

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

In re:)	
	)	Chapter 11
TRITEK INTERNATIONAL INC., <i>et al.</i> , ¹	)	Case No. 23-10520 (TMH)
Debtors.	)	(Jointly Administered)
	)	Re: Docket No. 503
)	

**ORDER GRANTING FINAL APPROVAL OF DISCLOSURE STATEMENT AND
CONFIRMING DEBTORS’ JOINT CHAPTER 11 PLAN OF LIQUIDATION**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”)² having:

- a) commenced on April 27, 2023 (the “Petition Date”) the chapter 11 cases (the “Chapter 11 Cases”) of the Debtors by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code;
- b) operated their businesses and managed their properties during these Chapter 11 Cases as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;
- c) filed on July 20, 2023, the *Debtors’ Motion of Debtors for Entry of an Order (I) Approving the Combined Disclosure Statement and Joint Chapter 11 Plan on an Interim Basis for Solicitation Purposes Only; (II) Establishing the Solicitation and Tabulation Procedures; (III) Approving the Form of Ballots and Solicitation Materials; (IV) Establishing the Plan Confirmation Schedule; and (V) Granting Related Relief* [Docket No. 297] (the “Solicitation Procedures Motion”);
- d) filed on August 25, 2023, the *Notice of (I) Approval of First Amended Combined Disclosure Statement and Joint Chapter 11 Plan on an Interim Basis for Solicitation Purposes Only, and (II) the Hearing to Consider (A) Final Approval of the First Amended Combined Disclosure Statement, and (B) Confirmation of the Chapter 11 Plan of Liquidation* [Docket No. 387] (the “Confirmation Hearing Notice”), which contained notice of the date and time set for the hearing to consider Confirmation of the Plan and final approval of the Disclosure Statement (the

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: Trittek International Inc. (7919); HyLife Foods Windom, LLC (5391); and Canwin Farms, LLC (3973). Debtors’ mailing address is 2850 Highway 60 East, Windom, MN 56101.

² Capitalized terms used but not defined herein have the meanings given to them in the Plan.

“Confirmation Hearing”) and the deadline for filing objections to Confirmation or final approval of Disclosure Statement;

- e) filed, through the Debtors’ Voting Agent, affidavits of service and/or publication with respect to the Confirmation Hearing, Plan, and Disclosure Statement [including Docket No. 441] (the “Solicitation Service Filings”);
- f) filed on September 8, 2023, the *Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International, Inc. and its Affiliated Debtors* [Docket No. 442];
- g) filed on September 20, 2023, *Notice of Filing of Plan Supplement for Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International, Inc. and its Affiliated Debtors* [Docket No. 458] (the “First Plan Supplement”)
- h) October 2, 2023, the Debtors filed the *Notice of Filing of Amended Plan Supplement to Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International, Inc. and Its Affiliated Debtors* [Docket No. 481] (the “Second Plan Supplement”).
- i) filed, on October 2, 2023, the *Memorandum of Law in Support of an Order Confirming the Second Amended Joint Plan of Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 478] (the “Confirmation Brief”), the *Declaration of Grant Lazaruk in Support of Confirmation of the Debtors’ Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Debtor Affiliates* [Docket No. 480] (the “Lazaruk Declaration”), the *Declaration of John Burlach of Donlin, Recano & Company, Inc. Regarding the Solicitation and Tabulation of Votes Cast on First Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Affiliated Debtors* (the “First Voting Report”) [Docket No. 479];
- j) filed on October 4, 2023 the *Supplemental Declaration of John Burlacu of Donlin, Recano & Company, Inc. Regarding the Solicitation and Tabulation of Votes Cast on First Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Affiliated Debtors* [Docket No. 490](the “Second Voting Report” and together with the First Voting Report the “Voting Report”);
- k) filed on October 3, 2023, the *Declaration of Brian Koluch in Support of Confirmation of the Debtors’ Third Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Debtor Affiliates* [Docket No. 486] (the “First Koluch Declaration”);
- l) filed on October 4, 2023 the *Declaration of Brian Koluch in Support of Confirmation of the Debtors’ Fourth Amended Combined Disclosure Statement*

and Joint Chapter 11 Plan of Tritex International Inc. and Its Debtors Affiliates [Docket No. 495] (the “Koluch Supplemental Declaration” and together with the First Koluch Declaration the “Koluch Declarations”);

- m) filed on October 5, 2023, the *Notice of Filing of Further Amended Plan Supplement to Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International, Inc. and its Affiliated Debtors* [Docket No. 504] (together, with the First Plan Supplement and Second Plan Supplement, the “Plan Supplement”); and
- n) filed on October 5, 2023, the *Modified Fourth Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International, Inc. and its Affiliated Debtors* [Docket No. 503] (the “Combined Disclosure Statement and Plan” or the “Plan,” as modified, amended, or supplemented from time to time).

The Court having:

- a) entered on August 18, 2023, the *Order (I) Approving the Combined Disclosure Statement and Joint Chapter 11 Plan on an Interim Basis for Solicitation Purposes Only; (II) Establishing the Solicitation and Tabulation Procedures; (III) Approving the Form of Ballots and Solicitation Materials; (IV) Establishing the Plan Confirmation Schedule; and (V) Granting Related Relief* [Docket No. 370] (the “Solicitation Procedures Order”);
- b) reviewed the Combined Disclosure Statement and Plan, the Confirmation Brief, the Confirmation Hearing Notice, the Solicitation Service Filings, and all pleadings filed with respect to final approval of the Disclosure Statement and Confirmation of the Plan, including all objections, statements, and reservations of rights with respect thereto filed on the docket in these Chapter 11 Cases or voiced at the Confirmation Hearing;
- c) held the Confirmation Hearing on October 5, 2023, at 11:00 a.m., prevailing Eastern Time;
- d) considered the statements and arguments made by counsel in respect of Confirmation of the Plan, the adequacy of the Disclosure Statement, and the objections thereto; and
- e) considered all oral representations, affidavits, testimony, documents, filing, and other evidence regarding Confirmation of the Plan, the adequacy of the Disclosure Statement, and the objections thereto.

NOW, THEREFORE, it appearing to the Court that notice of the Confirmation Hearing and the opportunity for any party in interest to object to the final approval of the

Disclosure Statement and Confirmation of the Plan have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby, and the legal and factual bases set forth in the documents filed in support of Confirmation of the Plan and other evidence presented at the Confirmation Hearing establish just cause for the relief granted herein; and after due deliberation thereon and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

INTRODUCTION

A. Findings and Conclusions. The determinations, findings, judgments, decrees, and orders set forth and incorporated in this order (this “Order”) constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. Each finding of fact set forth or incorporated herein, to the extent it is or may be deemed a conclusion of law, shall also constitute a conclusion of law. Each conclusion of law set forth or incorporated herein, to the extent it is or may be deemed a finding of fact, shall also constitute a finding of fact.

B. Exclusive Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§ 157(6)(2) and 1334(a)). The Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. The Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

C. Judicial Notice. The Court takes judicial notice of the docket of the Chapter 11

Cases maintained by the Clerk of the Court, including, without limitation, all pleadings and other documents filed and orders entered. The Court also takes judicial notice of all evidence proffered or adduced and all arguments made at the hearings held before the Court during the pendency of the Chapter 11 Cases.

D. Eligibility for Relief. The Debtors are proper debtors under section 109 of the Bankruptcy Code, and the Debtors are proper proponents of the Plan under section 1121(a) of the Bankruptcy Code.

E. Solicitation and Notice. As evidenced by the Solicitation Service Filings, the Plan, Disclosure Statement, Solicitation Procedures Order, notice of the Confirmation Hearing, and an appropriate ballot, with a return envelope (collectively, the “Solicitation Packages”), were transmitted and served on all Holders of Claims entitled to vote on the Plan; the Confirmation Hearing Notice was served on all parties in interest; and notices of non-voting status in lieu of Solicitation Packages were served on parties not entitled to vote on the Plan; with all such service in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order. The solicitation of votes on the Plan complied with the solicitation procedures in the Solicitation Procedures Order, was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases, and was in compliance with all applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. As evidenced by the Solicitation Service Filings, all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to final approval of the Disclosure Statement and Confirmation) have been provided due, proper, timely, and adequate notice and have had an opportunity to appear and be heard with respect thereto. No other or further notice is required.

F. Disclosure Statement. The Disclosure Statement in the form of a Combined Disclosure Statement and Plan provides Holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan in accordance with section 1125 of the Bankruptcy Code. The Disclosure Statement also provides Holders of Claims and other entities with sufficient notice of the injunction, exculpation, and release provisions contained in Article XIV of the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

G. Voting. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations. As evidenced by the Voting Report, Classes 3 and 4 voted to accept the Plan.

H. Burden of Proof. The Debtors have met their burden of proving the elements of section 1129 of the Bankruptcy Code by a preponderance of the evidence.

I. Notice of Plan Supplement Documents. The documents identified in the Plan Supplement were filed as required and notice of such documents was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases and was in compliance with the provisions of the Plan, the Solicitation Procedures Order, the Bankruptcy Code, and the Bankruptcy Rules. All information and documents included in the Plan Supplement and any amendments thereto are integral to, part of, and incorporated by reference into the Plan. The Plan Supplement complies with the terms of the Plan, and the filing and notice of such documents provided due, adequate, and sufficient notice in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is necessary or shall be required.

J. Modifications to the Plan. The Debtors made certain modifications to the Plan in compliance with the Solicitation Procedures Order and upon reaching resolutions to certain objections regarding the Plan. A revised final version of the Plan is attached hereto as **Exhibit A**. All modifications to the Plan since the entry of the Solicitation Procedures Order are consistent with the provisions of the Bankruptcy Code, including sections 1122, 1123, 1125, and 1127 of the Bankruptcy Code, including any modifications disclosed on the record at the Confirmation Hearing. Except as provided for by law, contract, or previous order of the Bankruptcy Court, none of the modifications to the Plan made since the commencement of solicitation materially and adversely affects the treatment of any Holder of a Claim or Interest under the Plan. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code, none of the modifications require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1125 of the Bankruptcy Code. The filing of the Plan as modified and the disclosure of the Plan modifications on the record at or before the Confirmation Hearing constitute due, adequate, and sufficient notice of any and all of such modifications. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of a Claim who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are deemed to have accepted the Plan as modified. No Holder of a Claim shall be permitted to change its vote as a consequence of the Plan modifications, unless otherwise agreed to by the Holder of the Claim and Debtors. All modifications to the Plan made after the solicitation of the Plan are hereby approved, in accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. The Plan as modified shall constitute the Plan submitted for confirmation.

K. Bankruptcy Rule 3016. The Plan is dated and identifies its proponents in

accordance with Bankruptcy Rule 3016(a). The filing of the Disclosure Statement on the docket of the Chapter 11 Cases satisfied Bankruptcy Rule 3016(b).

L. Plan Settlements. The Committee Settlement, the Strobel Settlements, and the Headwaters Settlement (as defined in the Plan) (collectively, the “Plan Settlements”) are fair and equitable and in the best interests of the Estates. The settlement consideration of the Plan Settlements is reasonable based on the value of the claims being settled when taking into account, among other things, the probability of success of litigation, the cost of litigation and the delay associated with litigation, in each case of the settled claims. The Plan Settlements constitute a good faith compromise and settlement of Estate Causes of Action, Claims and controversies among the Debtors, the Debtors’ directors and officers and the applicable settling parties.

COMPLIANCE WITH SECTION 1129 OF THE BANKRUPTCY CODE

M. Plan Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The evidentiary record at the Confirmation Hearing, the Lazaruk Declaration, the Koluch Declarations, the contents of the Plan and the Disclosure Statement, the Solicitation Service Filings, the Confirmation Brief, and the Court’s judicial notice of the complete record of the Chapter 11 Cases support the findings of fact and conclusions of law set forth herein.

N. Proper Classification (11 U.S.C. §§ 1122 and 1123(a)(1)). Article II of the Plan designates Classes of Claims, other than Administrative Claims, Professional Fee Claims, DIP Claims, and Priority Tax Claims which, pursuant to section 1123(a)(1) of the Bankruptcy Code, need not be designated, and Interests. As required by section 1122(a) of the Bankruptcy Code, each Class of Claims or Interests (as applicable) contains only Claims or Interests (as applicable) that are substantially similar to the other Claims or Interests (as applicable) within that Class. Valid reasons exist for separately classifying the various Classes of Claims and

Interests created under the Plan. The Plan, therefore, satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

O. Specified Unimpaired and Impaired Classes (11 U.S.C. §§ 1123(a)(2) and 1123(a)(3)). Article VII of the Plan specifies that Claims in Classes 1 and 2 are Unimpaired and deemed to accept. Article VII of the Plan also specifies the treatment of each Impaired Class under the Plan, which are Classes 3, 4, 5, and 6. Classes 5 and 6 are impaired and deemed rejected. The Plan, therefore, satisfies sections 1123(a)(2) and 1123(a)(3) of the Bankruptcy Code.

P. No Discrimination (11 U.S.C. § 1123(a)(4)). Article VII of the Plan provides the same treatment for each Claim or Interest within a particular Class unless the Holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim or Interest. The Plan, therefore, satisfies the requirements of section 1123(a)(4) of the Bankruptcy Code.

Q. Implementation of the Plan (11 U.S.C. § 1123(a)(5)). The Plan provides adequate and proper means for the Plan's implementation, contemplating the substantive consolidation of the Debtors for distribution purposes only. Among other provisions, Article IX (Implementation of the Plan and the Liquidating Trust), Article X (Provisions Governing Distributions), and Article XI (Provisions for Claims Objections and Estimation of Claims), provide proper means for the Plan's implementation. The Plan, therefore, satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code.

R. Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)). Paragraph 33 of this Order provides that if and to the extent applicable, the Debtors shall comply with section 1123(a)(6) of the Bankruptcy Code.

S. Directors and Officers (11 U.S.C. § 1123(a)(7)). The Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code. The Plan and the Plan Supplement disclose the identity, affiliation, and compensation of the Liquidating Trustee. Matthew Dundon will be appointed as the Liquidating Trustee. The Liquidating Trustee's engagement is consistent with the interests of Holders of Claims and with public policy.

T. Assumption and Rejection (11 U.S.C. § 1123(b)(2)). Consistent with section 1123(b)(2) of the Bankruptcy Code, Article XII of the Plan provides for the assumption or rejection of all of the executory contracts or unexpired leases of the Debtors that have not already been assumed or rejected in the Chapter 11 Cases.

U. Releases, Exculpation, and Injunction Provisions (11 U.S.C. § 1123(b)(3)(A)). Article XIV of the Plan provides for certain releases that: (1) with respect to the Third-Party Releases set forth in Plan § 14.1(c), by virtue of the opt-out procedure, are fully consensual; (2) with respect to the Releases by Debtors set forth in Plan § 14.1(b) were exchanged for good and valuable consideration provided by the Released Parties and are a good-faith settlement and compromise of claims released; (3) are fair, equitable, and reasonable; (4) were given and made after due notice and opportunity for hearing; and (5) provide a bar to any of the Releasing Parties asserting any claim, Cause of Action, or liability that was released by way of the Third-Party Releases against any of the Released Parties or their property. The releases, exculpation, and injunction provisions were prominently noticed in the Plan, the Confirmation Hearing Notice, the Ballots and Notice of Non-voting Status, as applicable, are reasonable and necessary to effectuate the Plan and the Releases by Debtors are a valid exercise of the Debtors' business judgment. The Plan, and the releases contained therein, therefore, satisfy the requirements of section 1123(b)(3)(A) of the Bankruptcy Code.

V. Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtors have complied with the applicable provisions of the Bankruptcy Code. Specifically: (a) the Debtors are proper debtors under section 109 of the Bankruptcy Code; (b) the Debtors have complied with all applicable provisions of the Bankruptcy Code, including section 1125 of the Bankruptcy Code, except as otherwise provided or permitted by order of the Bankruptcy Court; and (c) the Debtors have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order in transmitting the Solicitation Packages and in tabulating the votes with respect to the Plan. In full compliance with the Solicitation Procedures Order, on or before August 25, 2023, the Debtors caused the Solicitation Packages and other documents to be served, and by the dates set forth in the applicable Solicitation Service Filings, the Debtors caused the notices relating to the Confirmation Hearing, Plan, and Disclosure Statement to be served in compliance with the Solicitation Procedures Order. Without limiting the generality of the foregoing, the Confirmation Hearing Notice provided due and proper notice of the Confirmation Hearing and all relevant dates, deadlines, procedures, and other information relating to the Plan and/or the solicitation of votes thereon, including, without limitation, the Voting Deadline and the deadline to file objections to the Combined Disclosure Statement and Plan, the time, date, and place of the Confirmation Hearing and the provisions in the Plan concerning the Debtor release provided for in the Plan. Based on the foregoing, all persons entitled to receive notice of the Disclosure Statement, the Plan, and the Confirmation Hearing have received proper, timely, and adequate notice in accordance with the Solicitation Procedures Order, the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and have had an opportunity to appear and be heard with respect thereto, and as such, the Debtors are in

compliance with section 1128 of the Bankruptcy Code and Bankruptcy Rules 2002(b) and 3017(d)-(f). No other or further notice is required.

W. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Plan has been proposed by the Debtors in good faith and in the belief that the proposed liquidation and other actions contemplated under the Plan will maximize value for the Debtors' creditors. The Plan accomplishes the goals promoted by section 1129(a)(3) of the Bankruptcy Code by enabling the Debtors to transfer Liquidating Trust Assets on the Effective Date to the Liquidating Trust to enable the Liquidating Trustee to make distributions to unsecured creditors, as Beneficiaries of the Liquidating Trust, on a fair and equitable basis, in accordance with the priorities established by the Bankruptcy Code, except as otherwise provided for in the Plan and the settlements and compromises included therein. The Plan has been proposed with the legitimate and honest purpose of implementing a chapter 11 liquidation of the Debtors and maximizing the value of the Estates to achieve the best interests of the Debtors' creditors. In so finding, the Court has considered the totality of the circumstances in the Chapter 11 Cases. Finally, as described in greater detail below, the Plan's exculpation, release, and injunction provisions are warranted, necessary, fair and equitable, and appropriate under the circumstances of the Chapter 11 Cases as a whole and are consistent with sections 105, 1123(b)(6), and 1129 of the Bankruptcy Code and applicable law in this Circuit.

X. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). No payment for services or costs and expenses in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been or will be made by the Debtors other than payments that have been authorized by an order of the Court, including, without limitation, by the confirmation of the Plan by this Order. Pursuant to Article VI of

the Plan, such Professionals' applications for allowance of final compensation and reimbursement of expenses must be filed and served no later than 30 days after the Effective Date. Such applications will be subject to review and approval by the Court.

Y. Proper Disclosure of Officers (11 U.S.C. § 1129(a)(5)). The Debtors have complied with section 1129(a)(5) of the Bankruptcy Code by providing such disclosures in the Plan and Plan Supplement. The Plan, in conjunction with the Plan Supplement, satisfies the requirements of section 1129(a)(5) of the Bankruptcy Code.

Z. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and will not require governmental regulatory approval. Therefore, section 1129(a)(6) of the Bankruptcy Code does not apply to the Plan.

AA. "Best Interest Test" (11 U.S.C. § 1129(a)(7)). Each Holder of an Impaired Claim or Impaired Interest has either accepted the Plan or will receive or retain on account of such Claim or Interest, property of a value on the Effective Date of the Plan that is not less than the amount that such Holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Section 4.8 of the Combined Disclosure Statement and Plan and the evidence related thereto, including the liquidation analysis attached as Exhibit C to the Plan, as supplemented by any evidence proffered or adduced at or prior to the Confirmation Hearing, are persuasive and credible. The Plan, therefore, satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.

BB. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests must either accept a plan or be unimpaired under a plan. Classes 1 and 2 are Unimpaired Classes of Claims, each

of which is conclusively presumed to have accepted the Plan in accordance with section 1126(f) of the Bankruptcy Code. Classes 3 and 4 are Impaired Classes entitled to vote on the Plan. Both Classes 3 and 4 voted to accept the Plan. Classes 5 and 6 are conclusively presumed to reject the Plan because no distribution is anticipated to the Holders of such Interests, in accordance with section 1126(g) of the Bankruptcy Code. The Plan, therefore, does not satisfy the requirement of section 1129(a)(8) of the Bankruptcy Code because at least one Impaired Class has voted against the Plan. Notwithstanding the foregoing, the Plan is confirmable because it satisfies sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.

CC. Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code (11 U.S.C. § 1129(a)(9)). The treatment of Administrative Claims and Priority Tax Claims as set forth in Article VI of the Plan is in accordance with the requirements of section 1129(a)(9) of the Bankruptcy Code. The Plan, therefore, satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.

DD. Acceptance by at Least One Impaired Class of Claims (11 U.S.C. § 1129(a)(10)). As set forth in the Voting Report, Classes 3 and 4 are impaired. Classes 3 and 4 voted to accept the Plan and are independent of any insiders' votes. The Plan, therefore, satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code.

EE. Confirmation is not likely to be followed by need for further reorganization (11 U.S.C. § 1129(a)(11)). The Plan provides for the liquidation of the Debtors' remaining assets and, accordingly, no further reorganization of the Debtors is contemplated. Based on the evidence proffered or adduced at or prior to the Confirmation Hearing and in the Confirmation Brief and the Disclosure Statement, the Debtors and the Liquidating Trust, as applicable, have sufficient funds available as of the Effective Date to pay all claims and expenses that are

required to be paid on the Effective Date under the Plan (including, as applicable, Administrative Claims and Priority Tax Claims), and have funds and/or resources to make the other post-Effective Date distributions provided for under the Plan. Accordingly, the Plan is feasible. The Plan, therefore, satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

FF. Payment of Bankruptcy Fees (11 U.S.C. § 1129(a)(12)). Section 16.6 of the Plan provides for the payment of all fees payable by the Debtors under 28 U.S.C. § 1930(a). The Plan, therefore, satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

GG. Payment of Retirement Benefits (11 U.S.C. § 1129(a)(13)). The Debtors do not have any retiree benefit plans within the meaning of section 1129(a)(13) of the Bankruptcy Code. The Plan, therefore, satisfies the requirements of section 1129(a)(13) of the Bankruptcy Code.

HH. Non-applicability of Certain Sections (11 U.S.C. §§ 1129(a)(14), (15), and (16)). The Debtors do not owe any domestic support obligations, are not individuals, and are not nonprofit corporations. Therefore, sections 1129(a)(14), 1129(a)(15), and 1129(a)(16) of the Bankruptcy Code do not apply to the Chapter 11 Cases.

II. “Cram Down” Requirements (11 U.S.C. § 1129(b)). The Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code. Notwithstanding the fact that Classes 5 and 6 are deemed to reject the Plan (collectively, the “Rejecting Classes”), the Plan may be confirmed pursuant to section 1129(b)(1) of the Bankruptcy Code given that Class 3 and Class 4 voted to accept the Plan. *First*, all of the requirements of section 1129(a) of the Bankruptcy Code other than section 1129(a)(8) of the Bankruptcy Code have been met. *Second*, the Plan is fair and equitable with respect to the Rejecting Classes. The Plan has been proposed in good faith, is reasonable and meets the requirements that no Holder of any Claim

or Interest that is junior to each such Class will receive any property under the Plan on account of such junior Claim or Interest (as applicable) and no Holder of a Claim or Interest in a Class equal to such Classes is receiving more favorable treatment than the Rejecting Classes. Accordingly, the Plan is fair and equitable towards all Holders of Claims or Interests (as applicable) in the Rejecting Classes. *Third*, the Plan does not discriminate unfairly with respect to the Rejecting Classes because similarly situated creditors or interest Holders (as applicable) will receive substantially similar treatment on account of their Claims or Interests irrespective of Class. The Plan may therefore be confirmed despite the fact that not all Impaired Classes have voted to accept the Plan because the Plan does not discriminate unfairly and is fair and equitable with respect to the Rejecting Classes.

JJ. Only One Plan (11 U.S.C. § 1129(c)). The Plan supersedes any other plan (including previous versions thereof) filed in the Chapter 11 Cases. The Debtors seek confirmation of the Plan. No party other than the Debtors has proposed a plan. The Plan, therefore, satisfies the requirements of section 1129(c) of the Bankruptcy Code.

KK. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act, 15 U.S.C. § 77e. The Plan, therefore, satisfies the requirements of section 1129(d) of the Bankruptcy Code.

LL. Good Faith Solicitation (11 U.S.C. § 1125(e)). Based on the record in the Chapter 11 Cases, the Exculpated Parties have acted in “good faith” within the meaning of section 1125(e) of the Bankruptcy Code in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all their respective activities relating to the Plan, including, but not limited to, any action or inaction in connection with

their participation in the activities described in section 1125 of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the provisions set forth in Section 14.1 of the Plan.

MM. Implementation. The various means for implementation of the Plan, as set forth in Article IX and other provisions of the Plan (collectively, the “Implementation Activities”), have been designed and proposed in good faith. The Implementation Activities are adequate and will promote the maximization of the value of the ultimate recoveries under the Plan in a fair and equitable manner in accordance with the priorities established by the Bankruptcy Code (except as otherwise provided for under the Plan). The Implementation Activities are not intended to hinder, delay, or defraud any entity to which the Debtors are indebted on the Effective Date.

NN. Satisfaction of Confirmation Requirements. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

BASED ON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED, THAT:

1. Confirmation. The Plan (as attached hereto as Exhibit A) is approved in its entirety and confirmed pursuant to section 1129 of the Bankruptcy Code. The terms of the Plan, the Plan Supplement and each of the documents comprising the Plan Supplement, any amendments, modifications, or supplements thereto, and all documents and agreements thereto are incorporated by reference into and are an integral part of the Plan, and such terms and their implementation are hereby approved and authorized. The Debtors, Liquidating Trust, and Liquidating Trustee (as applicable), are authorized to take all actions necessary or appropriate to enter into, implement, and consummate the contracts, instruments, releases, and other agreements or documents created in connection with the Plan.

2. Final Approval of Disclosure Statement. The Disclosure Statement is hereby approved, on a final basis, pursuant to section 1125 of the Bankruptcy Code.

3. Objections. All objections or informal comments to the confirmation of the Plan and final approval of the Disclosure Statement, to the extent not previously withdrawn, are overruled in all respects for the reasons set forth in the record of the Confirmation Hearing, which record is incorporated herein, and all remaining objections or informal comments, if any, are deemed withdrawn with prejudice.

4. Omission of Reference to Particular Plan Provisions. The failure to specifically describe or include any particular provision of the Plan in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Plan be approved and confirmed in its entirety.

5. Implementation. The Debtors, the Liquidating Trust, and Liquidating Trustee are authorized to take all actions necessary, appropriate, or desirable to enter into, implement, and consummate the contracts, instruments, releases, agreements, or other documents created or executed in connection with the Plan. Without further order or authorization of this Court, the Debtors, Liquidating Trust, and Liquidating Trustee (as applicable), and their successors (if any) are authorized and empowered to make all modifications to all Plan related documents that are consistent with the Plan. Execution versions of the Plan and all related documents, where applicable, shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms.

6. Classifications. The classification of Claims for purposes of distributions made under the Plan shall be governed solely by the terms of the Plan and this Order.

7. Effective Date. The Effective Date of the Plan shall occur as provided for in

the Plan. For the avoidance of doubt, the Plan shall not become effective unless and until the conditions set forth in Section 13.1 of the Plan have been satisfied or waived pursuant to Section 13.3 of the Plan.

8. Modifications or Alterations to Plan. To the extent the Plan has been modified, supplemented, or altered subsequent to solicitation, such modifications, supplements, and alterations constitute clarifications or technical changes, and do not materially adversely affect or change the treatment of any Claims or Interests. Accordingly, pursuant to Bankruptcy Rule 3019, such modifications or alterations, if any, do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

9. Plan Supplement. The documents contained in the Plan Supplement, and any amendments, modifications, and supplements thereto, and all documents and agreements introduced into evidence by the Debtors at the Confirmation Hearing (including all exhibits and attachments thereto and documents referred to in the Plan Supplement), and the execution, delivery, and performance thereof by the Debtors, the Liquidating Trust, and Liquidating Trustee, as applicable, and their successors are authorized when they are finalized, executed, and delivered. Without further order or authorization of this Bankruptcy Court, the Debtors, the Liquidating Trust, and Liquidating Trustee, as applicable, and their respective successors, are authorized and empowered to make all modifications to all documents included as part of the Plan Supplement that are consistent with the Plan. Execution versions of the documents comprising or contemplated by the Plan Supplement shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms.

10. Resolution of Claims. As discussed in detail in the Combined Disclosure Statement and Plan, and as otherwise provided herein, in consideration for the classification, distributions, releases, and other value and benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan. Subject to Articles VII and X of the Plan, all distributions made to Holders of Allowed Claims in any Class are intended to be and shall be final.

11. Plan Settlements. The Plan Settlements, including the Committee Settlement, the Headwaters Settlement and the Strobel Settlement (as defined by the Plan), are approved. The Committee Settlement shall become effective upon the transfer of the D&O Contribution on or before the Effective Date in accordance with the Plan. The D&O Contribution will be transferred to the Liquidating Trust for the exclusive benefit of Holders of Allowed General Unsecured Claims in Class 4.

12. Post-Confirmation Governance. On and after the Effective Date, the Liquidating Trust, acting by and through the Liquidating Trustee, shall have authority over the Liquidating Trust Assets and other responsibilities designated for the Liquidating Trust and/or Liquidating Trustee under the Plan.

13. Sources of Consideration for Plan Distributions. As set forth more fully in the Plan, the Liquidating Trust will be responsible for making distributions under the Plan.

14. Establishment of the Liquidating Trust. The Liquidating Trust shall be established on the Effective Date and shall be maintained thereafter in accordance with the terms of the Plan and the Liquidating Trust Agreement. The Liquidating Trust Agreement, in substantially the form attached as an exhibit to the Plan Supplement, and all provisions therein, and the appointment of

the Liquidating Trustee, are hereby approved by this Order. Pending the occurrence of the Effective Date, the Debtors are authorized to take all actions as may be necessary to facilitate the creation and implementation of the Liquidating Trust. The appointment of Matthew Dundon as the Liquidating Trustee and the terms of the proposed compensation thereof are hereby approved. On the Effective Date, the Liquidating Trustee shall be substituted for the Debtors for all purposes with respect to the Liquidating Trust Assets and administration of Claims for which the Liquidating Trustee is responsible under the Plan. The Liquidating Trustee shall have such rights, powers, duties and shall receive such compensation as is provided for in the Plan, the Liquidating Trust Agreement, this Confirmation Order, and any Plan Supplement. With respect to the Liquidating Trust Assets, the Liquidating Trust shall be authorized, in accordance with Section 1123(b)(3) of the Bankruptcy Code, to be substituted as the party-in-lieu of the Debtors in all matters, including (x) motions, contested matters, and adversary proceedings pending in this Bankruptcy Court and (y) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of this Bankruptcy Court. The Liquidating Trust is authorized and empowered, in accordance with Section 1123(b)(3) of the Bankruptcy Code, the Plan, and the Liquidating Trust Agreement, to liquidate or otherwise administer the Liquidating Trust Assets.

15. Transfer of Assets to the Liquidating Trust. Pursuant to Article IX of the Plan, on the Effective Date, (a) the Debtors shall be deemed to have irrevocably transferred, assigned, and delivered to the Liquidating Trust, on behalf of the Beneficiaries, all (i) Liquidating Trust Assets, subject to all rights, defenses, and setoffs of any party in interest including the Liquidating Trustee; (ii) the Guaranteed Amount; and (iii) the D&O Contribution, and (b) the Liquidating Trust shall accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the Beneficiaries, subject to the Plan and the Liquidating Trust Agreement.

16. Exculpation, Indemnification, Insurance, and Liability Limitation of Post-Effective Date Parties. The Liquidating Trustee and all professionals retained by it, each in their capacities as such, shall be indemnified, except for willful misconduct, gross negligence or fraud. The Liquidating Trustee may obtain, at the expense of the Liquidating Trust, customary insurance coverage for the protection of the Liquidating Trustee and professionals retained by the Liquidating Trust on and after the Effective Date. The Liquidating Trustee may rely upon written information previously generated by the Debtors.

