Class 7: Secured Claim of U. S. Bank Equipment Finance
- 3.8 Class 8: Wells Fargo Bank, N.A.
- 3.9 Class 9: All Allowed General Unsecured Claims.
- 3.10 Class 10: Membership Interests in the Debtor.

ARTICLE IV

**TREATMENT OF ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIM
AND CLASSES OF CLAIMS AND MEMBERSHIP INTERESTS**

A. Plan Funds that are the result of the conversion of Lien Assets to cash shall be distributed as follows:

1. First, for the payment of the Carve Out;
2. Second, for the payment to IberiaBank and Pride pursuant to such creditor Class 1 and Class 2 claims until such claims are paid in full;
3. Third, for the payment of all other Allowed Administrative Expenses until such claims are paid in full;
4. Fourth for the payment of Allowed Priority Claims until such claims are paid in full; and
5. Fifth, for the payment to Class 9 Claims pro rata.

B. Plan Funds that are the result of conversion of Other Assets to Plan Funds shall be distributed as follows:

1. First, for the payment in full of Allowed Administrative Claims;
2. Second, for the payment in full of Allowed Priority Claims;
3. Third, for the payment of Class 9 Claims pro rata.

C. Treatment of Unclassified Claims.

(a) Administrative Claims. Except to the extent that the holder of an Allowed Administrative Claim agrees to a different treatment, and in accordance with the sources and manner of payment provided in Article IV of this Plan, the Debtor shall provide to each holder of an Allowed Administrative Claim (a) Cash in an amount equal to such Allowed Administrative Claim on the latest of (i) the Effective Date, (ii) the date such Administrative Claim becomes an Allowed Administrative Claim or (iii) the date such Allowed Administrative Claim is due in

accordance with the terms and conditions of the particular transactions or governing documents or (b) such other treatment as the Debtor and such holders shall have agreed upon in writing, provided however, that Allowed Administrative Claims (other than Claims under Section 330 of the Bankruptcy Code) representing obligations incurred in the ordinary course of business of or assumed by the Debtor shall be paid in full and performed by the Debtor in the ordinary course of business in accordance with the terms and conditions of the particular transactions and any agreements relating thereto.

(b) Administrative Claim Bar Date. The holder of an Administrative Claim other than (i) an Allowed Administrative Claim or (ii) an Administrative Claim that represents a liability incurred by the Debtor in the ordinary course of business, must (a) file a proof of Administrative Claim on or before the Administrative Claims Bar Date, which is established as being a date that is sixty (60) days after the Confirmation Date and (b) serve a copy of such proof of Administrative Claim upon the Debtor or, after the Effective Date, the Liquidating Trustee. Failure to timely file such proof of Administrative Claim shall result in the Administrative Claim being forever barred and discharged. An Administrative Claim other than a Claim for professionals, proof of which has been timely filed, shall become an Allowed Administrative Claim if no objection thereto is filed within the time fixed by the Court. If an objection is timely filed, the Administrative Claim shall only become an Allowed Administrative claim to the extent allowed by Final Order.

(c) Professional Compensation and Reimbursement Claims. All entities seeking an award by the Bankruptcy Court for professionals incurred through and including the Confirmation Date under sections 503(b)(2), 503(b)(3), 503 (b)(4) or 503(b)(5) of the

Bankruptcy Code: (a) will file their respective final applications for allowances of compensation for services rendered and reimbursement of expenses incurred through the Confirmation Date by the date that is thirty (30) days after the Confirmation Date or such other date as may be ordered by the Bankruptcy Court; and (b) if granted, such award by the Bankruptcy Court, will be paid in full in such amounts as are Allowed by the Bankruptcy Court on or before the later of (i) ten (10) days after the date the Administrative Claim becomes an Allowed Administrative Claim, or (ii) the Effective Date. The Allowed Claims of Chapter 11 professionals will be paid from the Plan Funds based upon the distribution proportions set forth above. The Debtor shall withhold from the Plan Funds all amounts necessary to pay the estimated amounts owed to professionals which have not been allowed as of the Effective Date provided that such professionals provide such estimates on or prior to the Effective Date.

(d) Priority Tax Claims and Priority Claims. Except to the extent that the holder of an Allowed Priority Tax Claim agrees to different treatment, and in accordance with the sources and manner of payment provided in Article IV of this Plan, the Debtor shall pay to each holder of an Allowed Priority Tax Claim the total amount of such Claim in full on the later of: (i) the Effective Date, or (ii) the date a Priority Tax Claim or Priority Claim becomes an Allowed Priority Tax Claim or Allowed Priority Claim. Holders of Allowed Priority Tax Claims will be paid interest pursuant to section 511 of the Bankruptcy Code all other Allowed Priority Claims shall not be entitled to receive interest.

