

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Tracy John Clement,

Debtor.

Case No. 16-31189

Chapter 11

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**NOTICE OF HEARING AND MOTION FOR SALE OF THE ESTATE'S INTEREST IN  
THE WEST HALF OF THE NOLT PROPERTY FREE AND CLEAR OF LIENS,  
ENCUMBRANCES, AND OTHER INTERESTS**

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TO: The parties specified in Local Rule 9013-3:

Manaco Corp., PO Box 535, Brooklyn, IA 52211-0535, and its registered agent, Adam Manatt, 1775 Old 6 Road, Brooklyn, IA 52211, and its counsel, G. Mark Rice, Esq., Whitfield & Eddy, P.L.C., 699 Walnut Street, Suite 2000, Des Moines, Iowa 50309;

Cone Ag Aviation, LLC, Attn. Russell Hollingsworth, 145 Riverplace Drive, Pierre, SD 57501-4600, and its counsel, Paul Bachand, Esq., Moreno, Lee & Bachand, P.C., 206 W. Missouri Ave., Pierre, SD 57501-1174.

Cone Ag, Inc., Attn. Russell Hollingsworth, 145 Riverplace, Pierre, SD 57501-4600, and its counsel, Paul Bachand, Esq., Moreno, Lee & Bachand, P.C., 206 W. Missouri Ave., Pierre, SD 57501-1174.

1. The chapter 11 trustee, Phillip L. Kunkel (the "Trustee"), by and through his undersigned attorneys, moves the Court for the relief requested below and gives notice of a hearing.

2. The Court will hold a hearing on this Motion on **Wednesday, December 5, 2018** at **2:00 p.m.**, in Courtroom 7 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

3. Any response to this Motion must be filed and served no later than **Friday, November 30, 2018**, which is five (5) days before the time set for the hearing (including Saturdays,

Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005, and Local Rule 1070-1. This is a core proceeding pursuant to 11 U.S.C. § 157(2)(A), (M), (N) and (O). Venue is proper in this Court pursuant to 11 U.S.C. § 1408.

5. This Motion arises under 11 U.S.C. §§ 363(b), 363(f), and Fed. R. Bankr. P. 6004. This Motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1 through 9013-3, and Local Rule 6004-1.

### **BACKGROUND**

6. On April 11, 2016, Tracy John Clement (the “Debtor”) filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (“the Petition Date”) [Doc. 101].

7. On September 19, 2017, the appointment of the Trustee as the chapter 11 trustee for the Debtor was approved by the United States Bankruptcy Court for the District of Minnesota (the “Court”) [Doc. 518].

8. On the Petition Date, the Debtor and the Debtor’s father, Conrad Clement (“Conrad”), were co-owners of Parcel Nos. 09.023.0010, 09.023.0031, and 09.026.0010 (collectively, the “Nolt Property”), as tenants in common, which are legally described in the attached **Exhibit A**.

9. The Nolt Property is further subdivided into five tracts (each a “Tract” and collectively “Tracts”), which are legally described in the attached **Exhibit B**.

10. The Nolt Property is encumbered by: (i) a mortgage executed and delivered jointly by the Debtor, Debtor’s former spouse, Nancy Clement, and Conrad, to and in favor of Citizens State Bank of Hayfield (“CSB”) in the original principal amount of \$700,000.00, dated April 16,

2007, recorded in the Office of the County Recorder in Mower County, Minnesota, on April 17, 2007, as Document No. A000558419 (“CSB Joint Mortgage-2”) and (ii) a second mortgage executed and delivered jointly by the Debtor, Nancy, and Conrad, to and in favor of CSB in the original principal amount of \$87,500.00 dated April 16, 2007, recorded in the Office of the County Recorder in and for Mower County, Minnesota, on April 17, 2007, as Document No. A000558420 (the “CSB Joint Mortgage-3, and together with the CSB Joint Mortgage-2, the “CSB Joint Mortgages”).

11. In addition to the CSB Joint Mortgages, Debtor, not personally, but in his capacity as trustee of the Debtor’s Revocable Trust, executed and delivered a mortgage in the original principal amount of \$9,163,761.36 in favor of CUSB Bank (“CUSB”) over the Nolt Property dated May 19, 2015 as Document No. A000619799 (the “CUSB Mortgage”). The CUSB Mortgage was recorded in both Mower and Fillmore counties.

12. Pursuant to the Court’s Order entered on September 12, 2018, (“the CUSB Mortgage Order”), the CUSB Mortgage was avoided under 11 U.S.C. § 544(a)(3), and preserved for the benefit of the bankruptcy estate under 11 U.S.C. § 551 [Doc. 745]. The CUSB Mortgage Order provides that the Nolt Property is not subject to the CUSB Mortgage. CUSB has since filed an appeal to the CUSB Mortgage Order, and such appeal is currently pending in Adversary Case No.18-03045.

13. In addition to the CSB Joint Mortgages and the CUSB Mortgage currently on appeal, Conrad has the following judgments docketed against him individually:

- (a) A judgment in the original amount of \$6,000,000.00 in favor of Manaco Corp. and docketed in Fillmore County, Minnesota, on February 25, 2014;
- (b) A judgment in the original amount of \$56,160.76 in favor of Cone Ag Aviation, LLC and docketed in Fillmore County, Minnesota, on May 15, 2018; and

- (c) A judgment in the original amount of \$490,669.96 in favor of Cone Ag, Inc. and docketed in Fillmore County, Minnesota on May 15, 2018.

(collectively, the “Conrad Judgments”). The Conrad Judgments are docketed against the Nolt Property in Mower County.

14. The Trustee has initiated an adversary action (Adv. No. 18-03020) seeking authority to sell the Nolt Property pursuant to 11 U.S.C. § 363(h) free and clear of the interest of Conrad.

15. Conrad maintains that the Nolt Property should not be sold free and clear of his interest pursuant to 11 U.S.C. § 363(h), but rather should be partitioned. Conrad maintains that physical partition of the Miller Property is practicable despite the legal interests of the mortgages and judgment creditors, and that, therefore, the Nolt Property should not be sold free and clear of his interest pursuant to 11 U.S.C. § 363(h).

16. The Trustee maintains that the physical partition of the Miller Property is not at issue, but rather separating the legal interests of the mortgagees and judgment creditors is legally impracticable pursuant to 11 U.S.C. § 363(h).