17. Preservation of Causes of Action. The Debtors reserve and, as of the Effective Date, assign to the Liquidating Trust, the Retained Causes of Actions. The Retained Causes of Action shall include, for the avoidance of doubt and without limitation, those Causes of Action identified as Retained Causes of Actions in the Schedule of Retained Causes of Action included in the Plan Supplement. On and after the Effective Date, the Debtors and the Liquidating Trustee, as applicable, expressly reserve all rights to prosecute any and all Claims and Causes of Action against any Entity, including, without limitation, any creditor listed in any creditor matrix filed in these Chapter 11 Cases or any person or Entity listed on the Schedule of Retained Causes of Action included in the Plan, regardless of whether such Entity or Entities is expressly identified in this Schedule, except as otherwise expressly provided in the Plan and the Final DIP Order. No Entity may rely on the absence of a specific reference in the Plan or the Plan Supplement to any Cause of Action against them as any indication that the Debtors or the Liquidating Trustee will not pursue any and all available Causes of Actions against them.

18. Retained Causes of Action. On and after the Effective Date, the Retained Causes of Action of the Debtors shall vest in the Liquidating Trust, as provided for in the Plan and the Schedule of Retained Causes of Action included in the Plan Supplement. In accordance with

section 1123(b)(3) of the Bankruptcy Code, the Liquidating Trust and the Liquidating Trustee (following transfer of the Retained Causes of Actions to the Liquidating Trust) may enforce all rights to commence and pursue, as appropriate, any and all Trust Retained Causes of Actions on behalf of and for the benefit of the applicable Beneficiaries, whether arising before or after the Petition Date, including any Trust Retained Causes of Action enumerated in the Schedule of Retained Causes of Action. All rights to commence, prosecute, or settle such Retained Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, other than the Causes of Action released by the Debtors pursuant to the releases and exculpations contained in the Plan, including in Article XIV, which shall be deemed released and waived by the Debtors and the Liquidating Trust as of the Effective Date.

19. Effectuating Documents; Further Transactions. On and after the Effective Date, the Liquidating Trust, through the Liquidating Trustee, as applicable, is authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

20. Section 1146 Exemption. Pursuant to section 1146 of the Bankruptcy Code, any transfers of property pursuant hereto and/or the Plan shall not be subject to any document recording tax, stamp tax, or other similar tax or governmental assessment, and upon entry of this Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation

any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

21. Rejection of Executory Contracts and Unexpired Leases. On the Effective Date, except as otherwise provided in the Plan, each Executory Contract or Unexpired Lease not previously assumed, assumed and assigned, or rejected shall be automatically rejected, pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease was previously subject to a motion to assume, assume and assign, or reject an Executory Contract on which the Bankruptcy Court has not ruled. This Order shall constitute an order of the Bankruptcy Court approving such rejection, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date.

22. Claims Based on Rejection of Executory Contracts or Unexpired Leases. **All proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases must be Filed with the Bankruptcy Court within 30 days after the later of (1) service of notice of the date of entry of an order of the Bankruptcy Court (including this Order) approving such rejection, (2) the effective date of such rejection, or (3) the Effective Date. The Effective Date Notice shall set forth the date by which claims arising from the rejection of Executory Contracts or Unexpired Leases must be Filed with the Bankruptcy Court, and how a proof of claim form may be obtained. All Claims arising from the rejection of Executory Contracts or Unexpired Leases for which proofs of Claim are not timely Filed, shall be forever barred from assertion against Debtors, their Estates, successors and assigns, and their assets and properties, unless otherwise ordered by the Bankruptcy Court. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in this Plan. Unless otherwise ordered by the Court, all**

such Claims that were timely filed as provided herein and Allowed shall be treated as General Unsecured Claims under this Plan and shall be subject to the provisions of this Plan.

23. Reservation of Rights. Nothing contained in this Order or the Plan shall constitute an admission by the Debtors that any executory contract or unexpired lease is in fact an executory contract or unexpired lease or that the Debtors have any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors, or the Liquidating Trust, as applicable, shall have 30 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

24. Injunction. The injunction contained in Article XIV of the Plan is approved in all respects. **Except as otherwise expressly provided in the Combined Disclosure Statement and Plan or obligations issued pursuant to the Plan, all Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Interest, from: (1) commencing or continuing in any manner any action or other proceeding of any kind against any of the Estates, the Liquidating Trust, their successors and assigns, and any of their assets and properties; (2) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any Estate, the Liquidating Trust, their successors and assigns, and any of their assets and properties; (3) creating, perfecting or enforcing any encumbrance of any kind against any Estate, the Liquidating Trust, their successors and assigns, and any of their assets and properties; (4) asserting any right of setoff or subrogation of any kind against any obligation due from any Estate, the Liquidating Trust or their successors and assigns, or against any of their assets and properties, except to the extent a right to setoff or subrogation is asserted with respect to a timely Filed proof of**

Claim; or (5) commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Interest or Cause of Action released under Article XIV of the Plan.

25. Releases and Exculpations. The Third-Party Releases, the Releases by Debtors and the Exculpation and Limitation of Liability contained in Article XIV of the Plan are approved in all respects.

26. Participation in Plan Voting. The Exculpated Parties have, and upon confirmation of the Plan, shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

27. Dissolution of the Committee. On the Effective Date, the Committee will dissolve; provided, however, that following the Effective Date, the Committee shall continue in existence and have standing and a right to be heard for only the following limited purposes: (a) applications, and any relief related thereto, for compensation and requests for allowance of fees and/or expenses under section 503(b) of the Bankruptcy Code, and (b) to enforce the releases and exculpation under Article XIV of the Plan of the Committee, the Committee's members, and the Committee's Related Parties.

28. Final Administrative Claim Bar Date. **Holders of Administrative Claims, other than Professional Fee Claims, accruing after the date of entry of the Solicitation Procedures Order through and including the Effective Date shall File with the Voting Agent and serve on the Debtors or the Liquidating Trustee, as applicable, requests for payment, in writing,**

together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, so as to actually be received on or before the Final Administrative Claim Bar Date, which information shall be included in the Effective Date Notice. The Effective Date Notice shall also set forth the Final Administrative Claim Bar Date and shall constitute notice of such Bar Date. Absent further Bankruptcy Court order, any Final Administrative Claim not Filed by the Final Administrative Claim Bar Date shall be deemed waived and the Holder of such Final Administrative Claim shall be forever barred from receiving payment on account thereof.

29. Professional Fee Claims. All final requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Confirmation Date must be Filed no later than 30 days after the Effective Date, unless no final request for payment of such Professional Fee Claims is required pursuant to an order of the Bankruptcy Court. All such applications for final allowance of compensation and reimbursement of expenses will be subject to the authorization and approval of the Bankruptcy Court.

30. Notices of Confirmation and Effective Date. The Debtors shall serve a combined notice of entry of this Order and notice of the Effective Date in accordance with Bankruptcy Rules 2002 and 3020(c) on all creditors, equity holders, and parties having requested notice in the Chapter 11 Cases within 10 Business Days after the Effective Date. Notwithstanding the above, no notice of Confirmation or Effective Date or service of any kind shall be required to be mailed or made upon any party to whom the Debtors mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar

reason, unless the Debtors have been informed in writing by such Entity, or are otherwise aware, of that Entity's new address. The above-referenced notices are adequate under the particular circumstances of the Chapter 11 Cases and no other or further notice is necessary.

31. Retention of Jurisdiction. Notwithstanding the entry of this Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Cases and any of the proceedings related to all matters arising out of, or related to, the Chapter 11 Cases pursuant to section 1142 of the Bankruptcy Code and 28 U.S.C. § 1334 to the fullest extent permitted by the Bankruptcy Code and other applicable law, including, without limitation, such jurisdiction as is necessary to ensure that the purpose and intent of the Plan are carried out.

32. Non-Voting Equity Securities. If and to the extent applicable, the Debtors shall comply with section 1123(a)(6) of the Bankruptcy Code.

33. Books and Records. Upon the occurrence of the Effective Date, the Debtors' remaining books and records shall be transferred to the Liquidating Trust, which shall continue to preserve all financial books and records, emails, and other financial documents relating to the Debtors' business that are currently in the Debtors' possession. Nothing in the Plan or this Order shall affect the obligations of the pre-Effective Date Debtors, the Liquidating Trust, and/or any transferee or custodian to maintain all books and records that are subject to any governmental subpoena, document preservation letter, or other investigative request from a governmental agency. The Liquidating Trustee shall be authorized pursuant to Bankruptcy Code section 554, in its sole discretion, without any further notice to any party or action, order or approval of the Bankruptcy Court, to abandon, dispose of, or destroy in any commercially reasonable manner all originals and/or copies of any documents, books and records, including any electronic records, of

the Debtors that are transferred to the Liquidating Trust and which the Liquidating Trustee reasonably concludes are burdensome or of inconsequential value and benefit to the Liquidating Trust.

34. Successors and Assigns. The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

35. Immediate Binding Effect of the Plan. Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan, the Plan Supplement, and this Order shall be immediately effective and enforceable and deemed binding upon the Debtors, the Liquidating Trust, the Liquidating Trustee, and any and all Holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan or this Order, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

36. Event of Default. A failure by the Debtors to make a payment to the Texas Comptroller pursuant to the terms of the Plan shall be an event of default with respect to the Texas Comptroller. If the reorganized Debtor fails to cure an event of default as to tax payments within ten (10) calendar days after service of written notice of default from the Texas Comptroller, the Texas Comptroller may (a) enforce the entire amount of its claim, (b) exercise all rights and remedies under applicable nonbankruptcy law, and (c) seek such relief as may be appropriate in this court. Notice of the default shall be served by first class mail

upon the reorganized Debtor at: (a) counsel for Debtors, 50 Rockefeller Plaza, New York, NY 10020, Attn: Jerry L. Hall (jerry.hall@katten.com) and Michael E. Comerford (michael.comerford@katten.com); (b) Delaware counsel to Debtors, Potter Anderson & Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, Wilmington DE, 19801, Attn: Jeremy Ryan (jryan@potteranderson.com) and L. Katherine Good (kgood@potteranderson.com); and (c) the Liquidating Trustee, Dundon Advisers LLC, 440 Mamaroneck Avenue, Suite 507, Harrison NY 10528, Attn: Matthew Dundon, Not in His Individual Capacity, but Solely as Liquidating Trustee of the Tritex Liquidating Trust (MD@dundon.com). The Debtor shall be allowed to cure up to two (2) defaults. Upon a third default, the Texas Comptroller, at its option, may declare the default non-cureable and proceed to collect the remainder of the debt.

37. Governmental Approvals Not Required. Except as otherwise specifically provided herein, this Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or other governmental authority with respect to the implementation or consummation of the Combined Disclosure Statement and Plan, any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referenced to in, or contemplated by, the Combined Disclosure Statement and Plan.

38. The Fire Group Inc., Resolved Objection: Nothing in the Plan or this Order shall reclassify, or be deemed to reclassify, The Fire Group Inc.'s asserted secured claim [Claim No. 92] as a Class 4 General Unsecured Claim; provided, however, that for the avoidance of doubt, such claim shall remain subject to the claim objection procedures and reservations of rights set forth in the Plan, including with respect to the classification of claims.

39. Certain Vote Changes. Following the Voting Deadline, the Debtors reached

settlements with Headwaters Development, LLC and Greg Strobel d/b/a Strobel Farms, where both parties agreed to vote in favor of the Plan. The vote changes are appropriate and are hereby approved and authorized.

40. Plan and Confirmation Order Mutually Dependent. This Order shall constitute a judicial determination and shall provide that each item and provision of the Plan is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (c) nonseverable and mutually dependent.

41. Reversal. If any of the provisions of this Order are hereafter reversed, modified, or vacated by a subsequent order of the Bankruptcy Court or any other court, absent a stay pending appeal, such reversal, modification, or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under, or in connection with, the Plan prior to receipt of written notice of such order by the Debtors. Notwithstanding any such reversal, modification, or vacatur of this Order, any such act or obligations incurred undertaken pursuant to, and in reliance on, this Order prior to the effective date of such reversal, modification, or vacatur shall be governed in all respects by the provisions of this Order, the Plan, all documents relating to the Plan, and any amendments or modifications to any of the foregoing.

42. Confirmation Order Supersedes. It is hereby ordered that this Order shall supersede any Bankruptcy Court orders issued prior to the Confirmation Date that may be inconsistent with this Order.

43. Recording. The Debtors, the Liquidating Trust, and the Liquidating Trustee are authorized to deliver a notice or short form of this Order, with the Plan attached, to any state or local recording officer, and such officer must accept for filing such documents or instruments without charging any recording tax, stamp tax, transfer tax, conveyance

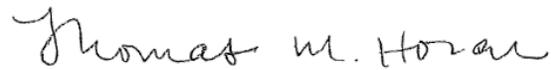
fee, intangibles or similar tax, sale tax, use tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment. Such notice (a) shall have the effect of an order of this Court, (b) shall constitute sufficient notice of the entry of this Order to such filing and recording officers, and (c) shall be a reasonable instrument notwithstanding any contrary provision of non-bankruptcy law. The Bankruptcy Court specifically retains jurisdiction to enforce the foregoing direction, by contempt or otherwise.

44. Conflicts Between This Order and the Plan. The provisions of the Plan and of this Order shall be construed in a manner consistent with each other so as to effect the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any Plan provision and any provision of this Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of this Order shall govern and any such provision of this Order shall be deemed a modification of the Plan and shall control and take precedence.

45. Plan and Confirmation Order Govern. Without intending to modify any prior order of this Court (or any agreement, instrument, or document addressed by any prior order), in the event of an inconsistency between the Plan, on the one hand, and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement, instrument, or document); *provided, further*, that, for the avoidance of doubt, in the event of any inconsistency between the Plan and the terms of this Order, the terms of this Order shall govern.

46. The Debtors is authorized to consummate the Plan at any time after the entry of the Confirmation Order, subject to satisfaction or waiver of the conditions precedent to the occurrence of the Effective Date as set forth in Article XIII of the Plan. On the Effective Date and the commencement of Distributions under the Plan, the Plan shall be deemed to be substantially consummated within the meaning in Bankruptcy Code Section 1101 and pursuant to Bankruptcy Code Section 1127(b).

Dated: October 6, 2023
Wilmington, Delaware



Thomas M. Horan
United States Bankruptcy Judge

Exhibit A

The Combined Disclosure Statement and Plan

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
	)	Chapter 11
TRITEK INTERNATIONAL INC., <i>et al.</i> , ¹)	
	)	Case No. 23-10520 (TMH)
Debtors.)	
	)	(Jointly Administered)
)	
)	

MODIFIED FOURTH AMENDED COMBINED DISCLOSURE STATEMENT AND JOINT CHAPTER 11 PLAN OF TRITEK INTERNATIONAL INC. AND ITS AFFILIATED DEBTORS

Dated: October 5, 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Maria Kotsiras

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¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: Trittek International Inc. (7919); HyLife Foods Windom, LLC (5391); and Canwin Farms, LLC (3973). Debtors’ mailing address is 2850 Highway 60 East, Windom, MN 56101.

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DISCLAIMER

THIS COMBINED DISCLOSURE STATEMENT AND PLAN WAS COMPILED FROM INFORMATION OBTAINED FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF DEBTORS' KNOWLEDGE, INFORMATION, AND BELIEF. NO GOVERNMENTAL AUTHORITY HAS PASSED ON, CONFIRMED OR DETERMINED THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN.

NOTHING STATED HEREIN SHALL BE (I) DEEMED OR CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, (II) ADMISSIBLE IN ANY PROCEEDING INVOLVING DEBTORS OR ANY OTHER PARTY, OR (III) DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE COMBINED DISCLOSURE STATEMENT AND PLAN ON DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS. CERTAIN STATEMENTS CONTAINED HEREIN, BY NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES.

THE STATEMENTS CONTAINED HEREIN ARE MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED. THE DELIVERY OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME AFTER THE DATE HEREOF. HOLDERS OF CLAIMS OR INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THIS COMBINED DISCLOSURE STATEMENT AND PLAN AND THE TRANSACTIONS CONTEMPLATED HEREBY.

NO PARTY IS AUTHORIZED TO GIVE ANY INFORMATION WITH RESPECT TO THIS COMBINED DISCLOSURE STATEMENT AND PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. NO REPRESENTATIONS CONCERNING DEBTORS OR THE VALUE OF THEIR PROPERTY HAVE BEEN AUTHORIZED BY DEBTORS OTHER THAN AS SET FORTH IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. ANY INFORMATION, REPRESENTATIONS OR INDUCEMENTS MADE TO OBTAIN AN ACCEPTANCE OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN SHOULD NOT BE RELIED UPON BY ANY HOLDER OF A CLAIM OR INTEREST. THE COMBINED DISCLOSURE STATEMENT AND PLAN HAS BEEN PREPARED IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 1125 AND BANKRUPTCY RULE 3016(b) AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-APPLICABLE BANKRUPTCY LAWS.

SEE ARTICLE V HEREIN, ENTITLED “CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING,” FOR A DISCUSSION OF CERTAIN CONSIDERATIONS IN CONNECTION WITH A DECISION BY A HOLDER OF AN IMPAIRED CLAIM TO ACCEPT THE COMBINED DISCLOSURE STATEMENT AND PLAN.

DEBTORS AND THE PREPETITION AGENT SUPPORT CONFIRMATION OF THE COMBINED DISCLOSURE STATEMENT AND PLAN AND RECOMMEND ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE COMBINED DISCLOSURE STATEMENT AND PLAN TO VOTE TO ACCEPT THE COMBINED DISCLOSURE STATEMENT AND PLAN.

ALL HOLDERS OF CLAIMS AND INTERESTS AGAINST DEBTORS ARE ADVISED THAT THERE IS A PENDING SETTLEMENT BY AND AMONG THE DEBTORS, PREPETITION SECURED PARTIES, LESSOR, AND THE COMMITTEE, EACH AS DEFINED HEREIN, WHICH, IF APPROVED, WOULD RESULT IN MODIFICATIONS TO THE PLAN BENEFICIAL TO HOLDERS OF GENERAL UNSECURED CLAIMS. SEE SECTION 3.3(b)(i) HEREIN FOR A DISCUSSION OF THE GLOBAL SETTLEMENT. A COPY OF THE STIPULATION MEMORIALIZING THE GLOBAL SETTLEMENT IS ATTACHED HERETO AS EXHIBIT A.

INTRODUCTION²

Debtors hereby jointly propose the following combined Disclosure Statement and Plan for the liquidation of Debtors’ remaining Assets and distribution of the proceeds of the Assets to the Holders of Allowed Claims against Debtors as set forth herein. Each Debtor is a proponent of the Plan within the meaning of Bankruptcy Code section 1129.

This combined Disclosure Statement and Plan contains, among other things, a discussion of Debtors’ history, businesses, properties, operations, the Chapter 11 Cases, risk factors, summary and analysis of the Plan, and certain other related matters.

ALL HOLDERS OF CLAIMS AND INTERESTS AGAINST DEBTORS ARE ENCOURAGED TO READ THE COMBINED DISCLOSURE STATEMENT AND PLAN IN ITS ENTIRETY, AND TO CONSULT WITH AN ATTORNEY, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN BANKRUPTCY CODE SECTION 1127, BANKRUPTCY RULE 3019, AND IN THE PLAN, DEBTORS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN, OR ANY PART THEREOF, AT ANY TIME, INCLUDING PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

² Capitalized terms not defined in this Introduction shall have the meanings ascribed below.

ARTICLE I
DEFINED TERMS AND RULES OF INTERPRETATION

Defined Terms

1.1 “503(b)(9) Claims” shall mean Claims arising under Bankruptcy Code section 503(b)(9).

1.2 “Administrative Claim” shall mean a Claim for costs and expenses of administration of the Chapter 11 Cases allowed under Bankruptcy Code sections 503(b), 507(b) or, if applicable, 1114(e)(2), including but not limited to: (a) any actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating Debtors’ businesses (including, but not limited to, wages, salaries, commissions for services and payments for inventories, leased equipment and premises) and Claims by Governmental Units for taxes (including Claims related to taxes which accrued after the Petition Date, but excluding Claims related to taxes which accrued on or before the Petition Date); (b) compensation for legal, financial, advisory, accounting and other services and reimbursement of expenses allowed by the Bankruptcy Court under Bankruptcy Code sections 328, 330, 331, 363 or 503(b) to the extent incurred on or prior to the Effective Date; (c) all fees and charges assessed against the Estates under United States Code title 28 section 1930; (d) any 503(b)(9) Claims; and (e) any Claims that have been designated “Administrative Claims” by order of this Court.

1.3 “Affiliate” shall mean “affiliate” as defined in Bankruptcy Code section 101(2).

1.4 “Allowed” shall mean all or a portion of a Claim against Debtors or an Interest in Debtors (a) that has been listed by Debtors in the Schedules as liquidated in amount and not “disputed” or “contingent,” and with respect to which no contrary Claim or proof of Interest has been Filed, (b) as to which no objection or request for estimation has been Filed on or before the Claims Objection Deadline or the expiration of such other applicable period fixed by the Bankruptcy Court, (c) as to which any objection has been settled, waived, withdrawn or denied by a Final Order, or (d) that is allowed (i) by a Final Order, or (ii) pursuant to the terms of the Plan, or (iii) by a stipulation between the Holder of such Claim or Interest and the Liquidating Trustee on or after the Effective Date. For purposes of computing Distributions under the Plan, a Claim or Interest that has been deemed “Allowed” shall not include interest, costs, fees or charges on such Claim or Interest from and after the Petition Date.

1.5 “Assets” shall mean any and all right, title, and interest of Debtors and the Estates in and to property of whatever type or nature, including their books and records.

1.6 “Avoidance Actions” shall mean any and all avoidance or equitable subordination or recovery actions under the Bankruptcy Code, including sections 105(a), 502(d), 510, 542 through 551, and 553, or any similar federal, state, or common law causes of action, but excluding any avoidance or equitable subordination or recovery actions that have been sold or otherwise transferred in connection with the Sales.

1.7 “Ballot” shall mean the ballot form distributed to each Holder of a Claim entitled to vote to accept or reject this Plan.

1.8 “Bankruptcy Code” shall mean title 11 of the United States Code, 11 U.S.C. §§ 101–1532, and as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Cases.

1.9 “Bankruptcy Court” shall mean the United States Bankruptcy Court for the District of Delaware.

1.10 “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, or the Local Rules, as each has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Cases.

1.11 “Bar Date” shall mean, with respect to any particular Claim, the specific date set by the Bankruptcy Court as the last day for Filing Proofs of Claim, motions for allowance of Administrative Claims, or proofs of Interest against Debtors in the Chapter 11 Cases for that specific Claim or Interest.

1.12 “Bar Date Order” shall mean that certain *Order (I) Establishing Bar Dates and Related Procedures for Filing Proofs of Claim (Including for Claims Arising Under Section 503(b)(9) of the Bankruptcy Code), (II) Approving the Form and Manner of Notice Thereof, and (III) Granting Related Relief* [D.I. 137].

1.13 “Beneficiary” shall mean a holder of a Liquidating Trust Interest, whether individually or as agent on behalf of one or more other Entities. To the extent Holders of Allowed General Unsecured Claims are entitled to a Distribution from the Liquidating Trust pursuant to the terms of the combined Disclosure Statement and Plan, such Holders are each a Beneficiary.

1.14 “Bidding Procedures Order” shall mean that certain *Order Establishing Bidding Procedures for the Potential Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Scheduling Certain Dates with Respect Thereto; (III) Approving the Form and Manner of Notice Thereof; (IV) Approving Assumption and Assignment Procedures; and (V) Granting Related Relief* [D.I. 114].

1.15 “Business Day” shall mean any day, other than a Saturday, Sunday or a legal holiday (as that term is defined in Bankruptcy Rule 9006(a)).

1.16 “Cash” shall mean money that is legal tender of the United States of America.

1.17 “Canwin” shall mean Canwin Farms, LLC.

1.18 “Causes of Action” shall mean all Claims, actions, causes of action, choses in action, suits, debts, dues, damages, defenses, judgments, third-party claims, counterclaims, and cross claims that are or may be pending or existing on the Effective Date against any Entity, based in law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, known or unknown, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order, and including any unknown

Causes of Action that have not been released by the Plan or any order of the Bankruptcy Court.

1.19 “**Chapter 11 Cases**” shall mean the chapter 11 cases commenced by Debtors and jointly administered under case number 23-10520 (TMH) in the Bankruptcy Court.

1.20 “**Claim**” shall mean a claim against any Debtor, as such term is defined in Bankruptcy Code section 101(5).

1.21 “**Claims Agent**” shall mean Debtors’ claims agent, Donlin, Recano & Company, Inc.

1.22 “**Claims Objection Deadline**” shall mean one hundred eighty (180) days after the Effective Date, or such later date as may be ordered by the Bankruptcy Court; *provided however*, that the Liquidating Trustee may seek extensions of this date from the Bankruptcy Court at any time.

1.23 “**Class**” shall mean each category or group of Holders of Claims or Interests that has been designated as a class in Article II of the combined Disclosure Statement and Plan.

1.24 “**Committee**” shall mean the Official Committee of Unsecured Creditors appointed by the U.S. Trustee on June 15, 2023 [D.I. 238].

1.25 “**Confirmation**” shall mean entry of the Confirmation Order by the Bankruptcy Court on the docket of the Chapter 11 Cases.

1.26 “**Confirmation Date**” shall mean the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

1.27 “**Confirmation Hearing**” shall mean the hearing held by the Bankruptcy Court to consider confirmation of the Plan and final approval of the Disclosure Statement, as such hearing may be adjourned or continued from time to time.

1.28 “**Confirmation Notice**” shall mean the notice of Confirmation Hearing to be delivered pursuant to Bankruptcy Rules 2002(c)(3) and 2002(f).

1.29 “**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming the Plan pursuant to, among others, Bankruptcy Code section 1129.

1.30 “**Consummation**” shall mean the occurrence of the Effective Date.

1.31 “**Contingent**” shall mean, with reference to a Claim, a Claim that has not accrued or is not otherwise payable and the accrual of which, or the obligation to make payment on which, is dependent upon a future event that may or may not occur.

1.32 “**Contributing Directors and Officers**” shall mean (i) Grant Lazaruk (ii) Guy Baudry (iii) Ron Schellenberg and (iv) Howard Siemens.

1.33 “**Creditor**” shall have the meaning ascribed to such term in Bankruptcy Code section 101(10).

1.34 “**D&O Policies**” shall mean, collectively, Debtors’ director and officer liability insurance policies along with any other applicable directors and officers liability insurance policies, including primary insurance, excess insurance, or tail insurance policies.

1.35 “**Debtors**” shall mean, collectively, Tritex International Inc., HyLife Foods Windom, LLC, and Canwin Farms, LLC.

1.36 “**DIP Borrower**” shall mean HyLife Windom Foods, LLC.

1.37 “**DIP Guarantor**” shall mean Canwin Farms, LLC.

1.38 “**DIP Lenders**” shall mean CPF Canada Holdings Corp., a Canadian corporation, and Itochu Corporation, a Japanese corporation.

1.39 “**DIP Loan Claims**” shall mean the claims authorized under the DIP Orders.

1.40 “**DIP Credit Agreement**” shall mean that certain DIP Financing and Release Agreement, dated as of April 27, 2023, entered into by and among the Debtors and the DIP Lenders.

1.41 “**DIP Orders**” means, collectively, the Interim DIP Order and Final DIP Order.

1.42 “**Disallowed**” shall mean, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in a Debtor which: (i) has been disallowed, in whole or part, by a Final Order; (ii) has been withdrawn, in whole or in part, by the Holder thereof; (iii) is listed in the Schedules as zero or as Disputed, Contingent or unliquidated and in respect of which a proof of Claim or a proof of Interest, as applicable, has not been timely Filed or deemed timely Filed pursuant to the Plan, the Bankruptcy Code or any Final Order or other applicable law; (iv) has been reclassified, expunged, subordinated or estimated to the extent that such reclassification, expungement, subordination or estimation results in a reduction in the Filed amount of any proof of Claim or proof of Interest; (v) is evidenced by a proof of Claim or a proof of Interest which has been Filed, or which has been deemed to be Filed under applicable law or order of the Bankruptcy Court or which is required to be Filed by order of the Bankruptcy Court but as to which such proof of Claim or proof of Interest was not timely or properly Filed; (vi) is unenforceable to the extent provided in Bankruptcy Code section 502(b); or (vii) where the Holder of a Claim is an Entity from which property is recoverable under Bankruptcy Code sections 542, 543, 550, or 553 or that is a transferee of a transfer avoidable under Bankruptcy Code sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a), unless such Entity or transferee has paid the amount, or turned over any such property, for which such Entity or transferee is liable under Bankruptcy Code section 522(i), 542, 543, 550, or 553, and if required by the Bankruptcy Code, an Objection or adversary proceeding has been Filed. In each case a Disallowed Claim or a Disallowed Interest is disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination, or estimation.

1.43 “**Disbursing Agent**” shall mean the Liquidating Trustee; *provided, however*, that the Liquidating Trustee may, in its discretion, retain a third party to act as Disbursing Agent.

1.44 “**Disclosure Statement**” shall mean the disclosure statement, as amended, supplemented, or modified from time to time, that is embodied within this combined Disclosure Statement and Plan and distributed in accordance with, among others, Bankruptcy Code sections 1125, 1126(b), and 1145, Bankruptcy Rule 3018 and other applicable law.

1.45 “**Disputed**” shall mean any Claim or Interest which has not yet been Allowed or Disallowed in accordance with the terms of the Plan.

1.46 “**Disputed Claim Reserve**” shall mean the reserve established and maintained by the Liquidating Trustee for payment of Disputed Claims, which reserve shall be established in an amount equal to the face value of all Disputed Administrative Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, DIP Loan Claims, and Disputed Other Secured Claims, or such other amount as may be ordered by the Bankruptcy Court.

1.47 “**Distribution**” shall mean a delivery of Cash by the Disbursing Agent to the Holders of Allowed Claims pursuant to the Plan.

1.48 “**Distribution Date**” shall mean the date on which a Distribution is made pursuant to the Plan.

1.49 “**Distribution Record Date**” shall mean the date established for determining the Holders of Claims entitled to Distributions pursuant to the Plan, which shall be the General Bar Date or such other date established by order of the Bankruptcy Court, including the Confirmation Order.

1.50 “**Effective Date**” shall mean the first Business Day after the later of the date on which (a) all conditions in Article XIII of the Plan have been satisfied or waived in accordance with that Article and (b) no stay of the Confirmation Order is in effect. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable thereafter.

1.51 “**Effective Date Notice**” shall mean the notice of the Effective Date to be filed in these Chapter 11 Cases.

1.52 “**Entity**” shall have the meaning ascribed to such term in Bankruptcy Code section 101(15).

1.53 “**Estate**” shall mean each of Debtors’ estates created by Bankruptcy Code section 541 upon the commencement of the Chapter 11 Cases on the Petition Date.

1.54 “**Exculpated Parties**” shall mean, in each of their capacities as such, (a) the Debtors, (b) the directors and officers of the Debtors who served between the Petition Date and the Effective Date of the Plan, (c) the Committee and each of its members, (d) the individuals who sat on the Committee for each of its members, and (e) the professionals retained in these Chapter 11 Cases by the Debtors and the Committee.

1.55 “**Executory Contract**” shall mean a contract or unexpired lease to which a Debtor is a party that is subject to assumption or rejection under Bankruptcy Code section 365.

1.56 “**Facility Assets**” shall mean the Assets sold by Debtors pursuant to the Facility Purchase Agreement.

1.57 “**Facility Asset Sale**” shall mean the sale of the Facility Assets pursuant to the Facility Purchase Agreement.

1.58 “**Facility Purchase Agreement**” shall mean that certain Asset Purchase Agreement, dated as of June 15, 2023, by and among Premium Iowa Pork, L.L.C., as buyer, and Canwin and Windom, as sellers.

1.59 “**File,**” “**Filed,**” or “**Filing**” shall mean, respectively, file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

1.60 “**Final Administrative Claim Bar Date**” shall mean the date that is thirty (30) days after the date the Effective Date Notice is Filed and served, which date shall be the deadline for Filing requests for payment of Administrative Claims that arose after the date of entry of the Solicitation Procedures Order, but prior to the Effective Date.

1.61 “**Final Distribution**” shall mean the final Distributions to Holders of Allowed Claims.

1.62 “**Final DIP Order**” shall mean the *Final Order: (I) Authorizing Debtors to Obtain Postpetition Financing; (II) Granting Junior Liens and Administrative Expense Status; (III) Authorizing the Use of Cash Collateral; (IV) Granting Adequate Protection to Prepetition Secured Parties; and (V) Granting Related Relief* [D.I. 116].

1.63 “**Final Order**” shall mean an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, that is not subject to stay or appeal, and for which the applicable time within which to take such action has expired, or for which such action has been adjudicated by the highest court with jurisdiction over the matter.