D. Treatment of Classes of Claims:

Class 1: Secured Claim of IberiaBank

(a) The Holder of the Secured Claim of IberiaBank shall receive treatment as follows:

- (i) IberiaBank, after payment of the Carve Out, shall be paid all proceeds from the sale of Lien Assets until paid in full. Until such Lien Assets are sold, IberiaBank shall retain liens in the collateral that constitute Lien Assets.
 - (ii) The Allowed Claim shall include all sums allowed pursuant to 11 U.S.C. § 506(b) and (c), to the extent applicable. All defaults and/or events of default existing as of the Petition Date and as of the Effective Date, including without limitation, any default of a continuing nature, shall be deemed waived, and any defaults and events of default resulting from the confirmation of the Plan, the occurrence of the Effective Date and/or the actions and transactions contemplated by the Plan, shall also be deemed waived as of the Effective Date. No default interest, late charges or other penalties, including but not limited to prepayment penalties, yield maintenance premiums, origination fees or monetary compensation shall be required to be paid to IberiaBank in connection with the confirmation of the Plan or the treatment provided herein; and
 - (iii) IberiaBank's Allowed Deficiency Claim, if any, arising from the difference between the proceeds realized from liquidation of the Lien Assets and the IberiaBank Class 1 Claim shall be treated as a Class 9 General Unsecured Claim.
- (b) Impairment. **Class 1 is Impaired.** Therefore, the Class 1 Claimant will have the right to vote to accept or reject the Plan.

Class 2: Secured Claim of Pride.

- (a) The Holder of the Secured Claim of Pride shall receive treatment as follows:
 - (i) Pride, as the subrogee of the IberiaBank Claim, shall be paid from the proceeds from the sale of the Lien Assets of after payment in full of the IberiaBank Class 1 Claim:
 - (ii) Pride's Allowed Deficiency Claim arising from the difference between the amounts paid to it as a result of the liquidation of Lien Assets and its Allowed Claim as subrogee of IberiaBank or in its own name shall be treated as a Class 9 Claim.
- (b) Impairment. **Class 2 is** Impaired. Therefore, the Class 2 Claimant will have the right to vote to accept or reject the Plan.

Class 3 through Class 8.

- (a) The Holder of an Allowed Claim in Class 3 through Class 8 shall receive treatment as follows:
 - (i) Holders of an Allowed Claim in Class 3 through Class 8, to the extent such creditor's security interest is inferior to the security interest in favor of IberiaBank and Pride, shall be treated as a Class 9 Claim.
 - (ii) Holders of an Allowed Claim in Class 3 through 8, to the extent its security interest on Lien Assets primes the security interest of IberiaBank and Pride, shall be paid out of the liquidation of its asset or assets given as security for such claim. The balance between the amounts received by the Holders of Allowed Class 3 through Class 8 Claims shall be treated as a Class 9 Claim.

Class 9: All Allowed Unsecured Claims.

- (a) The Holder of an Allowed Unsecured Claim shall receive treatment as follows:
 - (i) In payment of their respective Allowed Unsecured Claims, Holders of Allowed Class 9 Claims will receive payment Pro Rata within their Class 9 Claims out of the Plan Funds based upon the following:
 - (a) out of the Lien Assets in accordance with the payment priorities established in Article IV(A);
 - (b) out of Other Assets in accordance with the payment priorities; and
 - (c) payment from the Plan Trust less expenses funding the Plan Trust expense reserve.
- (b) Impairment. **Class 9 is** Impaired. Therefore, the Class 9 Claimants will have the right to vote to accept or reject the Plan.

Class 10: Membership Interest.

- (a) The Holders of Class 10 Membership Claims shall receive treatment as follows:
 - (i) Class 10 Membership Interest shall receive no distribution.
 - (ii) Each Membership Interest will be cancelled.
- (b) Impairment. **Class 10 is** Impaired and will retain nothing on account of its interest under the Plan. Therefore, the Holders of the Class 10 Claims are conclusively deemed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

ARTICLE V

IMPAIRMENT OF CLASSES, PROVISIONS REGARDING VOTING, ACCEPTANCE BY IMPAIRED CLASSES, AND ELIMINATION OF CLASSES

5.1 Impairment of Classes. Classes 1, 2, 3, 4, 5, 6, 7, 8, and 9 are Impaired under the Plan and are entitled to and will be solicited to vote on the Plan. Class 10 is deemed to have rejected the Plan. For avoidance of doubt, any holder of a Claim or Interest which is subject to an objection pending as of the Balloting Deadline is not entitled to vote to accept or reject the Plan and any Ballot submitted on account of such a Claim will not be counted unless an order is entered by the Bankruptcy Court overruling the objection or allowing the Claim for voting purposes.