17. The Parties were ordered to attend mediation with the Honorable William J. Fisher (the “Mediation”) [Doc. 755].

18. The Mediation resulted in a Mediated Settlement Agreement between Conrad, CSB and the Trustee (the “Mediation Agreement”). A copy of the Mediation Agreement is attached hereto as **Exhibit C**.

#### **The Mediation Agreement**

19. Contemporaneously with this Motion, the Trustee has filed a companion Motion pursuant to Federal Rule of Bankruptcy Procedure 9019 and Section 105(a) of the Bankruptcy Code to approve the Mediation Agreement.

20. The Mediation Agreement provides for a partition of the Nolt Property between the estate and Conrad. The material terms of the Mediation Agreement are as follows:

a. The estate will maintain an interest in Tract A and Tract C of the Nolt Property (the “West Half of the Nolt Property”), as legally described in **Exhibit D** to this Motion.

b. Conrad will maintain an interest in Tract B, Tract D, and Tract E of the Nolt Property (the “East Half of the Nolt Property”) as legally described in **Exhibit E** to this Motion.

c. These mutual transfers will result in the estate being the sole owner of the West Half of the Nolt Property and Conrad being the sole owner of the East Half of the Nolt Property, which will allow the Trustee to seek Court approval to sell the estate’s interest in the West Half of the Nolt Property pursuant to 11 U.S.C. §§ 363(b) and 363(f).

d. CSB will release the CSB Joint Mortgage on the West Half of the Nolt Property upon the Trustee’s payment of \$360,000.00, plus interest (the “CSB Payment”). The CSB Payment will be made by the Trustee, or his agent, from the sale proceeds of the West Half of the Nolt Property.

e. Cone Ag Aviation, LLC, Cone Ag, Inc., and Manaco Corp. (collectively, the “Conrad Judgment Creditors”) have agreed to release their respective judgement liens against the West Half of the Nolt Property upon payment of a total amount of \$25,000.00 (the “Judgment Creditors Payment”). The Judgment Creditors Payment will be made by the Trustee, or his agent, from the sales proceeds for the West Half of the Nolt Property.

f. CSB will still maintain its CSB Joint Mortgage on the East Half of the Nolt Property.

g. The Conrad Judgment Creditors will still maintain their interests in the East Half of the Nolt Property.

21. In anticipation of the Court's order approving the Mediation Agreement (the "Approval Order") the Trustee now brings this Motion to sell the estate's interest in the West Half of the Nolt Property as contemplated by the Mediation Agreement. The purpose of this Motion is to (i) seek an order of the Court authorizing the sale of the estate's interest in the West Half of the Nolt Property free and clear of all liens, claims and encumbrances pursuant to Bankruptcy Code § 363(b) and (f); and (ii) establish the sales procedures for the sale of the estate's interest in the West Half of the Nolt Property.

#### **Sale of the West Half of the Nolt Property**

22. The Trustee seeks to sell the estate's interest in the West Half of the Nolt Property, as legally described in **Exhibit D**, outside the ordinary course of business pursuant to 11 U.S.C. § 363(b)(1) and free and clear of all liens, encumbrances, and other interests pursuant to 11 U.S.C. § 363(f).

23. In the Trustee's business judgment, the Trustee believes the sale of the estate's interest in the West Half of the Nolt Property is in the best interests of the Debtor's estate and all parties in interest. The sale of the estate's interest in the West Half of the Nolt Property will allow the Trustee to make the CSB Payment and Judgment Creditors Payment as provided in the Mediation Agreement.

24. Upon entry of the Approval Order, and after the deeds exchanged between the Trustee and Conrad are recorded, the estate will hold the exclusive interest in the West Half of the Nolt Property.

25. Pursuant to the Mediation Agreement, CSB and the Conrad Judgment Creditors have consented to the sale of the West Half of the Nolt Property. The sale of the West Half of the Nolt Property will allow the Trustee to pay the CSB Payment and the Judgment Creditors Payment from the proceeds of the sale.

26. It is necessary to sell the West Half of the Nolt Property at a time when a purchaser can have access to the land for the 2019 crop year.

27. Further, the liquidation of the estate's interest in the West Half of the Nolt Property has been the objective of the creditors, including the Official Committee of Unsecured Creditors (the "Committee") throughout the pendency of this case.

#### **Sale Procedures for the West Half of the Nolt Property**

28. The Trustee has previously filed a supplemental application to employ Steffes Auction Group, Inc., ("Steffes") as an auctioneer to sell certain real property owned by the estate. The employment of Steffes was approved by the Court by an order entered on June 5, 2018, [Doc. No. 715].

29. In order to maximize the amount realized by the estate from the sale of the West Half of the Nolt Property, the Trustee, through his duly employed auctioneers Steffes Group, Inc. ("Steffes"), seeks authority to conduct an auction (the "Auction") at such date, time and location as the Trustee, in consultation with Steffes, may determine.

30. The terms and conditions that govern the Auction anticipated by this Motion are set forth in **Exhibit F** attached to this Motion (the "Bidding Terms"). The Trustee, in consultation with Steffes, seeks authority to offer the West Half of the Nolt Property, as legally defined in **Exhibit D**, in Tracts or parcels (each a "Parcel" or collectively "Parcels") which the Trustee

believes will realize the highest bids by prospective purchasers. All bidding will be conducted at the Auction and the Trustee will accept no bids after the Auction has concluded.

31. Steffes shall provide copies of the Bidding Terms (**Exhibit F**) to all parties who are known to have expressed an interest in any of the West Half of the Nolt Property or who Steffes otherwise believes may have an interest in any of the property.

32. At the conclusion of the Auction, the Trustee, in consultation with Steffes, shall identify the highest and best bid (the “Successful Bid”) for each Parcel or Tract. The Trustee shall retain full discretion and right to exercise his business judgment to determine which bid or combination of bids, if any, constitutes the highest or otherwise best bid based on all of the circumstances, and which bid or combination of bids should be selected as the Successful Bid for each Parcel or Tract, all of which are subject to final approval by the Court.

33. Within two (2) business days after the conclusion of the Auction, the Trustee will file a report with the Court setting forth the name of the bidder (the “Successful Bidder”) and the amount of the bid selected as the Successful Bid for each parcel offered at the Auction (the “Auction Report”). On the date the Auction Report is filed with the Court, the Trustee shall serve the Auction Report on counsel for the Debtor, the holders of each lien affecting any of the West Half of the Nolt Property, their respective counsel, counsel for the Official Committee of Unsecured Creditors, and the Office of the United States Trustee.