1.64 “**First Day Declaration**” shall mean the *Declaration of Grant Lazaruk in Support of Chapter 11 Petitions and First Day Pleadings* [D.I. 13].

1.65 “**First Tier Claims**” shall mean all Administrative Claims (including Professional Fee Claims), Priority Tax Claims, Priority Non-Tax Claims, and DIP Loan Claims (if any).

1.66 “**General Bar Date**” shall mean 5:00 p.m. (prevailing Eastern Time) on June 27, 2023, as established by the Bar Date Order.

1.67 “**General Unsecured Claim**” shall mean a Claim against a Debtor, but excluding any Administrative Claims (including Professional Fee Claims), Priority Tax Claims, Priority Non-Tax Claims, Other Secured Claims, Prepetition Loan Claims, Intercompany Claims, and Interests.

1.68 “**Global Settlement**” shall mean the settlement by and among the Debtors, Prepetition Secured Parties, Lessor, and the Committee entered on or about August 15, 2023, in the form approved by the Bankruptcy Court pursuant to the Order Approving Stipulation [D.I. 406] entered on August 30, 2023.

1.69 “**Governmental Unit**” shall have the meaning ascribed to such term in Bankruptcy Code section 101(27).

1.70 “**GUC Distribution Pool**” shall mean (i) all encumbered Cash, including such proceeds of the loans made pursuant to the DIP Credit Agreement and DIP Orders as are remaining after payment of the First Tier Claims; (ii) the Remaining Amount; (iii) the Guaranteed Amount; (iv) the D&O Contribution; and (v) the Litigation and Settlement Proceeds.

1.71 “**Guaranteed Amount**” shall mean, as defined in the Global Settlement, up to \$750,000 funded by the Prepetition Secured Parties until the Remaining Amount exceeds \$2.65 million; provided that the \$750,000 Guaranteed Amount shall be reduced on a dollar-for-dollar basis (until the Guaranteed Amount equals \$0) for every \$1 by which the Remaining Amount exceeds \$1.9 million as of the Effective Date. In addition, the Guaranteed Amount shall be reduced dollar-for-dollar by the amount of estate professional fees incurred and approved by the Bankruptcy Court, on an aggregate basis, that is in excess of \$8,186,354.

1.72 “**Hog Assets**” shall mean the Assets sold by the Debtors pursuant to the Hog Purchase Agreement.

1.73 “**Hog Asset Sale**” shall mean the sale of the Hog Assets pursuant to the Hog Purchase Agreement.

1.74 “**Hog Purchase Agreement**” shall mean that certain Pig Purchase Agreement, dated as of June 2, 2023, by and among AgriSwine Alliance, Inc., as buyer, and Canwin and Windom, as sellers.

1.75 “**Holder**” shall mean any Entity holding a Claim or Interest.

1.76 “**HyLife**” shall mean HyLife Group Holdings Ltd. and its subsidiaries.

1.77 “**Impaired**” shall mean, when used in reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of Bankruptcy Code section 1124.

1.78 “**Impaired Class**” shall mean a Class of Claims or Interests that is Impaired.

1.79 “**Initial Administrative Claims**” shall mean Administrative Claims, other than 503(b)(9) Claims and Professional Fee Claims, incurred after the Petition Date through and including the date the Bankruptcy Court enters the Solicitation Procedures Order.

1.80 “**Initial Administrative Claim Bar Date**” shall mean September 24, 2023 at 5:00 p.m. (prevailing Eastern Time) (i.e., the date that is thirty (30) days after the date that

Debtors File and serve the Confirmation Notice), which shall be the deadline for Filing requests for payment of Initial Administrative Claims.

1.81 “**Initial Administrative Claims**” shall mean Administrative Claims, other than 503(b)(9) Claims and Professional Fee Claims, incurred after the Petition Date through and including the date the Bankruptcy Court enters the Solicitation Procedures Order.

1.82 “**Intercompany Claim**” shall mean a Claim by a Debtor against another Debtor.

1.83 “**Interests**” shall mean the legal interests, equitable interests, contractual interests, equity interests or ownership interests, or other rights of any Entity in Debtors including all capital stock, stock certificates, common stock, preferred stock, partnership interests, limited liability company or membership interests, rights, treasury stock, options, warrants, contingent warrants, convertible or exchangeable securities, investment securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in Debtors, partnership interests in Debtors’ stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights, subscription rights and liquidation preferences, puts, calls, awards or commitments of any character whatsoever relating to any such equity, common stock, preferred stock, ownership interests or other shares of capital stock of Debtors or obligating Debtors to issue, transfer or sell any shares of capital stock whether or not certificated, transferable, voting or denominated “stock” or a similar security.

1.84 “**Interim DIP Order**” shall mean the *Interim Order: (I) Authorizing Debtors to Obtain Postpetition Financing; (II) Granting Junior Liens and Administrative Expense Status; (III) Authorizing the Use of Cash Collateral; (IV) Granting Adequate Protection to Prepetition Secured Parties; (V) Scheduling a Final Hearing; and (VI) Granting Related Relief* [D.I. 52].

1.85 “**IRC**” shall mean the Internal Revenue Code of 1986, as amended.

1.86 “**IRS**” shall mean the Internal Revenue Service.

1.87 “**Lessor**” shall mean Compeer Financial, ACA.

1.88 “**Letter of Credit**” shall mean that certain clean, irrevocable and unconditional Letter of Credit, Letter of Credit No. 1376608600-2, as amended from time to time, issued for Starr.

1.89 “**Liquidating Trust**” shall mean the trust to be established under the combined Disclosure Statement and Plan and the Liquidation Trust Agreement.

1.90 “**Liquidating Trust Agreement**” shall mean the trust agreement that establishes the Liquidating Trust and governs the powers, duties, and responsibilities of the Liquidating Trustee. The Liquidating Trust Agreement shall be Filed as part of the Plan Supplement.

1.91 “**Liquidating Trust Assets**” shall consist of all Assets of the Estates as of the Effective Date, including, but not limited to, (i) Cash, (ii) Causes of Action, (iii) Avoidance

Actions, (iv) any proceeds realized or received from such Assets, (v) all rights of setoff, recoupment, and other defenses against Claims, (vi) all rights under the asset purchase agreements from the Sales and any other documents related to the Sales, (vii) all bank accounts (as set forth in the Liquidating Trust Agreement), and (viii) all documents, communications, and information protected by the attorney-client privilege, the work-product privilege, and any other applicable evidentiary privileges. In accordance with the Global Settlement, any (i) Causes of Action, and (ii) Avoidance Actions shall be transferred to the Liquidating Trust for the sole benefit of the Holders of Allowed General Unsecured Claims under Class 4 of the Plan. For the avoidance of doubt, the Liquidating Trust Assets shall not include any (i) Avoidance Actions, and (ii) Claims and Causes of Action, which in either (i) or (ii) have been released pursuant to the Sales, Plan, DIP Orders, or any other Final Order.

1.92 “**Liquidating Trustee**” shall mean the Person or Entity designated and retained by the Committee as the trustee to the Liquidating Trust, as of the Effective Date or as soon as reasonably practicable thereafter, as the fiduciary responsible for administering the Liquidating Trust, and any successor subsequently appointed pursuant to the Liquidating Trust Agreement.

1.93 “**Liquidating Trust Expenses**” shall mean all reasonable legal and other fees and expenses incurred by the Liquidating Trustee on account of administration of the Liquidating Trust, including, without limitation, reasonable attorneys’ fees and expenses, insurance costs, taxes, escrow expenses and all other costs of administering the Liquidating Trust in accordance with the combined Disclosure Statement and Plan and the Liquidating Trust Agreement.

1.94 “**Liquidating Trust Interests**” shall mean the non-transferable interests in the Liquidating Trust that are issued to the Beneficiaries pursuant to the combined Disclosure Statement and Plan.

1.95 “**Liquidating Trust Operating Reserve**” shall mean such reserve of Cash determined from time to time by the Liquidating Trustee pursuant to the Liquidating Trust Agreement to be reasonably necessary to pay Liquidating Trust Expenses, including: (a) the unpaid liabilities, debts, or obligations of the Liquidating Trust; (b) the fees and expenses of the Liquidating Trustee; (c) all fees and expenses of professionals retained by the Liquidating Trustee; and (d) any and all other costs associated with the liquidation or preservation of the Liquidating Trust Assets.

1.96 “**Litigation and Settlement Proceeds**” shall mean, as defined in the Global Settlement, any proceeds received from the litigation or settlement of Avoidance Actions or estate Claims and Causes of Action.

1.97 “**Non-Voting Class**” shall mean, collectively, Class 1, Class 2, Class 5, and Class 6.

1.98 “**Non-Voting Status Notice**” shall mean the notice sent by Debtors of non-voting status to Holders of Claims in Classes 1, 2, 5, and 6 informing such Holders that they are not entitled to vote on the Plan.

1.99 “**Local Rules**” shall mean the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

1.100 “**Objection**” shall mean any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to disallow, determine, liquidate, classify, reclassify, or establish the priority, expunge, subordinate or estimate any Claim (including the resolution of any request for payment of any Administrative Claim).

1.101 “**Other Released Parties**” shall mean: the Released Parties that are not the (a) Contributing Directors and Officers (b) the Prepetition Agent, (c) the Prepetition Lenders and (d) the DIP Lenders.

1.102 “**Other Secured Claim**” shall mean any Secured Claim other than a Prepetition Loan Claim or a DIP Loan Claim.

1.103 “**Paid in Full,**” “**Payment in Full,**” or “**Pay in Full**” shall mean, with respect to an Allowed Claim, payment in Cash or other consideration in an aggregate amount equal to the Allowed amount thereof.

1.104 “**Person**” shall mean any individual, corporation, partnership, association, indenture trustee, organization, joint stock company, joint venture, estate, trust, governmental unit, or any political subdivision thereof, the Committee, Holders of Interests, Holders of Claims, current or former employees of Debtors, or any other Entity.

1.105 “**Petition Date**” shall mean April 27, 2023, the date on which Debtors commenced Filing the Chapter 11 Cases in the Bankruptcy Court.

1.106 “**Plan**” shall mean this joint plan of liquidation under chapter 11 of the Bankruptcy Code, as it may be altered, amended, modified or supplemented from time to time including in accordance with any documents submitted in support hereof and the Bankruptcy Code or the Bankruptcy Rules.

1.107 “**Plan Supplement**” shall mean the ancillary documents necessary to the implementation and effectuation of the Plan, including the Liquidating Trust Agreement, which shall be Filed, to the extent reasonably practicable, on or before the date that is seven (7) days prior to the Confirmation Hearing, *provided, however,* that Debtors shall have the right to amend documents contained in, and exhibits to, the Plan Supplement in accordance with the terms of the Plan.

1.108 “**Prepetition Borrowers**” shall mean, in connection with the Prepetition Credit Agreement, HyLife Windom Foods, LLC and Canwin Farms, LLC.

1.109 “**Prepetition Credit Agreement**” shall mean that certain Credit Agreement, dated as of May 6, 2020, by and among the Prepetition Borrowers and the Prepetition Agent

and the Prepetition Lenders, and as the same may have been further amended, restated, amended and restated, supplemented or otherwise modified from time to time.

1.110 “Prepetition Agent” shall mean Compeer Financial, PCA, and Compeer Financial, FLCA, as co-administrative agent under the Prepetition Finance Documents.

1.111 “Prepetition Delayed Draw Term Loans” shall mean those certain delayed draw term loans in the aggregate principal amount of up to \$20 million under the Prepetition Credit Agreement.

1.112 “Prepetition Financing Documents” shall mean the Prepetition Credit Agreement together with all other related documents, guarantees, and agreements, including, without limitation, security agreements, mortgages, pledge agreements, assignments, financing statements, and other agreements, documents, instruments, or certificates executed in connection with the Prepetition Credit Agreement.

1.113 “Prepetition Lenders” shall mean those financial institutions party to the Prepetition Credit Agreement from time to time as lenders.

1.114 “Prepetition Loan Claim” shall mean any claim by the Prepetition Agent or the Prepetition Lenders under the Prepetition Credit Agreement, in the amount, as of the Petition Date, of \$105,081,590.32 plus interest accruing at the default rate and other fees, costs, and expenses, including the Prepetition Secured Parties’ reasonable attorneys’ fees, owed by the Prepetition Borrowers under the Prepetition Financing Documents. Pursuant to the Final DIP Order, the Prepetition Loan Claim is Allowed subject to the Committee’s challenge period under the Final DIP Order.

1.115 “Prepetition Revolving Loans” shall mean the revolving loans in the aggregate principal amount of up to \$26 million under the Prepetition Credit Agreement, plus interest accruing at the default rate and other fees, costs, and expenses, including the Prepetition Secured Parties’ reasonable attorneys’ fees.

1.116 “Prepetition Secured Parties” shall mean the Prepetition Agent and the Prepetition Lenders.

1.117 “Prepetition Term Loan” shall mean that certain term loan in the original principal amount of not less than \$70 million under the Prepetition Credit Agreement, plus interest accruing at the default rate and other fees, costs, and expenses, including the Prepetition Secured Parties’ reasonable attorneys’ fees.

1.118 “Priority Non-Tax Claim” shall mean any and all Claims accorded priority in right of payment under Bankruptcy Code section 507(a), other than Priority Tax Claims and Administrative Claims.

1.119 “Priority Tax Claim” shall mean a Claim or a portion of a Claim for which priority is asserted under Bankruptcy Code section 507(a)(8).

1.120 “**Professional**” shall mean an Entity employed pursuant to a Final Order in accordance with Bankruptcy Code sections 327, 328, 363, 1103 and to be compensated for services rendered prior to the Confirmation Date, pursuant to Bankruptcy Code sections 327, 328, 329, 330, and 331, or for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to Bankruptcy Code section 503(b)(4).

1.121 “**Professional Fee Claims**” shall mean all fees and expenses (including but not limited to, transaction fees and success fees) for services rendered by Professionals in connection with the Chapter 11 Cases from the Petition Date through and including the Effective Date.

1.122 “**Professional Fee Claims Bar Date**” shall mean the deadline for Filing all applications for Professional Fee Claims, which shall be thirty (30) days after the Filing of the Effective Date Notice.

1.123 “**Real Estate Parcels**” shall mean parcel # 08-013-0601 and parcel # 08-013-0500 comprising 111 acres of land located to the north of the Facility.

1.124 “**Real Property Assets**” shall mean the Real Estate Parcels and Residential Duplex sold by Debtors pursuant to the Real Property Purchase Agreements.

1.125 “**Real Property Asset Sale**” shall mean the sale of Debtors’ Real Property Assets through the Real Property Purchase Agreements.

1.126 “**Real Property Purchase Agreements**” shall mean that certain Asset Purchase Agreement, dated as of June 22, 2023, by and among Compeer Financial FLCA, as buyer, and Windom, as seller, with respect to the Residential Duplex, and that certain Asset Purchase Agreement, dated as of July 6, 2023, by and among Compeer Financial FLCA, as buyer, and Windom, as seller, with respect to the Real Estate Parcels.

1.127 “**Related Parties**” shall mean, with respect to (v) any Person or Entity, (w) such Person’s or Entity’s current and former direct or indirect subsidiaries, affiliates, parents, predecessors, successors, and assigns; (x) with respect to each of the foregoing in clauses (v) and (w), their current and former directors, managers, officers, partners (general and limited), equity holders (regardless of whether such interests are held directly or indirectly), predecessors, participants, successors, and assigns; (y) with respect to each of the foregoing in clause (v), (w) and (x), each of their respective current and former equity holders, officers, directors, managers, principals, shareholders, members, management companies, fund advisors, employees, agents, designees, trustees, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals or representatives, and any other fiduciaries to such Person or Entity with any involvement related to the Debtors; and (z) with respect to each of the foregoing in clauses (v) through (y), such Person’s or Entity’s respective heirs, executors, estates, servants, and nominees.

1.128 “**Released Parties**” shall mean (a) Debtors and the Estates, (b) the Prepetition Agent, (c) the Prepetition Lenders, (d) the DIP Lenders, (e) the Committee and each of its

members, (f) Liquidating Trustee, (g) the Contributing Directors and Officers and (h) with respect to each of the foregoing, their Related Parties.

1.129 “Releasing Parties” shall mean: (a) all Holders of Claims or Interests who are Unimpaired unless they (i) select the option set forth on the Non-Voting Status Notice to not grant the releases set forth in Section 14.1(c) of the Plan or (ii) File a written objection to the releases set forth in Section 14.1(c) of this Plan by the objection deadline established by the Solicitation Procedures Order, (b) the DIP Lenders, (c) the Prepetition Lenders, (d) the Prepetition Agent, (e) all Holders of Claims or Interests in a Voting Class unless they (i) submit a Ballot by the Voting Deadline that does not vote to accept the Plan; (ii) submit a Ballot by the Voting Deadline that accepts the Plan but select the option set forth on the Ballot to not grant the releases set forth in Section 14.1(c) of this Plan, or (iii) File a written objection to the releases set forth in Section 14.1(c) of this Plan by the objection deadline established by the Solicitation Procedures Order, and (g) with respect to each of the foregoing, their Related Parties; provided, however, that, with respect to Related Parties of the foregoing, such Related Parties shall only constitute Releasing Parties to the extent the underlying Releasing Party is legally entitled to bind such Related Party to the releases contained in the Plan under applicable non-bankruptcy law; and *provided further* that, any Person whose solicitation package is returned as undeliverable and for whom the Debtors are not able identify and complete service on a new mailing address shall not be a Releasing Party.

1.130 “Remaining Amount” shall mean, as defined in the Global Settlement, all positive net cash flow (including, for the avoidance of doubt, all DIP Proceeds, all cash, all monetization of working capital from accounts receivable and sales of inventory, and all other surplus net cash flow from the Debtors’ operations, including all returned utility and creditor deposits and all insurance and tax refunds) through the Effective Date as set forth in that certain draft “Wind Down Budget” dated July 28, 2023 shared by the Debtors with the Prepetition Secured Parties and the Committee (and described more fully in the Global Settlement), in which the Debtors estimated a net cash surplus of \$1.65 million after an increase in budgeted estate professional fees. For the avoidance of doubt, the Remaining Amount shall also include all proceeds of LOC Collateral (as defined in the Final DIP Order) in excess of the Permitted Full Operation LOC Collateral Value (as defined in the Final DIP Order).

1.131 “Residential Duplex” shall mean that real property located at 101 7th Street S and 107 7th Street S, Mountain Lake, Minnesota.

1.132 “Retained Causes of Action” shall mean a schedule of all Causes of Actions, against third parties, including, without limitation, the rights and claims described in the Plan Supplement, but excluding any Claims and Causes of Action which have been otherwise released pursuant to the Sales, Plan, DIP Orders or any other Final Order.

1.133 “Sales” shall mean, collectively, the Hog Asset Sale, the Facility Asset Sale, and the Real Property Asset Sale.

1.134 “Sale Distribution Proceeds” shall mean all Cash realizable from the Sales.

1.135 “**Schedules**” shall mean the schedules of assets and liabilities and statements of financial affairs Filed by each of the Debtors pursuant to Bankruptcy Code section 521 and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

1.136 “**Secured Claim**” shall mean, pursuant to Bankruptcy Code section 506, that portion of a Claim that is (a) secured by a valid, perfected and enforceable security interest, lien, mortgage, or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest of Debtors in and to property of the Estates, to the extent of the value of the Holder’s interest in such property as of the relevant determination date, or (b) Allowed as such pursuant to the terms of the Plan (subject to the Confirmation Order becoming a Final Order). The defined term Secured Claim includes any Claim that is (i) subject to an offset right under applicable law as of the Petition Date, and (ii) a secured claim against Debtors pursuant to Bankruptcy Code sections 506(a) and 553.

1.137 “**Solicitation Procedures Order**” shall mean that certain *Motion of Debtors for Entry of an Order (I) Approving the Combined Disclosure Statement and Joint Chapter 11 Plan on an Interim Basis for Solicitation Purposes Only; (II) Establishing the Solicitation and Tabulation Procedures; (III) Approving the Form of Ballots and Solicitation Materials; (IV) Establishing the Plan Confirmation Schedule; and (V) Granting Related Relief* [D.I. 370].

1.138 “**Starr**” shall mean Starr Indemnity & Liability Company and Starr Specialty Insurance Company, beneficiaries under the Letter of Credit. .

1.139 “**Sub-Class**” shall mean, for each Class, the separate sub-Class for each Debtor, as described in Articles II and VII.

1.140 “**Taxes**” shall mean all income, gross receipts, sales, use, transfer, payroll, employment, franchise, profits, property, excise, or other similar taxes, estimated import duties, fees, stamp taxes, and duties, value added taxes, assessments, or charges of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax, or additional amounts imposed by any taxing authority of a Governmental Unit with respect thereto.

1.141 “**Tritek**” shall mean Tritek International Inc.

1.142 “**Unclassified Claims**” shall mean any Administrative Claims, Professional Fee Claims, Priority Tax Claims, and DIP Loan Claims.

1.143 “**Unimpaired**” shall mean, when used in reference to a Claim or Interest, any Claim or Interest that is not impaired within the meaning of Bankruptcy Code section 1124.

1.144 “**U.S. Trustee Fees**” shall mean fees payable pursuant to 28 U.S.C. § 1930.

1.145 “**Voting Class**” shall mean Classes 3 and 4.

1.146 “**Voting Deadline**” shall mean **September 28, 2023, at 5:00 p.m. (prevailing Eastern Time)**, the date and time by which ballots to accept or reject the Plan must be received to be counted, as set forth by the Solicitation Procedures Order.

1.147 “**Windom**” shall mean HyLife Foods Windom, LLC, a Minnesota limited liability company f/k/a Prime Pork, LLC.

1.148 “**Workers’ Compensation Deductible Funds**” shall mean the approximately \$584,672.00 in funds held in escrow by Debtors for the purpose of paying deductibles owed on Debtors’ workers’ compensation insurance policies.

Rules of Interpretation

1.149 For purposes of the Plan, except as expressly provided or unless the context otherwise requires, (a) any capitalized term used in the combined Disclosure Statement and Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable, (b) whenever the context requires, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter shall include the masculine, feminine and the neuter, (c) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (d) any reference in the Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified, or supplemented from time to time, (e) unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan, (f) the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan in its entirety rather than to any particular paragraph, subparagraph, or clause contained in the Plan, (g) captions and headings to articles and sections are inserted for convenience of reference only and shall not limit or otherwise affect the provisions hereof or the interpretation of the Plan, and (h) the rules of construction set forth in Bankruptcy Code section 102 and in the Bankruptcy Rules shall apply.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTERESTS AND ESTIMATED RECOVERIES

THE PROJECTED RECOVERIES SET FORTH IN THE TABLE BELOW ARE ESTIMATES ONLY AND ARE THEREFORE SUBJECT TO CHANGE.

2.1 Classification. The information in the table below is provided in summary form for illustrative purposes only and is subject to material change based on certain contingencies, including related to the claims reconciliation process. Actual recoveries may widely vary within these ranges, and any changes to any of the assumptions underlying these amounts could result in material adjustments to recovery estimates provided herein and/or the actual distribution received by Creditors. The projected recoveries are based on information available to Debtors as of the date hereof and reflect Debtors’ estimates as of the date hereof only. In addition to the

cautionary notes contained elsewhere in the combined Disclosure Statement and Plan, it is underscored that Debtors make no representation as to the accuracy of these recovery estimates. Debtors expressly disclaim any obligation to update any estimates or assumptions after the date hereof on any basis (including new or different information received and/or errors discovered).

The Plan is a joint plan for each of the Debtors and presents together Classes of Claims against, and Interests in, the Debtors. The Plan does not provide for the substantive consolidation of Debtors, other than for the limited purpose of making Distributions. The Plan constitutes a separate Plan proposed by each Debtor, and the classifications set forth in Classes 1 through 6 of the Plan apply to each Debtor, *provided, that*, the Estates of the Debtors shall be consolidated for the purpose of effectuating Distributions. The entry of the Confirmation Order shall constitute approval by the Bankruptcy Court of the limited substantive consolidation of the Debtors and their respective Estates solely for the purposes of this Plan, including making any Distributions to Holders of Allowed Claims. Each Class constitutes a separate Sub-Class of Claims against, and Interests in, each of the Debtors, as applicable, and each such Sub-Class of a Class of Claims entitled to vote on the Plan shall vote as a single separate Class for, and the confirmation requirements of section 1129 of the Bankruptcy Code must be satisfied separately with respect to, each of the Debtors.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim or Interest is also placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim in that Class and such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date.

All Claims and Interests, except Administrative Claims, Professional Fee Claims, Priority Tax Claims, and DIP Loan Claims, are placed in the Classes set forth below. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims (including Professional Fee Claims), and Priority Tax Claims, as described herein, have not been classified, and the respective treatment of such unclassified Claims is set forth below in Article VI of the Plan. The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, confirmation and distribution pursuant to the Plan and pursuant to Bankruptcy Code sections 1122 and 1123(a)(1).

Class/ Designation	Plan Treatment	Estimated Amount of Claims	Status	Projected Recovery³
Class 1: Priority Non-Tax Claims	Each Holder of an Allowed Priority Non-Tax Claim shall receive in full and final satisfaction, settlement, and release of and	Windom: \$2,000 Canwin: \$0	Unimpaired/ Deemed to accept Plan	100%

³ The ranges set forth with respect to projected recoveries for Holders of Claims in Class 3 and Class 4 are based on a preliminary waterfall analysis and are subject to Claims Objections and any incremental recoveries by the Liquidating Trust.

Class/ Designation	Plan Treatment	Estimated Amount of Claims	Status	Projected Recovery ³
	in exchange for such Allowed Class 1 Claim: (A) Cash equal to the amount of such Allowed Priority Non-Tax Claim; or (B) such other treatment which Debtors or the Liquidating Trustee, as applicable, and the Holder of such Allowed Priority Non-Tax Claim have agreed upon in writing.	Tritek: \$0		
Class 2: Other Secured Claims	Each Holder of an Allowed Class 2 Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Class 2 Claim: (A) return of the collateral securing such Allowed Other Secured Claim; or (B) Cash equal to the amount of such Allowed Other Secured Claim; or (C) such other treatment which Debtors or the Liquidating Trustee, as applicable, and the Holder of such Allowed Other Secured Claim have agreed upon in writing, <i>provided, however</i> , that with respect to the secured guaranties of Tritek described in Section 3.1(b)(ii)(B) hereof, such guaranties shall be reinstated to the same extent as they existed prior to the Petition Date.	Windom: \$0 Canwin: \$0 Tritek: \$35.3mm	Unimpaired/ Deemed to accept Plan	100%
Class 3: Prepetition Loan Claims	Unless the Holder agrees to a different treatment, as soon as practicable after the Effective Date, each Holder of a Prepetition Loan Claim shall (A) receive such Holder's <i>pro rata</i> share of the Sale Distribution Proceeds; (B) retain all payments made, or receive any amounts owing, to the Holder pursuant to the Final DIP Order; (C) retain all other payments made, or receive any amounts owing, to the Holder by Debtors pursuant to the Bankruptcy Code or any order of the Bankruptcy Court; and (D) receive the proceeds from the Sales or disposition of any Prepetition Collateral or any other collateral securing the Allowed Prepetition Loan Claim as such collateral is defined in the Final DIP Order, in all respects subject	Windom: \$105,081,590.32 Canwin: \$105,081,590.32 Tritek: \$0	Impaired/ Entitled to vote	29.8%

Class/ Designation	Plan Treatment	Estimated Amount of Claims	Status	Projected Recovery ³
	to the Global Settlement.			
Class 4: General Unsecured Claims	<p>Unless the Holder agrees to a different treatment, as soon as practicable after the Effective Date, each Holder of a General Unsecured Claim shall receive such Holder's <i>pro rata</i> share of the GUC Distribution Pool. Each General Unsecured Claim will be deemed a single Claim against a single obligation of the Debtors for Distribution purposes.</p> <p>Furthermore, as described in the Global Settlement, neither the Prepetition Secured Parties nor the Lessor shall participate as Class 4 Holders of General Unsecured Claims. The Prepetition Secured Parties and the Lessor shall not be entitled to participate in any distributions from the GUC Distribution Pool, except for the following: The Prepetition Secured Parties shall receive a distribution of 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million (with all other Holders of General Unsecured Claims receiving a <i>pro rata</i> distribution of the first \$2.65 million of the Remaining Amount and 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million). Additionally, the Prepetition Secured Parties shall receive a distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date as a result of any litigation or settlement relating to Claims or Causes of Action against GAT Farms, LLC, Greg Strobel, an individual d/b/a Strobel Farms, Strobel Farms, LLC, Greg Strobel Farms, LLC, Fast Development, Inc., and/or Pemberton Grain, LLC (with all other Holders of General Unsecured Claims receiving a <i>pro</i></p>	<p>Windom: \$27.5mm</p> <p>Canwin: \$200k</p> <p>Tritek: \$0</p>	Impaired/ Entitled to vote	11%-14%

Class/ Designation	Plan Treatment	Estimated Amount of Claims	Status	Projected Recovery³
	<i>rata</i> distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date relating to Claims or Causes of Action against such persons and entities).			
Class 5: Intercompany Claims	Holder of Intercompany Claims shall receive no Distribution on account of their Intercompany Claims.	N/A	Impaired/ Deemed to reject Plan	0%
Class 6: Interests	On the Effective Date, all Interests shall be extinguished as of the Effective Date, and owners thereof shall receive no Distribution on account of such Interests.	N/A	Impaired/ Deemed to reject Plan	0%

ARTICLE III
BACKGROUND AND DISCLOSURES

3.1 General Background⁴

(a) The Debtors' Business

Debtors are three entities that are part of the HyLife vertically integrated operation for the raising, production and sale of pork products. The HyLife enterprise, with headquarters in Manitoba, Canada, has, since 1994, become a global company with over 4,000 employees and facilities across Canada, the United States, Mexico, China, and Japan. HyLife is one of the largest producers of pork in Canada and one of the top 40 pork producers worldwide by volume, exporting pork products to over 20 countries. It has two main divisions – live hog production and pork processing.

HyLife, Debtors' ultimate parent company, was founded in 1994 in Southeast Manitoba by the Vielfaure brothers and Don Janzen, who worked together to achieve one common mission – create the most efficient, integrated operating structure for the production of hogs. Operations were expanded into the United States in 1998, and in 2008, HyLife purchased a processing plant in Neepawa, Manitoba to process all commercial hogs into pork products sold around the world.

HyLife acquired Windom from the Taylor Corporation in approximately May 2020. Taylor Corporation, through GAT Farms, LLC, operated a pork processing plant at the Facility (defined below) since approximately 2016. Three (3) years later, Windom became a state of the art, professionally managed pork processing facility in Windom, Minnesota with the ability to

⁴ Additional information regarding Debtors' business, assets, capital structure, and the circumstances leading to the filing of the Chapter 11 Cases is set forth in detail in the First Day Declaration.

process high volumes of pork product to service premium domestic and international end markets (the “**Facility**”). Spanning 226,737 square feet, the Facility previously employed approximately 1,000 employees, approximately 450 of whom were foreign workers (who were lawfully employed in the United States through the H-2B and TN visa programs), with the capacity to process approximately 5,600 hogs per day. The Facility comprised eight processing lines, with overall production capacity of 415 hogs per hour, running 15.5 hours per day. The Facility’s capabilities include high grade hog processing, cooling and packaging. As of the Petition Date, the Facility ran two shifts. Once Debtors entered the chapter 11 process, Debtors downsized their operations to preserve liquidity. Starting the week of May 8, 2023 through June 2, 2023, the Facility ran the equivalent of one shift. A small staff remained on site after processing operations ceased, pending the closing of the Facility Asset Sale, which closed on June 16, 2023.

Windom sourced its hogs from a mix of HyLife’s farms, including from Canwin, as well as from third party farmers, growers and brokers, and served primarily the U.S., Canadian, Japanese, Korean and Chinese markets. Its secondary and tertiary markets included Mexico, Columbia, Chile, the Philippines, Southeast Asia and Australia. In 2022, the Facility sold approximately 325 million pounds of pork. In fiscal year 2022, its sales volume exceeded \$370 million.

