EXHIBIT E
FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT (this “Agreement”), dated as of November 27, 2019, is by and among BORDEN DAIRY COMPANY, a Delaware corporation (the “Borrower”), the other Loan Parties hereto, the Lenders (as defined below), PNC BANK, NATIONAL ASSOCIATION, a national banking association, as collateral agent and administrative agent for the Lenders (in such capacities, the “Agent”; together with the Lenders, the “Lender Parties”) and, solely with respect to Section 2.3 hereof, ACON DAIRY INVESTORS, L.L.C. (“ACON”). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement (as defined below).

WITNESSETH

WHEREAS, the Borrower, the other Loan Parties, the financial institutions from time to time party thereto as lenders (collectively, the “Lenders”), and the Agent are parties to that certain Financing Agreement dated as of July 6, 2017 (as amended, restated, supplemented or otherwise modified from time to time, including by this Agreement, the “Credit Agreement”);

WHEREAS, as of the date hereof, the Events of Default identified as “Current Defaults” on Exhibit A hereto (collectively, the “Current Defaults”) have occurred and are continuing and the Events of Default identified as “Anticipated Defaults” on Exhibit A hereto (collectively, the “Anticipated Defaults”; and together with the Current Defaults, the “Specified Defaults”) are expected to occur prior to the expiration of the Forbearance Period (as defined below);

WHEREAS, pursuant to Section 9.01 of the Credit Agreement and subject to Section 9.02 thereof, upon the occurrence and during the continuance of the Specified Defaults, the Agent may, and at the direction of the Required Lenders shall, terminate or reduce all Commitments, declare all or any portion of the Loans and Reimbursement Obligations then outstanding to be immediately due and payable, and exercise all other rights and remedies available under the Loan Documents;

WHEREAS, in order to provide time for the Borrower and the other Loan Parties to consummate a comprehensive restructuring of the Obligations in a manner acceptable to the Lender Parties and on terms consistent with the term sheet attached as Exhibit B hereto (the “Term Sheet”) (such restructuring, an “Acceptable Restructuring”), the Loan Parties have requested that (i) the Lender Parties temporarily forbear from exercising any of their rights and remedies with respect to the Specified Defaults, and (ii) the Revolving Loan Lenders continue to make Revolving Loans and other financial accommodations to the Borrower during the Forbearance Period notwithstanding the existence of the Specified Defaults, and, in each case, the Lender Parties signatory hereto have agreed to grant such forbearance and permit such continued making of Revolving Loans, in each case, in accordance with and subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:
ARTICLE I.
FORBEARANCE

1.1 Forbearance; Forbearance Period. Effective as of the Effective Date (as defined in Section 3.1), each of the Lender Parties agrees that until the expiration or termination of the Forbearance Period, (a) it will temporarily forbear from exercising its default-related rights and remedies against Borrower or any other Loan Party solely with respect to the Specified Defaults; and (b) interest shall accrue at the rate of interest that would otherwise be in effect absent the existence of an Event of Default and, solely with respect to the Term Loan B, such interest shall be paid on each Interest Payment Date during the Forbearance Period by adding such accrued interest to the outstanding principal balance of the respective Loan; provided, however, (i) except to the extent otherwise set forth herein, the Lender Parties shall have no obligation to make any further Loans or other extensions of credit to Borrower or any other Loan Party, (ii) each Loan Party shall comply with all limitations, restrictions or prohibitions that would otherwise be effective or applicable under the Credit Agreement or any of the other Loan Documents during the continuance of any Event of Default, including, without limitation, restrictions on the payment of any Permitted Management Fees, and (iii) nothing herein shall restrict, impair or otherwise affect any Lender Party’s rights and remedies under any intercreditor or subordination provisions vis a vis any other Lender Parties (including, without limitation, any rights or remedies available to the Lender Parties as a result of the occurrence or continuation of the Specified Defaults) or amend or modify any provision thereof. As used herein, the term “Forbearance Period” shall mean the period beginning on the Effective Date and ending on the earlier to occur of (the occurrence of the following clause (1), (2), (3) or (4), a “Termination Event”): (1) the occurrence of any Event of Default under Sections 9.01(f) or (g) of the Credit Agreement (a “Bankruptcy Default”); (2) any Forbearance Default (as hereinafter defined) other than a Bankruptcy Default; (3) the Borrower or any other Loan Party enters into an agreement or understanding to pursue a plan of reorganization or liquidation, offer to purchase, acquisition, dissolution, wind-up, liquidation, reorganization, merger, consolidation, business combination, joint venture, sale of substantially all assets or equity interests, financing transaction (debt or equity) or restructuring relating to the Borrower or any other Loan Party that does not contemplate Payment in Full of the Obligations in connection with the consummation thereof and is not an Acceptable Restructuring; or (4) January 6, 2020 (the “Outside Date”). As used herein, the term “Forbearance Default” shall mean (A) the occurrence of any Event of Default other than the Specified Defaults, (B) the failure of Borrower or any other Loan Party to comply with any term, condition, or covenant set forth in this Agreement, (C) the failure of the Permitted Holders (including ACON), the Borrower or any other Loan Party to work in good faith with the Lender Parties to negotiate the definitive documentation with respect to an Acceptable Restructuring, as determined by the Required Lenders in their discretion, (D) the failure of any representation or warranty made by Borrower or any other Loan Party under or in connection with this Agreement to be true and complete in all material respects (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to “materiality” or “Material Adverse Effect” in the text thereof) as of the date when made, excluding those relating to the Specified Defaults, or (E) the repudiation and/or assertion of any defense by any Loan Party with respect to this Agreement, the Credit Agreement or any other Loan Document or the pursuit of any claim by any Loan Party against any Lender Party (in each case, other than those related to the non-performance by the Lender Parties hereunder).
Any Forbearance Default shall constitute an immediate Event of Default under the Credit Agreement and the other Loan Documents.