34. The sale of the estate’s interest in the West Half of the Nolt Property, as contemplated by this Motion, is subject to the rights of first refusal provided the Debtor (the “ROFR”) as provided in the Memorandum of Understanding approved by the Court on March 20, 2017 [Doc. No. 392]. The Trustee believes the filing of the Auction Report shall initiate the



Debtor's fifteen-day period to exercise the ROFR on each Tract or Parcel for which a Successful Bid was reported.

35. In order to exercise the ROFR on any Tract or Parcel sold at the Auction, on or before fifteen (15) days following the filing of the Auction Report the Debtor shall (i) provide written notice to the Trustee of his intention to exercise the ROFR on the specific Tract or Parcel and (ii) remit to the Trustee a nonrefundable deposit of ten percent (10%) of the amount of the Successful Bid for the specific Tract or Parcel in certified or immediately available funds.

36. Within five (5) business days following the expiration of the ROFR, the Trustee shall file a motion with the Court on an expedited basis seeking one or more orders of the Court approving the sale of each Tract or Parcel to the Successful Bidder for that Tract or Parcel or, if the Debtor has properly and timely exercised the ROFR for a specific Tract or Parcel, to the Debtor for that specific Tract or Parcel, and authorizing the Trustee to close all such sales (collectively the "Sale Approval Orders").

37. Each Successful Bidder shall close the sale(s) of its respective Tract(s) or Parcel(s) no later than thirty (30) days after the expiration of the ROFR if the Debtor does not properly and timely exercise the ROFR with respect to that Successful Bidder's respective Parcel(s). The Debtor shall close the sale(s) of the Tract(s) or Parcel(s) for which the Debtor has properly and timely exercised the ROFR no later than sixty-five (65) days after the filing of the Auction Report.

38. All liens, encumbrances, and other interests that attach to a Parcel or Tract shall attach to the proceeds of the sale of that Parcel or Tract with the same validity, priority and extent as the liens, encumbrances, and other interests attached to the Parcel or Tract prior to the closing of the sale.

39. The sales proceeds obtained from such sales shall be used by Heartland Title, LLC (the “Escrow Agent”) to pay all closing costs and expenses of the Auction and sales which are the responsibility of the Trustee, including, but not limited to, the cost of surveys, permits, taxes and other usual and customary closing expenses. Any amounts in excess of such closing costs (the “Net Sales Proceeds”) shall be held by the Escrow Agent pending further order of the Court. To avoid any doubt, that portion of the Net Sales Proceeds attributable to the CSB Payment and Judgement Creditors Payment shall be retained by the Escrow Agent pending the entry of the Sale Approval Order. Upon entry of the Sale Approval Order, the Escrow Agent may pay CSB and the Judgment Creditors without further order of the Court. All proceeds in excess of the CSB Payment and the Judgment Creditors Payment are to be paid to the Trustee without further order of the Court.

#### **RELIEF REQUESTED**

40. The Trustee seeks authority to sell the West Half of the Nolt Property outside of the ordinary course of business pursuant to 11 U.S.C. § 363(b)(1) and free and clear of all liens, encumbrances, and other interests pursuant to 11 U.S.C. § 363(f), in accordance with the procedures set forth in this Motion, but subject to: (i) easements of record; (ii) and the Debtor’s ROFR as provided in the Memorandum of Understanding approved by the Court on March 20, 2017 [Doc. No. 392]. In the Trustee’s business judgment, the Trustee believes the sale of the estate’s interest in the West Half of the Nolt Property is in the best interests of the Debtor’s estate and all parties in interest.

41. The Trustee further requests that the Court order that the stay provided in Bankruptcy Rules 4001 and 6004 does not apply to the immediate implementation of the sale.

42. Pursuant to Local Rule 9013-2(a), this Motion is verified and is accompanied by a Memorandum of Law, a proposed Order, and Proof of Service.

43. Pursuant to Local Rule 9013-2(c), the Trustee gives notice that he may, if necessary, call the following to testify regarding the facts set out in this Motion: Phillip L. Kunkel.

WHEREFORE, the Trustee respectfully requests that the Court enter an order:

1. Granting the Motion.
2. Authorizing the Trustee to sell the estate's interest in the West Half of the Nolt Property free and clear of all liens, encumbrance, and interests pursuant to 11 U.S.C. §§ 363(b) and 363(f) in accordance with the procedures of the Motion, but subject to: (i) easements of record; (ii) and the Debtor's ROFR as provided in the Memorandum of Understanding approved by the Court on March 20, 2017 [Doc. No. 392
3. Waiving the stay provided for in Bankruptcy Rules 4001 and 6004.
4. Such other and further relief as the Court deems just and equitable.

Dated: November 7, 2018

**GRAY, PLANT, MOOTY,  
MOOTY & BENNETT, P.A.**

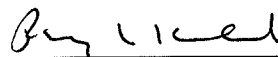
/s/Samuel J.H. Sigelman  
Samuel Sigelman (#331089)  
500 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
Telephone: 612-632-3001  
Fax: 612-632-4001  
Email: Samuel.sigelman@gpmlaw.com

*Attorney for Phillip L. Kunkel, as Trustee*

**VERIFICATION**

I, Phillip L. Kunkel, the trustee in this case, declare under penalty of perjury that the facts contained in the foregoing notice of hearing and motion are true and correct to the best of my knowledge, information, and belief.

Dated: November 7, 2018

By:   
Phillip L. Kunkel  
Chapter 11 Trustee

**Exhibit A**

Nolt Property Legal Description

Parcel 09.023.0010 – 120 acres

The East 120 acres of the Southeast Quarter (SE 1/4) of Section Twenty-three (23), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota.

Parcel No. 09.023.0031 – 80 acres

The East Half of the East Half of the Southwest Quarter (E 1/2 E 1/2 SW 1/4); AND the West Half of the West Half of the Southeast Quarter (W 1/2 W 1/2 SE 1/4) of Section Twenty-three (23), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota.