Canwin was a contract grower operation established in 2020, following HyLife’s acquisition of Windom. While Canwin is a South Dakota entity, its administrative activities occurred in La Broquerie, Manitoba, Canada. Canwin previously purchased approximately 2,000 pigs (both weaned and feeder) per week from various HyLife entities and farms through sale and distributorship agreements for the purpose of growing them to market weight to then sell to Windom and certain third parties for processing. Management made the decision to wind down Canwin’s operations and stop all new purchases of pigs, in connection with marketing and selling all or substantially all of Debtors’ assets through a Court-approved bidding, auction and sales process. The wind down process began prepetition and continued during the Chapter 11 Cases. Being a contract grower operation, Canwin did not own any physical assets with the exception of the grower pigs, as it contracted with vendors for the supply of goods and services, including, among other things, feed supply, nurseries and barns, transportation, vaccinations, labor, and materials. Canwin contracted with approximately 15-20 finishing barns and approximately 30 nursery barns located throughout South Dakota. Once the hogs reached market weight, Canwin arranged for transportation to Windom and a number of third party processing facilities.

Once the hogs were processed in the Facility, the pork products were ready to be sold to Windom’s customers. Windom’s pork products were not branded with the Windom or HyLife label once they reached retailers. Rather, the pork products were sold to processing companies for further processing or refining, distributors and wholesalers.⁵

⁵ By way of an example, Windom sold its pork belly products to Hormel for processing into bacon, which was then sold to retailers and ultimately consumers under the Hormel label.

The method of sale of Windom's pork products depended on the customer. Sales to domestic customers (customers in North America) were made either by Windom directly or through one of Windom's affiliates, HyLife Foods LP ("**HyLife Foods**"). In the case of direct sales by Windom, Windom invoiced the customer directly and delivered the product using a third party transportation provider. In the case of sales through HyLife Foods, Windom first sold the product to HyLife Foods, which in turn sold it to customers throughout North America as a broker or distributor. International sales (sales outside of North America) were carried out through another affiliate, HyLife Foods International Ltd. ("**HFIL**"). Pork products sold internationally were first sold to HFIL, and then by HFIL to the international customer. When product was shipped internationally, Windom contracted with a third party transportation provider to deliver the product to a cooling port, where it remained until loaded into a container and shipped to its destination. Once the container was loaded on to a shipping vessel, title to the pork product transferred to HFIL, and once it arrived in its country of destination and cleared customs, the customer arranged for the product to be transported to its ultimate destination. Total time in transit, from the time the product left the Facility to the time it reached the customer, was approximately 21-25 days.

Historically, Trittek was in the business of providing sales and related logistics, information systems, and administrative services for Windom in connection with its international and domestic sales. While, as described above, Windom managed the majority of its domestic sales in-house and outsourced its international sales to HFIL, Windom, HFIL and other HyLife affiliates historically relied on Trittek to coordinate the logistics and administration of those sales. Trittek provided the above-mentioned services to Windom and other HyLife entities pursuant to service support agreements. All services rendered by Trittek were charged to the appropriate HyLife entity. Historically, Trittek employed four individuals, all of whom worked remotely. As of the Petition Date, Trittek did not have any employees. Trittek does not have and has never had a physical office, and except for approximately \$45,738.00 in cash in a bank account, Trittek had no assets as of the Petition Date.

(b) The Debtors' Corporate Structure, Equity Ownership and Capital Structure

i. Corporate Structure and Equity Ownership

Windom, a Minnesota Limited Liability Company, is the direct subsidiary of Skyline International Incorporated ("**Skyline**") and the indirect subsidiary of HyLife. Prior to March 27, 2023, Skyline owned a 75% membership interest in Windom, while the remaining 25% was owned by GAT Farms. On March 27, 2023, Skyline purchased GAT Farms' 25% interest in Windom and as of the date hereof, Skyline owns 100% of the membership interests of Windom.

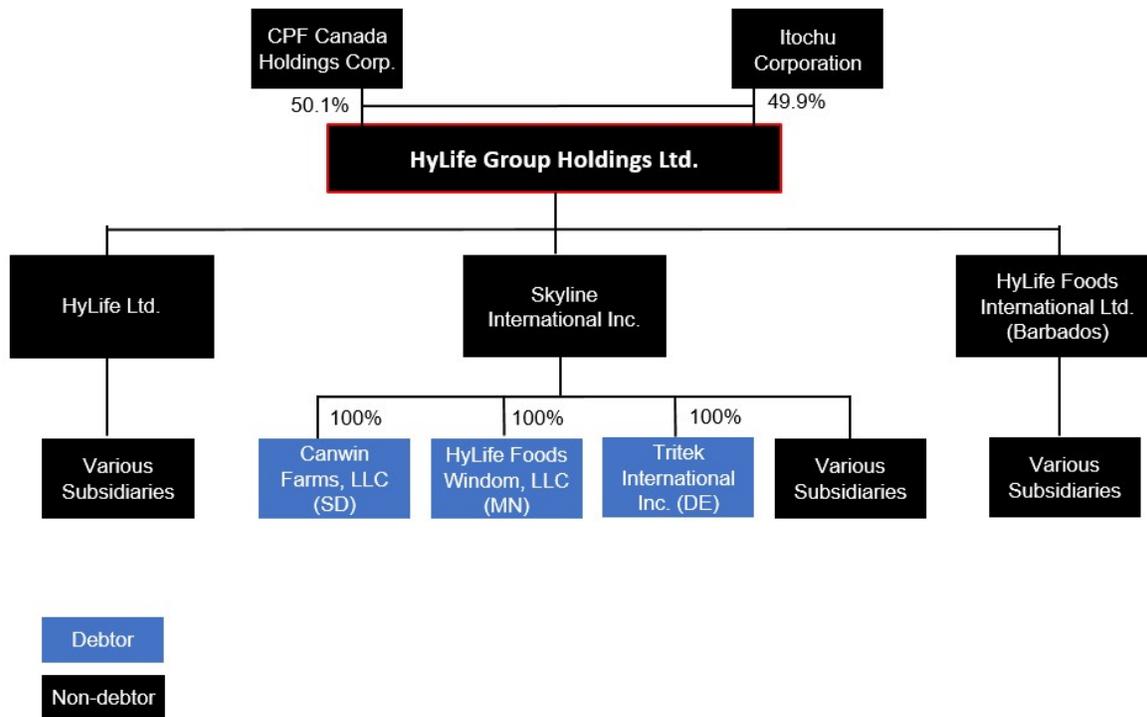
Skyline owns 100% of the membership interests of Trittek, a Delaware corporation, and Canwin, a South Dakota Limited Liability Company, which are both ultimately owned by HyLife.

HyLife has two shareholders. CPF Canada Holdings Corp, a Canadian corporation ("**CPF**"),⁶ is the majority shareholder with a 50.1% interest in HyLife. Itochu Corporation, a

⁶ CPF is ultimately owned by Charoen Pokphand Foods PCL, a Thai public company.

Japanese corporation (“**Itochu,**” and together with CPF, the “**Investors**”), owns the remaining 49.9% interest in HyLife.

A simplified illustration of Debtors’ organizational structure is immediately below:



ii. Capital Structure

(A) Windom and Canwin Secured Debt

Prior to the Filing of these Chapter 11 Cases, certain Debtors were parties to (i) the Prepetition Financing Documents,⁷ by and among the Prepetition Borrowers and the Prepetition Secured Parties.

Pursuant to the Prepetition Financing Documents, the Prepetition Lenders agreed to make certain loans and other financial accommodations to, *inter alia*, fund Debtors’ business operations, including through (i) the Prepetition Term Loan (ii) the Prepetition Delayed Draw Term Loans, and (iii) the Prepetition Revolving Loans.

⁷ Prior to the Petition Date, the Credit Agreement was amended pursuant to that certain (i) First Amendment to Credit Agreement dated as of October 9, 2020, (ii) Second Amendment to Credit Agreement dated as of February 24, 2021, (iii) Third Amendment to Credit Agreement dated as of June 11, 2021 (iv) Fourth Amendment to Credit Agreement dated as of December 29, 2021, and (v) Fifth Amendment to Credit Agreement dated as of December 1, 2022. The Prepetition Borrowers, Agent, and Lenders also entered into that certain Forbearance Agreement dated as of November 9, 2021, pursuant to which, among other things, the Prepetition Secured Parties agreed to forbear from exercising certain default-related rights and remedies for a temporary period of time.

As of the Petition Date, the Prepetition Borrowers were liable to the Prepetition Lenders under the Prepetition Financing Documents in the total aggregate principal amount of \$108,700,000, including (i) \$69,400,000 on account of the Prepetition Term Loan, (ii) \$17,000,000 on account of the Prepetition Delayed Draw Term Loans, (iii) \$20,000,000 on account of the Prepetition Revolving Loans, and (iv) \$2,300,000 on account of outstanding letters of credit, *plus* interest and other fees, costs, and expenses owed by the Prepetition Borrowers under the Prepetition Financing Documents.

To secure the prepetition debt, each of the Prepetition Borrowers granted the Prepetition Agent, for the benefit of the Prepetition Secured Parties, a security interest in all of their personal property, wherever located, whether then owned or thereafter acquired, including, without limitation, the following (all as defined in the Prepetition Financing Documents): all Accounts and other rights to payment whether or not earned by performance, and including, without limitation payment for property or services sold, leased, rented, licensed or assigned; Goods; Farm Products; Fixtures; Chattel Paper; Inventory; Equipment; Instruments; Investment Property; Farm Products; Documents; Deposit Accounts; Commodity Accounts; Commercial Tort Claims; Securities Accounts; Money; Letter of Credit Rights; General Intangibles; Payment Intangibles; Software; Supporting Secured Obligations; and the Proceeds and Products of the foregoing, and all books and records pertaining to the foregoing (collectively, the “**Prepetition Personal Property Collateral**”).

Additionally, pursuant to that certain Mortgage, Security Agreement, Assignment of Rents and Leases, and Fixture Financing Statement dated as of May 6, 2020 (the “**Mortgage**”), Windom also granted the Prepetition Agent, for the benefit of the Prepetition Secured Parties, a mortgage against certain real property located in Cottonwood County, Minnesota, and certain other property interests related thereto (collectively, the “**Prepetition Real Property Collateral**,” and together with the Prepetition Personal Property Collateral, the “**Prepetition Collateral**”).⁸

On April 17, 2023, the Prepetition Agent delivered to the Prepetition Borrowers a default notice, pursuant to which, among other things, the Prepetition Agent advised the Prepetition Borrowers of the acceleration of the Prepetition Term Loan and other obligations under the Prepetition Credit Agreement. As of the Petition Date, the Prepetition Secured Parties were not in the process of exercising any other rights or remedies under the Prepetition Financing Documents.

(B) Tritek Secured Debt

Although Tritek is not an obligor or grantor under the Prepetition Financing Documents, Tritek pledged substantially all of its assets to secure loans made to certain of Debtors’ affiliates. Specifically, pursuant to that certain Security Agreement dated as of September 23, 2019, Tritek and certain other non-debtors pledged substantially all of their assets to secure the obligations of

⁸ Each term as used in this paragraph has the meaning ascribed thereto in the applicable Prepetition Financing Document. Notwithstanding anything to the contrary contained in this paragraph, the security interests created by the applicable Prepetition Financing Documents do not extend to, and the term “Prepetition Collateral” shall not include, any “Excluded Property.”

non-Debtor HyLife and non-Debtor HyLife Ltd. (together, the “**HyLife Borrowers**”) under that certain Credit Facility Agreement by and among the HyLife Borrowers, as borrowers, Royal Bank of Canada, as administrative agent, and certain financial institutions party thereto as lenders.

Additionally, pursuant to that certain Guarantee Agreement and that certain Security Agreement, each dated as of September 22, 2022, Tritex guaranteed, and pledged substantially all of its assets to secure, certain subordinated loans made to the HyLife Borrowers under that certain Loan Agreement dated as of September 22, 2022, by and among the HyLife Borrowers, as borrowers, and Export Development Canada, as the secured party.

(C) Investor Equity Contributions

Debtors have historically obtained additional funding for their operations through equity contributions made indirectly by the Investors. Since January 1, 2023, the Investors have made various equity contributions totaling approximately \$29,500,000 to fund Debtors’ chapter 11 preparations and operations during such preparations.⁹ Because of the Investors’ critical prepetition contributions, Debtors were able to operate while they simultaneously prepared for these Chapter 11 Cases.

3.2 Events Leading to Chapter 11

The COVID pandemic, which commenced shortly before the acquisition of the Facility, greatly impacted the processing and production of pork across the United States, with effects resonating throughout the pork supply chain. These effects included labor shortages, logistical restraints, market disruptions, and unfavorable foreign exchange pricing. Due to the unfortunate timing of HyLife’s acquisition of Windom in May 2020, Windom has incurred operating losses since its inception. On average, prior to the Petition Date, Debtors incurred losses of approximately \$6-7 million per month.

Debtors had previously sought out potential strategic alternatives. In 2022, in an effort to address the continuing losses Debtors were experiencing, HyLife engaged PricewaterhouseCoopers Corporate Finance LLC to undertake a marketing and sales process of Debtors. The marketing process commenced in August 2022 but did not yield any bidders at that time. Katten Muchin Rosenman LLP was engaged as legal advisor in December 2022 and PricewaterhouseCoopers LLP was engaged as financial advisor in January 2023 to advise Debtors in connection with a restructuring in an effort to maximize value for Debtors and their stakeholders.

In February 2023, Debtors’ management team, together with Debtors’ legal and financial advisors, determined that a chapter 11 process that would culminate in a section 363 sale was likely to be the best and most value maximizing path forward. To that end, Debtors and their advisors decided to resume the prepetition marketing process as part of an effort to explore all potential strategic alternatives, including sales and capital markets solutions.

⁹ Since 2020, the Investors have contributed approximately \$200 million indirectly to Debtors.

3.3 The Chapter 11 Cases

(a) *Generally*

As set forth above, on the Petition Date, Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The commencement of a chapter 11 case creates an estate that is composed of all of the legal and equitable interests of the debtor as of that date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a “debtor in possession.” Prior to the Sales, Debtors operated their businesses and managed their properties as debtors and debtors in possession. By order entered on April 28, 2023, the Chapter 11 Cases are being jointly administered for procedural purposes only. No trustee or examiner has been appointed in the Chapter 11 Cases.

The filing of Debtors’ bankruptcy petitions on the Petition Date triggered the immediate imposition of the automatic stay under Bankruptcy Code section 362, which, with limited exceptions, enjoins all collection efforts and actions by creditors, the enforcement of liens against Debtors’ property and both the commencement and the continuation of prepetition litigation against Debtors. With certain limited exceptions and/or modifications as permitted by order of the Bankruptcy Court, the automatic stay will remain in effect from the Petition Date until the Effective Date of the Plan.

(b) *“First Day” Motions and Related Applications*

Commencing on the Petition Date, Debtors Filed the following “first-day” motions and applications designed to ease Debtors’ transition into chapter 11, maximize the value of the Assets, and minimize the effects of the commencement of the Chapter 11 Cases (collectively, the “**First Day Motions**”):

- i. *Motion of Debtors for an Order Directing the Joint Administration of Debtors’ Chapter 11 Cases* [D.I. 3] (“**Joint Administration Motion**”).
- ii. *Application of Debtors for Order (I) Authorizing the Appointment of Donlin, Recano & Company, Inc. as Claims and Noticing Agent to Debtors; and (II) Granting Related Relief* [D.I. 4] (“**Claims Agent Retention Motion**”).
- iii. *Motion of Debtors for an Order (I) Authorizing Debtors to Redact Certain Personally Identifiable Information for Individual Creditors; and (II) Granting Related Relief* [D.I. 5] (“**PII Redaction Motion**”).
- iv. *Motion of Debtors for Interim and Final Order (I) Determining Adequate Assurance of Payment for Future Utility Services; (II) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services; (III) Establishing Procedures for Determining Requests for Further Adequate Assurance of Payment; and (IV) Granting Related Relief* [D.I. 6] (“**Utility Motion**”).

- v. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Continue Employee Benefits Programs and Pay Related Administrative Obligations; and (II) Granting Related Relief [D.I. 7] (“Wages Motion”).*
- vi. *Motion of Debtors for Interim and Final Orders (I) Authorizing Payment of Certain Prepetition Taxes and Fees; and (II) Granting Related Relief [D.I. 8] (“Tax Motion”).*
- vii. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Maintain Existing Insurance Policies and Pay All Insurance Obligations Arising Thereunder, (B) Renew, Supplement, Modify, or Purchase Insurance Coverage, and (C) Maintain the Surety Bonds; (II) Modifying the Automatic Stay with Respect to the Workers’ Compensation Program; and (III) Granting Related Relief [D.I. 9] (“Insurance Motion”).*
- viii. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Claims of Critical Suppliers, Logistics Claimants, PASA Claimants and Section 503(b)(9) Claimants; and (II) Granting Related Relief [D.I. 10] (the “Critical Vendors Motion”).*
- ix. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Continue Their Customer Programs and Honor Prepetition Obligations Related Thereto; and (II) Granting Related Relief [D.I. 11] (“Customer Programs Motion”).*
- x. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Continue Using Existing Cash Management Systems, Bank Accounts and Business Forms and (B) Implement Changes to Their Cash Management Systems in the Ordinary Course of Business; (II) Extending Time to Comply with Requirements of 11 U.S.C. § 345(b); and (III) Granting Related Relief [D.I. 12] (the “Cash Management Motion”).*
- xi. *Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Obtain Postpetition Financing; (II) Granting Junior Liens and Administrative Expense Status; (III) Authorizing the Use of Cash Collateral; (IV) Granting Adequate Protection to Prepetition Secured Parties; (V) Scheduling a Final Hearing; and (VI) Granting Related Relief [D.I. 22] (the “DIP/Cash Collateral Motion”).*

On April 28, 2023, the Bankruptcy Court entered orders (i) approving the relief requested in the Joint Administration Motion [D.I. 44], the Claims Agent Retention Application [D.I. 54], and the PII Redaction Motion [D.I. 55] on a final basis, and (ii) approving the relief requested in the Wages Motion [D.I. 49], the Utilities Motion [D.I. 48], the Insurance Motion [D.I. 50], the Taxes Motion [D.I. 46], the Customer Programs Motion [D.I. 51], the Critical Vendors Motion [D.I. 45], the Cash Management Motion [D.I. 47] and the DIP/Cash Collateral Motion [D.I. 52] on an interim basis.

On May 19, 2023, the Bankruptcy Court entered an order approving the DIP/Cash Collateral Motion [D.I. 116] on a final basis. On May 22, 2023, the Bankruptcy Court entered orders approving, on a final basis, the relief requested in the Wages Motion [D.I. 138], the Utilities Motion [D.I. 134], the Insurance Motion [D.I. 140], the Taxes Motion [D.I. 139], the Customer Programs Motion [D.I. 142], and the Critical Vendors Motion [D.I. 141]. On May 23, 2023, the Bankruptcy Court entered an order approving the Cash Management Motion [D.I. 154] on a final basis.

(c) *Retention of Professional Advisors*

The Bankruptcy Court authorized Debtors to retain and employ (i) Katten Muchin Rosenman LLP as their bankruptcy counsel [D.I. 155]; (ii) Potter Anderson & Corroon LLP as their restructuring co-counsel [D.I. 133] (iii) PricewaterhouseCoopers LLP, to provide financial advisory services [D.I. 153]; (iv) Intrepid Investment Bankers LLC (“**Intrepid**”) as their investment banker [D.I. 213]; and (iv) Donlin, Recano & Company, Inc. as their administrative advisor [D.I. 135]. The Bankruptcy Court also authorized Debtors to retain and employ certain professionals utilized by Debtors in the ordinary course of business prior to the Petition Date [D.I. 136].

(d) *The Asset Sales*

i. The Prepetition Sales Process

In August 2022, Debtors engaged PricewaterhouseCoopers Corporate Finance LLC (“**Pwc Corporate**”) to test the market for Debtors’ Assets. That marketing process did not yield any bidders. On February 28, 2023, Debtors engaged Intrepid to commence a more structured outreach to a broader potential investor universe than that which was undertaken by PwC Corporate and to assist in exploring all potential strategic options to prepare Debtors for a smooth landing in chapter 11. Shortly after engagement, Intrepid started reaching out to potential buyers, both strategic and financial. Interested parties participated with the understanding that the sale of Debtors’ assets would occur in a section 363 context.

As of the Petition Date, Debtors and Intrepid had contacted over 115 potentially interested parties as part of this prepetition process, entered into 38 nondisclosure agreements, held one virtual (and recorded) webinar, and conducted two site visits. Potential investors and/or acquirors also had access to a virtual data room with over one gigabyte of information.

The extensive prepetition marketing process yielded a number of serious expressions of interest and paved the way for Debtors to commence a chapter 11 process and pursue a sale of their assets pursuant to section 363 of the Bankruptcy Code.

ii. The Postpetition Sale Process

As set forth in the First Day Declaration, Debtors’ paramount goal in the Chapter 11 Cases was to maximize the value of the Estates for the benefit of Debtors’ creditor constituencies and other stakeholders, including through the sale of substantially all of the Assets. On April 28, 2023, Debtors Filed a motion [D.I. 66] (the “**Bidding Procedures Motion**”) seeking authority to proceed with a bidding and auction process to consummate a sale or series of sales (the “**Sale**”).

Process”) that would generate maximum value for their Assets. To facilitate the Sale Process, Debtors, in consultation with Intrepid and their other professional advisors, proposed certain customary bidding procedures (the “**Bidding Procedures**”) to preserve flexibility in the Sale Process, generate the greatest level of interest in Debtors’ Assets, and obtain the highest or otherwise best value for those Assets. Given Debtors’ liquidity situation at the outset of the Chapter 11 Cases, Debtors believed that a prompt sale of their Assets would maximize value to the greatest extent possible under the circumstances of these Chapter 11 Cases and generate the highest possible recoveries in the most efficient and expeditious manner possible, which would inure to the benefit of Debtors’ Creditors and other stakeholders. Debtors also believed that it would ensure, to the benefit of their Estates, that the market had certainty around the parameters of the Sale Process.

As set forth in the Bidding Procedures Motion, Debtors, in consultation with Intrepid and their other professional advisors, worked extensively to implement a robust and expeditious Sale Process. On May 19, 2023, the Bankruptcy Court entered the Bidding Procedures Order, approving the Bidding Procedures and establishing, among other things, May 25, 2023 at 4:00 p.m. (ET) as the bid deadline, May 26, 2023 at 9:00 a.m. (ET) as the auction date, and June 2, 2023, as the hearing date to approve the Sales.

Following the Petition Date, Intrepid informed all parties contacted as part of the prepetition marketing process of the proposed timeline set forth in the Bidding Procedures Motion, contacted an additional 29 parties to explore interest in pursuing a transaction pursuant to these Chapter 11 Cases, 24 of which signed an NDA and received copies of the marketing materials, loaded the virtual data room with further information and granted access to the virtual data room to an additional 18 parties. Intrepid and Debtors conducted six (6) additional site visits with potential bidders.

Debtors commenced the Auction on May 26, 2023, which was continued to and concluded on May 31, 2023. Debtors Filed the transcripts of the Auction on June 1, 2023 [D.I. 192]. At the conclusion of the Auction, Debtors selected AgriSwine Alliance, Inc. as the highest and best bid for the Hog Assets, Premium Iowa Pork, L.L.C. as the highest and best bid and the Prepetition Agent as the backup bidder for the Facility Asset Sale, a credit bid by the Prepetition Agent as the highest and best bid and Scott Veenker as the backup bidder for the Real Estate Parcels, and a credit bid by the Prepetition Agent as the highest and best bid for the Residential Duplex. On June 2, 2023, the Bankruptcy Court entered an order approving the Hog Asset Sale [D.I. 197], and on June 11, 2023, the Bankruptcy Court entered orders approving the Facility Asset Sale [D.I. 229] and the Real Property Asset Sale [D.I. 230]. The Hog Assets Sale closed on June 2, 2023. The Facility Asset Sale closed on June 16, 2023 [D.I. 246]. The closing of the Residential Duplex portion of the Real Property Asset Sale occurred on June 22, 2023 [D.I. 282]. The closing of the Real Estate Parcels portion of the Real Property Asset Sale occurred on July 6, 2023 [*Id.*].

(e) *Schedules and Bar Dates*

On May 25, 2023, Debtors Filed the Schedules. Among other things, the Schedules set forth the Claims of known or putative Creditors against Debtors as of the Petition Date, based upon Debtors’ books and records.

On May 22, 2023, the Bankruptcy Court entered the Bar Date Order. On June 1, 2023, Debtors Filed the *Notice of Deadline for Filing Proofs of Claim, Including for Claims Asserted Under 503(b)(9) of the Bankruptcy Code* [D.I. 188], establishing the General Bar Date as June 27, 2023 at 5:00 p.m. (ET). As described in detail below, the Plan contemplates the establishment of a Final Administrative Claim Bar Date and Professional Fee Bar Date pursuant to the Confirmation Order.

The projected recoveries set forth in the Plan are based on certain assumptions, including Debtors' estimates of the Claims that will eventually be Allowed in various Classes. There is no guarantee that the ultimate amount of each of such categories of Claims will correspond to Debtors' estimates. Debtors or the Liquidating Trustee, as applicable, and their professionals will investigate the Claims Filed against Debtors to determine the validity of such Claims. Debtors or the Liquidating Trustee, as applicable, may File Objections to Claims that are Filed in improper amounts or classifications, or are otherwise subject to Objection under the Bankruptcy Code or other applicable law.

(f) Appointment of Committee

On June 15, 2023, the U.S. Trustee appointed the Committee [D.I. 238]. The members of the Committee include the following Creditors: (i) Rolling Hills Express, Inc.; (ii) First Call Logistics LLC; and (iii) Headwaters Development, LLC [*id.*].

To assist the Committee in carrying out its duties, the Committee selected Dechert LLP ("Dechert") and Saul Ewing LLP ("Saul Ewing") as its counsel. On July 18, 2023, Dechert filed an application for an order authorizing its retention, effective as of June 21, 2023 [D.I. 288] (the "Dechert Retention Application"). On July 20, 2023, Saul Ewing filed an application for an order authorizing its retention, effective as of June 21, 2023 [D.I. 293] (the "Saul Ewing Retention Application"). On August 7, 2023, the Court authorized the Committee to retain and employ Dechert [D.I. 328] and Saul Ewing [D.I. 329].

Beginning on June 21, 2023 and continuing through the date of the filing of this Combined Disclosure Statement and Plan, Debtors and their professionals have produced and are continuing to produce documents and information in response to requests from the Committee to enable Dechert to get acquainted with Debtors' business and these Chapter 11 Cases and complete Dechert's investigation of the facts and circumstances of Debtors' transactions prior to the Petition Date.

(g) Rejection of Executory Contracts

On April 28, 2023, Debtors Filed their first omnibus motion for entry of an order authorizing the rejection of two hog supply contracts, including (i) that certain Prime Pork LLC Hog Supply Agreement (as amended) by and between GAT Farms, LLC dated as of December 3, 2018, and (ii) that certain HyLife Foods Windom, LLC Hog Supply Agreement by and between Greg Strobel, an individual d/b/a Strobel Farms; Greg Strobel Farms, LLC; Fast Development, Inc.; and Pemberton Grain, LLC dated as of June 29, 2020 [D.I. 58] (together, the

“**Hog Supply Contracts**”). The Bankruptcy Court entered an order authorizing the rejection of the Hog Supply Contracts on June 1, 2023 [D.I. 190].

On June 14, 2023, Debtors Filed their *Second Omnibus Motion for Entry of an Order (I) Authorizing (A) the Rejection of Certain Executory Contracts and Unexpired Lease and (B) the Abandonment of De Minimis Property in Connection therewith, and (II) Granting Related Relief* [D.I. 236] (the “**Second Omnibus Rejection Motion**”), by which Debtors sought to reject five (5) executory contracts and one (1) lease in connection with the Hog Assets Sale and the Facility Asset Sale. On June 29, 2023, the Bankruptcy Court approved the Second Omnibus Rejection Motion [D.I. 267].

On June 29, 2023, Debtors Filed their (i) *Third Omnibus Motion for Entry of an Order (I) Authorizing (A) the Rejection of Certain Executory Contracts and Unexpired Leases as of June 29, 2023 and (B) the Abandonment of De Minimis Property in Connection Therewith, and (II) Granting Related Relief* [D.I. 268] (the “**Third Omnibus Rejection Motion**”); and (ii) *Fourth Omnibus Motion for Entry of an Order (I) Authorizing (A) the Rejection of Certain Executory Contracts and Unexpired Leases as of June 29, 2023 and (B) the Abandonment of De Minimis Property in Connection Therewith, and (II) Granting Related Relief* [D.I. 269] (the “**Fourth Omnibus Rejection Motion**”). By the Third Omnibus Rejection Motion and Fourth Omnibus Rejection Motion, Debtors sought to reject all or substantially all of the Executory Contracts that were not assumed or assumed and assigned in connection with the Sales. On July 17, 2023, the Bankruptcy Court approved the Fourth Omnibus Rejection Motion [D. I. 286]. A hearing on the Third Omnibus Rejection Motion is set for August 10, 2023 at 10:00 a.m. (prevailing Eastern Time), and the objection deadline was July 13, 2023.

(h) The Wind-down of the Estates

Following the Sales, Debtors have focused principally on efficiently winding down their businesses, preserving Cash held in the Estates, and monetizing their remaining Assets. The remaining Assets currently consist of, among other things, Cash, certain deposits, prepayments, credits and refunds, insurance policies or rights to proceeds thereof, accounts receivables, and certain Causes of Action. This combined Disclosure Statement and Plan provides for the Assets, to the extent not already liquidated, to be liquidated over time and the proceeds thereof to be distributed to Holders of Allowed Claims in accordance with the terms of the Plan and the treatment of Allowed Claims described more fully herein. The Liquidating Trustee will effect such liquidation and distributions. Debtors will be dissolved as soon as practicable after the Effective Date.

(i) The Global Settlement with the Prepetition Secured Parties

On or about August 15, 2023, Debtors entered into the Global Settlement with the Prepetition Secured Parties, the Lessor, and the Committee. On August 15, 2023, the Debtors filed a motion pursuant to Bankruptcy Rule 9019 seeking approval of the Global Settlement [D.I. 348] (the “**Settlement Motion**”). On August 30, 2023, the Bankruptcy Court entered an Order granting the Settlement Motion and approving the Global Settlement [D.I. 406].

In the Global Settlement, the Debtors, Prepetition Secured Parties, the Lessor, and the Committee agreed to resolve a number of objections the Committee intended to raise regarding certain provisions in the Final DIP Order. As part of the Global Settlement, Debtors agreed to modify the Plan, which modifications the Prepetition Secured Parties agreed to support and fund in part, and the Committee agreed to hold its potential objections to the Compeer DIP Order Provisions in abeyance.

Specifically, by the Global Settlement, the Committee agreed to (i) not object to the Compeer DIP Order Provisions,¹⁰ (ii) stay, and otherwise refrain from filing, any litigation, objection or motion against or adverse to the Prepetition Secured Parties and the Lessor relating to the Final DIP Order, Plan, or any of the liens, claims or interests of the Prepetition Secured Parties and the Lessor, subject to the tolling provisions described below, and (iii) not take any action inconsistent with the intent of the settling parties to fully resolve the Committee's dispute with the Prepetition Secured Parties and the Lessor over the amount of their claim(s), the extent, validity, priority of their lien(s), the avoidance of any Prepetition Date transfer(s), or any similar action(s) challenging the Compeer DIP Order Provisions or the treatment of the Prepetition Secured Lenders and the Lessors in the Plan. Upon the Effective Date, both the Committee and the Debtors shall have released the Prepetition Secured Parties from all claims and causes of action not already released pursuant to the terms of the Stipulation.

The Global Settlement also provides, among other things, for the (i) tolling of the Prepetition Secured Parties' Challenge Period, as that term is defined in the Settlement Motion until the earlier of (A) the date the Plan becomes effective or (B) the date falling two weeks after (x) the filing by the Committee of a notice with the Bankruptcy Court that one of the parties to the Global Settlement failed to satisfy the requirements thereunder or (y) the date the Bankruptcy Court enters an order denying confirmation of the Plan; (ii) the consensual rejection of certain leases with the Lessor, the return of the Lessor's equipment (to the extent not already returned), and the treatment of the Lessor's rejection damages claim;¹¹ and (iii) a vote in favor of the Debtors' Plan, as amended, by the Prepetition Secured Parties and the Lessor.

To the extent the foregoing description is inconsistent with the terms and conditions set forth in the Global Settlement, the Global Settlement governs.