1.2 **Forbearance Termination.** Upon the occurrence of a Termination Event, the agreement of the Lender Parties hereunder to forbear from exercising their respective default-related rights and remedies shall immediately terminate without the requirement of any demand, presentment, protest, or notice of any kind, all of which Borrower and the other Loan Parties each waives. Borrower and the other Loan Parties each agrees that any or all of the Lender Parties may at any time thereafter proceed to exercise any and all of their respective rights and remedies under any or all of the Credit Agreement, any other Loan Document and/or applicable law, including, without limitation, their respective rights and remedies with respect to the Specified Defaults. Without limiting the generality of the foregoing, upon the occurrence of a Termination Event, the Lender Parties may, in their sole discretion and without the requirement of any demand, presentment, protest, or notice of any kind, (i) suspend or terminate any commitment to provide Loans or other extensions of credit under any or all of the Credit Agreement and other Loan Documents, (ii) notwithstanding anything to the contrary in the preceding Section 1.1, require that interest on any or all of the Obligations be paid at the Post-Default Rate in accordance with Section 2.04(e) of the Credit Agreement, (iii) commence any legal or other action to collect any or all of the Obligations from Borrower, any other Loan Party and/or any Collateral, (iv) foreclose or otherwise realize on any or all of the Collateral, and/or appropriate, setoff or apply to the payment of any or all of the Obligations, any or all of the Collateral, and (v) take any other enforcement action or otherwise exercise any or all rights and remedies provided for by any or all of the Credit Agreement, any other Loan Documents and/or applicable law, all of which rights and remedies are fully reserved by the Lender Parties.

1.3 **Agreements of Revolving Loan Lenders and L/C Issuer.** During the Forbearance Period, as an accommodation to the Borrower, each Revolving Loan Lender and L/C Issuer agrees that it will continue to make Revolving Loans and issue or renew any Letter of Credit, as applicable, notwithstanding the existence of the Specified Defaults but otherwise subject in all respects to the conditions set forth in Section 5.02 of the Credit Agreement.

1.4 **Extension of Forbearance Period.**

(a) Any agreement by the Lender Parties to extend the Forbearance Period, if any, must be set forth in writing and signed by a duly authorized signatory of each of Agent and Required Lenders.

(b) Borrower and the other Loan Parties each acknowledge that the Lender Parties have not made any assurances concerning: (i) any possibility of an extension of the Forbearance Period; or (ii) any additional forbearance, waiver, restructuring or other accommodations.

1.5 **Statutes of Limitation: Tolling.** The parties hereto agree that the running of all statutes of limitation and the doctrine of laches applicable to all claims or causes of action that any Lender Party may be entitled to take or bring in order to enforce its rights and remedies
against Borrower or any other Loan Party are, to the fullest extent permitted by law, tolled and suspended during the Forbearance Period.

1.6 **Reliance.** Borrower and the other Loan Parties acknowledge and agree that any Loan or other financial accommodation that any Lender Party makes on or after the Effective Date has been made by such party in reliance upon, and is consideration for the covenants, agreements, representations and warranties of Borrower and the other Loan Parties hereunder.