5.2 Acceptance by Impaired Classes. An Impaired Class of Claims shall have accepted this Plan if, not counting the vote of any holder designated under Section 1126(e) of the Bankruptcy Code, (i) the holders of at least two-thirds in amount of the Allowed Claims actually voting in the Class have voted to accept this Plan and (ii) the holders of more than one-half in number of the Allowed Claims actually voting in the Class have voted to accept this Plan.

5.3 Elimination of Classes. To the extent applicable, any Class that does not contain any Allowed Claims or any Claims temporarily allowed for voting purposes under Bankruptcy Rule 3018, as of the date of the commencement of the Confirmation Hearing, shall be deemed to have been deleted from this Plan for purposes of (a) voting to accept or reject this Plan and (b) determining whether it has accepted or rejected this Plan under Section 1129(a)(8) of the Bankruptcy Code.

ARTICLE VI

IMPLEMENTATION OF THE PLAN AND ESTABLISHMENT OF PLAN TRUST

6.1 Closing of the Pride Sale.

The Debtor or Liquidating Trustee shall be authorized to enter into an APA with Pride or an agreement with a third party Purchaser as approved at the Confirmation Hearing pursuant to sections 105(a), 363, 365, 1123(b)(4), 1129 and 1146(a) of the Bankruptcy Code under the terms and conditions of this Plan, free and clear of any and all Liens, Membership Interests, Claims, charges and encumbrances, and shall be authorized to take any and all actions necessary to consummate the Pride Sale or any sale with a third party Purchaser. The actions necessary to effect such a sale may include: (i) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the Plan and having such other terms to which the Debtor or after the Effective Date, the Liquidating Trustee, and Pride or an approved Purchaser may agree, and (ii) all other actions that the Debtor or after the Effective Date, the Liquidating Trustee, and Pride or an approved Purchaser determine to be necessary or appropriate in connection with such transactions, including making such filings or recordings that may be required by or appropriate under applicable state law.

The Pride Sale was negotiated through arm's length negotiations, free of any potential vice of consent, mistake of fact or law, omission or misrepresentation, and agreed

to after the Debtor and representatives of the Debtor had performed all requisite due diligence as to the value of the Assets and any alternative sale prospects therefor.

Pride or any approved Purchaser should be considered as a good faith purchaser entitled to all protections of section 363(m) of the Bankruptcy Code.

Pride or any approved Purchaser shall have no liability to any party on the basis of any cause of action or other claim or lien arising from or related to the such a sale or disbursement under the Plan.

6.2 Liquidation of the Lien Assets and Other Assets.

The Plan Trust and Liquidating Trustee shall be responsible for liquidating Lien Assets and Other Assets that were not sold or monetized prior to the Effective Date.

6.3 Dissolution of Debtor.

As soon as practical after the Effective Date, the Liquidating Trustee shall take all actions necessary or appropriate to effect the dissolution of the Debtor and the cancellation of the Membership Interests. Officers of the Debtor may perform any and all actions to assist the Liquidating Trustee in the Wind-Down and to assist the Liquidating Trustee to satisfy the provisions of the Plan and shall be authorized to act as the authorized agent and representative of the Reorganized Debtor if necessary to carry out the provisions of the Plan. .

6.4 Establishment of Plan Trust.

(a) On the Effective Date, the Debtor shall execute the Plan Trust Agreement and take all other steps necessary or appropriate to establish the Plan Trust. On the Effective Date, all Plan Assets shall vest in the Plan Trust for beneficiaries of the Plan Trust. The costs

and expenses incurred by the Plan Trust and the Plan Expenses on and after the Effective Date shall be paid in the ordinary course of business from the Plan Funds.

(b) The Plan Trust shall be established for the purpose of: (i) converting to Cash the Plan Assets; (ii) making distributions on account of Allowed Claims in accordance with this Plan and (iii) take all such actions as are reasonably necessary to accomplish the purpose hereof, as more fully provided in the Plan Trust Agreement.

(c) Prior to the Confirmation Date and subject to Bankruptcy Court approval, the Debtor shall nominate one or more persons to individually or jointly serve as the Liquidating Trustee. The appointment will be contained in the Confirmation Order. The Liquidating Trustee may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation, removal, death or incapacity of a Liquidating Trustee, the Bankruptcy Court shall designate another Person to become Liquidating Trustee and thereupon the successor Liquidating Trustee, without any further action, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

(d) The Liquidating Trustee will have the powers enumerated in the Plan Trust Agreement and to carry out the purpose of the Plan Trust. As of the Effective Date, the Liquidating Trustee shall be responsible for the liquidation of the Plan Assets, objections to Claims and distribution of Plan Funds in accordance with the Plan. The Liquidating Trustee shall have the authority without further Bankruptcy Court approval to convert Plan Assets into cash, to hire counsel and other advisors, to prosecute and settle objections to Disputed Claims, to pursue causes of action and otherwise to take such other actions as shall be necessary to

consummate the Plan. The Liquidating Trustee shall not be required to post a bond in favor of the United States.