(j) Additional Settlements Memorialized by Third Amended Plan

Following the filing of the Debtors' second amended Plan, the Debtors finalized with the Committee and other creditors the terms of three additional related settlement agreements, resulting in the resolution of various existing and potential disputes, as described below. In connection therewith, the Debtors agreed to further modify the Plan to incorporate such

¹⁰ The term "Compeer DIP Order Provisions" is defined in the Global Settlement to mean "the Debtors' admissions, stipulations, agreements, releases, and waivers related to the Prepetition Secured Parties' and the Lessor's claims and liens."

¹¹ Pursuant to the Global Settlement, the Lessor waived all administrative priority claims related to the Leases and Equipment (as defined therein) but has an allowed rejection damages claim of \$405,960.55, which is subject to the terms of the Global Settlement.

settlements. The Debtors believe, in their business judgment, that each of the settlements discussed below is in the best interests of the Debtors, their Estates, and all parties in interest. Such settlements will result in the creation of additional value to Debtors' Estates and will avoid the need for the Debtors, the Liquidating Trust, and/or other parties in interest to incur significant litigation time and expense.

Committee Settlement: Since the initial filing of the Plan, the Debtors and the Committee have been engaged in discussions regarding certain Estate releases set forth in the Plan and have conducted lengthy discovery and investigations with respect to potential alleged claims the Committee believed may have existed against certain of the Debtors' directors and officers. The parties have agreed to a resolution (such resolution, the "Committee Settlement") of the potential alleged claims the Committee believes it could assert on behalf of the Debtors against the Debtors' directors and officers. Pursuant to the Committee Settlement, (i) the Debtors' directors and officers will fund or cause to be funded on or before the Effective Date an additional \$500,000 in cash for the exclusive benefit of Holders of Allowed General Unsecured Claims in Class 4 (such contribution, the "D&O Contribution"), which will be transferred to the Liquidating Trust, and (ii) Katten, Dechert, and Debtors' financial advisor, PricewaterhouseCoopers shall write off, on a pro rata basis, up to 5.0% of their combined Allowed Professional Fees (as defined in the Final DIP Order), solely to the extent such aggregate Allowed Professional Fees exceed the amounts set forth in the Wind-Down Budget contemplated under the Global Settlement; provided that in no event shall such Professionals be obligated to write off more than an aggregate amount of \$300,000 in Allowed Professional Fees. In exchange for the foregoing, any and all existing and potential objections of the Committee to the Plan, including with respect to the release and exculpation provisions contained herein, shall be deemed resolved upon the Effective Date.

Headwaters Settlement: On August 17, 2023, the Debtors filed the *Debtors' Objection to the Proof of Claim of Headwaters Development, LLC* [Dkt. No. 365] (the "Headwaters Claim Objection"), objecting to Claim No. ECN-3 filed by Headwaters Development, LLC ("Headwaters", and such claim, the "Headwaters Claim"). Pursuant to the Headwaters Claim, Headwaters asserted a total unsecured claim of \$7,389,761.37. In the Headwaters Claim Objection, the Debtors objected to portions of the Headwaters Claim related to an alleged breach by the Debtors of a Development Agreement (as defined in the Headwaters Claim Objection). On September 13, 2023, Headwaters filed the *Motion of Headwaters Development, LLC Pursuant to Bankruptcy Rule 3018(a) for Estimation and Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan* [Dkt. No. 450] (the "Headwaters 3018 Motion").

The Debtors and Headwaters have agreed to resolve the issues set forth in the Headwaters Claim Objection and the Headwaters 3018 Motion (such resolution, the "Headwaters Settlement"). Pursuant to the Headwaters Settlement, (i) Headwaters shall be allowed an administrative claim in the amount of \$190,133.35, (ii) Headwaters shall be deemed to hold an Allowed General Unsecured Claim in the amount of \$7,239,761.37, (iii) the Debtors shall be deemed to have released Headwaters from any and all Avoidance Actions, (iv) the Headwaters Claim Objection and the Headwaters 3018 Motion shall be deemed withdrawn, and (v) Headwaters shall be deemed to have voted in favor of the Plan and shall not be deemed to have opted out of the third party releases described herein.

The Committee (excluding Headwaters) was informed of the Debtors' negotiation with Headwaters and has no objection to the Headwaters Settlement.

Strobel Settlement: On June 27, 2023, Greg Strobel d/b/a Strobel Farms ("Strobel") filed a proof of claim in the total amount of \$14,534,577.50 (Claim No. 91-1) (the "Strobel Claim") for alleged damages owed under a Hog Supply Agreement. Strobel has asserted that certain portions of the Strobel Claim are subject to statutory regulations set forth in the Packers and Stockyards Program administered by the U.S. Department of Agriculture (the "PSA"). Strobel has further asserted that it should be authorized to collect certain amounts comprising the Strobel Claim from a Livestock Dealer Bond issued on behalf of the Debtors in accordance with the PSA in the amount of \$1,965,000 (the "PSA Bond").

Although Debtors have not yet filed a formal objection to the Strobel Claim, Debtors believe that certain portions of the Strobel Claim may be objectionable and have agreed to resolve their disputes with Strobel (such resolution, the "Strobel Settlement"). Specifically, pursuant to the Strobel Settlement, (i) in resolution of the Strobel Claim, (A) Debtors' parent company, Hylife Group Holdings Ltd., shall pay Strobel \$1,000,000 (CAD) in cash, (B) Strobel shall be authorized to seek payment of \$837,158.28 from the PSA Bond, (C) Patrick Farms shall waive \$3.7 million in additional unsecured claims against Strobel, and (D) Strobel shall waive the unsecured claim amounts set forth in the Strobel Claim and shall not be entitled to any distribution to which Holders of Class 4 Allowed General Unsecured Claims are entitled on account of the Strobel Claim or any other Claim; and (ii) Strobel shall be deemed to have voted in favor of the Plan and shall not be deemed to have opted out of the third party releases described herein. The Strobel Settlement shall be memorialized in further detail in a separate stipulation to be filed with the Bankruptcy Court.

The Committee has no objection to the Strobel Settlement.

ARTICLE IV

CONFIRMATION AND VOTING PROCEDURES

4.1 Confirmation Procedure. The Solicitation Procedures Order, among other things, conditionally approves the combined Disclosure Statement and Plan for solicitation purposes only and authorizes Debtors to solicit votes to accept or reject the Plan. The Confirmation Hearing has been scheduled for October 5, 2023 at 10:00 a.m. (prevailing Eastern Time) at the Bankruptcy Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 to consider (a) final approval of the Disclosure Statement as providing adequate information pursuant to Bankruptcy Code section 1125 and (b) confirmation of the Plan pursuant to Bankruptcy Code section 1129. The Confirmation Hearing may be adjourned from time to time by the Debtors without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing or by Filing a notice with the Bankruptcy Court.

4.2 Procedure for Objections. Any objection to final approval of the combined Disclosure Statement and Plan as providing adequate information pursuant to Bankruptcy Code section 1125 or confirmation of the Plan must be made in writing and Filed with the Bankruptcy Court and served on (a) counsel for Debtors, 50 Rockefeller Plaza, New York, NY 10020, Attn: Jerry

L. Hall (jerry.hall@katten.com) and Michael E. Comerford (michael.comerford@katten.com); (b) Delaware counsel to Debtors, Potter Anderson & Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, Wilmington DE, 19801, Attn: Jeremy Ryan (jryan@potteranderson.com) and L. Katherine Good (kgood@potteranderson.com); (c) counsel for the agent under Debtors' prepetition credit facility, Stinson LLP, 50 South Sixth Street, Suite 2600, Minneapolis, MN 55402, Attn: Adam Nathe (adam.nathe@stinson.com) and Edwin H. Caldie (ed.caldie@stinson.com); (d) counsel to Debtors' equity investors and postpetition lenders, Squire Patton Boggs, 2550 M Street, NW, Washington, DC 20037, Attn: Christopher J. Gaiamo (christopher.gaiamo@squirepb.com) and Latham & Watkins LLP, 555 Eleventh Street, NW, Suite 1000, Washington, D.C., 20004, Attn: Andrew Sorkin (andrew.sorkin@lw.com); (e) proposed counsel to the Official Committee of Unsecured Creditors, Dechert LLP, Three Bryant Park, 1095 Avenue of the Americas, New York, NY 10036-6797, Attn: Allan S. Brilliant and Isaac D. Stevens (allan.brilliant@dechert.com and isaac.stevens@dechert.com) and Saul Ewing LLP, 1201 N. Market Street, Suite 2300, Wilmington, DE 19899-1266 Attn: Lucian B. Murley (luke.murley@saul.com); and (f) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Richard Schepacarter (richard.schepacarter@usdoj.gov) (collectively, the "**Objection Recipients**"); in each case, by no later than September 28, 2023 at 5:00 p.m. (prevailing Eastern Time). Unless an objection is timely Filed and served, it may not be considered by the Bankruptcy Court at the Confirmation Hearing.

4.3 Requirements for Confirmation. The Bankruptcy Court will confirm the Plan only if it meets all the applicable requirements of Bankruptcy Code section 1129. Among other requirements, the Plan (i) must be accepted by all Impaired Classes of Claims or Interests or, if rejected by an Impaired Class, the Plan must not "discriminate unfairly" against, and be "fair and equitable" with respect to, such Class; and (ii) must be feasible. The Bankruptcy Court must also find that: (i) the Plan has classified Claims and Interests in a permissible manner; (ii) the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith.

4.4 Classification of Claims and Interests

Bankruptcy Code section 1123 provides that a plan must classify the claims and interests of a debtor's creditors and equity interest holders. In accordance with Bankruptcy Code section 1123, the Plan divides Claims and Interests into Classes and sets forth the treatment for each Class (other than those claims which pursuant to Bankruptcy Code section 1123(a)(1) need not be and have not been classified). Debtors also are required, under Bankruptcy Code section 1122, to classify Claims and Interests into Classes that contain Claims or Interests that are substantially similar to the other Claims or Interests in such Class.

The Bankruptcy Code also requires that a plan provide the same treatment for each claim or interest of a particular class unless the claim holder or interest holder agrees to a less favorable treatment of its claim or interest. Debtors believe that the Plan complies with such standard. If the Bankruptcy Court finds otherwise, however, it could deny confirmation of the Plan if the Holders of Claims or Interests affected do not consent to the treatment afforded them under the Plan.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim also is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled prior to the Effective Date.

Debtors believe that the Plan has classified all Claims and Interests in compliance with the provisions of Bankruptcy Code section 1122 and applicable case law. It is possible that a Holder of a Claim or Interest may challenge Debtors' classification of Claims or Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. If such a situation develops, Debtors intend, in accordance with the terms of the Plan, to make such permissible modifications to the Plan as may be necessary to permit its confirmation. Any such reclassification could adversely affect Holders of Claims by changing the composition of one or more Classes and the vote required of such Class or Classes for approval of the Plan.

EXCEPT AS SET FORTH IN THE PLAN, UNLESS SUCH MODIFICATION OF CLASSIFICATION MATERIALLY ADVERSELY AFFECTS THE TREATMENT OF A HOLDER OF A CLAIM AND REQUIRES RE-SOLICITATION, ACCEPTANCE OF THE PLAN BY ANY HOLDER OF A CLAIM PURSUANT TO THIS SOLICITATION WILL BE DEEMED TO BE A CONSENT TO THE PLAN'S TREATMENT OF SUCH HOLDER OF A CLAIM REGARDLESS OF THE CLASS AS TO WHICH SUCH HOLDER ULTIMATELY IS DEEMED TO BE A MEMBER.

The amount of any Impaired Claim that ultimately is Allowed by the Bankruptcy Court may vary from any estimated Allowed amount of such Claim and, accordingly, the total Claims that are ultimately Allowed by the Bankruptcy Court with respect to each Impaired Class of Claims may also vary from any estimates contained herein with respect to the aggregate Claims in any Impaired Class. Thus, the actual recovery ultimately received by a particular Holder of an Allowed Claim may be adversely or favorably affected by the aggregate amount of Claims Allowed in the applicable Class. Additionally, any changes to any of the assumptions underlying the estimated Allowed amounts could result in material adjustments to recovery estimates provided herein or the actual Distribution received by Creditors. The projected recoveries are based on information available to Debtors as of the date hereof and reflect Debtors' views as of the date hereof only.

The classification of Claims and Interests and the nature of distributions to members of each Class are summarized herein. Debtors believe that the consideration, if any, provided under the Plan to holders of Claims reflects an appropriate resolution of their Claims taking into account the differing nature and priority (including applicable contractual subordination) of such Claims and Interests. The Bankruptcy Court must find, however, that a number of statutory tests are met before it may confirm the Plan. Many of these tests are designed to protect the interests of Holders of Claims or Interests who are not entitled to vote on the Plan, or do not vote to accept the Plan, but who will be bound by the provisions of the Plan if it is confirmed by the Bankruptcy Court.

4.5 Impaired Claims or Interests

Pursuant to the provisions of the Bankruptcy Code, only classes of claims or interests that are “impaired” (as defined in Bankruptcy Code section 1124) under a plan may vote to accept or reject such plan. Generally, a claim or interest is impaired under a plan if the holder’s legal, equitable, or contractual rights are changed under such plan. In addition, if the holders of claims or interests in an impaired class do not receive or retain any property under a plan on account of such claims or interests, such impaired class is deemed to have rejected such plan under Bankruptcy Code section 1126(g) and, therefore, such holders are not entitled to vote on such plan.

Under the Plan, Holders of Claims in Classes 3 and 4 are Impaired and are entitled to vote on the Plan. Under the Plan, Holders of Claims or Interests in Classes 5 and 6 are Impaired and will not receive or retain any property under the Plan on account of such Claims or Interests and, therefore, are not entitled to vote on the Plan and deemed to reject the Plan. Under the Plan, holders of Claims in Classes 1 and 2 are Unimpaired and, therefore, not entitled to vote on the Plan and are deemed to accept the Plan.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASSES 3 AND 4.

4.6 Confirmation Without Necessary Acceptances; Cramdown

In the event that any impaired class of claims or interests does not accept a plan, a debtor nevertheless may move for confirmation of the plan. A plan may be confirmed, even if it is not accepted by all impaired classes, if the plan has been accepted by at least one impaired class of claims, and the plan meets the “cramdown” requirements set forth in Bankruptcy Code section 1129(b). Bankruptcy Code section 1129(b) requires that a court find that a plan (a) “does not discriminate unfairly” and (b) is “fair and equitable,” with respect to each non-accepting impaired class of claims or interests. Here, because Holders of Claims and Interests in Classes 5 and 6 are deemed to reject the Plan, Debtors will seek confirmation of the Plan from the Bankruptcy Court by satisfying the “cramdown” requirements set forth in Bankruptcy Code section 1129(b). Debtors believe that such requirements are satisfied, as no Holder of a Claim or Interest junior to those in Classes 5 and 6 is entitled to receive any property under the Plan.

A plan does not “discriminate unfairly” if (a) the legal rights of a nonaccepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to those of the nonaccepting class and (b) no class receives payments in excess of that which it is legally entitled to receive for its claims or interests. Debtors believe that, under the Plan, all Impaired Classes of Claims or Interests are treated in a manner that is consistent with the treatment of other Classes of Claims or Interests that are similarly situated, if any, and no Class of Claims or Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims or Allowed Interests in such Class. Accordingly, Debtors believe that the Plan does not discriminate unfairly as to any Impaired Class of Claims or Interests.

The Bankruptcy Code provides a nonexclusive definition of the phrase “fair and equitable.” To determine whether a plan is “fair and equitable,” the Bankruptcy Code establishes “cramdown” tests for secured creditors, unsecured creditors and equity holders, as follows:

(a) Secured Creditors. Either (i) each impaired secured creditor retains its liens securing its secured claim and receives on account of its secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, (ii) each impaired secured creditor realizes the “indubitable equivalent” of its allowed secured claim or (iii) the property securing the claim is sold free and clear of liens with such liens to attach to the proceeds of the sale and the treatment of such liens on proceeds to be as provided in clause (i) or (ii) above.

(b) Unsecured Creditors. Either (i) each impaired unsecured creditor receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the plan.

(c) Interests. Either (i) each holder of an equity interest will receive or retain under the plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of the interest or (ii) the holder of an interest that is junior to the nonaccepting class will not receive or retain any property under the plan.

As discussed above, Debtors believe that the distributions provided under the Plan satisfy the absolute priority rule, where required.

4.7 Feasibility

Bankruptcy Code section 1129(a)(11) requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of Debtors or any successor to Debtors (unless such liquidation or reorganization is proposed in the Plan). Inasmuch as the Assets have been, or will be, liquidated and the Plan provides for the Distribution of all of the Cash proceeds of the Assets to Holders of Claims that are Allowed in accordance with the Plan, for purposes of this test, Debtors have analyzed the ability of the Liquidating Trustee to meet its obligations under the Plan. Based on Debtors’ analysis, the Liquidating Trustee will have sufficient assets to accomplish its tasks under the Plan. Therefore, Debtors believe that the liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

4.8 Best Interests Test and Liquidation Analysis

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires the Bankruptcy Court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted the plan. The “best interests” test, as set forth in Bankruptcy Code section 1129(a)(7), requires a court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the

amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor was liquidated under chapter 7, a court must first determine the aggregate dollar amount that would be generated from a debtor's assets if its chapter 11 cases were converted to cases under chapter 7 of the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the debtor's unencumbered assets and properties, after subtracting the amounts attributable to the costs, expenses and administrative claims associated with a chapter 7 liquidation, must be compared with the value offered to such impaired classes under the plan. If the hypothetical liquidation distribution to holders of claims or interests in any impaired class is greater than the distributions to be received by such parties under the plan, then such plan is not in the best interests of the holders of claims or interests in such impaired class.

Because the Plan is a liquidating plan, the "liquidation value" in the hypothetical chapter 7 liquidation analysis for purposes of the "best interests" test is substantially similar to the estimates of the results of the chapter 11 liquidation contemplated by the Plan. However, Debtors believe that in a chapter 7 liquidation, there would be additional costs and expenses that the Estates would incur as a result of liquidating the Estates in a chapter 7 case.

The costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as the costs of counsel and other professionals retained by the trustee. Debtors believe such amount would exceed the amount of expenses that would be incurred in implementing the Plan and winding up Debtors' affairs. Conversion also would likely delay the liquidation process and ultimate distribution of the Assets. The Estates would also be obligated to pay all unpaid expenses incurred by Debtors during the Chapter 11 Cases (such as compensation for professionals) that are allowed in the chapter 7 cases.

Accordingly, Debtors believe that holders of Allowed Claims would receive less than anticipated under the Plan if the Chapter 11 Cases were converted to chapter 7 cases, and therefore, the classification and treatment of Claims and Interests in the Plan complies with Bankruptcy Code section 1129(a)(7).

4.9 Acceptance of the Plan

The rules and procedures governing eligibility to vote on the Plan, solicitation of votes, and submission of ballots are set forth in the Solicitation Procedures Order.

For the Plan to be accepted by an Impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting in such Class must vote to accept the Plan. At least one Voting Class, excluding the votes of insiders, must actually vote to accept the Plan.

IF YOU ARE ENTITLED TO VOTE ON THE PLAN, YOU ARE URGED TO COMPLETE, DATE, SIGN, AND PROMPTLY MAIL THE BALLOT YOU RECEIVE. PLEASE BE SURE TO COMPLETE ALL BALLOT ITEMS PROPERLY AND LEGIBLY. IF YOU ARE A HOLDER OF A CLAIM ENTITLED TO VOTE ON THE

PLAN AND YOU DID NOT RECEIVE A BALLOT, YOU RECEIVED A DAMAGED BALLOT, OR YOU LOST YOUR BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THE PLAN OR PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE VOTING AGENT (I) BY TELEPHONE AT: (800) 761-6523 (TOLL-FREE), (212) 771-1128 (INTERNATIONAL) OR (II) BY EMAIL AT: DRCVOTE@DONLINRECANO.COM. THE VOTING AGENT IS NOT AUTHORIZED TO, AND WILL NOT, PROVIDE LEGAL ADVICE.

HOLDERS OF CLAIMS IN CLASSES 1, 2, 3 AND 4 WHO VOTE IN FAVOR OF THE PLAN BUT DO NOT WISH TO PROVIDE THE RELEASES SET FORTH IN SECTION 14.1(C) HEREIN MUST AFFIRMATIVELY INDICATE SO BY CHECKING THE “OPT-OUT” BOX ON THEIR BALLOT.

PLEASE BE ADVISED THAT ALL HOLDERS OF CLAIMS IN CLASSES 3 AND 4 THAT VOTE TO ACCEPT BUT DO NOT AFFIRMATIVELY MAKE THE OPT-OUT ELECTION ON THEIR BALLOT SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN SECTION 14.1(C) HEREIN. HOLDERS OF CLAIMS WHO VOTE TO REJECT THE PLAN SHALL NOT BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN SECTION 14.1(C) HEREIN AND SHALL BE DEEMED TO HAVE OPTED OUT OF SUCH RELEASES.

ARTICLE V
CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING

THE PLAN AND ITS IMPLEMENTATION ARE SUBJECT TO CERTAIN RISKS, INCLUDING, BUT NOT LIMITED TO, THE RISK FACTORS SET FORTH BELOW. HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE ON THE PLAN SHOULD READ AND CAREFULLY CONSIDER THE RISK FACTORS, AS WELL AS THE OTHER INFORMATION SET FORTH IN THE PLAN AND THE DOCUMENTS DELIVERED TOGETHER HERewith OR REFERRED TO OR INCORPORATED BY REFERENCE HEREIN, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

5.1 The Plan May Not Be Accepted

Debtors can make no assurances that the requisite acceptances to the Plan will be received, and Debtors may need to obtain acceptances to an alternative plan of liquidation for Debtors, or otherwise, that may not have the support of the Creditors and/or may be required to liquidate the Estates under chapter 7 of the Bankruptcy Code. There can be no assurance that the terms of any such alternative restructuring arrangement or plan would be similar to or as favorable to Creditors as those proposed in the Plan.

5.2 The Plan May Not Be Confirmed

Even if Debtors receive the requisite acceptances, there is no assurance that the Bankruptcy Court, which may exercise substantial discretion as a court of equity, will confirm the Plan. Even if the Bankruptcy Court determined that the combined Disclosure Statement and Plan and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it finds that any of the statutory requirements for confirmation had not been met. Moreover, there can be no assurance that modifications to the combined Disclosure Statement and Plan will not be required for Confirmation or that such modifications would not necessitate the re-solicitation of votes. If the Plan is not confirmed, it is unclear what distributions Holders of Claims or Interests ultimately would receive with respect to their Claims or Interests in a subsequent plan of liquidation.

If the Plan is not confirmed, the Plan will need to be revised and it is unclear whether a chapter 11 reorganization or liquidation of Debtors' assets could be implemented and what distribution the Holders of Allowed Claims would receive. If an alternative could not be agreed to, it is possible that Debtors would have to liquidate their remaining assets in chapter 7, in which case it is likely that the Holders of Allowed Claims would receive substantially less favorable treatment than they would receive under the Plan. There can be no assurance that the terms of any such alternative would be similar to or as favorable to Debtors' Creditors as those proposed in the Plan.

5.3 Distributions to Holders of Allowed Claims under the Plan May Be Inconsistent with Projections

Projected Distributions are based upon good faith estimates of the total amount of Claims ultimately Allowed and the funds available for Distribution. There can be no assurance that the estimated Claim amounts set forth in the Plan are correct. These estimated amounts are based on certain assumptions with respect to a variety of factors. Both the actual amount of Allowed Claims in a particular Class and the funds available for distribution to such Class may differ from Debtors' estimates. If the total amount of Allowed Claims in a Class is higher than Debtors' estimates, or the funds available for distribution to such Class are lower than Debtors' estimates, the percentage recovery to Holders of Allowed Claims in such Class will be less than projected.

5.4 Objections to Classification of Claims

Bankruptcy Code section 1122 requires that the Plan classify Claims and Interests. The Bankruptcy Code also provides that the Plan may place a Claim or Interest in a particular Class only if such Claim or Interest is substantially similar to the other Claims or Interests of such Class. Debtors believe that all Claims and Interests have been appropriately classified in the Plan. To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, Debtors would seek to (i) modify the Plan to provide for whatever classification might be required for Confirmation and (ii) use the acceptances received from any Holder of Claims pursuant to this solicitation for the purpose of obtaining the approval of the Class or Classes of which such Holder ultimately is deemed to be a member. Any such reclassification of Claims, although subject to the notice and hearing requirements of the Bankruptcy Code, could adversely affect the Class in which such Holder was initially a member,

or any other Class under the Plan, by changing the composition of such Class and the vote required for approval of the Plan. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the Plan based upon such reclassification. Except to the extent that modification of classification in the Plan requires re-solicitation, Debtors will, in accordance with the Bankruptcy Code and the Bankruptcy Rules, seek a determination by the Bankruptcy Court that acceptance of the Plan by any Holder of Claims pursuant to this solicitation will constitute a consent to the Plan's treatment of such Holder, regardless of the Class as to which such Holder is ultimately deemed to be a member. Debtors believe that under the Bankruptcy Rules, they would be required to resolicit votes for or against the Plan only when a modification adversely affects the treatment of the Claim or Interest of any Holder.

The Bankruptcy Code also requires that the Plan provide the same treatment for each Claim or Interest of a particular Class unless the Holder of a particular Claim or Interest agrees to a less favorable treatment of its Claim or Interest. Debtors believe that the Plan complies with the requirement of equal treatment. To the extent that the Bankruptcy Court finds that the Plan does not satisfy such requirement, the Bankruptcy Court could deny confirmation of the Plan. Issues or disputes relating to classification and/or treatment could result in a delay in the confirmation and consummation of the Plan and could increase the risk that the Plan will not be consummated.

5.5 Failure to Consummate the Plan

The Plan provides for certain conditions that must be satisfied (or waived) prior to the Confirmation Date and for certain other conditions that must be satisfied (or waived) prior to the Effective Date. As of the date of the Plan, there can be no assurance that any or all of the conditions in the Plan will be satisfied (or waived). Accordingly, there can be no assurance that the Plan will be confirmed by the Bankruptcy Court. Further, if the Plan is confirmed, there can be no assurance that the Plan will be consummated.

5.6 Plan Releases May Not Be Approved

There can be no assurance that the releases, as provided in Article XIV of the Plan, will be granted. Failure of the Bankruptcy Court to grant such relief may result in a plan of liquidation that differs from the Plan or the Plan not being confirmed.

5.7 The Total Amount of 503(b)(9) Claims and Initial Administrative Claims May Exceed the Caps

The total amount of Allowed 503(b)(9) Claims and Allowed Initial Administrative Claims is estimated to be no greater than \$675,000. If the total amount of Allowed 503(b)(9) Claims and Allowed Initial Administrative Claims is higher than \$675,000, Debtors may not be able to satisfy the conditions for this Plan to become effective.

5.8 Reductions to Estimated Creditor Recoveries

The Allowed amount of Claims in any Class could be greater than projected, which, in turn, could cause the amount of distributions to Creditors in such Class to be reduced

substantially. The amount of Cash realized from the liquidation of Debtors' remaining assets could be less than anticipated, which could cause the amount of distributions to Creditors to be reduced substantially.

5.9 Certain Tax Considerations

There are a number of material income tax considerations, risks, and uncertainties associated with the plan of liquidation of the Debtors described in this combined Disclosure Statement and Plan.

5.10 Minnesota Department of Labor and Industry Investigation

The Minnesota Department of Labor and Industry (the "DOL") commenced an investigation of Windom on or about May 23, 2023 in connection with Windom's labor and employment practices. As of the date hereof, the DOL investigation is still pending. While Debtors do not believe they are subject to any wrongdoing or liability, they continue to cooperate with the DOL, including by producing records requested by the DOL. To the extent the DOL finds any violations, the DOL may be entitled to assert claims against Debtors, which could cause the Distributions to Creditors to be impacted.

5.11 Minnesota Department of Agriculture Bond Claim

On or about June 26, 2023, Windom received notice from the Minnesota Department of Agriculture (the "MDA") regarding a claim asserted by one of Windom's hog suppliers, against Windom's surety bond backing Windom's license pursuant to Minnesota Statutes section 17A.06. While Debtors believe that they have a valid right of setoff against the claim that is being asserted and such claim may otherwise be resolved, to the extent such claim is validly asserted against one or more of Debtors' Estates or to the extent other former hog suppliers assert similar claims, such claims could impact Distributions to Creditors under the Plan.

THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. NOTHING HEREIN SHALL CONSTITUTE TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

ARTICLE VI TREATMENT OF UNCLASSIFIED CLAIMS

6.1 Administrative Claims. Except as otherwise set forth in this Article VI, or as soon as practicable after the Final Administrative Claim Bar Date, each Holder of an Allowed Administrative Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Administrative Claim: (i) Cash equal to the amount of such Allowed Administrative Claim; or (ii) such other treatment as to which Debtors or the Liquidating

Trustee, as applicable, and the Holder of such Allowed Administrative Claim shall have agreed upon in writing.

(a) **Initial Administrative Claim Bar Date.** Holders of Administrative Claims, other than 503(b)(9) Claims and Professional Fee Claims, incurred after the Petition Date through and including the date the Bankruptcy Court enters the Solicitation Procedures Order (“**Initial Administrative Claims**”) shall File with the Claims Agent and serve on the Debtors or the Liquidating Trustee, as applicable, requests for payment, in writing, together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, so as to actually be received on or before the Initial Administrative Claim Bar Date.¹²

(b) **Final Administrative Claim Bar Date.** Holders of Administrative Claims, other than Professional Fee Claims, accruing after the date of entry of the Solicitation Procedures Order through and including the Effective Date (“**Final Administrative Claims**”) shall File with the Claims Agent and serve on the Debtors or the Liquidating Trustee, as applicable, requests for payment, in writing, together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, so as to actually be received on or before the Final Administrative Claim Bar Date. The Effective Date Notice shall set forth the Final Administrative Claim Bar Date and shall constitute notice of such Bar Date. Absent further Bankruptcy Court order, any Final Administrative Claim not Filed by the Final Administrative Claim Bar Date shall be deemed waived and the Holder of such Final Administrative Claim shall be forever barred from receiving payment on account thereof.

(c) **Objections.** Objections to requests for payment of Administrative Claims, other than requests for payment of Professional Fee Claims, must be Filed and served on the requesting party by the Claims Objection Deadline.

(d) **Professional Fee Claims.** All applications for allowance and payment of Professional Fee Claims shall be Filed on or before the Professional Fee Claims Bar Date. If an application for a Professional Fee Claim is not Filed by the Professional Fee Claims Bar Date, such Professional Fee Claim shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. The Effective Date Notice shall set forth the Professional Fee Claims Bar Date and shall constitute notice of such Bar Date. Objections to any Professional Fee Claims must be Filed and served on the Liquidating Trustee and the requesting party by no later than twenty-one (21) days after service of the applicable final application for allowance and payment of Professional Fee Claims. Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court upon the earlier of (i) the Effective Date or (ii) the date upon which an order relating to any such Allowed Professional Fee Claim is entered, and in each case, as soon as reasonably practicable.

¹² Further information regarding the filing of Initial Administrative Claims is set forth in the *Notice of Initial Administrative Claims Bar Date*, filed on August 31, 2023 [D.I. 409].

(e) **U.S. Trustee Fees.** All fees payable on or before the Effective Date, pursuant to United States Code title 28 section 1930, shall be paid by Debtors on or before the Effective Date. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to File a request for Administrative Claims.

6.2 Priority Tax Claims. Within the time period provided in Article X of the Plan, each Holder of an Allowed Priority Tax Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim: (i) Cash equal to the amount of such Allowed Priority Tax Claim; or (ii) such other treatment as to which Debtors or the Liquidating Trustee, as applicable, and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

6.3 DIP Loan Claims. Each Holder of an Allowed DIP Loan Claim has forgiven and released such Claim pursuant to the terms of the DIP Credit Agreement.

ARTICLE VII

TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

For purposes of administrative convenience and efficiency, the Plan is a joint plan for each of the Debtors and presents together Classes of Claims against, and Interests in, Debtors. The Plan does not provide for the substantive consolidation of Debtors, other than for the limited purpose of making distributions. This Plan constitutes a separate Plan proposed by each Debtor, and the classifications set forth in Classes 1 through 6 of the Plan apply to each Debtor, *provided that*, the Estates of the Debtors shall be consolidated for the purpose of effectuating Distributions. Each Class constitutes a separate Sub-Class of Claims against, and Interests in, each of the Debtors, as applicable, and each such Sub-Class of a Class of Claims entitled to vote on the Plan shall vote as a single separate Class for, and the confirmation requirements of section 1129 of the Bankruptcy Code must be satisfied separately with respect to, each of the Debtors.