ARTICLE II.
ADDITIONAL AGREEMENTS

The parties hereto hereby agree to comply with the following terms, conditions and covenants from and after the Effective Date, and notwithstanding any expiration or termination of the Forbearance Period, in each case notwithstanding any provision to the contrary set forth in this Agreement, the Credit Agreement or any other Loan Document:

2.1 **Retention of Advisors by the Loan Parties.** The Borrower and each other Loan Party agrees that it shall not enter into any agreement to retain an investment banking firm, crisis manager, chief restructuring officer, consultant, financial advisor and/or other similar third-party professional without the prior written consent of, and on terms and conditions reasonable acceptable to, the Required Lenders, which consent shall not be unreasonably withheld.

2.2 **Delivery of Budget; Related Reporting.** On or prior to the date hereof, the Borrower shall prepare and deliver to Agent (for subsequent distribution to the other Lender Parties) a 13-week operating budget (the “Budget”), which shall reflect the Borrower’s good faith projection of all weekly cash receipts and disbursements in connection with the operation of its business during the Forbearance Period. In addition to any and all reporting requirements set forth in the Credit Agreement, on a weekly basis during the Forbearance Period, Borrower shall provide Agent (for subsequent distribution to the other Lender Parties) a written report, in a form reasonably acceptable to the Required Lenders, comparing the Borrower’s actual cash receipts and disbursements for the immediately preceding week in the Budget compared to projected cash receipts and disbursements for such week as set forth in the Budget. Any such report shall be delivered not later than the third (3rd) Business Day following the week being reported.

2.3 **Restructuring Milestones.** Each of the Borrower, the other Loan Parties and ACON agree to work in good faith with the Lender Parties to negotiate definitive documentation with respect to an Acceptable Restructuring. In furtherance of the foregoing, the Loan Parties and ACON shall comply with the following milestones:

(a) In the event that the Loan Parties or ACON receive any proposals relating to any restructuring, recapitalization, refinancing, sale or other similar transaction, the Loan Parties or ACON, as applicable, shall, no later than the second (2nd) Business Day after such receipt, deliver to the Agent and the Lenders full and complete copies of such proposals and any other documents received relating thereto, subject in each case to confidentiality requirements applicable to such proposals and documents, if any. To the extent any such confidentiality requirements exist that would prevent the delivery of full and complete copies of such proposals and other documents as required above, Borrower or ACON, as applicable,
shall (x) use commercially reasonable efforts to seek all necessary consents to permit Borrower or ACON, as applicable, to deliver such full and complete copies of such proposals and documents to the Agent and the Lenders, and (y) in any event, deliver to the Agent and the Lenders written summaries of the principal business terms of such proposals.

(b) By the Outside Date, the Loan Parties and ACON shall have consummated an Acceptable Restructuring, which shall include the new money investment as specified in the Term Sheet.

2.4 **General Cooperation from Borrower’s Board and Advisors.** Each of the Borrower and the other Loan Parties shall, and shall cause its officers, directors, members, managers, employees and advisors to, cooperate fully with reasonable requests of the Lender Parties to furnish information as and when requested by any Lender Party regarding the Collateral or the Borrower’s or any other Loan Party’s financial affairs, finances, financial condition, business and operations. Borrower and each other Loan Party authorizes the Lender Parties to meet and/or have discussions with any of their officers, directors, employees and advisors from time to time during normal business hours with reasonable advance notice and as otherwise reasonably requested by any such Lender Party to discuss any matters regarding the Collateral or the Borrower’s or any other Loan Party’s financial affairs, finances, financial condition, business and operations, and shall direct and authorize all such persons and entities to fully disclose to such Lender Parties all information requested by such Lender Parties regarding the foregoing. Borrower and the other Loan Parties each waives and releases any such officer, director, employee and advisor from the operation and provisions of any confidentiality agreement with Borrower or other Loan Party, as the case may be, such that such person or entity is not prohibited from providing any of the foregoing information to any Lender Party.

**ARTICLE III. CONDITIONS TO EFFECTIVENESS**

3.1 **Closing Conditions.** This Agreement shall be deemed effective as of the date (the “Effective Date”) on which the following conditions shall have been satisfied:

(a) **Executed Agreement.** The Agent and the Lenders shall have received a copy of this Agreement duly executed by each of the Loan Parties, the Agent and the Lenders.