(e) The Liquidating Trustee and other professionals retained by the Liquidating Trustee shall be compensated from the Plan Funds pursuant to the terms of the Plan Trust Agreement. The payment of the fees and expenses of the Liquidating Trustee and other professionals shall be made in the ordinary course of business. The fees of the Liquidating Trustee and its counsel shall be subject to the approval of the Bankruptcy Court. The Liquidating Trustee will include the amount of the payments in any filed post-confirmation report as required by the U.S. Trustee guidelines.

6.5. Effective Date Notice and Wind Down.

(a) The managers and any officers of the Debtor as of the Effective Date, in their capacities as such, shall be deemed removed from such positions as of the Effective Date, except to the extent to perform any and all actions to transition the Debtor's assets and affairs to the Liquidating Trustee. The Management Committee of the Debtor prior to the Effective Date, in their capacities as such, shall have no continuing authority with respect to the Debtor on or after the Effective Date. As of the Effective Date, any instrument purporting to evidence any equity interest or membership in the Debtor shall be canceled.

6.6 The Plan will become Effective when:

(a) the Confirmation Order, in form and substance reasonably acceptable to the Debtor will have been signed by the judge presiding over the Bankruptcy Case, and there will not be a stay or injunction in effect with respect thereto;

(b) the Confirmation Order shall have become a Final Order;

(c) all documents or agreements necessary to implement the Plan shall have been executed and delivered, unless such requirement is waived.

The Debtor may waive one or more of the conditions set forth above. Within five (5) Business Days after the satisfaction or waiver of the above conditions and the occurrence of the Effective Date, the Debtor shall file a notice of the occurrence of the Effective Date into the record of the Bankruptcy Case. This Plan may go effective before the thirty (30) day period but will occur no later than that date.

6.7 Continued Notice Post-Confirmation.

(a) The Debtor will include in the service of the Confirmation Order a form instructing any Person to complete to indicate whether from and after the Effective Date, such Person desires continued notice after the filing of the Notice of the Effective Date of any pleading or document filed in the Bankruptcy Case, or of any hearing in the Court, or of any matter as to which the Bankruptcy Code requires notice to be provided, shall file a request for post-confirmation notice and shall serve the request on counsel for the Debtor; provided however, the United States Trustee shall be deemed to have requested post-confirmation notice.

6.8 Effect of Failure of Conditions.

(a) In the event that one or more of the conditions specified in this Section of the Plan have not occurred by the Effective Date, and upon notification submitted by the Debtor to the Bankruptcy Court, (a) the Plan will not go effective and the Debtor will file a notice of Plan default; and (b) no distributions under the Plan will be made.

ARTICLE VII

DISTRIBUTIONS AND CLAIM OBJECTIONS

7.1 Distributions Under the Plan.

(a) Distributions under the Plan will be made by the Liquidating Trustee to the holder of each allowed Claim at the address of such holder as listed on the Schedules as of the Effective Date or at the address listed on a timely filed proof of claim or at the address provided in writing to the Debtor prior to the Effective Date.

(b) Any payment of Cash made by the Liquidating Trustee pursuant to the Plan will be made by check drawn on a domestic bank.

(c) Any payment or distribution required to be made under the Plan on a day other than a Business Day will be made on the next Business Day.

(d) No payment of Cash less than hundred dollars (\$100.00) will be made by the Liquidating Trustee to any holder of a Claim unless a request therefore is made in writing to the Liquidating Trustee.

7.2 Objections to Claims.

(a) The Liquidating Trustee will have full right, power and authority to investigate and if necessary, object to any Claim on or before ninety (90) days after the Effective Date unless the Bankruptcy Court extends such time on notice for cause shown. Except to the extent specifically provided in the Plan or the Confirmation Order, the confirmation of the Plan, the voting of any Claim to accept or reject the Plan, or the agreement of the Debtor to not object to any Claim, shall have no effect on the right, power, and authority of the Debtor to object to

any Claim against the Debtor unless such claim is the subject of a binding settlement agreement approved by the Court.

(b) The Liquidating Trustee shall establish a Disputed Claims Reserve wherein the Liquidating Trustee shall deposit a sum equal to the distribution that would be received by a creditor if such creditor's Claim had been Allowed as of the Effective Date.

(c) The Liquidating Trustee will be permitted to invest all or part of the Cash held in the Disputed Claims Reserve within the restrictions contained in Section 345 of the Bankruptcy Code.