All Claims and Interests are classified in the Classes set forth below in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest is classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

Unless the Holder of an Allowed Claim and the Debtors or the Liquidating Trustee, as applicable, agree to a different treatment, each Holder of an Allowed Claim shall receive the following Distributions in accordance with Article X of the Plan:

7.1 Class 1: Priority Non-Tax Claims. Each Holder of an Allowed Priority Non-Tax Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Class 1 Claim: (A) Cash equal to the amount of such Allowed Priority Non-Tax Claim; or (B) such other treatment which Debtors or the Liquidating Trustee, as applicable, and the Holder of such Allowed Priority Non-Tax Claim have agreed upon in writing.

7.2 Class 2: Other Secured Claims. Each Holder of an Allowed Other Secured Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Class 2 Claim: (A) return of the collateral securing such Allowed Other Secured Claim; or (B) Cash equal to the amount of such Allowed Other Secured Claim; or (C) such other treatment which Debtors or the Liquidating Trustee, as applicable, and the Holder of such Allowed Other Secured Claim have agreed upon in writing, *provided, however*, that with respect to the secured guaranties of Tritex described in Section 3.1(b)(ii)(B) hereof, such guaranties shall be reinstated to the same extent as they existed prior to the Petition Date.

7.3 Class 3: Prepetition Loan Claims. Each Holder of an Allowed Prepetition Loan Claim shall, in full and final satisfaction, settlement, and release of and in exchange for such Allowed Class 3 Claim, (A) receive such Holder's *pro rata* share of the Sale Distribution Proceeds; (B) retain all payments made, or receive any amounts owing, to the Holder pursuant to the Final DIP Order; (C) retain all other payments made, or receive any amounts owing, to the Holder by Debtors pursuant to the Bankruptcy Code or any order of the Bankruptcy Court; and (D) receive the proceeds from the Sales or disposition of the any Prepetition Collateral or any other collateral securing the Allowed Prepetition Loan Claim as such collateral is defined in the Final DIP Order, until the Prepetition Loan Claim is paid in full, in all respects subject to the Global Settlement. For the avoidance of doubt, even if the Holder of an Allowed Class 3 Claim is not paid in full, the Holder of an Allowed Class 3 Claim shall not be entitled to treatment as a Holder of an Allowed General Unsecured Claim for any unpaid amounts; *provided, however*, and notwithstanding anything in this Section 7.3 to the contrary, should any Allowed Prepetition Loan Claim or any collateral identified in the Final DIP Order as securing the Allowed Prepetition Loan Claim be avoided, disallowed, disgorged, clawed back, surcharged, reduced, or otherwise challenged, or if the Holder of an Allowed Class 3 Claim is named as a defendant, cross-defendant, or otherwise, in any Cause of Action, including but not limited to an Avoidance Action, any Allowed unpaid portion of the Prepetition Loan Claim not paid under this Section 7.3 shall then become a Class 4 Allowed General Unsecured Claim(s).

7.4 Class 4: General Unsecured Claims. Holders of Allowed General Unsecured Claims shall receive such Holder's *pro rata* share of the GUC Distribution Pool. Furthermore, as described in the Global Settlement, neither the Prepetition Secured Parties nor the Lessor shall participate as Class 4 Holders of General Unsecured Claims. The Prepetition Secured Parties and the Lessor shall not be entitled to participate in any distributions from the GUC Distribution Pool, except for the following: The Prepetition Secured Parties shall receive a distribution of 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million (with all other Holders of General Unsecured Claims receiving a *pro rata* distribution of the first \$2.65 million of the Remaining Amount and 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million). Additionally, the Prepetition Secured Parties shall receive a distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date as a result of any litigation or settlement relating to Claims or Causes of Action against GAT Farms, LLC, Greg Strobel, an individual d/b/a Strobel Farms, Strobel Farms, LLC, Greg Strobel Farms, LLC, Fast Development, Inc., and/or Pemberton Grain, LLC (with all other Holders of General Unsecured Claims receiving a *pro rata* distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date relating to Claims or Causes of Action against such persons and entities).

7.5 Class 5: Intercompany Claims. Holders of Intercompany Claims shall receive no Distribution on account of their Intercompany Claims.

7.6 Class 6: Interests. On the Effective Date, all Interests shall be extinguished as of the Effective Date, and owners thereof shall receive no Distribution on account of such Interests.

7.7 Reservation of Rights Regarding Claims and Interests. Except as otherwise explicitly provided in the Plan, nothing shall affect Debtors' rights and defenses, both legal and equitable, with respect to any Claims or Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

ARTICLE VIII

ACCEPTANCE OR REJECTION OF THE PLAN

8.1 Class Entitled to Vote. Because Claims in Classes 3 and 4 are Impaired and Holders thereof will receive or retain property or an interest in property under the Plan, only a Holder of Claims in Classes 3 and 4 shall be entitled to vote to accept or reject the Plan.

8.2 Acceptance by Impaired Classes of Claims or Interests. In accordance with Bankruptcy Code section 1126(c), and except as provided in Bankruptcy Code section 1126(e), an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept or reject the Plan. In accordance with Bankruptcy Code section 1126(d) and except as provided in Bankruptcy Code section 1126(e), an Impaired Class of Interests shall have accepted the Plan if such Plan is accepted by Holders of at least two-thirds (2/3) in amount of the Allowed Interests in such Class that have timely and properly voted to accept or reject the Plan.

8.3 Presumed Acceptance by Unimpaired Classes. Because Claims in Class 1 and Class 2 are Unimpaired pursuant to Bankruptcy Code section 1126(f), Holders of Claims in Class 1 and Class 2 are deemed to have accepted the Plan and, therefore, such Holders of Claims are not entitled to vote to accept or reject the Plan.

8.4 Presumed Rejections by Impaired Classes. Because Holders of Claims or Interests in Classes 5 and 6 are not entitled to receive or retain any property under the Plan, pursuant to Bankruptcy Code section 1126(g), such Holders of Claims or Interests are presumed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

8.5 Confirmation Pursuant to Bankruptcy Code Section 1129(b). To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, Debtors reserve the right to request confirmation of the Plan, as it may be modified from time to time, under Bankruptcy Code section 1129(b). Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the documents submitted in support thereof or any schedule or exhibit, including to amend or modify it to satisfy the requirements of Bankruptcy Code section 1129(b), if necessary.

8.6 Controversy Concerning Impairment. If a controversy arises as to whether any Claim or Interest is Impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

8.7 Elimination of Vacant Classes. Any Class of Claims or Interests that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be deemed deleted from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under Bankruptcy Code section 1129(a)(8).

ARTICLE IX

IMPLEMENTATION OF THE PLAN AND THE LIQUIDATING TRUST

9.1 Implementation of the Plan. The Plan will be implemented by, among other things, the establishment of the Liquidating Trust, the transfer to the Liquidating Trust of the Liquidating Trust Assets, including, without limitation, all Cash and Retained Causes of Action, and the making of Distributions by the Liquidating Trust in accordance with the Plan and Liquidating Trust Agreement. The Plan shall serve as, and shall be deemed to be, a motion for entry of an order substantively consolidating the Debtors' Chapter 11 Cases for the limited purpose of making Distributions by the Liquidating Trust. Upon the entry of the Confirmation Order, the claims register maintained in the various Chapter 11 Cases shall be deemed consolidated into a single claim register in respect of the consolidated Estate. Further, Claims asserted against multiple Debtors shall be deemed to constitute a single Claim against the consolidated Estate.

9.2 Debtors' Directors and Officers. On the Effective Date, each of the Debtors' directors, officers, members, and managers shall be terminated automatically without the need for any corporate action or approval and without the need for any corporate filings, and shall have no continuing obligations to Debtors following the occurrence of the Effective Date.

9.3 Wind-Up and Dissolution of the Debtors. Debtors shall be dissolved automatically effective on the Effective Date without the need for any corporate action or approval and without the need for any corporate filings, and neither Debtors nor the Liquidating Trustee shall be required to pay any taxes or fees to cause such dissolution. On the Effective Date or as soon thereafter as is reasonably practicable, the Liquidating Trustee shall wind-up the affairs of Debtors, if any, and file final tax returns for Debtors. The Liquidating Trust shall bear the cost and expense of the wind-up Debtors' affairs, if any, and the cost and expense of the preparation and filing of the final tax returns for Debtors.

9.4 Creation and Governance of the Liquidating Trust. On the Effective Date, Debtors and the Liquidating Trustee shall execute the Liquidating Trust Agreement on terms acceptable to the Committee and shall take all steps necessary to establish the Liquidating Trust in accordance with the Plan and the beneficial interests therein, which shall be for the benefit of the Beneficiaries. Additionally, on the Effective Date Debtors shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Liquidating Trust all of their rights, title, and interest in and to all of the Liquidating Trust Assets, and in accordance with Bankruptcy Code section 1141, except as specifically provided in the Plan or the Confirmation Order, the Liquidating Trust Assets shall automatically vest in the Liquidating Trust free and clear of all

Claims, Liens, encumbrances, or interests subject only to the Liquidating Trust Interests and the Liquidating Trust Expenses, as provided for in the Plan and the Liquidating Trust Agreement, and Claims required to be paid by the Liquidating Trust pursuant to the Plan with priority over General Unsecured Claims, including, without limitation, Administrative Claims and Professional Fee Claims; and such transfer shall be exempt from any stamp, real estate transfer, other transfer, mortgage reporting, sales, use, or other similar tax. The Liquidating Trustee shall be the exclusive trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code section 1123(b)(3)(B). The Liquidating Trust shall be governed by the Liquidating Trust Agreement and administered by the Liquidating Trustee, which shall be appointed by the Committee. The powers, rights, and responsibilities of the Liquidating Trustee shall be specified in the Liquidating Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in Section 9 of this Plan. The Liquidating Trust shall hold and distribute the Liquidating Trust Assets in accordance with the provisions of the Plan and the Liquidating Trust Agreement. Other rights and duties of the Liquidating Trustee and the Beneficiaries shall be as set forth in the Liquidating Trust Agreement. For the avoidance of doubt, after the Effective Date, Debtors and the Estates shall have no interest in the Liquidating Trust Assets, the transfer of the Liquidating Trust Assets to the Liquidating Trust is absolute, and the Liquidating Trust Assets shall not be held or deemed to be held in trust by the Liquidating Trustee on behalf of any of the Debtors or the Estates.

9.5 Purpose of the Liquidating Trust. The Liquidating Trust shall be established for the purpose of: (i) pursuing or liquidating the Liquidating Trust Assets; (ii) reconciling and objecting to Claims, as provided for in the Plan; and (iii) making Distributions to the Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

9.6 Liquidating Trustee and Liquidating Trust Agreement. The Liquidating Trust Agreement generally will provide for, among other things: (i) the payment of the Liquidating Trust Expenses; (ii) the payment of other reasonable expenses of the Liquidating Trust; (iii) the retention of counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; (iv) the investment of Cash by the Liquidating Trustee within certain limitations, including those specified in the Plan; (v) the orderly liquidation of the Liquidating Trust Assets; (vi) litigation of any Retained Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Retained Causes of Action for the sole benefit of the Holders of Allowed General Unsecured Claims under Class 4 of the Plan; (vii) the prosecution and resolution of Objections to Claims; and (viii) the establishment of such Disputed Claim Reserves as the Liquidating Trustee deems appropriate.

The Liquidating Trustee, on behalf of the Liquidating Trust, may employ, without further order of the Bankruptcy Court, professionals (including those Professionals previously retained in these Chapter 11 Cases) to assist in carrying out the Liquidating Trustee's duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Liquidating Trust Assets in accordance with the Plan and the Liquidating Trust Agreement.

The Liquidating Trust Agreement provides that the Liquidating Trustee shall be indemnified by and receive reimbursement from the Liquidating Trust Assets against and from any and all loss, liability, expense (including reasonable attorneys' fees), or damage which the Liquidating Trustee incurs or sustains, in good faith and without either willful misconduct, gross negligence or fraud, acting as Liquidating Trustee under or in connection with the Liquidating Trust Agreement.

On and after the Effective Date, the Liquidating Trustee shall have the power and responsibility to do all acts contemplated by the Plan to be done by the Liquidating Trustee and all other acts that may be necessary or appropriate in connection with the disposition of the Liquidating Trust Assets and the distribution of the proceeds thereof, as contemplated by the Plan and in accordance with the Liquidating Trust Agreement. In all circumstances, the Liquidating Trustee shall act in its reasonable discretion in the best interests of the Beneficiaries pursuant to the terms of the Plan and the Liquidating Trust Agreement.

9.7 Compensation and Duties of Liquidating Trustee. The salient terms of the Liquidating Trustee's employment, including the Liquidating Trustee's duties and compensation, shall be set forth in the Liquidating Trust Agreement. The Liquidating Trustee shall be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases. The Liquidating Trustee shall also be reimbursed for all documented, actual, reasonable, and necessary out-of-pocket expenses incurred in the performance of his or her duties under the Liquidating Trust Agreement.

9.8 United States Federal Income Tax Treatment of the Liquidating Trust, the Debtors, and Holders of Claims

(a) General.

The following discussion is a summary of certain material U.S. federal income tax consequences of the combined Disclosure Statement and Plan to the Debtors and to certain holders (which solely for purposes of this discussion means the beneficial owner for U.S. federal income tax purposes) of Claims. The following summary does not address the U.S. federal income tax consequences to Holders of Claims or Interests not entitled to vote on the Plan. This summary is based on the IRC, Treasury Regulations promulgated and proposed thereunder (the "**Treasury Regulations**"), judicial decisions, and published administrative rules and pronouncements of the IRS, all as in effect on the date hereof and all of which are subject to change or differing interpretations, possibly with retroactive effect. No legal opinions have been requested or obtained from counsel with respect to any of the tax aspects of the combined Disclosure Statement and Plan and no rulings have been or will be requested from the IRS with respect to any of the issues discussed below. The discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

This discussion does not purport to address all aspects of U.S. federal income taxation that may be relevant to Debtors or to certain Holders of Claims in light of their individual circumstances, nor does the discussion deal with tax issues with respect to Holders of Claims subject to special treatment under the U.S. federal income tax laws (including, for example,

insurance companies; banks or other financial institutions; brokers, dealers, or traders in securities; real estate investment trusts; governmental authorities or agencies; tax-exempt organizations; retirement plans; individual retirement or other tax-deferred accounts; certain expatriates or former long-term residents of the United States; small business investment companies; regulated investment companies; S corporations, partnerships, or other pass-through entities for U.S. federal income tax purposes and their owners; persons whose functional currency is not the U.S. dollar; persons who use a mark-to-market method of accounting; persons required to report income on an applicable financial statement; persons holding Claims as part of a straddle, hedge, constructive sale, conversion transaction, or other integrated transaction; and persons who are not U.S. Holders (as defined below)). Furthermore, this discussion assumes that a Holder of a Claim holds such claim as a “capital asset” within the meaning of section 1221 of the IRC (generally property held for investment). This discussion does not address any U.S. federal non-income (including estate or gift), state, local, or foreign taxation, alternative minimum tax, or the Medicare tax on certain net investment income.

For purposes of this discussion, a “U.S. Holder” is a beneficial owner of a Claim that is, for U.S. federal income tax purposes:

- i. an individual citizen or resident of the United States;
- ii. a corporation, or other entity taxable as a corporation, created or organized in or under the laws of the United States, any state therein or the District of Columbia;
- iii. an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or
- iv. a trust if a court within the United States is able to exercise primary supervision over its administration and one or more United States persons have the authority to control all substantial decisions of the trust or otherwise if the trust has a valid election in effect under current Treasury regulations to be treated as a United States person.
- v. If a partnership (or other entity or arrangement classified as a partnership for U.S. federal income tax purposes) is a Holder of Claims, the U.S. federal income tax treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership. A Holder of a Claim that is a partnership and the partners in such partnership should consult their tax advisors with regard to the U.S. federal income tax consequences of the combined Disclosure Statement and Plan.

THE FOLLOWING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM IS URGED TO CONSULT WITH SUCH HOLDER’S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL, FOREIGN, AND OTHER TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN.

(b) Liquidating Trust.

As of the Effective Date, the Liquidating Trust will be established for the benefit of the Holders of certain Allowed Claims. The tax consequences of the Plan in relation to the

Liquidating Trust and the Beneficiaries thereof are subject to uncertainties due to the complexity of the Plan and the lack of interpretative authority regarding certain changes in the tax law.

Allocations of taxable income of the Liquidating Trust (other than taxable income allocable to the Liquidating Trust's claims reserves) among Holders of Claims will be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (were such Cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all of its assets (valued at their tax book value) to the Holders of the beneficial interests in the Liquidating Trust, adjusted for prior taxable income and loss and taking into account all prior and concurrent Distributions from the Liquidating Trust. Similarly, taxable loss of the Liquidating Trust will be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating Distribution of the remaining trust assets.

The tax book value of the trust assets for this purpose will equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the IRC, applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements. Uncertainties with regard to federal income tax consequences of the Plan may arise due to the inherent nature of estimates of value that will impact tax liability determinations.

Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt of an IRS private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee may (a) elect to treat any trust assets allocable to, or retained on account of, the Disputed Claims Reserve as a "disputed ownership fund" governed by Treasury Regulation section 1.468B-9, and (b) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. Accordingly, any Disputed Claims Reserve will be subject to tax annually on a separate entity basis on any net income earned with respect to the trust assets in such reserves, and all Distributions from such reserves will be treated as received by Holders in respect of their Claims as if distributed by Debtors. All parties (including, without limitation, Debtors, the Liquidating Trustee, and the Holders of beneficial interests in the Liquidating Trust) will be required to report for tax purposes consistently with the foregoing. The Disputed Claims Reserve will be responsible for payment, out of the assets of the Disputed Claims, of any taxes imposed on the Disputed Claims or its assets. In the event, and to the extent, any Cash in the Disputed Claims Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets of such reserve (including any income that may arise upon the Distribution of the assets in such reserve), assets of the Disputed Claims Reserve may be sold to pay such taxes.

The Liquidating Trust is intended to qualify as a liquidating trust for federal income tax purposes. In general, a liquidating trust is not a separate taxable entity but rather is treated for federal income tax purposes as a "grantor" trust (i.e., a pass-through entity). The IRS, in Revenue Procedure 94-45, 1994-28 I.R.B. 124, sets forth the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating trust under a chapter 11 plan. The Liquidating Trust has been structured with the intention of complying with such general criteria. Pursuant to the Plan and Liquidating Trust Agreement, and in conformity with Revenue Procedure 94-45, supra, all parties (including Debtors, the Liquidating Trustee, and the Holders of beneficial interests in the Liquidating Trust) are required to treat for federal income tax

purposes, the Liquidating Trust as a grantor trust of which the Holders of the applicable Allowed Claims are the owners and grantors, and treat the Holders of interests in the Liquidating Trust as the direct owners of an undivided interest in the Liquidating Trust Assets (other than any assets allocable to Disputed Claims), consistent with their economic interests therein. While the following discussion assumes that the Liquidating Trust would be so treated for federal income tax purposes, no ruling has been requested from the IRS concerning the tax status of the Liquidating Trust as a grantor trust. Accordingly, there can be no assurance that the IRS would not take a contrary position to the classification of the Liquidating Trust as a grantor trust. If the IRS were to successfully challenge such classification, the federal income tax consequences to the Liquidating Trust and the Beneficiaries thereof could materially vary from those discussed herein.

In general, each Creditor who is a Beneficiary of the Liquidating Trust will recognize gain or loss on the Effective Date in an amount equal to the difference between (i) the “amount realized” by such Beneficiary in satisfaction of its applicable Allowed Claim, and (ii) such Beneficiary’s adjusted tax basis in such Claim. The “amount realized” by a Beneficiary will equal the sum of Cash and the aggregate fair market value of the property received by such party pursuant to the Plan (such as a Beneficiary’s undivided beneficial interest in the assets transferred to the Liquidating Trust). Where gain or loss is recognized by a Beneficiary in respect of its Allowed Claim, the character of such gain or loss (i.e., long-term or short-term capital, or ordinary income) will be determined by a number of factors including the tax status of the party, whether the Claim constituted a capital asset in the hands of the party and how long it had been held, whether the Claim was originally issued at a discount or acquired at a market discount and whether and to what extent the party had previously claimed a bad debt deduction in respect of the Claim.

After the Effective Date, any amount that a Creditor receives as a Distribution from the Liquidating Trust in respect of its beneficial interest in the Liquidating Trust should not be included, for federal income tax purposes, in the Creditor’s amount realized in respect of its Allowed Claim but should be separately treated as a Distribution received in respect of such party’s beneficial interest in the Liquidating Trust.

In general, a Beneficiary’s aggregate tax basis in its undivided beneficial interest in the assets transferred to the Liquidating Trust will equal the fair market value of such undivided beneficial interest as of the Effective Date and the Beneficiary’s holding period in such assets will begin the day following the Effective Date. Distributions to any Beneficiary will be allocated first to the original principal portion of the Beneficiary’s Allowed Claim as determined for federal tax purposes, and then, to the extent the consideration exceeds such amount, to the remainder of such Claim. However, there is no assurance that the IRS will respect such allocation for federal income tax purposes.

For all federal income tax purposes, all parties (including Debtors, the Liquidating Trustee, and the Holders of beneficial interests in the Liquidating Trust) will treat the transfer of assets to the Liquidating Trust, in accordance with the terms of the Plan and Liquidating Trust Agreement, as a transfer of those assets directly to the Holders of the applicable Allowed Claims followed by the transfer of such assets by such Holders to the Liquidating Trust. Consistent therewith, all parties will treat the Liquidating Trust as a grantor trust of which such Holders are to be owners and grantors. Thus, such Holders (and any subsequent holders of interests in the Liquidating Trust) will be treated as the direct owners of an undivided beneficial interest in the

assets of the Liquidating Trust for all federal income tax purposes. Accordingly, each Holder of a beneficial interest in the Liquidating Trust will be required to report on its federal income tax return(s) the Holder's allocable share of all income, gain, loss, deduction or credit recognized or incurred by the Liquidating Trust.

The Liquidating Trust's taxable income will be allocated to the Holders of beneficial interests in the Liquidating Trust in accordance with each such holder's *pro rata* share pursuant to Article VII of the Plan. The character of items of income, deduction and credit to any holder and the ability of such Holder to benefit from any deductions or losses may depend on the particular situation of such holder.

The federal income tax reporting obligation of a Holder of a beneficial interest in the Liquidating Trust is not dependent upon the Liquidating Trust distributing any Cash or other proceeds. Therefore, a Holder of a beneficial interest in the Liquidating Trust may incur a federal income tax liability regardless of the fact that the Liquidating Trust has not made, or will not make, any concurrent or subsequent Distributions to the Holder. If a Holder incurs a federal tax liability but does not receive Distributions commensurate with the taxable income allocated to it in respect of its beneficial interests in the Liquidating Trust it holds, the Holder may be allowed a subsequent or offsetting loss. In general, other than in respect of Cash retained on account of Disputed Claims and Distributions resulting from undeliverable Distributions (the subsequent Distribution of which still relates to a holder's Claim), a Distribution of Cash by the Liquidating Trust will not be separately taxable to a Holder of interests in the Liquidating Trust since the beneficiary is already regarded for U.S. federal income tax purposes as owning the underlying assets (and was taxed at the time the Cash was earned or received by the Liquidating Trust). Holders are urged to consult their tax advisors regarding the appropriate U.S. federal income tax treatment of any subsequent distributions of Cash originally retained by the Liquidating Trust on account of Disputed Claims.

The Liquidating Trustee will file with the IRS returns for the Liquidating Trust as a grantor trust pursuant to Treasury Regulations section 1.671-4(a). The Liquidating Trust will also send to each Holder of a beneficial interest in the Liquidating Trust a separate statement setting forth the Holder's share of items of income, gain, loss, deduction or credit and will instruct the Holder to report such items on its federal income tax return.

Events subsequent to the date of this Disclosure Statement, such as the enactment of additional tax legislation, could also change the federal income tax consequences of the Plan and the transactions contemplated thereunder.

(c) Tax Consequences for U.S. Holders of Certain Claims.

Generally, a Holder of a Claim should in most, but not all, circumstances recognize gain or loss on the Effective Date equal to the difference between the "amount realized" by such Holder in exchange for its Claim and such Holder's adjusted tax basis in the Claim. The "amount realized" is equal to the sum of the Cash and the fair market value of any other consideration received under the Plan in respect of a Holder's Claim. The tax basis of a Holder in a Claim will generally be equal to the Holder's cost therefor (subject to the below discussion regarding original issue discount ("OID")). To the extent applicable, the character of any recognized gain or loss (e.g., ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the Holder, the nature of the Claim in the Holder's hands, the

purpose and circumstances of its acquisition, the Holder's holding period of the Claim, and the extent to which the Holder previously claimed a deduction for the worthlessness of all or a portion of the Claim. Generally, if the Claim is a capital asset in the Holder's hands, any gain or loss realized will generally be characterized as capital gain or loss, and will constitute long-term capital gain or loss if the Holder has held such Claim for more than one year.

A Creditor who receives Cash in satisfaction of its Claims may recognize ordinary income or loss to the extent that any portion of such consideration is characterized as accrued interest or OID. A Creditor who did not previously include in income accrued but unpaid interest attributable to its Claim, and who receives a Distribution on account of its Claim pursuant to the Plan, will be treated as having received interest income to the extent that any consideration received is characterized for U.S. federal income tax purposes as interest, regardless of whether such Creditor realizes an overall gain or loss as a result of surrendering its Claim. A Creditor who previously included in its income accrued but unpaid interest attributable to its Claim should recognize an ordinary loss to the extent that such accrued but unpaid interest is not satisfied, regardless of whether such Creditor realizes an overall gain or loss as a result of the distribution it may receive under the Plan on account of its Claim. Pursuant to Article 10.12 of the Plan, Distributions with respect to a Claim will be allocated first to the principal portion of such Claim (as determined for U.S. federal income tax purposes) and, thereafter, to the remaining portion of such Claim, if any. However, there is no assurance that such allocation would be respected by the IRS for U.S. federal income tax purposes.

Under the "market discount" provisions of the IRC, some or all of any gain realized by a U.S. Holder of a Claim who exchanges the Claim for an amount may be treated as ordinary income (instead of capital gain), to the extent of the amount of "market discount" on the debt instruments constituting the exchanged Claim. In general, a debt instrument is considered to have been acquired with "market discount" if it is acquired other than on original issue and if its U.S. Holder's adjusted tax basis in the debt instrument is less than (a) the sum of all remaining payments to be made on the debt instrument, excluding "qualified stated interest" or (b) in the case of a debt instrument issued with original issue discount, its adjusted issue price, in each case, by at least a de minimis amount (equal to 0.25% of the sum of all remaining payments to be made on the debt instrument, excluding qualified stated interest, multiplied by the number of remaining whole years to maturity). Any gain recognized by a U.S. Holder on the taxable disposition of Allowed Claims (determined as described above) that were acquired with market discount should be treated as ordinary income to the extent of the market discount that accrued thereon while the Allowed Claims were considered to be held by the U.S. Holder (unless the U.S. Holder elected to include market discount in income as it accrued).

Under the Plan, a portion of the payment received by Holders of Allowed Claims may be attributable to accrued interest or OID on such Claims. Such amount should be taxable to that U.S. Holder as interest income if such accrued interest or OID has not been previously included in the Holder's gross income for United States federal income tax purposes. Conversely, U.S. Holders of Claims may be able to recognize a deductible loss to the extent any accrued interest or OID on the Claims was previously included in the U.S. Holder's gross income but was not paid in full by Debtors. If the payment does not fully satisfy all principal and interest or OID on Allowed Claims, the extent to which payment will be attributable to accrued interest or OID is unclear. Whether the applicable Holder of such Claims will recognize a loss or any other tax

treatment will depend upon facts and circumstances that are specific to the nature of the Holder and its Claims. Creditors should consult their own tax advisors.

(d) Information Reporting and Withholding.

In connection with the combined Disclosure Statement and Plan, Debtors and the Liquidating Trustee will comply with all applicable withholding and information reporting requirements imposed by U.S. federal, state, local, and foreign taxing authorities, and all Distributions under the Plan will be subject to those withholding and information reporting requirements. Holders of Claims may be required to provide certain tax information as a condition to receiving Distributions pursuant to the Plan. In the case of any non-U.S. Holders, the Liquidating Trustee may be required to withhold up to 30% of the income or proceeds allocable to such persons, depending on the circumstances (including whether the type of income is subject to a lower treaty rate or is otherwise excluded from withholding). As indicated above, the foregoing discussion of the U.S. federal income tax consequences of the Plan does not generally address the consequences to non-U.S. Holders. Accordingly, such holders should consult their tax advisors with respect to the U.S. federal income tax consequences of the Plan, including owning an interest in the Liquidating Trust.

In general, information reporting requirements may apply to Distributions pursuant to the Plan. Additionally, under the backup withholding rules, a Holder may be subject to backup withholding with respect to Distributions made pursuant to the Plan, unless a U.S. Holder provides the applicable withholding agent with a taxpayer identification number, certified under penalties of perjury, as well as certain other information, or otherwise establish an exemption from backup withholding. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a credit against a U.S. Holder's U.S. federal income tax liability, if any, and may entitle a U.S. Holder to a refund, provided the required information is timely furnished to the IRS.

In addition, from an information reporting perspective, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders of Claims or Interests are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the combined Disclosure Statement and Plan would be subject to these regulations and require disclosure on the Holder's tax returns.

THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF A CLAIM OR INTEREST IN LIGHT OF SUCH HOLDER'S CIRCUMSTANCES. EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT WITH SUCH HOLDER'S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL, FOREIGN, AND OTHER TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN.

9.9 Abandonment, Disposal, and Destruction of Records. The Liquidating Trustee shall be authorized pursuant to Bankruptcy Code section 554, in its sole discretion, without any further notice to any party or action, order or approval of the Bankruptcy Court, to abandon, dispose of, or destroy in any commercially reasonable manner all originals and/or copies of any documents, books and records, including any electronic records, of the Debtors that are transferred to the Liquidating Trust and which the Liquidating Trustee reasonably concludes are burdensome or of inconsequential value and benefit to the Liquidating Trust.

9.10 Distributions by Liquidating Trustee.

Following the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Liquidating Trustee shall make continuing efforts to liquidate all Liquidating Trust Assets in accordance with the Plan and the Liquidating Trust Agreement, *provided* that the timing of all Distributions made by the Liquidating Trustee to Beneficiaries shall be at the discretion of the Liquidating Trustee, and, *provided, further*, that Distributions to Beneficiaries may only be made after the Final Administrative Claim Bar Date. For three (3) years following the Effective Date, the Liquidating Trustee shall hold the Workers' Compensation Deductible Funds for the sole purpose of reimbursing the Prepetition Lenders for any and all amounts drawn on the Letter of Credit within three (3) business days after the Prepetition Lenders provide the Liquidating Trustee with written notice that the Letter of Credit has, in whole or in part, been drawn on, up to an aggregate cap of \$584,672.00, less any amounts actually paid by Debtors or the Liquidating Trustee to, on behalf of, or at the direction of Starr or its agents from and after June 22, 2023. From and after three (3) years following the Effective Date, the remaining Workers' Compensation Deductible Funds shall become available for distribution through the GUC Distribution Pool.

Katten, Potter Anderson, PricewaterhouseCoopers, and Dechert shall each defer recovery of \$50,000.00 of their respective Allowed Professional Fees (for an aggregate total of \$200,000.00), which amounts shall be ratably made available for distribution through the GUC Distribution Pool, but solely in the event and to the extent that less than \$200,000.00 of the Workers' Compensation Deductible Funds remain available for distribution through the GUC Distribution Pool following the expiration of the three (3) year period discussed above. Any such deferred Allowed Professional Fees not distributed through the GUC Distribution Pool in accordance with the foregoing shall promptly be returned ratably to the deferring professionals. Prepetition Lenders shall have no claim to the deferred Allowed Professional Fees in any circumstance.

9.11 Cash Investments. Funds in the Liquidating Trust shall be invested in demand and time deposits in banks or other savings institutions, or in other temporary, liquid investments, such as Treasury bills, consistent with the liquidity needs of the Liquidating Trust as determined by the Liquidating Trustee, in accordance with Bankruptcy Code section 345, unless the Bankruptcy Court otherwise requires; *provided, however*, that such investments are investments permitted to be made by a "liquidating trust" within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

9.12 Dissolution of the Liquidating Trust. The Liquidating Trustee shall be discharged and the Liquidating Trust shall be terminated, at such time as: (a) (i) all Disputed Claims have been resolved; (ii) all of the Liquidating Trust Assets have been liquidated; (iii) all duties and obligations of the Liquidating Trustee under the Liquidating Trust Agreement have been fulfilled; (iv) all Distributions required under the Plan and the Liquidating Trust Agreement have been made; and (v) the Chapter 11 Cases have been closed, or (b) as otherwise provided in the Liquidating Trust Agreement. Upon dissolution of the Liquidating Trust, any remaining Liquidating Trust Assets may be transferred by the Liquidating Trustee to a charitable organization(s).