(b) **Representations and Warranties.** The representations and warranties set forth herein and in the Credit Agreement and in each other Loan Document, certificate or other writing delivered to the Agent or any Lender pursuant hereto or thereto on or prior to the date hereof shall be true and correct in all material respects (except as otherwise described in clause (c) below, except for the representations and warranties set forth in Section 6.01(u) and the final sentence of Section 6.01(g)(i) of the Credit Agreement, and except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to “materiality” or “Material Adverse Effect” in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct in all material respects on
and as of such earlier date (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to “materiality” or “Material Adverse Effect” in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification)).

(c) **No Default.** After giving effect to this Agreement, except for the Current Defaults, no Default or Event of Default shall have occurred and be continuing or would result from this Agreement becoming effective in accordance with its terms.

(d) **Fees and Expenses.** The Loan Parties shall have paid all accrued and outstanding fees, costs and expenses of the Agent and the Lenders in accordance with Section 12.04 of the Credit Agreement (including reasonable fees and expenses of King & Spalding LLP, counsel to the Lenders and Blank Rome LLP, counsel to Agent).

**ARTICLE IV. MISCELLANEOUS**

4.1 **Reaffirmation of Obligations and Security Interests.** Each Loan Party hereby ratifies the Credit Agreement and the other Loan Documents and acknowledges and reaffirms (a) that it is bound by all terms of the Credit Agreement and the other Loan Documents applicable to it, (b) that it is responsible for the observance and full performance of its respective Obligations, and (c) that the Agent and the Lenders have valid, binding, and enforceable first-priority security interests in the Collateral that secure the Obligations (subject only to Permitted Liens) and are not now or hereafter subject to any offset, defense claim, counterclaim or diminution of any type, kind or nature whatsoever, and are not subject to avoidance or other challenge pursuant to any applicable state or federal law.

4.2 **Representations and Warranties of the Loan Parties.** Each Loan Party represents and warrants as follows:

(a) **Organization, Good Standing, Etc.** Each Loan Party and each of its Subsidiaries (i) is a corporation, limited liability company or limited partnership or other foreign business entity duly organized, validly existing and, where applicable, in good standing under the laws of the state or jurisdiction of its organization, (ii) has all requisite power and authority to conduct its business as now conducted and as presently contemplated and to execute and deliver this Agreement, and to consummate the transactions contemplated hereby and by the Credit Agreement, and (iii) is duly qualified to do business and, where applicable, is in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, other than a jurisdiction where the failure to be so qualified or in good standing could not reasonably be expected to have a Material Adverse Effect.

(b) **Authorization, Etc.** The execution, delivery and performance by each Loan Party of this Agreement (i) have been duly authorized by all necessary action, (ii) do not contravene any applicable Requirement of Law in any material respect or any of its Governing Documents or any material Contractual Obligation binding on or otherwise affecting it or any of its properties, (iii) do not result in or require the creation of any Lien (other than pursuant to any
Loan Document) upon or with respect to any of its properties, and (iv) do not result in any default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to its operations or any of its properties.

(c) **Governmental Approvals.** No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required in connection with the due execution, delivery and performance, as applicable, by any Loan Party of this Agreement other than authorizations, approvals, notices, filings or other actions that have been obtained and that are still in force and effect.

(d) **Enforceability of Loan Documents.** This Agreement is, and each other Loan Document to which any Loan Party is or will be a party, when delivered hereunder, will be, a legal, valid and binding obligation of such Person, enforceable against such Person in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors’ rights generally.

4.3 **Loan Document.** This Agreement shall constitute a Loan Document under the terms of the Credit Agreement.

4.4 **Expenses.** The Borrower agrees to pay all reasonable costs and expenses of the Agent and the Lenders in connection with the preparation, execution and delivery of this Agreement, including without limitation the reasonable fees and expenses of King & Spalding LLP, counsel to the Lenders, and Blank Rome LLP, counsel to the Agent.

4.5 **Further Assurances.** The Loan Parties agree to promptly take such action, upon the reasonable request of the Agent or the Required Lenders as is necessary to carry out the intent of this Agreement.

4.6 **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

4.7 **Entirety.** This Agreement, the Credit Agreement and the other Loan Documents embody the entire agreement among the parties hereto and supersede all prior agreements and understandings, oral or written, if any, relating to the subject matter hereof.