7.3 Distribution of Unclaimed Property.

(a) In the event that any distribution of Cash under the Plan on account of a Claim is unclaimed thirty (30) days after the distribution, the holder of such Claim shall cease to be entitled to such unclaimed Cash. The Liquidating Trustee shall distribute any such unclaimed Cash pro rata by Claim to the Class 9 creditors holding Allowed Claims.

7.4 Payments in Complete Satisfaction.

(a) The payments, distributions and other treatments provided in respect to each Allowed Claim under this Plan shall be in complete satisfaction, discharge, and release of all such Allowed Claims provided; however, it is specifically understood that all third parties jointly or solidarily liable on such Allowed Claims shall not be released or discharged and as to such third parties such joint or solidary liability shall remain in effect.

ARTICLE VIII

EXECUTORY CONTRACTS; UNEXPIRED LEASES AND OTHER AGREEMENTS

8.1 General Treatment.

(a) As of and subject to the later of September 30, 2016 or the Effective Date, all executory contracts and unexpired leases of the Debtor shall be treated as follows: (i) any executory contract and any unexpired lease to which the Debtor is a party and entered into prior to the Petition Date, including but not limited to the agreements as listed in the Schedules executory contracts and leases; and (ii) any employment contract with former Members, Insiders, officers and directors entered into prior to the Petition Date shall be deemed to be rejected by the Debtor, except for any executory contract or unexpired lease that was the subject of a separate motion to reject under section 365 of the Bankruptcy Code pending on the Confirmation Date or the rejection was approved by prior order of the Bankruptcy Court. The Confirmation Order by the Bankruptcy Court shall constitute approval of rejections pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Listing a contract or lease in the schedule of executory contracts and leases shall not constitute an admission by the Debtor that the applicable Debtor has any liability thereunder.

8.2 Claims Based on Rejection of Executory Contracts or Unexpired Leases.

(a) Treatment: Except as otherwise provided all Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as Unsecured Claims. All such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtor, the Reorganized Debtor, the Sale Assets, or the Liquidating Trustee.

(b) Deadline: Each Person who is a party to a contract or lease rejected under the Plan must file with the Bankruptcy Court and serve on the Debtor or, if after the

Effective Date, on the Liquidating Trustee, no later than the earlier of (i) thirty (30) days after the entry of an order for the rejection of such contract or lease or (ii) thirty (30) days after the Effective Date, a proof of claim for damages alleged to arise from the rejection of the applicable contract or lease or be forever barred from filing a Claim, or sharing in distributions under the Plan, related to such alleged rejection damages.

8.3 Other Agreements and Indemnification. (a) Except as otherwise specifically provided in this Plan, all rights of any Person to indemnification from the Debtor or Reorganized Debtor, whether pursuant to applicable law, certificates of incorporation, articles of incorporation or bylaws (or similar documents), indemnification agreements, contribution agreements, employment agreements or other agreements regarding indemnity or similar protection to any Person that are in effect immediately prior to the occurrence of the Effective Date shall terminate on the Effective Date and shall, without further action, extinguish, and terminate any Claims or Proofs of Claim filed with respect to such indemnification; provided, however, that such extinguishment and termination is without prejudice to the rights of any Person under any prior or existing insurance policy, including, without limitation, any directors' and officers' liability insurance policies, for defense and indemnity from the Debtor, up to the amount of, and payable solely from, the proceeds of prior or existing insurance policies.

ARTICLE IX

VESTING OF ASSETS

9.1 Vesting of Assets.

(a) Except as otherwise provided in the Plan and Confirmation Order, on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, the Plan Assets

shall vest in the Plan Trust, free and clear of all Claims, Liens, encumbrances, charges and other interests.

9.2 Stays.

(a) All injunctions, liens or stays provided for in the Bankruptcy Case under Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on or immediately before the Confirmation Date will remain in full force and effect until the Effective Date.

9.3 Injunction.

(a) On the Effective Date, except as otherwise expressly provided in the Plan, or the Confirmation Order, all entities who have held, hold or may hold Claims against or have a Membership Interest in the Debtor, are permanently enjoined, on and after the Effective Date, from (a) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtor for or on account of any such Claim or Membership Interest, (b) creating, perfecting or enforcing any encumbrance of any kind against the Debtor for or on account of any such Claim or Membership Interest, and (c) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtor for or against the property or interests in property of the Debtor on account of any such Claim or Interest.