Parcel No. 09.026.0010 – 199.90 acres

The Northeast Quarter of Section 26, Township 101, Range 14 and the Northwest Quarter (NW 1/4) of Section Twenty-six (26), Township One Hundred One (101), Range Fourteen (14), Mower County, Minnesota, except the following described parcels:

Parcel A: All that part of the South Half (S 1/2) of the Northwest (NW 1/4), Section 26, Township 101 North, Range 14 West, Mower County, Minnesota, described as follows: Commencing at the Southwest corner of the Northwest Quarter (NW 1/4) of said Section Twenty-six (26); thence East a distance of 1155.00 feet on the South line of said Northwest Quarter (NW 1/4), to the point of beginning; thence East a distance of 510.00 feet, on the South line of said Northwest Quarter (NW 1/4); thence North a distance of 854.12 feet, at right angle; thence West a distance of 510.00 feet at a right angle, thence South a distance of 854.12 feet, at a right angle, to the point of beginning; and except:

Parcel B: That part of the Northwest Quarter (NW 1/4) of Section Twenty-six (26), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota, described as follows: Beginning at the Northwest corner of said Northwest Quarter (NW 1/4); thence South 01 degree 22 minutes 29 seconds East (assumed bearing) along the West line of said Northwest Quarter (NW 1/4), 2648.42 feet to the Southwest Corner of said Northwest Quarter (NW 1/4); thence North 88 degrees 58 minutes 50 seconds East long the South line of said Northwest Quarter (NW 1/4), 1155.00 feet; thence North 01 degree 01 minutes 10 seconds West at right angles to said south line, 854.12 feet; thence North 88 degrees 58 minutes 50 seconds East and parallel with said south line 510.00 feet; thence South 01 degree 01 minutes 10 seconds East at right angles to said south line 854.12 feet to said south line of said Northwest Quarter (NW 1/4); thence North 88 degrees 58 minutes 50 seconds East along said south line 300.62 feet; thence North 00 degrees 59 minutes 57 seconds West, 2649 feet more or less to the north line of said Northwest Quarter (NW 1/4); thence westerly along said north line 1983 feet to the point of beginning.

**Exhibit B**

Tract Legal Descriptions (All)

Tract A – 79.37 acres

All that part of the SW1/4 & SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Beginning at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence South 88°57'10" West a distance of 1298.58 feet on the south line of said SW1/4 and SE1/4, to the southwest corner of the E1/2 E1/2 SW1/4 of said Section 23; thence North 00°58'28" West a distance of 2646.54 feet on the west line of said E1/2 E1/2 SW1/4, to the northwest corner of said E1/2 E1/2 SW1/4; thence North 89°03'26" East a distance of 662.16 feet on said north line, to the point of beginning; subject to highway easement on the north side thereof.

Tract B – 121.25 acres

All that part of the SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4, to the point of beginning; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of

120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said south line, to the southeast corner of said SE1/4; thence North 01°00'30" West a distance of 2640.51 feet on the east line of said SE1/4, to the northeast corner of said SW1/4; thence South 89°03'26" West a distance of 1789.67 feet on said north line, to the point of beginning; subject to highway easement on the north & east sides thereof.

Tract C – 107.28 acres

All that part of the NW1/4 & NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence South 88°57'10" West a distance of 1299.54 feet on the north line of said NW1/4 & NE1/4, to a point which is North 00°59'50" West from a point on the south line of said NW1/4 which is 1965.62 feet east of the southwest corner of said NW1/4; thence South 00°59'50" East a distance of 2649.45 feet, to a point on the south line of said NW1/4, which is 1965.62 feet east of the southwest corner of said NW1/4; thence North 88°58'43" East a distance of 1540.05 feet on the south line of said NW1/4 & NE1/4, to the point of beginning; subject to highway easement on the south side thereof.

Tract D – 84.56 acres

All that part of the NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet, to the point of beginning; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of

108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said north line, to the northeast corner of said NE1/4; thence South 01°25'26" East a distance of 2651.01 feet on the east line of said NE1/4, to said southeast corner; thence South 88°58'43" West a distance of 884.53 feet on said south line; thence North 00°47'21" East a distance of 465.37 feet; thence South 89°48'32" West a distance of 560.03 feet, to the point of beginning; subject to highway easement on the east & south sides thereof.

Tract E – 10.00 acres

All that part of the NE1/4 Section 26 Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 884.53 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence South 88°58'43" West a distance of 902.73 feet on said south line; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 873.58 feet on a tangential line; thence South 00°47'21" West a distance of 465.37 feet, to the point of beginning; subject to highway easement on the south side thereof.



**Exhibit C**

Executed Mediation Agreement

**MEDIATION AGREEMENT  
(NOLT PROPERTY)**

This Mediation Agreement (“Agreement”) is entered into on October 31, 2018, by Phillip L. Kunkel, Trustee (the “Trustee”) in the Tracy John Clement Chapter 11 Bankruptcy Case No. 16-31189 (the “Case”), and Conrad Clement (“Conrad”), and Citizens State Bank of Hayfield (“CSB” and along with Conrad and the Trustee, collectively, as the “Parties”).

**RECITALS**

A. On April 11, 2016, Tracy John Clement (the “Debtor”) filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (“the Petition Date”) [Doc. 101].

B. On September 19, 2017, the appointment of the Trustee as the chapter 11 trustee for the Debtor was approved by the United States Bankruptcy Court, District of Minnesota (the “Court”).

C. On the Petition Date, the Debtor and the Debtor’s father, Conrad Clement (“Conrad”), were co-owners of Parcel Nos. 09.023.0010, 09.023.0031, and 09.026.0010 (collectively, the “Nolt Property”), as tenants in common, which are legally described in the attached Exhibit A.

D. The Nolt Property is further subdivided into five tracts (each a “Tract” and collectively “Tracts”), legally described in the attached Exhibit B.

E. The Nolt Property is currently encumbered by: (i) a mortgage executed and delivered jointly by the Debtor, Debtor’s former spouse, Nancy Clement, and Conrad, to and in favor of CSB in the principal amount of \$700,000.00, dated April 16, 2007, recorded in the Office of the County Recorder in Mower County, Minnesota, on April 17, 2007, as Document No. A000558419 (“CSB Joint Mortgage-2”) and (ii) a second mortgage executed and delivered jointly by the Debtor, Nancy, and Conrad, to and in favor of CSB in the principal amount of \$87,500.00

dated April 16, 2007, recorded in the Office of the County Recorder in and for Mower County, Minnesota, on April 17, 2007, as Document No. A000558420 (the “CSB Joint-Mortgage 3, and together with the CSB Joint Mortgage-2, the “CSB Joint Mortgages”).