4.8 **Headings.** Section and paragraph headings herein are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

4.9 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

4.10 **Governing Law; Consent to Jurisdiction; Service of Process; Waiver of Jury Trial.** The governing law, consent to jurisdiction, service of process and venue, and waiver of jury trial provisions set forth in Sections 12.09-12.11 of the Credit Agreement are hereby incorporated by reference, *mutatis mutandis.*
4.11 Agent Authorization. Each of the undersigned Lenders, which together constitute no less than the Required Lenders, hereby authorizes the Agent to execute and deliver this Agreement and, by its execution below, each of the undersigned Lenders agrees to be bound by the terms and conditions of this Agreement.

4.12 Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or electronic mail shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or electronic mail also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

4.13 Advice of Counsel; Interpretation. Each of the Borrower and the other Loan Parties acknowledges that it has consulted with independent legal counsel concerning this Agreement and has knowingly and voluntarily entered into this Agreement and accepted the terms and conditions hereof. This Agreement is the product of negotiations of the parties hereto and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party hereto by reason of such party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

BORROWER:

BORDEN DAIRY COMPANY

By: _____________________________
   Name: Jason Monaco
   Title: CFO
GUARANTORS:

BORDEN DAIRY HOLDINGS, LLC
NATIONAL DAIRY, LLC
BORDEN DAIRY COMPANY OF CINCINNATI, LLC
BORDEN TRANSPORT COMPANY OF CINCINNATI, LLC
BORDEN DAIRY COMPANY OF OHIO, LLC
BORDEN TRANSPORT COMPANY OF OHIO, LLC
BORDEN DAIRY COMPANY OF MADISONVILLE, LLC
RGC, LLC
CLAIMS ADJUSTING SERVICES, LLC
BORDEN DAIRY COMPANY OF ALABAMA, LLC
BORDEN DAIRY COMPANY OF TEXAS, LLC
BORDEN DAIRY COMPANY OF SOUTH CAROLINA, LLC
NDH TRANSPORT, LLC
BORDEN DAIRY COMPANY OF LOUISIANA, LLC
BORDEN DAIRY COMPANY OF KENTUCKY, LLC
BORDEN DAIRY COMPANY OF FLORIDA, LLC
GEORGIA SOFT SERVE DELIGHTS, LLC

By:  

Name: Jason Monaco  
Title: CFO
SOLELY WITH RESPECT TO SECTION 2.3
HEREOF:

ACON DAIRY INVESTORS, L.L.C.

By: 

Name: Aron Schwartz
Title: 

Signature Page to Forbearance Agreement – Borden Dairy
COLLATERAL AGENT, ADMINISTRATIVE AGENT AND LENDER:

PNC BANK, NATIONAL ASSOCIATION

By: [Signature]
Name: [Name]
Title: [Title]
LENDERS:

DARBY CREEK LLC
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY

FS KKR CAPITAL CORP
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY

LOCUST STREET FUNDING LLC
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY

DUNLAP FUNDING LLC
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY

JUNIATA RIVER, LLC
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY

FS INVESTMENT CORPORATION IV
By: 
Name: JEFFREY M SMITH
Title: AUTHORIZED SIGNATORY
JEFFERSON SQUARE FUNDING LLC
By: [Signature]
Name: JEFFREY M. SMITH
Title: AUTHORIZED SIGNATORY

FS KKR MM CLO 1 LLC
By: [Signature]
Name: JEFFREY M. SMITH
Title: AUTHORIZED SIGNATORY

FS INVESTMENT CORPORATION II
By: [Signature]
Name: JEFFREY M. SMITH
Title: AUTHORIZED SIGNATORY
EXHIBIT A

CURRENT DEFAULTS

1. The Loan Parties have failed to comply with the covenants set forth in Section 7.03(a), (b) and (c) of the Credit Agreement with respect to any measurement period occurring prior to the date hereof.
2. The breach of any representation or warranty solely as a result of any Default or Event of Default resulting from a breach described in clause 1 above.