ARTICLE X

RETENTION AND RESERVATION OF CLAIMS

Except as otherwise provided in the Plan, all reserved Causes of Action and claims, including those described herein and/or in the Debtor's Schedules and Statement of Financial Affairs and the Debtor's Disclosure Statement, are Assets of the Debtor and shall vest in the

Liquidating Trust with the exclusive right under the terms of the Plan granted to the Liquidating Trustee to prosecute or pursue all Retained Causes of Actions and Claims. The Debtor specifically reserves the following claims:

1. All Claims pursuant to the terms of Section 546, 547 and 550 of the Bankruptcy Code to avoid a transfer of interest of property to or for the benefit of any entity, creditors, Members, Insiders and non-insiders who received transfers or payments within ninety days before the Petition Date, and to Insiders within one year of the Petition Date including but not limited to those transfers or payments detailed in the Debtor's books and records, to the entities listed in Schedule E/F, entities listed on Schedule G, and entities listed in the Statement of Financial Affairs in Question No. 3 filed in the Bankruptcy Case. The Debtor, Reorganized Debtor and the Liquidating Trustee specifically reserve the right to pursue all avoidance actions under 11 U.S.C. § 547.
2. All Claims pursuant to the terms of Section 546, 548 and 550 of the Bankruptcy Code to avoid a transfer of interest of property to or for the benefit of Members and Insiders and those parties as identified in the Statement of Financial Affairs in Question No. 25, 26, 28, 29 and 30 that were made or incurred on or within two years before the Petition Date.
3. All Claims in violation of the terms of Section 553 of the Bankruptcy Code for impermissible set-off against a party subject to Section 546, 547, or 548 as discussed in Section 1 and 2 in Article X.
4. All Claims for fraudulent conveyances pursuant to Section 544 and/or 548 or under applicable state law to avoid transactions or transfers made within the limitation periods provided for under applicable non- bankruptcy law, state law or the Bankruptcy Code.

5. All Claims for fraud, gross negligence, breach of fiduciary duty, failure to exercise adequate oversight and control, failure to maintain adequate records, wrongful acts, negligent acts or breach of fiduciary duties and other claims at law or equity against the Debtor's former Insiders, Members, Managers, Officers or Directors and those parties as identified in the Statement of Financial Affairs in Question No. 25, 26, 28, 29 and 30 as of the Effective Date, including but not limited to the following individuals:

- a) Madhu Natarajan
- b) Tom Carr
- c) Mike Bell
- d) David Curran
- e) Kevin Bouma
- f) Ian McIntyre
- g) Steve Dickler
- h) Gary Licht
- i) Robert Autenreith
- j) Louis Puissegur
- k) Ed Lauterstein
- l) Rick Lobalzo
- m) Kamran Amiri
- n) Larry Nicholson
- o) Denis Griesmer
- p) Greg Shahun

6. Claims against Pride and/or its officers, directors, managers, employees and representatives and insurers, including but not limited to those officers, directors, managers and employees who served on both the Pride and Debtor's boards or management committees at the same time and who may have voted on matters and transactions between Pride and the Debtor that injured or damaged the Debtor. Such claims include but are not limited to claims for fraud, conspiracy to commit fraud, gross negligence, and aiding and abetting FSW managers' breaches of fiduciary duties and wrongful acts.
7. Kirkland and Ellis, LLP attorneys for negligence or gross negligence concerning their legal representation and advice to the debtor, including advice and representation concerning the sale of securities and investments in the debtor.
8. Pursue all Causes of Action for money owed and for the turnover of property pursuant to Section 543 of the Bankruptcy Code to the Debtor, including the collection of its accounts receivable as listed on exhibit to the Disclosure Statement, rebates from vendors under the agreements listed in the Schedule G of executory contracts and leases regardless of whether such agreement is rejected, or any other sums owed to the Debtor on account of property, inventory or other assets sold or purchased as listed on Bankruptcy Schedules A and B or converted to cash as a Lien Assets or Other Assets.
9. Claims against the individuals or firms who maintained or monitored the Debtor's books and records including Laporte CPAs and Advisors, LLC, and Louis Puissegur, and claims

against the firm of Kirkland and Ellis, LLP for such actions, including but not limited negligence and wrongful acts in the performance of duties to the Debtor, negligence and wrongful acts for the preparation and publication of audited and unaudited financial statements and the preparation of a securities prospective to induce investments in the Debtor.