9.13 Control Provisions. To the extent there is any inconsistency between the combined Disclosure Statement and Plan as it relates to the Liquidating Trust and the Liquidating Trust Agreement, the terms of the combined Disclosure Statement and Plan shall control.

9.14 Limitation of Liability; Indemnification. The Liquidating Trustee and all of its respective designees, employees, agents, representatives or professionals shall not be liable for the act or omission of any other member, designee, agent or representative of the Liquidating Trustee, nor shall they be liable for any act or omission taken or omitted to be taken in their respective capacities, other than acts or omission resulting from willful misconduct, gross negligence, or fraud. The Liquidating Trustee shall be entitled to enjoy all of the rights, powers, immunities and privileges applicable to a chapter 7 trustee. The Liquidating Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with attorneys, accountants, financial advisors and agents, which consultation may act as a defense for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such persons. Notwithstanding such authority, the Liquidating Trustee shall not be under any obligation to consult with attorneys, accountants, financial advisors or agents, and their determination not to do so shall not result in the imposition of liability, unless such determination is based on willful misconduct, gross negligence or fraud. The Liquidating Trust shall indemnify and hold harmless the Liquidating Trustee and its designees and professionals, and all duly designated agents and representatives thereof (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorneys' fees and costs arising out of or due to such actions or omissions, or consequences of their actions or omissions with respect to or related to the performance of their duties or the implementation or administration of the Plan; *provided, however,* that no such indemnification will be made to such persons for such actions or omissions as a result of willful misconduct, gross negligence or fraud.

9.15 Corporate Action. On the Effective Date, all matters expressly provided for under this Plan that would otherwise require approval of the equity holders or directors of one or more of Debtors, including but not limited to, the dissolution or merger of any of Debtors, shall be deemed to have occurred and shall be in effect upon the Effective Date pursuant to the applicable general corporation law of the states in which Debtors are incorporated without any requirement of action by the equity holders or directors of Debtors.

ARTICLE X
PROVISIONS GOVERNING DISTRIBUTIONS

10.1 Distributions for Allowed Claims

Except as otherwise provided herein or as ordered by the Bankruptcy Court, all Distributions to Beneficiaries as of the applicable Distribution Date shall be made on or as soon as practicable after the applicable Distribution Date. Distributions on account of Claims that first become Allowed Claims after the applicable distribution date shall be made pursuant to the terms of this Plan and on the day selected by the Liquidating Trustee.

The Liquidating Trustee may accelerate any Distribution date with respect to Distributions other than the initial Distribution Date if the facts and circumstances so warrant and to the extent not inconsistent with the Plan.

Distributions made as soon as reasonably practicable after the Effective Date or such other date set forth herein shall be deemed to have been made on such date.

10.2 Interest of Claims. Except to the extent provided in Bankruptcy Code section 506(b), the Plan, or the Confirmation Order, post-petition interest shall not accrue or be paid on Claims, and no Holder of an Allowed Claim shall be entitled to interest accruing on any Claim from and after the Petition Date.

10.3 Distributions by Liquidating Trustee as Disbursement Agent. From and after the Effective Date, the Liquidating Trustee shall serve as the Disbursing Agent under the Plan with respect to Distributions to Holders of Allowed Claims (provided that the Liquidating Trustee may hire professionals or consultants to assist with making disbursements or to act as the Disbursing Agent). The Liquidating Trustee shall cause to be made all Distributions required to be made to such Holders of Allowed Claims pursuant to the Plan and the Liquidating Trust Agreement. The Liquidating Trustee shall not be required to give any bond or surety or other security for the performance of the Liquidating Trustee's duties as Disbursing Agent unless otherwise ordered by the Bankruptcy Court.

10.4 Means of Cash Payment. Cash payments under the Plan shall be made, at the option, and in the sole discretion, of the Liquidating Trustee, by wire, check, or such other method as the Liquidating Trustee deems appropriate under the circumstances. Cash payments to foreign Creditors may be made, at the option, and in the sole discretion, of the Liquidating Trustee, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Pursuant to Section 10.7 of the Plan, Cash payments in the form of checks issued by the Liquidating Trustee shall be null and void if not cashed within ninety (90) days of the date of the issuance thereof and deemed undeliverable Distributions. Following the expiration of ninety (90) days after issuance of such null and void checks, in accordance with Section 10.13 of the Plan, amounts in respect of these undeliverable Distributions shall become unrestricted Liquidating Trust Assets redistributed to the Beneficiaries after reserving as necessary for payment of Liquidating Trust Expenses. Such Holder shall be deemed to have forfeited its right to any reserved and future Distributions from the Liquidating Trust and any Liquidating Trust

Interests held by such Holder shall be deemed cancelled, and the Claims of such Holder shall be forever barred.

For purposes of effectuating Distributions under the Plan, any Claim denominated in foreign currency shall be converted to U.S. Dollars pursuant to the applicable published exchange rate in effect on the Petition Date.

10.5 Fractional Distributions. Notwithstanding anything in the Plan to the contrary, no payment of fractional cents shall be made pursuant to the Plan. Whenever any payment of a fraction of a cent under the Plan would otherwise be required, the actual Distribution made shall reflect a rounding of such fraction to the nearest whole penny (up or down), with half cents or more being rounded up and fractions less than half of a cent being rounded down.

10.6 De Minimis Distributions. Notwithstanding anything to the contrary contained in the Plan, the Liquidating Trustee shall not be required to distribute, and shall not distribute, Cash or other property to the Holder of any Allowed Claim if the amount of Cash or other property to be distributed on account of such Claim is less than \$100. Any Holder of an Allowed Claim on account of which the amount of Cash or other property to be distributed is less than \$100 shall be forever barred from asserting such Claim against Liquidating Trust Assets.

10.7 Delivery of Distributions; Unclaimed Distributions. All Distributions to Holders of Allowed Claims shall be made at the address of such Holder as set forth in the claims register maintained in the Chapter 11 Cases (subject to any transfer effectuated pursuant to Bankruptcy Rule 3001(e) or, after the Effective Date, a change of address notification provided by a Holder in a manner reasonably acceptable to the Liquidating Trustee) or, in the absence of a Filed proof of Claim, the Schedules. The responsibility to provide the Liquidating Trustee a current address of a Holder of Claims shall always be the responsibility of such Holder and at no time shall the Liquidating Trustee have any obligation to determine a Holder's current address. Nothing contained in the Plan shall require the Liquidating Trustee to attempt to locate any Holder of an Allowed Claim. Amounts in respect of undeliverable Distributions made by the Liquidating Trustee shall be held in trust on behalf of the Holder of the Claim to which they are payable by the Liquidating Trust until the earlier of the date that such undeliverable Distributions are claimed by such Holder and the date ninety (90) days after the date the undeliverable Distributions were made. Following the expiration of ninety (90) days after the date the undeliverable Distributions were made, the amounts in respect of undeliverable Distributions shall be become unrestricted Liquidating Trust Assets redistributed to the Beneficiaries after reserving as necessary for payment of Liquidating Trust Expenses. Such Holder shall be deemed to have forfeited its right to any reserved and future Distributions from the Liquidating Trust and any Liquidating Trust Interests held by such Holder shall be deemed cancelled, and the Claims of such Holder shall be forever barred.

10.8 Application of Distribution Record Date. At the close of business on the Distribution Record Date, Debtors' claims registers shall be closed, and there shall be no further changes in the record holders of Claims or Interests. Beneficial interests in the Liquidating Trust shall be non-transferable except upon death of the interest holder or by operation of law. Except as provided herein, the Liquidating Trustee and the Liquidating Trustee's respective agents, successors, and assigns shall have no obligation to recognize any transfer of any Claim or

Interest occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the claims registers as of the close of business on the Distribution Record Date irrespective of the number of Distributions to be made under the Plan to such Entities or the date of such Distributions.

10.9 Withholding, Payment and Reporting Requirements With Respect to Distributions.

All Distributions under the Plan shall, to the extent applicable, comply with all tax withholding, payment, and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all Distributions shall be subject to any such withholding, payment, and reporting requirements. The Liquidating Trustee shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment, and reporting requirements. The Liquidating Trustee may require, in the Liquidating Trustee's sole and absolute discretion and as a condition to the receipt of any Distribution, that the Holder of an Allowed Claim complete and return to the Liquidating Trust the appropriate Form W-8 or Form W-9, as applicable, to each Holder. Notwithstanding any other provision of the Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution, and including, in the case of any Holder of a Disputed Claim that has become an Allowed Claim, any tax obligation that would be imposed upon the Liquidating Trust in connection with such Distribution, and (b) no Distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements reasonably satisfactory to the Liquidating Trustee for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the Liquidating Trust in connection with such Distribution.

10.10 Setoffs. The Liquidating Trust may, but shall not be required to, set off against any Claim or any Allowed Claim, and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that Debtors or the Liquidating Trust may have against the Holder of such Claim; *provided, however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Liquidating Trust of any such claim that it may have against such Holder.

10.11 No Distribution in Excess of Allowed Amounts. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall receive in respect of such Claim any Distribution of a value as of the Effective Date in excess of the Allowed amount of such Claim.

10.12 Allocation of Distributions. The Liquidating Trustee may, in the Liquidating Trustee's sole discretion, make Distributions jointly to any Holder of a Claim and any other Entity who has asserted, or whom the Liquidating Trustee has determined to have, an interest in such Claim; *provided, however*, that the Liquidating Trust shall provide notice of such Distribution to any Holder of a Claim or other Entity that has asserted an interest in such Claim.

10.13 Forfeiture of Distributions. If the Holder of a Claim fails to cash a check payable to it within the time period set forth in Section 10.4, fails to claim an undeliverable Distribution within the time limit set forth in Section 10.7, or fails to complete and return to the Liquidating Trust the appropriate Form W-8 or Form W-9 within one hundred twenty (120) days of the

request by the Liquidating Trust for the completion and return to it of the appropriate form pursuant to Section 10.9, then such Holder shall be deemed to have forfeited its right to any reserved and future Distributions from the Liquidating Trust and any Liquidating Trust Interests held by such Holder shall be deemed cancelled, and the Claims of such Holder shall be forever barred. The forfeited Distributions shall become unrestricted Liquidating Trust Assets and shall be redistributed to the Beneficiaries after reserving as necessary for payment of Liquidating Trust Expenses and otherwise in compliance with the Plan and the Liquidating Trust Agreement. In the event the Liquidating Trustee determines, in the Liquidating Trustee's sole discretion, that any such amounts are too small in total to redistribute cost-effectively to the Beneficiaries, the Liquidating Trustee may instead donate them to a charitable organization(s) free of any restrictions thereon, notwithstanding any federal or state escheat laws to the contrary.

ARTICLE XI

PROVISIONS FOR CLAIMS OBJECTIONS AND ESTIMATION OF CLAIMS

11.1 Claims Administration Responsibility. Except as otherwise specifically provided in the Plan and the Liquidating Trust Agreement, after the Effective Date, the Liquidating Trustee shall have authority, on behalf of the Estates, (a) to File, withdraw, or litigate to judgment Objections to Claims, (b) to settle, compromise, or Allow any Claim or Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court, (c) to amend the Schedules in accordance with the Bankruptcy Code, and (d) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court. Any agreement entered into by the Liquidating Trustee (acting in accordance with the terms of the Liquidating Trust Agreement) with respect to the Allowance of any Claim shall be conclusive evidence and a final determination of the Allowance of such Claim.

11.2 Claims Objections. All Objections to Claims shall be Filed by the Liquidating Trustee on or before the Claim Objection Deadline, which date may be extended by the Bankruptcy Court upon a motion Filed by the Liquidating Trustee on or before the Claim Objection Deadline with notice only to those parties entitled to notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002 as of the Filing of such motion. If a timely Objection has not been Filed to a proof of Claim or the Schedules have not been amended with respect to a Claim that was scheduled by Debtors but was not set forth in the Schedules by Debtors as Contingent, unliquidated, and/or Disputed, then the Claim to which the proof of Claim or the Claim set forth in the Schedules relates will be treated as an Allowed Claim.

11.3 Estimation of Contingent or Unliquidated Claims. The Liquidating Trustee may, at any time, request that the Bankruptcy Court estimate any Contingent or unliquidated Claim pursuant to Bankruptcy Code section 502(c), regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such Objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any Objection to any Claim, including during the pendency of any appeal relating to any such Objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount shall constitute the Allowed amount of such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another.

11.4 Distributions on Account of Disputed Claims. Distributions may be made on account of an undisputed portion of a Disputed Claim. The Liquidating Trustee shall, on the applicable distribution date, make Distributions on account of any Disputed Claim (or portion thereof) that has become an Allowed Claim. Such Distributions shall be based upon the Distributions that would have been made to the Holder of such Claim under the Plan if such Claim had been an Allowed Claim on the Effective Date in the amount ultimately Allowed.

11.5 Amendments to Claims. On or after the Effective Date, a Claim may not be Filed or amended to increase liability or to assert new liabilities without the prior authorization of the Bankruptcy Court or the Liquidating Trustee and any such new or amended Claim Filed without prior authorization shall be deemed Disallowed in full without any further action.

11.6 Claims Paid and Payable by Third Parties. A Claim shall be Disallowed without an Objection thereto having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not Debtors, the Liquidating Trust, or the Liquidating Trustee.

11.7 Adjustment to Claims Without Objection. Any Claim that has been paid or otherwise satisfied may be designated on the Claims Register as such at the direction of the Liquidating Trustee by the Filing of a Notice of Satisfaction by the Liquidating Trustee, and without any further notice to or action, order, or approval of the Bankruptcy Court.

ARTICLE XII

EXECUTORY CONTRACTS

12.1 Executory Contracts Deemed Rejected. On the Effective Date, all Executory Contracts will be deemed rejected as of the Effective Date in accordance with, and subject to, the provisions and requirements of Bankruptcy Code sections 365 and 1123, except to the extent: (a) Debtors previously have assumed, assumed and assigned or rejected such Executory Contract, or (b) prior to the Effective Date, Debtors have Filed a motion to assume, assume and assign, or reject an Executory Contract on which the Bankruptcy Court has not ruled. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of all rejections of Executory Contracts pursuant to this Article and Bankruptcy Code sections 365(a) and 1123. Any Claims arising from the rejection of an Executory Contract pursuant to Section 12.1, for which proofs of Claim are not timely Filed, shall be forever barred from assertion against Debtors, their Estates, successors and assigns, and their assets and properties, unless otherwise ordered by the Bankruptcy Court. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in this Plan. Unless otherwise ordered by the Bankruptcy Court, all such Claims that were timely Filed as provided herein and Allowed shall be treated as General Unsecured Claims under this Plan and shall be subject to the provisions of this Plan.

12.2 Insurance Preservation. Nothing in the Plan, the Confirmation Order, or the Liquidating Trust Agreement, alters the rights and obligations of Debtors (and their Estates) and Debtors' insurers (and third-party claims administrators) under any insurance policies to which any of the Debtors may be Beneficiaries or modifies the coverage or benefits provided thereunder or the terms and conditions thereof or diminishes or impairs the enforceability of any

insurance policies. All rights of Debtors and their Estates under any insurance policy shall vest with the Liquidating Trust for the benefit of the Liquidating Trust Beneficiaries and all of the Beneficiaries of such policies. Debtors shall be deemed to have assumed only the D&O Policies, and any insurance policy other than a D&O Policy shall be deemed terminated on the Effective Date.

ARTICLE XIII
CONFIRMATION AND CONSUMMATION OF THE PLAN

13.1 Conditions Precedent to the Effective Date. Each of the following is a condition precedent to the occurrence of the Effective Date:

- (a) the Confirmation Order shall have been entered by the Bankruptcy Court;
- (b) the Liquidating Trust Agreement shall have been executed;
- (c) the Liquidating Trust shall have been established and the Liquidating Trust Assets, the Guaranteed Amount and the D&O Contribution shall have been transferred to and vested in the Liquidating Trust free and clear of all Claims and Interests, except as specifically provided in the Plan and the Liquidating Trust Agreement;

13.2 Notice of Effective Date. On or before five (5) Business Days after the Effective Date, the Liquidating Trustee shall mail or cause to be mailed to all Holders of Claims a notice that informs such Entities of (a) the occurrence of the Effective Date, (b) notice of the Final Administrative Claim Bar Date and Professional Fee Claim Bar Date, and (c) such other matters as the Liquidating Trustee deems appropriate or as may be ordered by the Bankruptcy Court.

13.3 Waiver of Conditions Precedent to the Effective Date. Debtors may at any time, without notice or authorization of the Bankruptcy Court, waive in writing any or all of the conditions precedent to the Effective Date set forth in this Article, whereupon the Effective Date shall occur without further action by any Entity, *provided, however*, that the conditions specified in section 13.1 may not be waived absent the consent of the Committee. Debtors reserve the right to assert that any appeal from the Confirmation Order shall be moot after the Effective Date of the Plan.

13.4 Effect of Non-Occurrence of Effective Date. If each of the conditions specified in this Article have not been satisfied or waived in the manner provided herein within sixty (60) calendar days after the Confirmation Date (or such later date as may be agreed to by Debtors), then: (i) the Confirmation Order shall be vacated and of no further force or effect; (ii) no Distributions under the Plan shall be made; (iii) Debtors and all Holders of Claims against or Interests in Debtors shall be restored to the status quo as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (iv) all of Debtors' obligations with respect to Claims and Interests shall remain unaffected by the Plan and nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against Debtors or any other Entity or to prejudice in any manner the rights of Debtors or any Entity in any further proceedings involving Debtors, and the Plan shall be deemed withdrawn. Upon such

occurrence, Debtors shall File a written notification with the Bankruptcy Court and serve it upon such parties as the Bankruptcy Court may direct.

ARTICLE XIV
EFFECTS OF CONFIRMATION

14.1 Exculpation, Releases, and Injunctions

The exculpations, releases, and injunctions provided for in Section 14.1 of the Plan shall be effective upon the Effective Date.

(a) **Exculpation and Limitation of Liability.** Notwithstanding any other provision of the Plan, the Exculpated Parties shall not have or incur any liability to, or be subject to any right of action by, any Holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or Affiliates, or any of their successors or assigns, for any act or omission occurring between the Petition Date and the Effective Date relating to, in any way, or arising from (i) the Chapter 11 Cases, (ii) formulating, negotiating or implementing the combined Disclosure Statement and Plan or any contract, instrument, release or other agreement or document created or entered into in connection with the combined Disclosure Statement and Plan; (iii) the Sales; (iv) any other postpetition act taken or omitted to be taken prior to the Effective Date in connection with or in contemplation of the restructuring, sale or liquidation of Debtors; (v) the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the Consummation of the Plan or (vi) the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence or willful misconduct as determined by a Final Order, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting the Exculpated Parties from liability. The Confirmation Order shall serve as a permanent injunction against any Entity seeking to enforce any claim or cause of action against the Exculpated Parties that has been exculpated pursuant to Section 14.1(a) of the Plan.

(b) **Releases by Debtors.**

i. Except as otherwise expressly provided in the Plan or the Confirmation Order, on the Effective Date, for good and valuable consideration, each of the Debtors, on their own behalf and as a representative of their respective Estates, shall, and shall be deemed to, completely and forever release, waive, void, extinguish and discharge unconditionally, (a) Contributing Directors and Officers (b) the Prepetition Agent, (c) the Prepetition Lenders and (d) the DIP Lenders of and from any and all Claims, Causes of Action, obligations, suits, judgments, damages, debts, rights, remedies and liabilities of any nature whatsoever, whether liquidated or unliquidated, fixed or Contingent, matured or unmatured, known or

unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are or may be based in whole or part on any act, omission, transaction, event or other circumstance taking place or existing on or prior to the Effective Date (including prior to the Petition Date) in connection with or related to any of the Debtors, their respective Assets, the Estates, or the Chapter 11 Cases, that may be asserted by or on behalf of any of the Debtors or their respective Estates, against any of the parties listed in (a) through (d) above;

ii. Except as otherwise expressly provided in the Plan or the Confirmation Order, on the Effective Date, for good and valuable consideration, each of the Debtors, on their own behalf and as a representative of their respective Estates, shall, and shall be deemed to, completely and forever release, waive, void, extinguish and discharge unconditionally, each and all of the Other Released Parties of and from any and all Claims, Causes of Action, obligations, suits, judgments, damages, debts, rights, remedies and liabilities of any nature whatsoever, whether liquidated or unliquidated, fixed or Contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are or may be based in whole or part on any act, omission, transaction, event or other circumstance taking place or existing on or prior to the Effective Date (including prior to the Petition Date) in connection with or related to any of the Debtors, their respective Assets, the Estates, or the Chapter 11 Cases, that may be asserted by or on behalf of any of the Debtors or their respective Estates, against any of the Other Released Parties, but with exceptions for Claims arising from known or unknown fraud, intentional misconduct, criminal acts, and gross negligence.

(c) Consensual Third-Party Releases by Certain Parties. As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Releasing Parties shall be deemed to forever release, waive and discharge the Released Parties of all claims, obligations, suits, judgments, damages, demands, debts, rights, remedies, causes of action and liabilities of any nature whatsoever in connection with or related to Debtors, the Chapter 11 Cases, or the combined Disclosure Statement and Plan, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or hereafter arising, in law, equity, or otherwise that are or may be based in whole or in part upon any act, omission, transaction, event, or other occurrence taking place or existing on or prior to the Effective Date (including prior to the Petition Date), other than the rights of Holders of Allowed Claims to enforce the obligations under the Confirmation Order and the Plan; *provided, however*, that nothing in this section shall operate as a release, waiver or discharge of any causes of action or liabilities known or unknown to such Entity as of the Petition Date arising out of gross negligence, willful misconduct, fraud, or criminal acts of any such Released Party as determined by a Final Order.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases described in this Section 14.1(c), which includes by reference each of the related provisions and definitions contained

in this Plan, and further, shall constitute the Bankruptcy Court's finding that each release described herein is: (1) by virtue of the opt-out procedure, fully consensual; (2) in exchange for the good and valuable consideration provided by the Released Parties; (3) a good-faith settlement and compromise of claims released; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property, released pursuant to the releases described herein.

(d) **Non-Discharge of the Debtors; Injunction.** In accordance with Bankruptcy Code section 1141(d)(3), the Plan does not discharge Debtors. Bankruptcy Code section 1141(c) nevertheless provides, among other things, that the property dealt with by the Plan is free and clear of all Claims and Interests against Debtors. As such, no Entity holding a Claim against Debtors may receive any payment from, or seek recourse against, any assets that are to be distributed under the Plan other than assets required to be distributed to that Entity under the Plan. All parties are precluded from asserting against any property to be distributed under the Plan any Claims, rights, Causes of Action, liabilities, or Interests based upon any act, omission, transaction, or other activity that occurred before the Effective Date except as expressly provided in the Plan or the Confirmation Order.

Except as otherwise expressly provided for in the Plan or in obligations issued pursuant to the Plan, all Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Interest, from:

- (1) commencing or continuing in any manner any action or other proceeding of any kind against any of the Estates, the Liquidating Trust, their successors and assigns, and any of their assets and properties;**
- (2) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any Estate, the Liquidating Trust, their successors and assigns, and any of their assets and properties;**
- (3) creating, perfecting or enforcing any encumbrance of any kind against any Estate, the Liquidating Trust, their successors and assigns, and any of their assets and properties;**
- (4) asserting any right of setoff or subrogation of any kind against any obligation due from any Estate, the Liquidating Trust or their successors and assigns, or against any of their assets and properties, except to the extent a right to setoff or subrogation is asserted with respect to a timely Filed proof of Claim; or**

- (5) **commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Interest or Cause of Action released under Article XIV of the Plan.**

Any Entity injured by any willful violation of such injunction may seek actual damages and, in appropriate circumstances, may seek punitive damages from the willful violator.

14.2 Term of Bankruptcy Injunction or Stays. All injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code sections 105 or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Chapter 11 Cases.

ARTICLE XV

RETENTION OF JURISDICTION

15.1 Exclusive Jurisdiction of Bankruptcy Court. Pursuant to Bankruptcy Code sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

- (a) allow, disallow, determine, subordinate, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest (whether Filed before or after the Effective Date and whether or not Contingent, Disputed or unliquidated or for contribution, indemnification or reimbursement), including the compromise, settlement and resolution of any request for payment of any Claims or Interests, the resolution of any Objections to the allowance or priority of Claims or Interests and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any Objection to such Claim or Interest to the extent permitted under applicable law;
- (b) grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;
- (c) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters, including, but not limited to, all Causes of Action, and consider and act upon the compromise and settlement of any Claim or Interest, or Cause of Action;
- (d) determine and resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract to which Debtors are a party or with respect to which Debtors may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

(e) ensure that all Distributions to Holders of Allowed Claims under the Plan and the performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to Distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;

(f) construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with Bankruptcy Code section 1142, as may be necessary for the enforcement, implementation, execution and Consummation of the Plan and all contracts, instruments, releases, other agreements or documents created in connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, including to maintain the integrity of the Plan in accordance with Bankruptcy Code sections 524 and 1141 following the occurrence of the Effective Date;

(g) determine and resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation, implementation or enforcement of the Plan (and all exhibits and schedules to the Plan) or the Confirmation Order, including the releases and injunction provisions set forth in and contemplated by the Plan or the Confirmation Order, or any entity's rights arising under or obligations incurred in connection therewith;

(h) modify the combined Disclosure Statement and Plan or the Confirmation Order before or after the Effective Date, pursuant to Bankruptcy Code section 1127, as well as any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with the combined Disclosure Statement and Plan or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;

(i) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with Consummation, implementation or enforcement of the Plan or the Confirmation Order;

(j) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(k) determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with the combined Disclosure Statement and Plan or the Confirmation Order;

(l) determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) hear and determine matters concerning state, local and federal taxes in accordance with Bankruptcy Code sections 346, 505 and 1146;

- (n) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases, including in the DIP Orders;
- (o) determine and resolve controversies related to the Estates, Debtors, or the Liquidating Trust from and after the Effective Date;
- (p) hear and determine any other matter relating to the combined Disclosure Statement and Plan; and
- (q) enter a final decree closing any or all the Chapter 11 Cases.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

16.1 Modification of the Plan. Debtors may alter, amend, or modify the Plan or any exhibits or schedules hereto under Bankruptcy Code section 1127(a) at any time prior to or after the Confirmation Date but prior to the substantial Consummation of the Plan, *provided, however*, that any such alteration, amendment or modification does not materially and adversely affect the treatment of Holders of Claims or Interests under the Plan. Any Holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, or modified, if the proposed alteration, amendment, or modification does not materially and adversely change the treatment of the Claim of such Holder.

16.2 Revocation, Withdrawal, or Non-Confirmation of the Plan. Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Hearing. If the Plan is revoked or withdrawn prior to the Confirmation Hearing, or if the Plan is not confirmed by the Bankruptcy Court, then:

- (a) the Plan shall be null and void in all respects, and
- (b) nothing contained in the combined Disclosure Statement and Plan shall
 - (i) constitute a waiver or release of any Claims by or against, or any Interests in, Debtors or any other Entity, (ii) prejudice in any manner the rights of Debtors or any other Entity, or (iii) constitute an admission of any sort by the Debtors or any other Entity.

16.3 Binding Effect. Except as otherwise provided in Bankruptcy Code section 1141(d)(3) and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind any Holder of a Claim against, or Interest in, Debtors and such Holder's respective successors and assigns, whether or not the Claim or Interest of such Holder is Impaired under the Plan and whether or not such Holder has accepted the Plan. No Claims shall be Allowed as of the Effective Date except as expressly set forth in this Plan or by other Court order.

16.4 Subordination Rights. The classification and manner of satisfying all Claims and the respective Distributions and treatments hereunder take into account and/or conform to the relative priority and rights of the Claims in each Class in connection with the contractual, legal

and equitable subordination rights relating thereto, whether arising under contract, general principles of equitable subordination, Bankruptcy Code section 510(b) or otherwise. All subordination rights that a Holder of a Claim may have with respect to any Distribution to be made under the Plan shall be implemented through the Plan, and all actions by such Holder of a Claim related to the enforcement of such subordination rights shall be enjoined permanently. The provisions of any contractual or structural subordination of Claims shall remain enforceable by the Liquidating Trustee on behalf of the Estates after the occurrence of the Effective Date. Without limitation hereunder, the Liquidating Trustee, on behalf of the Estates, may likewise enforce any right of Debtors or the Estates to equitably or otherwise subordinate Claims under Bankruptcy Code section 510, which rights are deemed transferred to, remain and are preserved in the Liquidating Trust, except as otherwise expressly set forth herein or as expressly provided in a Final Order of the Bankruptcy Court in the Chapter 11 Cases.

16.5 Severability of Plan Provisions. If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may be altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

16.6 Payment of Statutory Fees; Filing of Quarterly Reports. All fees payable pursuant to United States Code title 28 section 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Liquidating Trust. The Liquidating Trust shall have the obligation to pay quarterly fees to the Office of the United States Trustee pursuant to United States Code title 28 section 1930 for each and every Debtor until its particular case is closed (pursuant to Section 11.19 of the Plan or otherwise), dismissed or converted. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to File any proofs of Claim with respect to quarterly fees payable pursuant to United State Code title 28 section 1930.

16.7 Dissolution of the Committee. The Committee shall dissolve on the Effective Date and the members of such Committee shall be released and discharged from all further rights and duties arising from or related to the Chapter 11 Cases, except with respect to, and to the extent of any applications for Professional Fee Claims or expense reimbursements for members of such Committee. The Committee and its retained Professionals may also participate in any appeal pending as of the Effective Date or Filed thereafter, the outcome of which could affect the treatment of prepetition Creditors (including Holders of Allowed Priority Claims and 503(b)(9) Claims), including, but not limited to, any cases, controversies, suits or disputes arising in connection with the Consummation, interpretation, implementation or enforcement of the Plan or the Confirmation Order. The Professionals retained by the Committee shall not be entitled to assert any Administrative Claims nor shall they have an Allowed Administrative Claims for any services rendered or expenses incurred after the Effective Date except in respect of the

preparation and prosecution of or any objection to any Filed fee application and participation in any appeals.

16.8 Exemption from Section 1146. Pursuant to Bankruptcy Code section 1146(a), under the Plan, (i) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in Debtors; or (ii) the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be taxed under any law imposing a stamp tax or similar tax. To the extent that Debtors or Liquidating Trustee elect to sell any property prior to or after the Confirmation Date, such sales of property will be exempt from any transfer taxes in accordance with Bankruptcy Code section 1146(c). All subsequent issuances, transfers or exchanges of securities, or the making or delivery of any instrument of transfer by Debtors in the Chapter 11 Cases shall be deemed to be or have been done in furtherance of the Plan.

16.9 Filing of Additional Documents. On or before the Effective Date of the Plan, Debtors may issue, execute, deliver, and File with the Bankruptcy Court or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of the Plan.

16.10 Insurance. Confirmation of the Plan and the occurrence of the Effective Date shall have no effect on insurance policies of Debtors in which Debtors are or were insured parties. Each insurance company is prohibited from, and the Confirmation Order shall include an injunction against, denying, refusing, altering, or delaying coverage on any basis regarding or related to the Chapter 11 Cases, the Plan or any provision within the Plan, including the treatment or means of liquidation set out within the Plan for insured Claims.

16.11 Successors and Assigns. The rights, benefits and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Entity.

16.12 Governing Law. Except to the extent that the Bankruptcy Code or Bankruptcy Rules or other federal laws is applicable, and subject to the provisions of any contract, instrument, release, or other agreement or document entered into in connection with the Plan, the construction, implementation and enforcement of the Plan and all rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to conflicts of law principles which would apply the law of a jurisdiction other than the State of Delaware or the United States of America.

16.23 Exhibits and Schedules. All exhibits and schedules annexed hereto, and all documents submitted in support hereof, are incorporated into and are a part of the Plan as if set forth in full herein. Holders of Claims and Interests may obtain copies of the Filed exhibits and schedules upon written request to the Debtors. Upon their Filing, the exhibits and schedules may be inspected in the Office of the Clerk of the Bankruptcy Court or its designee during normal business hours. The documents contained in the exhibits and schedules shall be approved by the

Bankruptcy Court pursuant to the Confirmation Order. To the extent any exhibit or schedule annexed hereto is inconsistent with the Plan, the contents of the Plan shall control.