ANTICIPATED DEFAULTS

1. The Loan Parties anticipate that they will fail to comply with the covenant set forth in Section 7.03(a) of the Credit Agreement with respect to the Fiscal Quarter ending January 4, 2020.
2. The Loan Parties anticipate that they will fail to comply with the covenant set forth in Section 7.03(b) of the Credit Agreement with respect to the Fiscal Quarters ending October 12, 2019 and January 4, 2020.
3. The breach of any representation or warranty solely as a result of any Default or Event of Default resulting from a breach described in clauses 1 and 2 above.
EXHIBIT B

Restructuring Term Sheet

(attached)
**Borden Dairy Co. – Illustrative Restructuring Term Sheet**

*This Term Sheet outlines certain material terms and conditions (and does not purport to summarize all the terms and conditions) with respect to the proposed transaction described herein (the “Proposed Transaction”). The following is intended for settlement discussion purposes only stated herein, it has no binding effect whatsoever, and shall therefore not be deemed to be a commitment by the parties or any of their affiliates or their or any of their affiliates’ managed or advised funds, clients or accounts. Any such commitment, if issued, will be subject to the terms and conditions contained in the definitive documentation and the satisfactory completion of customary business, legal, tax and accounting due diligence investigation of the Borrower by the Parties including Acon Investments and KKR Credit Advisors (US) LLC and each of theirs representatives and advisors. Nothing in this Term Sheet (except for this paragraph) will be legally binding on the parties and none of the parties otherwise has any liability to the other parties based on this Term Sheet.*

<table>
<thead>
<tr>
<th><strong>Transaction Overview</strong></th>
<th>Borden Dairy Co. (&quot;Borden&quot;) faces an immediate liquidity need in November, a challenging macro environment, and an over-levered capital structure.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Beyond filling the immediate liquidity need, Borden also requires additional capital investment to, among other things, fund maintenance capital expenditures and position the business for future success.</td>
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<tr>
<td></td>
<td>To address these needs, KKR Credit Advisors (US) LLC, on behalf of itself and certain of its affiliates and its or their managed funds and accounts (&quot;KKR&quot;) propose a restructuring of Borden’s capital structure that will provide for:</td>
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<td></td>
<td>- Existing equity investors will invest $45mm for ~54.55% of new preferred equity tranche (&quot;New Money Investors&quot;) to give the business a solid liquidity foundation for future growth;</td>
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<td></td>
<td>- PNC to permanently expand ABL line by $10mm to meet increased liquidity need and reinstate the ESL Lease Line;</td>
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<td></td>
<td>- Borden to re-affirm existing PNC First-out term loan, which will enjoy the benefits of a de-risked capital structure and thus, will adjust the interest rate down by 50bps;</td>
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<td></td>
<td>- KKR to (i) be repaid $10mm at close, (ii) write-off $37.5mm of last-out term loans, (iii) convert an additional $37.5mm of last-out term loans into ~45.45% of new preferred equity tranche and (iv) adjust the interest rate on remaining last-out term loans to L+500 cash / 250 PIK, further increasing Borden’s liquidity position;</td>
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<td></td>
<td>- KKR shall make available and be willing to invest significant operational and firm resources to assist Borden in implementing turnaround;</td>
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<td></td>
<td>- Borden, New Money Investors, and KKR Capstone shall collaborate on developing a cost savings plan as detailed herein. Assuming the results of the cost reduction efforts are satisfactory to the New Money Investors, the New Money Investors shall use good faith efforts to source capital for KKR to receive a $5mm paydown and</td>
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Borden to commit to diligently pursue a sale-leaseback transaction to generate proceeds to pay down term loans as detailed herein.

<table>
<thead>
<tr>
<th>Timing</th>
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<tbody>
<tr>
<td>• PNC to temporarily expand the ABL by $10mm on or before November [19], 2019 to meet immediate liquidity need for 90 days;</td>
</tr>
<tr>
<td>• Full restructuring transactions to be completed on or before January 6, 2019</td>
</tr>
<tr>
<td>• A 50 day forbearance with respect to all Events of Default in existence during such 50-day period shall be executed effective upon agreement regarding this term sheet to allow the parties the time to document the agreements set forth herein; while all parties expect the expanded ABL to provide sufficient liquidity during the forbearance period (it being agreed that PNC shall be obligated to fund notwithstanding any breach of a financial covenant or minimum availability requirement). Should the New Money Investors opt to fund any incremental needed liquidity during the forbearance period, such amount shall be a dollar for dollar reduction against the $45mm new money investment otherwise contemplated herein.</td>
</tr>
</tbody>
</table>