10. Claims against the parties and their successors and assigns that negotiated, approved, executed, drafted or any way authorized the Asset Purchase Agreement amongst Deacon Foodservice Solutions, LLC and FSW NC Holdings, LLC, Foodservicewarehouse.com, LLC and C.E. Holt Refrigeration, Inc. Such parties include, but are not limited to, Kevin Bouma, C.E. Holt Refrigeration, Inc., Jeffrey V. Holt, the firm of Sellers, Ayers, Dortch & Lyons, P.A., Robert C. Dortch, Jr., Deacon Foodservice Solutions, LLC, Jeffrey Atkinson, the firm of Troutman Sanders LLP, and Paul A. Steffens.
11. Claims against the parties and their successor and assigns that negotiated, approved, executed, drafted or any way authorized the purchase of and the sale of Market Source, Inc. Such parties include, but are not limited to Kevin Bouma, Richway, LLC and Dirk Curtis.
12. Claims against the parties that filed a UCC-1 statement against the Debtor to determine the rank, validity, type of agreement with the Debtor, type and value of the collateral and whether the agreement is properly filed as a purchase money security interest. Such parties include IberiaBank, Pride, Financial Pacific Lease, LLC, Wells Fargo Capital Finance, LLC, Commercial Lending New Orleans, ITW Food Equipment Group, LLC,

PMP Capital, LLC (a/k/a PHP Capital, LLC), Raymond Leasing Corporation, U.S. Bank Equipment Finance, and Wells Fargo Bank.

Subject to attorney-client privileges, any files of the Debtor held by an attorney for the Debtor, either prior to or after the Petition Date, or any accountant of the Debtor, either prior to or after the Petition Date, shall be the property of the Reorganized Debtor. The Debtor reserves any and all rights regarding any Claim, Causes of Action, defense, or counterclaim that constitutes property of the Estate, whether or not litigation thereto is pending on the Effective Date.

ARTICLE XII

MODIFICATION OF THE PLAN

The Debtor reserves its right, according to the Bankruptcy Code, to amend or modify the Plan before the Confirmation Date. After the Confirmation Date or after the Effective Date, the Reorganized Debtor and/or Liquidating Trustee may, upon order of the Bankruptcy Court, and according to Section 1127(b) of the Bankruptcy Code, remedy any defect or omission or reconcile any inconsistencies in the Plan in such manner as may be necessary to carry out the purposes and intentions of the Plan.

A claimant that has accepted or rejected the Plan will be deemed to have either accepted or rejected, as the case may be, any modifications to the Plan, even if they are made after the solicitation of votes of acceptance or rejection of the Plan, unless the Bankruptcy Court orders that such claimant may change its previous vote within a time established by the Bankruptcy Court for such changes to be made.

ARTICLE XIII

RETENTION OF JURISDICTION

The Bankruptcy Court will retain exclusive jurisdiction of all matters arising out of the Bankruptcy Case and the Plan as long as necessary for the purposes of Sections 105(a), 1127, 1142(b) and 1144 of the Bankruptcy Code and for, inter alia, the following purposes:

(a) to recover all Assets of the Debtor and Reorganized Debtor, wherever located and to pursue any claims and Causes of Action as listed in Article X or brought by the Reorganized Debtor or Plan Receiver;

(b) to decide any objections to the allowance, disallowance, or subordination of Claims or a controversy as to the classification of Claims;

(c) to decide and fix (i) all Administrative Claims, (ii) Claims arising from the rejection of any executory contracts or unexpired leases, (iii) liens on any property or any proceeds thereof, and (iv) any other fee and expense authorized to be paid or reimbursed under the Bankruptcy Code;

(d) to liquidate or estimate damages or determine the manner and time for such liquidation or estimation in connection with any disputed, contingent or unliquidated Claims;

(e) to adjudicate any matters as may be provided for in the Confirmation Order;

(f) to effectuate payments under and enforce the provisions of the Plan;

(g) to hear and determine any pending applications, adversary proceedings or contested matters including all controversies, suits and disputes that may arise in connection with the interpretation or enforcement of the Plan, and matters concerning state, local and federal taxes according to Sections 346, 505 and 1146 of the Bankruptcy Code;

(h) to hear and determine all issues relating to the Plan, including the removal of the Liquidating Trustee and appointment of a successor Liquidating Trustee;

(i) to amend or to correct any defect, cure any omission or reconcile any inconsistency in the Plan or the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

(j) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked or vacated;

(k) to consider any modification of the Plan pursuant to Section 1127 of the Bankruptcy Code or modification of the Plan after substantial consummation, as such terms are defined in Section 1101(2) of the Bankruptcy Code;

(l) to determine any Causes of Action as specified in Article X;

(m) to hear and determine issues including, but not limited to, the employment and compensation of professionals;

(n) to determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the provisions of the Bankruptcy Code;

(o) to enter a final decree closing the Bankruptcy Case; and

(p) to adjudicate all claims retained or reserved by the Debtor against any parties.

ARTICLE XV

GENERAL PROVISIONS

15.1 Notices.

Except as otherwise specified, all notices and requests will be given by any written means, including but not limited to, telex, telecopy, telegram, first class mail, express mail or similar

overnight delivery service and hand delivered letters, and any such notice or request will be deemed to have been given when received. Notices will be delivered as follows:

To the Debtor: Katherine Young
FoodServiceWarehouse.com, LLC
P. O. Box 630047
Littleton, CO 80163

and

Barry W. Miller
Heller, Draper, Patrick, Horn & Dabney, L.L.C.
9311 Bluebonnet Blvd., Ste. B
Baton Rouge, LA 70810

To the Liquidating Trustee:

15.2 Extension of Payment Dates. If any distribution date falls due on any day that is not a Business Day, then such payment date will be extended to the next Business Day.