16.24 Computation of Time. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

16.25 Reservation of Rights. The Filing of the combined Disclosure Statement and Plan, any statement or provision contained in the combined Disclosure Statement and Plan, or the taking of any action by Debtors with respect to the Plan shall not be, and shall not be deemed to be, an admission or waiver of any rights of Debtors with respect to the Holders of Claims and Interests.

Dated: August 23, 2023

Tritek International, Inc., et al.

/s/Grant Lazaruk

Name: Grant Lazaruk

Title: President of Tritek International Inc. and
Canwin Farms, LLC and CEO and President of
HyLife Windom Foods, LLC

EXHIBIT A

Stipulation

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

)	
In re:	)	Chapter 11
)	
TRITEK INTERNATIONAL INC., <i>et al.</i> , ¹	)	Case No. 23-10520 (TMH)
)	
Debtors.	)	(Jointly Administered)
)	

**STIPULATION AMONG
DEBTORS, PREPETITION SECURED PARTIES,
LESSOR, AND OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

The Official Committee of Unsecured Creditors (the “**Committee**”) appointed in the cases (the “**Chapter 11 Cases**” or “**Cases**”) of the above-captioned debtors and debtors in possession Debtors HyLife Foods Windom LLC and Canwin Farms, LLC (collectively, the “**Debtors**”), Compeer Financial, FLCA and Compeer Financial, PCA, as co-administrative agents under that certain Prepetition Credit Agreement² (the “**Prepetition Secured Parties**”), and Compeer Financial, ACA (the “**Lessor**” and together with the Prepetition Secured Parties, “**Compeer**”, together with the Committee and the Debtors, the “**Parties**”), by and through their undersigned counsel, hereby enter into this stipulation (the “**Stipulation**”) and stipulate and agree as follows:

RECITALS

WHEREAS, on April 27, 2023 (the “**Petition Date**”), the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code with the United States Bankruptcy for the District of Delaware (the “**Court**”).

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: Trittek International Inc. (7919); HyLife Foods Windom, LLC (5391); and Canwin Farms, LLC (3973). Debtors’ mailing address is 2850 Highway 60 East, Windom, MN 56101.

² Capitalized terms not defined in this Stipulation shall have the meanings given to such terms in the Final DIP Order.

WHEREAS, on the Petition Date, the Debtors filed their motion to approve debtor-in-possession financing [D.I. 22] (the “**DIP Motion**”). The DIP Motion was approved on an interim basis at the first-day hearing on April 28, 2023 [D.I. 52] (the “**Interim DIP Order**”), and on a final basis at the second-day hearing on May 19, 2023 [D.I. 116] (the “**Final DIP Order**”).

WHEREAS, the Final DIP Order established a deadline by which any challenge to the Debtors’ admissions, stipulations, agreements, releases, and waivers related to the Prepetition Secured Parties’ and the Lessor’s claims and liens (the “**Compeer DIP Order Provisions**”) were to be filed (the “**Prepetition Secured Parties Challenge Period**”).

WHEREAS, the Committee was appointed June 15, 2023 [D.I. 238], and selected counsel on June 21, 2023;

WHEREAS, on June 29, 2023, the Committee, the Prepetition Secured Parties, and the Lessor filed a stipulation [D.I. 271] extending in writing the Prepetition Secured Parties Challenge Period to August 15, 2023 in accordance with the Final DIP Order;

WHEREAS, on July 20, 2023, the Debtors filed their Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Affiliated Debtors [D.I. 296] (the, “**Plan**”); and

WHEREAS, the Parties entered into negotiations in an effort to resolve certain objections the Committee intended to raise regarding the Compeer DIP Order Provisions and, as a result of those negotiations, the Debtors have agreed to modify the Plan (which modifications Compeer has agreed to support and fund in part) and the Committee has agreed to hold its potential objections to the Compeer DIP Order Provisions in abeyance, in each case subject to the terms set forth in this Stipulation;

NOW THEREFORE, IT IS STIPULATED AND AGREED, by and between the Parties, as follows:

1. Subject to the Debtors' and Compeer's compliance with the terms of this Stipulation, the Committee (i) shall not object to the Compeer DIP Order Provisions (ii) shall stay, and otherwise refrain from filing, any litigation, objection, motion, or otherwise against or adverse to Compeer relating to the Final DIP Order, Plan, or any of Compeer's liens, claims, or interests related to the Debtors, their estates, or this chapter 11 proceeding, subject to the tolling provisions in Paragraph 2 of this Stipulation, and (iii) shall not take any action inconsistent with the intent of the parties to fully and finally resolve, through the terms of this Stipulation, the Committee's dispute with Compeer over the amount of its claim(s), the extent, validity, priority of its lien(s), the avoidance of any pre-Petition Date transfer(s), or any similar action(s) challenging the Compeer DIP Order Provisions or Compeer's treatment in the Plan. The Plan shall confirm the Committee and Debtors' estates release of Compeer from all claims and causes of action. For the avoidance of doubt, except as explicitly set forth in this Stipulation, Compeer does not waive any right, interest, or claim it may have with regard to its claim(s), liens, or interests as set forth in the Final DIP Order.

2. The Prepetition Secured Parties Challenge Period, solely as to the Committee, shall toll until the earlier of: (i) the date the Plan becomes effective; or (ii) the date falling two weeks after (x) the filing by the Committee of a Notice with the Court informing the Court that another one of the Parties to this Stipulation has failed to satisfy the requirements set forth herein, or (y) the date the Court enters an order denying confirmation of the Plan. This extension shall not extend the Prepetition Secured Parties Challenge Period for any party other than the Committee.

3. No later than five (5) business days following the entry by the Court of an Order approving this Stipulation, the Debtors shall file a revised version of the Plan, which must be in a form and substance reasonably acceptable to Compeer, the Committee and their respective counsel, to include the following amendments:

a. The GUC Distribution Pool (as defined in the Plan) shall be increased to include additional amounts (the “**GUC Settlement Amounts**”) equal to:

- i. all positive net cash flow (including, for the avoidance of doubt, all DIP Proceeds, all cash, all monetization of working capital from accounts receivable and sales of inventory, and all other surplus net cash flow from the Debtors’ operations, including all returned utility and creditor deposits, and all insurance and tax refunds) through the Effective Date (as defined in the Plan) as set forth in the draft “Wind-Down Budget” dated July 28, 2023 (Project Ski – Wind Down Budget 8_2 EXTERNAL.xlsx) shared by the Debtors with the Parties as of the date hereof (in which the Debtors estimate a net cash surplus of approximately \$1.65 million after an increase in budgeted estate professional fees¹) (the “**Remaining Amount**”), *plus*
- ii. until the Remaining Amount exceeds \$2.65 million, up to \$750,000 will be funded by Compeer as set forth in Paragraph 4, below (the “**Guaranteed Amount**”); *to wit*, the \$750,000 Guaranteed Amount shall be reduced on a dollar-for-dollar basis (until the Guaranteed Amount equals \$0) for every \$1 by which the Remaining Amount exceeds \$1.9 million as of the Effective

¹ For purposes of this Stipulation, the estate professional fees contemplated by the Wind-Down Budget shall be increased in the amount of \$800,000 from the initial \$7,386,354 to \$8,186,354 (the “**Updated Professional Fees Amount**”).

Date. In addition, the amount of estate professional fees incurred and approved by the Court, on an aggregate basis, that is in excess of the Updated Professional Fees Amount shall reduce the Guaranteed Amount set forth above dollar for dollar. For the avoidance of doubt, no other reductions will be made to the Guaranteed Amount.

- b. Subject to paragraph 1, Compeer shall waive all liens in respect of and any recovery from the GUC Settlement Amounts and shall receive no distributions of GUC Settlement Amounts under Class 4 of the Plan except to the extent the Remaining Amount exceeds \$2.65 million. Compeer shall receive a distribution of 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million. All other Allowed General Unsecured Claims (as defined in the Plan) shall receive a *pro rata* distribution of the other 50% of every \$1 by which the Remaining Amount exceeds \$2.65 million. For the avoidance of doubt, all proceeds of the LOC Collateral in excess of the Permitted Full Operation LOC Collateral Value shall be treated as Remaining Amounts and Compeer shall waive all liens, subject to paragraph 1, in respect thereof and shall receive no distributions on account of such excess proceeds except as set forth above in this paragraph 3(b) to the extent the Remaining Amounts exceeds \$2.65 million.
- c. In addition to the GUC Settlement Amounts, the GUC Distribution Pool shall be increased to include an amount equal to any proceeds received from the litigation or settlement of Avoidance Actions (as defined in the Plan) or estate Claims and Causes of Action (each as defined in the Plan) (the “**Litigation and Settlement Proceeds**”), which Litigation and Settlement Proceeds shall be distributed solely to

holders of Allowed General Unsecured Claims (other than Compeer) under Class 4 of the Plan; *provided*, however, Compeer shall receive a distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date as a result of any litigation or settlement relating to Claims or Causes of Action against GAT Farms, LLC, Greg Strobel, an individual d/b/a Strobel Farms; Strobel Farms, LLC, Greg Strobel Farms, LLC; Fast Development, Inc.; and/or Pemberton Grain, LLC (with all other holders of Allowed General Unsecured Claims receiving their *pro rata* distribution of 50% of every \$1 of Litigation and Settlement Proceeds received by the Debtors' estates prior to the Effective Date as a result of any litigation or settlement relating to Claims or Causes of Action against GAT Farms, LLC, Greg Strobel, an individual d/b/a Strobel Farms; Strobel Farms, LLC, Greg Strobel Farms, LLC; Fast Development, Inc.; and/or Pemberton Grain, LLC).

- d. The provisions of the Plan relating to the Liquidating Trust (as defined in the Plan) shall be amended to provide that on the Effective Date, all Avoidance Actions, and estate Claims and Causes of Action (other than Avoidance Actions, Claims and Causes of Action or any other action or claim against Compeer) shall be transferred and assigned to the Liquidating Trust for the sole benefit of the Holders of Allowed General Unsecured Claims under Class 4 of the Plan, which shall be funded in accordance with the Plan and administered by the Liquidating Trustee (as defined in the Plan) to be appointed by the Committee on terms acceptable to the Committee.¹ Subject to Compeer's compliance with the terms of this Stipulation,

¹ The GUC Settlement Amounts may be used to fund the Litigation Trust.

the Liquidating Trustee shall not file or pursue, any Claims or Causes of Action or other litigation, challenge, objection, motion, or other action, against or adverse to Compeer relating to the Compeer DIP Order Provisions or any Claim or Cause of Action released or discharged by the Final DIP Order or the Plan.

- e. Compeer shall not participate as a Class 4 Claimant.
- f. The revised Plan shall contain such other conforming amendments as are required to give effect to this Stipulation as reasonably determined by the Parties hereto.

4. No later than five business days following the entry by the Court of an Order approving this Stipulation, the Debtors shall withhold \$750,000 (the “**Escrowed Amount**”) from the amounts due and owing to Compeer pursuant to the Final DIP Order, and hold the Escrowed Amount for the sole benefit of the holders of the Debtors’ General Unsecured Claims. The Escrowed Amount shall be applied in accordance with the Plan, as amended in connection with approval of this Stipulation, to fund the Guaranteed Amount on the Effective Date as set forth above. To the extent the Guaranteed Amount is reduced in accordance with this Stipulation and the Plan as set forth above, any portion of the Escrowed Amount which is not required to be used to fund the Guaranteed Amount shall be returned to Compeer (or Compeer’s designee) on the Effective Date. The Escrowed Amount shall not be considered property of the Debtors’ estates.

5. Subject to the reduction of the Escrowed Amount described in Paragraph 4 above, following entry by the Court of an Order approving this Stipulation, any remaining Cure Payments under the Final DIP Order and all Sale Distribution Proceeds (as defined in the Plan) shall be made without reduction or delay in accordance with the Wind-Down Budget, the Final DIP Order, and the other orders of the Court previously entered. For the avoidance of doubt, the Cure Payments

and Sale Distribution Proceeds do not include the Escrowed Amount, GUC Settlement Amounts, or Pre-Effective Date Litigation and Settlement Proceeds.

6. Debtor Windom has determined in its reasonable business judgment that it no longer needs the Leases (as defined in the Final DIP Order) with Lessor and has no further operational need for the Equipment (as defined in the Final DIP Order) subject to such Leases. Debtor Windom believes that it is in the best interests of its estate to reject the Leases and has returned the Equipment to Lessor. Lessor consents to the rejection of the Leases and the return of the Equipment (which Equipment has been returned prior to the parties entering this Stipulation).

7. Lessor waives all administrative priority claim related to the Leases and Equipment, but shall have an allowed rejection damages claim of \$405,960.55, which amount shall be subject to the terms of this Stipulation.

8. Except as set forth expressly in this Stipulation, neither the Debtor nor the Committee will propose, endorse, accept, or otherwise permit any modification to the Plan that affects Compeer's treatment under the Plan without Compeer's express written consent. Except as set forth expressly in this Stipulation, neither the Debtor nor Compeer will propose, endorse, accept, or otherwise permit any modification to the Plan that affects the treatment of holders of Allowed General Unsecured Claims under the Plan without the Committee's express written consent.

9. Compeer shall vote in favor of and otherwise support the Debtors' Plan (as amended pursuant to the terms of this Stipulation) or any further amended plan including substantially identical material terms, provided such amended plan does not negatively alter or affect Compeer's rights under this Stipulation.

10. Nothing contained in this Stipulation shall limit the Committee's right to oppose the releases contemplated under the Plan (other than the release of Compeer) and any other Plan provision not directly related to Compeer.

11. Nothing in this Stipulation shall in any way be construed as or deemed to be evidence of or reflect an admission on behalf of the Parties regarding the Compeer DIP Order Provisions. For the avoidance of doubt, subject to the terms set forth herein, each of the Parties do not waive any right of any kind whatsoever by executing this Stipulation and expressly reserve all procedural and substantive rights.

12. Other than the tolling of the Prepetition Secured Parties Challenge Period with respect to the Committee pursuant to paragraph 2 of this Stipulation (which shall take effect immediately upon the filing of this Stipulation with the Court in accordance with the Final DIP Order), the provisions of this Stipulation shall become effective upon the entry of an order by the Court approving this Stipulation.

IN WITNESS WHEREOF and in agreement herewith, by and through their undersigned counsel, the Parties have executed and delivered this Stipulation as of the date first set forth below.

Dated: August 17, 2023
Wilmington, Delaware

Respectfully submitted,

/s/ Lucian B. Murley

Lucian B. Murley (DE Bar No. 4892)
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-and-

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*Proposed Counsel for the Official Committee of
Unsecured Creditors*

Dated: August 17, 2023
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Matthew P. Ward

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Dated: August 17, 2023
Wilmington, Delaware

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EXHIBIT B

The Committee's Statement

Exhibit B

The Committee's Statement

August 17, 2023

Below is a statement (the “**Statement**”) of the Official Committee of Unsecured Creditors (the “**Committee**”) appointed in these Chapter 11 Cases.¹ The Statement reflects the Committee’s views and concerns regarding certain aspects that, in the Committee’s sole judgment, the Debtors have not adequately disclosed in the Combined Disclosure Statement and Plan and are currently being investigated by the Committee.

Given that the Debtors are pursuing a liquidating Plan that contemplates broad releases, the Committee believes that the Statement will make clear the potential impact that the releases currently contained in the Plan may have on unsecured creditor recoveries.

At the current time, the Committee recommends that holders of unsecured claims vote against the Plan, unless and until the Plan is revised to address the Committee’s concerns regarding the proposed releases.

This Statement is informed by the ongoing investigative efforts of the Committee that have not yet concluded, and the information, as well as the Committee’s recommendation, remains subject to change.

The Statement is not endorsed by the Debtors, and, in fact, the Debtors strongly disagree with the Committee’s views set forth in the Statement.

The Debtors’ Business

In the opinion of the Committee, unsecured creditors need to understand where the Debtors sit in relation to their parent and other affiliated entities. HyLife Group Holdings Ltd. (“**HyLife**”), the Debtors’ ultimate parent, is an agriculture and food production group based in Manitoba, Canada. HyLife is the largest Canadian pork producer and one of the leading pork producers in North America.²

CPF Canada Holdings Corp, a Canadian subsidiary of Charoen Pokphand Foods PCL (“**CPF**”), Thailand’s largest agriculture conglomerate, is the majority shareholder of HyLife with a 50.1% interest. The remaining 49.9% interest in HyLife is owned by Itochu Corporation, CPF’s Japanese partner. CPF acquired its 50.1% stake in HyLife for approximately US\$372.2 million in December 2019, implying a market capitalization of US\$744 million.

¹ Capitalized terms not defined herein shall have the meanings attributed to them in the *Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International and Its Affiliated Debtors* [D.I. 296-1].

² See <https://hylife.com/about/>.

In May 2020, HyLife expanded into the U.S. market by acquiring, through its subsidiary Skyline International Incorporated (“**Skyline**”), a 75% interest in Prime Pork, LLC (subsequently renamed HyLife Foods Windom, LLC) (“**Windom**”), from Taylor Corporation, an affiliate of GAT Farms, LLC (“**Taylor**”), thereby acquiring a pork processing plant in Windom, Minnesota (the “**Windom Plant**”). Taylor retained a 25% interest in Windom until March 27, 2023, when Skyline acquired the remaining stake and became the 100% owner of Windom.

Notwithstanding the distinct corporate structures among HyLife, Skyline and the Debtors, the Committee is investigating whether the Debtors were independent from HyLife and, relatedly, whether the Debtors’ management and board, who were simultaneously employed in similar positions by HyLife, served at the discretion of and for the benefit of the non-Debtor HyLife affiliates. In addition, a substantial amount of the Debtors’ commercial dealings were conducted through HyLife affiliates, who then in turn sold the Debtors’ products to third party customers. For some of the intercompany agreements entered into between the Debtors and the non-Debtor HyLife affiliates, the same individuals served as the signatories on both sides of the transactions.

The Debtors’ Reliance on HyLife

Since May 2020, the Debtors’ management has consisted solely of individuals who simultaneously held managerial roles at HyLife or another HyLife affiliated entity. The Committee is investigating whether the management overlap resulted in a lack of independent oversight and allowed HyLife to exert control and dominance over the Debtors. The Committee believes that the overlapping management may have prevented the Debtors from operating as independent entities. The below chart summarizes the Debtors’ directors and officers (“**D&Os**”) who were also employed by HyLife:

Name of Individual	Known Role(s) at HyLife	Known Role(s) at the Debtors
Grant Lazaruk	<ul style="list-style-type: none"> • President • Chief Executive Officer 	<ul style="list-style-type: none"> • CEO of Windom • President of Windom • President of Tritex • President of Canwin • Director of Windom • Director of Canwin • Director of Tritex
Howard Siemens	<ul style="list-style-type: none"> • Chief Financial Officer 	<ul style="list-style-type: none"> • Secretary of Windom • Vice President of Windom • Director of Windom • Director of Tritex
Guy Baudry	<ul style="list-style-type: none"> • Chief Operating Officer 	<ul style="list-style-type: none"> • Treasurer of Windom • Vice President of Windom • Director of Windom • Director of Canwin • Director of Tritex
Ron Schellenberg	<ul style="list-style-type: none"> • Chief Supply Chain Officer 	<ul style="list-style-type: none"> • Director of Canwin

Intercompany Transactions and the Debtors' Agreements with Affiliated Entities

The Committee is investigating whether the intercompany agreements authorized by the same D&Os, often sitting on both sides of the transaction, were entered into for the benefit of the related entities at the expense of the Debtors.

Not all of the pork products processed at the Windom Plant were sold directly to customers by Windom. In fact, a substantial amount of Windom's products were sold through HyLife's related entities, including HyLife Foods LP, a Canadian entity ("**HyLife Foods**") and HyLife Foods International Ltd, a Barbados entity ("**HFIL**"). This includes all sales to non-U.S. customers, which constituted approximately 40% of Windom's business, as well as certain domestic sales. In turn, HyLife Foods and HFIL would sell the pork products purchased from Windom to third party customers. The Committee believes that this business arrangement maintained the Debtors' reliance on HyLife.

In addition, Windom entered into an amendment of a supply agreement with Taylor in 2020 while Taylor still held a 25% interest in Windom, which the Committee believes increased pricing terms and allocating production costs to Windom in favor of Taylor. The Committee intends to investigate what role Taylor played during this renegotiation.

The Committee has yet to determine whether Windom received reasonably equivalent value in its dealings with the HyLife affiliates and Taylor. In addition, the Committee is investigating whether the related entities and insiders were profiting from Windom's losses by, among other things, favoring the products sold by HyLife over the products sold by the Debtors.

The Debtors' Insolvency

The Committee believes that Windom was likely insolvent well before these Chapter 11 Cases were commenced. In order to fund the acquisition of the Windom Plant, the Debtors borrowed approximately US\$70 million from Compeer Financial, PCA and Compeer Financial FLCA ("**Compeer**").³ Over the course of three years, the Debtors continued to borrow additional funds from Compeer. However, any liquidity resulting from the Compeer loans was insufficient to maintain the Debtors' operations. Unable to execute a viable stand-alone business plan, the Debtors relied on HyLife to support their operations and service their debt. The Committee is investigating the extent to which the Debtors' D&Os allowed the Debtors to continue to exist for the benefit of the HyLife affiliates and to the detriment of other stakeholders. In addition, the Committee is investigating the extent to which the vendors and trade creditors doing business with Windom understood that HyLife could decide to turn off its support at any time, leaving Windom hopelessly insolvent.

The Committee's Ongoing Investigation

Since its formation on June 21, 2023, the Committee has been conducting an investigation into the Debtors' prepetition activities, intercompany transactions, their relationships with non-Debtor affiliated entities, and their independence. Specifically, the Committee is investigating

³ On June 11, 2023, following several months of marketing, a going concern sale of the Windom Plant failed to realize more than \$14 million. (See D.I. 229.)

whether and to what extent the Debtors' management and board failed to act in the best interest of the Debtors' stakeholders by continuing to operate an insolvent business for the benefit of HyLife or other related entities.

The Debtors' liquidating Plan proposes to release all claims and potential causes of action against the Debtors' D&Os without any cash consideration that would contribute to creditor recoveries. The Committee believes the granting of such releases absent adequate consideration will only hurt unsecured creditors. If the Debtors were pursuing a reorganization, stakeholders may receive equity in a reorganized company and decide that it is in their interest to forgo potential claims against the management to preserve value. However, under a liquidating Chapter 11 plan of the kind proposed by the Debtors, the Committee does not support releasing the members of the Debtors' management and board from potential claims without additional consideration.

The Committee's ongoing investigation is focused on potential claims and causes of actions against the Debtors' insiders—including for the breach of duty of loyalty, the breach of duty of care, substantive consolidation, corporate waste, and domination and control—arising out of their prepetition conduct. The Committee will be seeking additional document discovery and future depositions regarding: (a) the Debtors' numerous transactions with HyLife entities and other insiders, to determine whether the agreements contained below-market terms and whether the beneficiaries of these transactions are entities other than the Debtors; and (b) whether the Debtors' D&Os continued to incur vendor and trade creditor obligations knowing that the Debtors were insolvent as HyLife was intending to withdraw its financial support, leaving the Debtors unable to pay those obligations.

EXHIBIT C

Liquidation Analysis

HyLife Foods Windom LLC and CanWin Farms(1)

Liquidation Analysis

\$ in Thousands

Description	Windom Est. Book Value(2) 7/29/2023	Liquidation Value % Recovery		Liquidation Value \$ Recovery		CanWin Est. Book Value(2) 7/29/2023	Liquidation Value % Recovery		Liquidation Value \$ Recovery		
		Low	High	Low	High		Low	High	Low	High	
(3) Cash	16,145	100%	100%	16,145	16,145	-	N/A	N/A	N/A	N/A	
(4) Accounts Receivable	2,282	85%	95%	1,940	2,168	-	N/A	N/A	N/A	N/A	
(4) Inventory	788	37%	68%	288	538	-	N/A	N/A	N/A	N/A	
Professional Fee Escrow and Retainers	5,555	100%	100%	5,555	5,555	-	N/A	N/A	N/A	N/A	
Prepaid Expenses and Other Assets	814	49%	49%	400	400	-	N/A	N/A	N/A	N/A	
(5) Prorata Share of Unused DIP Proceeds	7,000	100%	100%	6,593	6,593	-	100%	100%	407	407	
Net Asset Proceeds	32,584			30,921	31,399	-			407	407	
Less: Assets not Available for Secured Claims											
Professional Fee Escrow and Retainers				5,555	5,555				-	-	
(6) Prorata Share of Unused DIP Proceeds				6,593	6,593				407	407	
Proceeds Available For Distribution to Secured Claims				18,773	19,251				-	-	
Secured Claims											
(7) Total Bank Debt				93,108	93,108				93,108	93,108	
Total Secured Claims				93,108	93,108				93,108	93,108	
Total Distribution to Secured Claims				18,773	19,251				-	-	
Total Distribution % to Secured Claims				20%	21%				0%	0%	
Remaining Proceeds Available for Liquidation Costs											
(6) Prorata Share of Unused DIP Proceeds				6,593	6,593				407	407	
Net Remaining Proceeds Available for Liquidation Costs				6,593	6,593				407	407	
Liquidation Costs											
(8) Chapter 7 Trustee Fee				928	942				12	12	
(9) Chapter 7 Professional Fees				600	300				-	-	
Total Liquidation Costs				1,528	1,242				12	12	
Net Proceeds Available For Administrative Claims				5,066	5,351				394	394	
Administrative Claims											
Post Petition Accounts Payable				500	255				-	-	
(10) 503(b)(9) Claims				675	340				-	-	
(11) Chapter 11 Professional Fees (in excess of Escrow and Retainers of \$5,555k)				1,050	1,050				-	-	
US Trustee Fees				500	500				38	38	
Total Administrative Claims				2,725	2,145				38	38	
Total Distribution to Administrative Claims				2,725	2,145				38	38	
Total Distribution % to Administrative Claims				100%	100%				100%	100%	
Net Proceeds Available For Distribution to Priority Unsecured Claims				2,341	3,206				-	-	
Priority Unsecured Claims											
Total Priority Unsecured Claims				25	4				-	-	
Total Priority Unsecured Claims				25	4				-	-	
Total Distribution to Priority Unsecured Claims				25	4				N/A	N/A	
Total Distribution % to Priority Unsecured Claims				100%	100%				N/A	N/A	
Net Proceeds Available For Distribution to General Unsecured Claims				2,316	3,202				-	-	
General Unsecured Claims											
Deficiency Claim - Total Bank Debt				74,335	73,857				74,335	73,857	
(12) 3rd Party Accounts Payable & Accrued Liabilities				16,816	16,816				208	208	
(12) 3rd Party Contract Rejection Claims				28,842	28,842				-	-	
(12) Intercompany Claims				4,359	4,359				2,877	2,877	
Total General Unsecured Claims				124,352	123,874				77,420	76,942	
Total Distribution to General Unsecured Claims				2,316	3,202				357	357	
Total Distribution % to General Unsecured Claims				2%	3%				0%	0%	
(13) Estimated Liquidation Distribution to 3rd Party General Unsecured Claims				850	1,180				1	1	
(13) Estimated Plan Distributions to 3rd Party General Unsecured Claims				2,400	2,400				N/A	N/A	

Notes:

- (1) Excludes Tritek International Inc. as this Debtor does not have any creditors
- (2) Management adjusted balances as of July 29, 2023
- (3) Cash balance includes cash held in all bank accounts of the Debtors including utility deposit amount
- (4) Per management's estimates of collectability
- (5) Assumes unused DIP is unencumbered and asset is allocated between Windom and CanWin based upon amount of unsecured pre-petition claims excluding secured deficiency claim
- (6) Unused DIP Proceeds are unencumbered and available to all unsecured claims
- (7) Joint and several liability between Windom and CanWin
- (8) Chapter 7 trustee fee assumes payment of 3.0% of total distributions to creditors.
- (9) Assumes broker and attorney fees for Chapter 7
- (10) Administrative bar date has not passed so the high end reflects the debtors estimate while the low end reflects claims filed with identified non-substantive modifications including duplicate claims, multi-debtor claims, and late filed claims
- (11) Assumes professional fee incurred through 7/29/2023 equal escrowed amounts and outstanding retainers. Excess amount reflects estimated incremental professional fees incurred through 8/20/2023
- (12) Reflects claims filed with identified non-substantive modifications including duplicate claims, multi-debtor claims, and late filed claims
- (13) Excludes Deficiency and Intercompany claims

EXHIBIT D

Summary of Terms for Committee Settlement¹

To resolve the potential alleged claims the Committee believes it could assert against the Debtors’ directors and officers, the Debtors and the Committee have agreed to the following:

<p>Director and Officer Funding</p>	<p>The Debtors’ directors and officers will fund or cause to be funded on or before the Effective Date:</p> <p style="padding-left: 40px;">a. the Debtors’ directors and officers will fund or cause to be funded on or before the Effective Date an additional \$500,000 in cash for the benefit of Holders of Allowed General Unsecured Claims in Class 4.</p> <p style="padding-left: 40px;">b. Further, up to 5.0% of the combined Allowed Professional Fees of Katten, Dechert, and PwC, solely to the extent such aggregate Allowed Professional Fees exceed the amounts set forth in the Wind-Down Budget contemplated under the Global Settlement; provided that in no event shall such Professionals be obligated to write off more than an aggregate amount of \$300,000 in Allowed Professional Fees.</p>
<p>Committee Objection</p>	<p>In exchange for the above-referenced funding, the Committee shall withdraw its existing and potential objections to the Plan, including with respect to the release and exculpation provisions.</p>

¹ Capitalized terms used but not otherwise defined in this summary have the meanings ascribed to such terms in the *Third Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritek International Inc. and its Affiliated Debtors* (the “Plan”). To the extent of any inconsistency between this summary and the Plan, the Plan governs.

EXHIBIT E

Summary of Terms for Headwaters Settlement²

To resolve the issues set forth in the Headwaters Claim Objection and the Headwaters 3018 Motion, the Debtors and Headwaters have agreed to the following:

Administrative Claim	Headwaters shall be deemed to hold an allowed administrative expense claim in the amount of \$190,133.35.
General Unsecured Claim	Headwaters shall be deemed to hold an Allowed General Unsecured Claim in the amount of \$7,239,761.37.
Avoidance Actions	The Debtors shall be deemed to have released Headwaters from any and all Avoidance Actions.
Vote in Favor of Plan	Headwaters shall be deemed to have voted in favor of the Plan and shall not be deemed to have opted out of the third party releases described in the Plan.
Headwaters Claim Objection and Headwaters 3018 Motion	The Debtors shall be deemed to have withdrawn the Headwaters Claim Objection and Headwaters shall be deemed to have withdrawn the Headwaters 3018 Motion.

² Capitalized terms used but not otherwise defined in this summary have the meanings ascribed to such terms in the *Third Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Affiliated Debtors* (the "Plan"). To the extent of any inconsistency between this summary and the Plan, the Plan governs.

EXHIBIT F

Summary of Terms for Strobel Settlement³

To resolve disputes among the Debtors and Strobel related to the Hog Supply Agreement and the PSA Bond, the Debtors and Strobel have agreed to the following:

HyLife Payment	Debtors' parent company, HyLife Group Holdings Ltd. shall pay Strobel \$1,000,000 CAD.
PSA Bond	Strobel shall be authorized to seek payment of \$837,158.28 from the PSA Bond.
Waiver of Unsecured Claims	For distribution purposes Strobel shall waive the unsecured claim amounts set forth in its proof of claim and shall not be entitled to any distribution to which Holders of Class 4 Allowed General Unsecured Claims are entitled on account of the Strobel Claim.
Waiver of Claims Against Patrick Farms	Patrick Farms, Ltd. shall waive \$3.7 million in additional unsecured claims against Strobel.
Vote in Favor of Plan	Headwaters shall be deemed to have voted in favor of the Plan and shall not be deemed to have opted out of the third party releases described in the Plan.
Settlement Agreement/Stipulation	The terms of the Strobel Settlement shall be set forth in further detail in a formal settlement agreement or stipulation.

³ Capitalized terms used but not otherwise defined in this summary have the meanings ascribed to such terms in the *Third Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Tritex International Inc. and its Affiliated Debtors* (the "Plan"). To the extent of any inconsistency between this summary and the Plan, the Plan governs.