F. In addition to the CSB Joint Mortgages, Debtor, not personally, but in his capacity as trustee of the Debtor’s Revocable Trust, executed and delivered a mortgage in the principal amount of \$9,163,761.36 in favor of CUSB over the Nolt Property dated May 19, 2015 as Document No. A000619799 (the “CUSB Mortgage”). The CUSB Mortgage was recorded in both Mower and Fillmore counties.

G. Pursuant to the Court’s Order entered on September 12, 2018, (“the CUSB Mortgage Order”), the CUSB Mortgage was avoided under 11 U.S.C. § 544(a)(3), and preserved for the benefit of the bankruptcy estate under 11 U.S.C. § 551 [Doc. 745]. The CUSB Mortgage Order provides that the Nolt Property is not subject to the CUSB Mortgage. CUSB has since filed an appeal to the CUSB Mortgage Order, and such appeal is currently pending in Adversary Case No.18-03045.

H. In addition to the CSB Joint Mortgages and CUSB Mortgage currently on appeal, Conrad has the following judgments docketed against him individually:

- (a) A judgment in the original amount of \$6,000,000.00 in favor of Manaco Corp. and docketed in Fillmore County, Minnesota, on February 25, 2014;
- (b) A judgment in the original amount of \$56,160.76 in favor of Cone Ag Aviation, LLC and docketed in Fillmore County, Minnesota, on May 15, 2018; and
- (c) A judgment in the original amount of \$490,669.96 in favor of Cone Ag, Inc. and docketed in Fillmore County, Minnesota on May 15, 2018.

(collectively, the “Conrad Judgments”). The Conrad Judgments are docketed against the Nolt Property in Fillmore County and Mower County.

I. Conrad has not conveyed his interest in the Nolt Property and continues to hold an undivided interest in the Nolt Property as tenants in common with the estate.

J. The Trustee has initiated an adversary action (Adv. No. 18-03020 (the “Adversary Action”)) seeking authority to sell the Nolt Property pursuant to 11 U.S.C. § 363(h) free and clear of the interest of Conrad.

K. Conrad maintains that the Nolt Property should not be sold free and clear of his interest pursuant to 11 U.S.C. § 363(h), but rather should be partitioned. Conrad maintains that physical partition of the Nolt Property is practicable despite the legal interests of the mortgages and judgement creditors, and that, therefore, the Nolt Property should not be sold free and clear of his interest pursuant to 11 U.S.C. § 363(h).

L. The Trustee maintains that the physical partition of the Nolt Property is not at issue, but rather separating the legal interests of the mortgagees and judgment creditors was legally impracticable pursuant to 11 U.S.C. § 363(h).

N. The Parties were ordered to attend mediation with the Honorable William J. Fisher (the “Mediation”) [Doc. 755].

NOW, THEREFORE, in consideration of the mutual promises and undertakings of the Parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, it is hereby agreed by the Parties as follows:

1. **Mediation Agreement Terms:** The parties agree to the following:

(a) Conrad shall transfer his undivided one-half interest in Tract A and Tract C (collectively, the “West Half of the Nolt Property”), as legally described in Exhibit B, to the estate by executing and delivering to the Trustee a Quitclaim Deed (the “West Half of the Nolt Property

Deed”) substantially in the form attached to this Agreement as Exhibit C within five (5) days of entry of an order approving the terms of this Agreement (the “Approval Order”).

(b) Upon the Trustee’s receipt of the West Half of the Nolt Property Deed, the Trustee shall transfer the estate’s undivided one-half interest in Tract B, Tract D, and Tract E (collectively, the “East Half of the Nolt Property”), as legally described in Exhibit B, to Conrad by executing and delivering to Conrad an Instrument of Transfer of Real Property (the “East Half of the Nolt Property Deed”) substantially in the form attached to this Agreement as Exhibit D.

(c) Upon the exchange of the conveyancing documents set forth above, the Trustee will seek Court authorization to sell the West Half of the Nolt Property pursuant to Bankruptcy Code §§ 363(b) and (f) as soon as practicable and will diligently pursue such sales. All liens and encumbrances, except easements of record, shall attach to the proceeds of such a sale with the same validity, priority and extent and such liens and encumbrances may have had prior to such sale.

(d) CSB will release the CSB Joint Mortgages on Tract A and Tract C as legally described in Exhibit B, upon the Trustee’s payment of \$360,000.00, plus interest upon such amount at 6 % that will accrue from the date the court enters an Approval Order (as defined below) to the date of the closing of the sale of both Tract A and Tract C, to CSB (the “CSB Payment”). The Trustee, or his agent, without further order of the Court, may make the CSB Payment. CSB will maintain its CSB Joint Mortgages on Tract B, Tract D, and Tract E as legally described in Exhibit B. Nothing in this Agreement shall affect, impair, modify or release any of the terms and obligations set forth in the CSB Joint Mortgages that shall remain binding upon Conrad and Conrad’s interest in the East Half of the Nolt Property. The CSB Payment will be made by the

Trustee, or his agent, from the sales proceeds to be derived from the sale of the West Half of the Nolt Property.

(e) This Agreement is subject to the Trustee negotiating an acceptable agreement with Cone Ag Aviation, LLC, Cone Ag, Inc., and Manaco Corp. (collectively, the “Conrad Judgment Creditors”) to release their respective judgement liens against Conrad’s interest in Tract A and Tract C, as legally described in Exhibit B. The Trustee, or his agent, without further order of the Court, may make a payment to the Conrad Judgment Creditors to obtain such releases (the “Judgment Creditors Payment”). The Conrad Judgment Creditors will maintain their respective judgment liens as provided by applicable law in the Conrad Judgments against Tract B, Tract D, and Tract E as legally described in Exhibit B. Nothing in this Agreement shall affect, impair, modify or release any of the rights of the Conrad Judgment Creditors or the Conrad Judgment Liens that shall remain binding upon Conrad and Conrad’s interest in the East Half of the Nolt Property. The Judgment Creditors Payment will be made by the Trustee, or his agent, from the sales proceeds to be derived from the sale of the West Half of the Nolt Property.