15.3 Confirmation by Non-Acceptance Method. The Debtor requests confirmation of the Plan pursuant to Bankruptcy Code Section 1129(b) with respect to any Impaired Class that does not vote to accept the Plan.

15.4 Withdrawal of Plan. The Plan may be withdrawn or revoked before the entry of the Confirmation Order at the sole and absolute discretion of the Debtor.

15.5 Payment of U.S. Trustee Fees. U. S. Trustee's fees do not require allowance by the Court as both pre-confirmation and post-confirmation fees are payable pursuant to Section 1930 of Title 28 of the United States Code. Such fees will be paid in cash and in full pursuant to the applicable provisions of the Bankruptcy Code and other statutory provisions by the Debtor

and Liquidating Trustee. Moreover, the Debtor and, after the Effective Date, the Reorganized Debtor and Liquidating Trustee shall comply with all disbursement and other reporting requirements imposed by the Office of the United States Trustee for the period up to the date an order is entered either granting final decree, converting the case to Chapter 7 or dismissing the bankruptcy case.

15.6 Exculpation and Release. Subject to and only to the extent provided pursuant to Section 1125(e) of the Bankruptcy Code, the Liquidating Trustee, the Debtor, and any of its members (but solely in their capacity as such members), officers, directors, managers, Management Committee members, Independent Committee members, employees, attorneys, advisors agents or Liquidating Trustee, will not have nor incur any liability to any holder of a Claim or Membership Interest for any act or omission in connection with, related to, or arising out of, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence. Provided however, that nothing contained in this Section will exculpate, satisfy, discharge or release any avoidance claims or Retained Causes of Action or Retained Claims, including the matters listed in Article X against those Members, Insiders, officers, directors or employees of the Debtor in their capacities as listed in Article X. This exculpation provision specifically exculpates and releases Katherine Young, Richard Nevins and Thomas Kim for any actions taken in furtherance of their respective duties and obligations for or on behalf of the Debtor.

15.8 Headings. The headings used in the Plan are inserted for convenience only and constitute part neither of the Plan nor in any manner affect the provisions or interpretations of the Plan.

15.9 Exemption from Transfer Taxes. Pursuant to Section 1146(c) of the Bankruptcy Code, the issuance, of equity securities under the Plan, the creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, any agreement or assignment executed in connection with any of the transactions contemplated under the Plan will not be subject to any stamp, real estate transfer, mortgage recording or other similar tax.

15.10 Binding Effect. On the Effective Date, according to Section 1141 of the Bankruptcy Code, the provisions of this Plan will bind the Debtor, any entity acquiring Assets under the Plan, any holder of a Claim, any Membership Interest whether or not the Claim or Membership Interest is Impaired under the Plan and whether or not the holder of the Claim or Membership Interest has accepted the Plan.

15.11 Severability. Should the Bankruptcy Court determine that any provision of the Plan is unenforceable either on its face or as applied to any claim or transaction, the Debtor or, after the Effective Date, the Reorganized Debtor, may modify the Plan in Accordance with Article XII of the Plan so that such provision shall not be applicable to the holder of any Claim. Such a determination of unenforceability shall not (1) limit or affect the enforceability and operative effect of any other provision of the Plan or (2) require the resolicitation of any acceptance or rejection of the Plan.

15.12 Allocation of Plan Distributions between Principal and Interest. Except as otherwise provided in the Plan, to the extent that any Allowed Claim entitled to a distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution will, for federal income tax purposes, be allocated to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

August 3, 2016.

FoodServiceWarehouse.com, LLC
/s/ Katherine Young

Katherine Young, Chief Executive Officer
PO Box 630047
Littleton, CO 80163

HELLER, DRAPER, PATRICK, HORN
& DABNEY, L.L.C.

/s/ Barry W. Miller

Barry W. Miller, La. Bar No. 09678
9311 Bluebonnet Blvd.
Baton Rouge, Louisiana 70810
Telephone: 225-767-1499
Fax: 225-761-0760
Email: bmiller@hellerdraper.com

Greta M. Brouphy, (La. Bar No. 26216)
Heller, Draper, Patrick, Horn & Dabney, L.L.C.
650 Poydras Street, Suite 2500
New Orleans, Louisiana 70130-6175
Telephone: 504-299-3300 // Fax: 504-299-3399
E-mail: gbrouphy@hellerdraper.com