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<tr>
<th>Treatment of Claims upon Implementation of Proposed Transaction</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABL</td>
</tr>
<tr>
<td>• Borden reaffirms amounts currently outstanding;</td>
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<tr>
<td>• PNC extends the expansion of the line by $10mm to meet prospective liquidity need;</td>
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<td>• $35mm of new money investment applied to reduce ABL balance at close;</td>
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<tr>
<td>• Interest rate to be reduced by 25bps and new covenant levels set</td>
</tr>
<tr>
<td>• No other changes to terms</td>
</tr>
<tr>
<td>PNC First-out Term Loan</td>
</tr>
<tr>
<td>• Borden reaffirms amounts outstanding;</td>
</tr>
<tr>
<td>• Interest rate to be reduced by 50bps and new covenant levels set</td>
</tr>
<tr>
<td>• No change to terms</td>
</tr>
<tr>
<td>KKR Term Loan</td>
</tr>
<tr>
<td>• Reduced by $85mm to ~$90mm</td>
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<tr>
<td>o $10mm repaid</td>
</tr>
<tr>
<td>o $37.5mm of principal to be forgiven</td>
</tr>
<tr>
<td>o $37.5mm of principal to be exchanged for $37.5mm (~45.45%) of new Preferred A shares</td>
</tr>
<tr>
<td>• Interest rate on remaining KKR term loans to be reset to L + 500 cash + 250 PIK or, at company’s option, L + 700 cash</td>
</tr>
<tr>
<td>• Mandatory amortization to be reduced to 1% per annum and excess cash sweep increased to 75%</td>
</tr>
<tr>
<td>• New covenant levels set</td>
</tr>
<tr>
<td>PNC ESL Lease Line</td>
</tr>
</tbody>
</table>

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To be reinstated;

**Existing Common Equity**
- No change

**New Equity Investment**
- New Money Investors to invest an additional $45mm of new money in exchange for $45mm (~54.55%) of Preferred A shares
- Assuming the results of the cost reduction efforts are satisfactory to the New Money Investors, the New Money Investors shall use good faith efforts to source capital in order for KKR to receive a $5mm paydown.

### Pro Forma Capital Structure and Governance

<table>
<thead>
<tr>
<th>Capital Structure</th>
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<tbody>
<tr>
<td>ABL:</td>
</tr>
<tr>
<td>PNC First-Out Term Loan:</td>
</tr>
<tr>
<td>KKR Term Loans:</td>
</tr>
<tr>
<td>Preferred A shares:</td>
</tr>
<tr>
<td>Common Equity:</td>
</tr>
</tbody>
</table>

**Pro Forma Board of Directors**

Board will be reconstituted as a 7-member body, with members appointed as follows:

- 4 directors appointed by New Money Investors, at least one of whom must be an independent director, with the remaining three to be allocated pro-rata among New Money Investors
- 3 directors appointed by KKR, at least one of whom must be an independent director

Each of the New Money Investors and KKR may appoint independent directors to fill any or all of their seats. Borden shall pay the same reasonable salary to each independent director appointed to the Board of Directors.

The Board of Directors shall be empowered to act by majority vote on all actions except that, for any of the following actions, such majority must include at least one independent director appointed by KKR:

- Issuance of new securities senior to Preferred A Shares;
- Issuance of new securities pari passu to Preferred A Shares if offering is at a lower price per share than in the initial Preferred A offering
- Investment in or purchase of any securities of any entity other than Borden and its wholly-owned subsidiaries if pro forma for the transaction the Company will have a higher leverage ratio than immediately prior to such transaction’s consummation; and

<sup>1</sup> Assume the revolver is drawn at $60mm less $35mm of paydown.
- Filing for bankruptcy or any similar insolvency proceeding.

**Terms of Preferred A Shares**

<table>
<thead>
<tr>
<th>Economic Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Par Value: $0.01</td>
</tr>
<tr>
<td>• Aggregate Liquidation Preference in an amount equal to 2.25x of face amount (i.e., $82.5mm)</td>
</tr>
<tr>
<td>• After the preference has been earned, the Preferred A Shares shall share pro rata in 25% of each incremental dollar and the existing equity holders shall share in 75% of each incremental dollar pursuant to their existing waterfall.</td>
</tr>
</tbody>
</table>

**Additional Rights for Minority Preferred A Shareholders**

- Enhanced information rights, including additional financial reporting, specifics to be discussed and agreed;
- Preemptive rights;
- Borden will not enter into any transactions with existing equity holders or their affiliates unless consented to by the majority of the minority Preferred A shareholders
- Tag-along rights

**Sale-Leaseback Covenant**

Contemporaneous with the closing of the Proposed Transaction, Borden shall engage JLL to market, and shall use commercially best efforts to consummate a sale-leaseback transaction or transactions presented by JLL that (i) raises at least $40mm of net proceeds to repay the term loans, (ii) results in Borden having a lower leverage ratio pro forma for the transaction(s) and (iii) does not carry covenants that are any more restrictive than those contained in the Credit Agreement ("Qualifying Transaction"). A committee of the Board of Directors (the “Sale-Leaseback Committee”) shall oversee JLL’s effort. The Sale-Leaseback Committee shall consist of one independent director appointed by KKR and one director appointed by the New Money Investor.