2. **Bankruptcy Court Approval:** This Agreement is binding upon the Parties, but is further subject to Court approval pursuant to Bankruptcy Rules 6007(a) and 9019(b). Counsel for the Trustee shall promptly file a motion seeking entry of an order by the Court approving the Agreement pursuant to Bankruptcy Rule 9019 (the “Approval Order”). If an objection is made to the motion, and the Court denies entry of an order approving the Agreement, this Agreement shall be null and void; and the Parties agree that the Trustee will not be prejudiced and can maintain an adversary proceeding against Conrad, CSB and CUSB.

3. **Debtor’s Right of First Refusal.** The sale of the West Half of the Nolt Property contemplated by this Agreement will be subject to the rights of first refusal of the Debtor

(“Debtor’s ROFR”) provided in the Memorandum of Understanding approved by the Court on March 20, 2017 [Doc. No. 392]. The entry of an order by the Court approving any such sale by the Trustee shall initiate the Debtor’s fifteen (15) day period to exercise the Debtor’s ROFR on the West Half of the Nolt Property.

4. **Release of the Trustee:** As part of the consideration of this Agreement, Conrad and CSB hereby release and forever discharge the Trustee and his officers, employees, directors, holding company, shareholders, stockholders, attorneys, and agents thereof, of and from all manner of actions, causes of action, lawsuits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands, whatsoever, at law or in equity, and relating to the facts and allegations outlined in this Agreement, or anything else, that she had, now has, or have made claim to have against any such party for or by reason of any act, omission, matter, cause, or thing whatsoever from beginning of time to and including the Effective Date of this Agreement.

5. **Mediation Agreement Effective Date:** This Agreement shall become effective on the last of the following to occur: (a) it has been duly executed by both Parties; and (b) the Court enters the Approval Order (the “Effective Date”).

6. **Dismissal of the Adversary Action:** Subsequent to the entry of the Approval Order, the parties agree to enter into a Stipulation to Dismiss the Adversary Action to be filed with the court.

7. **Authority:** The Parties hereby declare that the signor for each party has the authority to sign this document and bind those business entities to all the terms contained in this Agreement, subject, in the case of the Trustee, to Bankruptcy Court approval.

8. **Entire Agreement:** This Agreement represents a single, integrated, written contract expressing the entire agreement of the parties hereto with respect to the subject matter hereof. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any party to this Agreement except as expressly set forth herein. All prior discussions and negotiations have been and are merged and integrated into, and are superseded by, this Agreement. This Agreement may be modified only by written agreement executed by each of the Parties.

9. **Construction:** This Agreement constitutes a negotiated document. In the case of any alleged ambiguity in any term of this Agreement, such term shall not be construed in favor of or against any party because of the participation of such party or its attorneys in the negotiation or drafting of this Agreement. The execution of this Agreement shall not be construed as an admission of fault or liability of any kind by any party, it being understood and acknowledged that this Agreement is being made purely upon a compromise basis by the parties as to disputed claims and potential counterclaims and in an effort to rid the parties of costly and time-consuming litigation.

10. **Counterparts:** This Agreement may be executed and delivered in two or more counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument. This Agreement may be executed and then delivered via facsimile or email, and delivery shall be completed as to the sender, upon the receiver's receipt of the executed copy bearing the signature of the sender. This Agreement shall be deemed to be executed on the last such day any such counterpart is executed.

11. **Severability:** In the event that any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions hereof remain in full force and effect.




12. **Minnesota Law and Jurisdiction**: This Agreement is governed by and construed in accordance with the substantive laws of the State of Minnesota. The Parties agree that the U.S. Bankruptcy Court, District of Minnesota, has jurisdiction over this matter for purposes of enforcement of this Agreement.

13. **Attorneys' Fees and Costs in Connection with Matter**: The Parties are responsible for the payment of all attorneys' fees and costs incurred by their respective attorneys in connection with the negotiation of the terms of this Agreement. The estate will not be responsible for any transfer taxes, recording fees, closing fees or other charges or expenses associated with the transfer of the East Half of the Nolt Property contemplated by this Agreement.

14. **Representations and Warranties**: The Parties hereby represent and warrant that they consulted with and received advice from legal counsel of their choice with respect to this Agreement; or they have had an opportunity to consult with legal counsel of their choice and have made the decision not to consult with legal counsel, but have nonetheless decided to execute this Agreement and have done so voluntarily and without duress.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first written above.

  
\_\_\_\_\_  
Phillip L. Kunkel  
Trustee

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first written above.




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Conrad Clement

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first written above.

CITIZEN STATE BANK OF HAYFIELD

By:   
Its: President

**Exhibit A**

Parcel 09.023.0010 – 120 acres

The East 120 acres of the Southeast Quarter (SE 1/4) of Section Twenty-three (23), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota.

Parcel No. 09.023.0031 – 80 acres

The East Half of the East Half of the Southwest Quarter (E 1/2 E 1/2 SW 1/4); AND the West Half of the West Half of the Southeast Quarter (W 1/2 W 1/2 SE 1/4) of Section Twenty-three (23), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota.

Parcel No. 09.026.0010 – 199.90 acres

The Northeast Quarter of Section 26, Township 101, Range 14 and the Northwest Quarter (NW 1/4) of Section Twenty-six (26), Township One Hundred One (101), Range Fourteen (14), Mower County, Minnesota, except the following described parcels:

Parcel A: All that part of the South Half (S 1/2) of the Northwest (NW 1/4), Section 26, Township 101 North, Range 14 West, Mower County, Minnesota, described as follows: Commencing at the Southwest corner of the Northwest Quarter (NW 1/4) of said Section Twenty-six (26); thence East a distance of 1155.00 feet on the South line of said Northwest Quarter (NW 1/4), to the point of beginning; thence East a distance of 510.00 feet, on the South line of said Northwest Quarter (NW 1/4); thence North a distance of 854.12 feet, at right angle; thence West a distance of 510.00 feet at a right angle, thence South a distance of 854.12 feet, at a right angle, to the point of beginning; and except:

Parcel B: That part of the Northwest Quarter (NW 1/4) of Section Twenty-six (26), Township One Hundred One (101) North, Range Fourteen (14) West, Mower County, Minnesota, described as follows: Beginning at the Northwest corner of said Northwest Quarter (NW 1/4); thence South 01 degree 22 minutes 29 seconds East (assumed bearing) along the West line of said Northwest Quarter (NW 1/4), 2648.42 feet to the Southwest Corner of said Northwest Quarter (NW 1/4); thence North 88 degrees 58 minutes 50 seconds East long the South line of said Northwest Quarter (NW 1/4), 1155.00 feet; thence North 01 degree 01 minutes 10 seconds West at right angles to said south line, 854.12 feet; thence North 88 degrees 58 minutes 50 seconds East and parallel with said south line 510.00 feet; thence South 01 degree 01 minutes 10 seconds East at right angles to said south line 854.12 feet to said south line of said Northwest Quarter (NW 1/4); thence North 88 degrees 58 minutes 50 seconds East along said south line 300.62 feet; thence North 00 degrees 59 minutes 57 seconds West, 2649 feet more or less to the north line of said Northwest Quarter (NW 1/4); thence westerly along said north line 1983 feet to the point of beginning.