All proposals for a Qualifying Transaction shall be presented by the Sale-Leaseback Committee to the Board of Directors and approved by the Board of Directors unless the Sale-Leaseback Committee, by unanimous vote, decides that an offer is not worth presenting to the full Board or the Board of Directors votes unanimously not to approve the Qualifying Transaction.

**Cost-Savings Covenant**

- Contemporaneous with the closing of the Proposed Transaction, the Board shall create a committee of the Board of Directors (the “Business Improvement Committee”). At least one director appointed by KKR shall be included on the Business Improvement Committee. The Business Improvement Committee shall immediately request proposals and scope of work from Conway MacKenzie, KKR Capstone and other unaffiliated and nationally-recognized consultancies to work with the Borden team to identify cost-saving opportunities that in the reasonable business judgment of the Business Improvement Committee and Board will increase
the enterprise value of Borden and returns to the Preferred A at exit (“Value”).

- KKR Capstone will remain embedded with the company, with its fees (as approved by the Board) paid by the company, until (i) LTM EBITDA is above $35 million (to be adjusted for the sale-leaseback expense) or (ii) such time as the Board determines, by unanimous vote, that its services are no longer needed.

- Within [45] days of closing of the Proposed Transaction, Conway MacKenzie, KKR Capstone and such other unaffiliated and nationally-recognized consultancies selected by the Business Improvement Committee shall present to the Board of Directors a plan for reducing costs that are reasonably expected to achieve Value (the “Cost Savings Plan”).

- The Cost Savings Plan shall, among other things, include defined actions for achieving cost savings that enhance Value and timing milestones for achieving such actions and cost savings (the “Milestones”). Each Milestone will be agreed to by each of (i) Borden, (ii) Conway MacKenzie, (iii) KKR Capstone and (iv) if engaged, such other unaffiliated and nationally-recognized consultancies as the Board in its reasonable business judgement shall hire (“Agreed Savings”). Upon receiving a list of Agreed Savings, the Board will exercise its reasonable business judgement in determining whether to approve the Cost Savings Plan.

<p>| Drag Right in Favor of Board | In the event the Board of Directors approves a sale of the company to an unaffiliated third-party purchaser, Borden shall have customary drag rights with respect to any and all equity securities issued and outstanding. |
| Other Terms | Reasonable out-of-pocket expenses incurred in connection with monitoring the investment and all accrued management fees will remain payable by Borden, but such accrued fees shall not accrue interest or carry a maturity date, and there will be no management fee accrued or payable by Borden going forward until LTM EBITDA is again above $35mm; provided however that, subject to approval by the Board, Borden may repay accrued management fees in an amount not to exceed the amounts paid by Borden to KKR Capstone. The New Money Investor shall be eligible to offer services to Borden pursuant to contracts that are agreeable to the New Money Investor and the Board and otherwise comply with the terms of this term sheet. |
| | The Credit Agreement will be amended to effectuate the terms of the Proposed Transaction. Among other terms, the Credit Agreement will be amended to reset covenants, exclude the Preferred A equity from indebtedness, permit any applicable AHYDO catch-up payments and to allow for Borden to execute the sale-leaseback transaction(s) contemplated by the Sale-Leaseback Transaction. |
| | For the avoidance of doubt, any and all parties retained to provide services in connection with the Cost Savings Plan, including KKR |</p>
<table>
<thead>
<tr>
<th><strong>Capstone</strong></th>
<th>Capstone, shall be retained and compensated pursuant to engagement letters approved by the Board of Directors. Such engagement letters shall set forth, among other things, a defined fee structure and scope of work.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tax Structuring</strong></td>
<td>The parties agree to use commercially reasonable efforts to structure the Proposed Transaction in a tax-efficient manner.</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td>Borden will reimburse the reasonable out-of-pocket fees and expenses of (i) KKR, (ii) PNC, (iii) existing equity holders, and (iv) without duplication the New Money Investors in each case as incurred in connection with the Proposed Transaction. Such expenses will include, but not be limited to, legal fees and expenses, and the pre-transaction fees of KKR Capstone, and Brinko to the extent not already paid.</td>
</tr>
</tbody>
</table>