**Exhibit B**

Tract A – 79.37 acres

All that part of the SW1/4 & SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Beginning at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence South 88°57'10" West a distance of 1298.58 feet on the south line of said SW1/4 and SE1/4, to the southwest corner of the E1/2 E1/2 SW1/4 of said Section 23; thence North 00°58'28" West a distance of 2646.54 feet on the west line of said E1/2 E1/2 SW1/4, to the northwest corner of said E1/2 E1/2 SW1/4; thence North 89°03'26" East a distance of 662.16 feet on said north line, to the point of beginning; subject to highway easement on the north side thereof.

Tract B – 121.25 acres

All that part of the SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4, to the point of beginning; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said south line, to the southeast corner

of said SE1/4; thence North 01°00'30" West a distance of 2640.51 feet on the east line of said SE1/4, to the northeast corner of said SW1/4; thence South 89°03'26" West a distance of 1789.67 feet on said north line, to the point of beginning; subject to highway easement on the north & east sides thereof.

Tract C – 105.34 acres

All that part of the NW1/4 & NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence South 88°57'10" West a distance of 1299.54 feet on the north line said NW1/4 & NE1/4, to a point which is North 00°59'50" West from a point on the south line of said NW1/4 which is 1965.62 feet east of the southwest corner of said NW1/4; thence South 00°59'50" East a distance of 2649.45 feet, to a point on the south line of said NW1/4, which is 1965.62 feet east of the southwest corner of said NW1/4; thence North 88°58'43" East a distance of 1540.05 feet on the south line of said NW1/4 & NE1/4, to the point of beginning; subject to highway easement on the south side thereof.

Tract D - \_\_\_\_ acres

All that part of the NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet, to the point of beginning; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North

17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said north line, to the northeast corner of said NE1/4; thence South 01°25'26" East a distance of 2651.01 feet on the east line of said NE1/4, to said southeast corner; thence South 88°58'43" West a distance of 884.53 feet on said south line; thence North 00°47'21" East a distance of 465.37 feet; thence South 89°48'32" West a distance of 560.03 feet, to the point of beginning; subject to highway easement on the east & south sides thereof.

Tract E – \_\_\_ acres

All that part of the NE1/4 Section 26 Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 884.53 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence South 88°58'43" West a distance of 902.73 feet on said south line; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 873.58 feet on a tangential line; thence South 00°47'21" West a distance of 465.37 feet, to the point of beginning; subject to highway easement on the south side thereof.



**Exhibit C**

**QUITCLAIM DEED**

**STATE DEED TAX DUE HEREON \$**\_\_\_\_\_

**Date:** \_\_\_\_\_, 2018

FOR VALUABLE CONSIDERATION, Conrad Clement, Grantor, hereby conveys and quitclaims to PHILLIP L. KUNKEL, as the Chapter 11 Trustee of the Tracy J. Clement d/b/a Clement Farms bankruptcy estate and as representative of the estate of the Debtor under 11 U.S.C. § 323(a) in Bankruptcy Case No. 16-31189, such real property in Mower and Fillmore County, Minnesota, legally described as follows:

Tract A – 79.37 acres

All that part of the SW1/4 & SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Beginning at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence South 88°57'10" West a distance of 1298.58 feet on the south line of said SW1/4 and SE1/4, to the southwest corner of the E1/2 E1/2 SW1/4 of said Section 23; thence North 00°58'28" West a distance of 2646.54 feet on the west line of said E1/2 E1/2 SW1/4, to the northwest corner of said E1/2 E1/2 SW1/4; thence North 89°03'26" East a distance of 662.16 feet on said north line, to the point of beginning; subject to highway easement on the north side thereof.

Tract C – 107.28 acres

All that part of the NW1/4 & NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence South 88°57'10" West a distance of 1299.54 feet on the north line of said NW1/4 & NE1/4, to a point which is North 00°59'50" West from a point on the south line of said NW1/4 which is 1965.62 feet east of the southwest corner of said NW1/4; thence South 00°59'50" East a distance of 2649.45 feet, to a point on the south line of said NW1/4, which is 1965.62 feet east of the southwest corner of said NW1/4; thence North 88°58'43" East a distance of 1540.05 feet on the south line of said NW1/4 & NE1/4, to the point of beginning; subject to highway easement on the south side thereof.

Together with all hereditaments and appurtenances belonging thereto.

Dated effective as of the \_\_\_\_ day of November, 2018.

GRANTOR:

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Conrad Clement

**Exhibit D**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re: Bankruptcy Case 16-31189

Tracy John Clement, Chapter 11

Debtor.

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**CONVEYANCE OF REAL PROPERTY OF THE ESTATE**

Dated: November \_\_\_\_, 2018 State Deed Tax Due Hereon: \$\_\_\_\_\_

eCRV I.D. No.: \_\_\_\_\_

FOR VALUABLE CONSIDERATION, PHILLIP L. KUNKEL, the Chapter 11 Trustee of the Tracy J. Clement d/b/a Clement Farms bankruptcy estate and as the representative of the estate of the Debtor under 11 U.S.C. § 323(a) in the above-titled bankruptcy case, which case is now pending, Grantor, hereby conveys to CONRAD CLEMENT, Grantee, real property in Mower and Fillmore Counties, Minnesota, together with all hereditaments and appurtenances belonging thereto, described as follows:

Tract B – 121.25 acres

All that part of the SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4, to the point of beginning; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a

nontangential curve, concave to the Southeast with a central angle of  $40^{\circ}20'40''$ , a radius of 527.93 feet, a chord bearing of South  $23^{\circ}58'12''$  West, and a chord length of 364.11 feet; thence South  $03^{\circ}47'52''$  West a distance of 129.00 feet on a nontangential line; thence South  $07^{\circ}14'42''$  East a distance of 318.75 feet; thence South  $10^{\circ}19'24''$  East a distance of 205.77 feet; thence South  $32^{\circ}46'09''$  East a distance of 178.85 feet; thence South  $49^{\circ}37'33''$  East a distance of 120.43 feet; thence South  $34^{\circ}21'33''$  East a distance of 69.31 feet, to the south line of said SE1/4; thence North  $88^{\circ}57'10''$  East a distance of 2008.02 feet on said south line, to the southeast corner of said SE1/4; thence North  $01^{\circ}00'30''$  West a distance of 2640.51 feet on the east line of said SE1/4, to the northeast corner of said SW1/4; thence South  $89^{\circ}03'26''$  West a distance of 1789.67 feet on said north line, to the point of beginning; subject to highway easement on the north & east sides thereof.

Tract D – 84.56 acres

All that part of the NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South  $88^{\circ}58'43''$  West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4; thence North  $04^{\circ}36'55''$  West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of  $94^{\circ}25'27''$ ; thence North  $89^{\circ}48'32''$  East a distance of 313.55 feet, to the point of beginning; thence North  $10^{\circ}14'57''$  East a distance of 133.32 feet; thence North  $32^{\circ}46'57''$  East a distance of 83.41 feet; thence North  $00^{\circ}54'42''$  East a distance of 156.46 feet; thence North  $03^{\circ}05'30''$  West a distance of 145.97 feet; thence North  $01^{\circ}07'34''$  East a distance of 155.64 feet; thence North  $01^{\circ}41'09''$  West a distance of 108.78 feet; thence North  $02^{\circ}20'10''$  East a distance of 179.37 feet; thence North  $05^{\circ}09'04''$  West a distance of 137.88 feet; thence North  $25^{\circ}47'55''$  West a distance of 81.37 feet; thence North  $17^{\circ}34'46''$  West a distance of 109.33 feet; thence North  $29^{\circ}36'44''$  West a distance of 126.28 feet; thence North  $38^{\circ}51'08''$  West a distance of 260.19 feet; thence North  $24^{\circ}25'41''$  West a distance of 224.56 feet; thence North  $40^{\circ}50'37''$  West a distance of 309.35 feet; thence North  $34^{\circ}21'33''$  West a distance of 185.36 feet, to the north line of said NE1/4; thence North  $88^{\circ}57'10''$  East a distance of 2008.02 feet on said north line, to the northeast corner of said NE1/4; thence South  $01^{\circ}25'26''$  East a distance of 2651.01 feet on the east line of said NE1/4, to said southeast corner; thence South  $88^{\circ}58'43''$  West a distance of 884.53 feet on said south line; thence North  $00^{\circ}47'21''$  East a distance of 465.37 feet; thence South  $89^{\circ}48'32''$  West a distance of 560.03 feet, to the point of beginning; subject to highway easement on the east & south sides thereof.

Tract E – 10.00 acres

All that part of the NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 884.53 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence South 88°58'43" West a distance of 902.73 feet on said south line; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 873.58 feet on a tangential line; thence South 00°47'21" West a distance of 465.37 feet, to the point of beginning; subject to highway easement on the south side thereof.

Dated effective as of the \_\_\_\_ day of November, 2018.

GRANTOR:

\_\_\_\_\_  
Phillip L. Kunkel  
Trustee of the Tracy John Clement Bankruptcy Estate

STATE OF MINNESOTA         )  
  ) ss.  
COUNTY OF STEARNS        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November 2018, by Phillip L. Kunkel, the Chapter 11 Trustee of the Tracy John Clement Bankruptcy Estate in the above-titled bankruptcy case.

\_\_\_\_\_  
Notary Public

**Exhibit D**

West Half of the Nolt Property – Tract A and Tract C

Tract A – 79.37 acres

All that part of the SW1/4 & SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Beginning at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence South 88°57'10" West a distance of 1298.58 feet on the south line of said SW1/4 and SE1/4, to the southwest corner of the E1/2 E1/2 SW1/4 of said Section 23; thence North 00°58'28" West a distance of 2646.54 feet on the west line of said E1/2 E1/2 SW1/4, to the northwest corner of said E1/2 E1/2 SW1/4; thence North 89°03'26" East a distance of 662.16 feet on said north line, to the point of beginning; subject to highway easement on the north side thereof.

Tract C – 107.28 acres

All that part of the NW1/4 & NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of

224.56 feet; thence North  $40^{\circ}50'37''$  West a distance of 309.35 feet; thence North  $34^{\circ}21'33''$  West a distance of 185.36 feet, to the north line of said NE1/4; thence South  $88^{\circ}57'10''$  West a distance of 1299.54 feet on the north line of said NW1/4 & NE1/4, to a point which is North  $00^{\circ}59'50''$  West from a point on the south line of said NW1/4 which is 1965.62 feet east of the southwest corner of said NW1/4; thence South  $00^{\circ}59'50''$  East a distance of 2649.45 feet, to a point on the south line of said NW1/4, which is 1965.62 feet east of the southwest corner of said NW1/4; thence North  $88^{\circ}58'43''$  East a distance of 1540.05 feet on the south line of said NW1/4 & NE1/4, to the point of beginning; subject to highway easement on the south side thereof.

**Exhibit E**

East Half of the Nolt Property – Tract B, Tract D, and Tract E

Tract B – 121.25 acres

All that part of the SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4, to the point of beginning; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet;

thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said south line, to the southeast corner of said SE1/4; thence North 01°00'30" West a distance of 2640.51 feet on the east line of said SE1/4, to the northeast corner of said SW1/4; thence South 89°03'26" West a distance of 1789.67 feet on said north line, to the point of beginning; subject to highway easement on the north & east sides thereof.

Tract D – 84.56 acres

All that part of the NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet, to the point of beginning; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet;



thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of 224.56 feet; thence North 40°50'37" West a distance of 309.35 feet; thence North 34°21'33" West a distance of 185.36 feet, to the north line of said NE1/4; thence North 88°57'10" East a distance of 2008.02 feet on said north line, to the northeast corner of said NE1/4; thence South 01°25'26" East a distance of 2651.01 feet on the east line of said NE1/4, to said southeast corner; thence South 88°58'43" West a distance of 884.53 feet on said south line; thence North 00°47'21" East a distance of 465.37 feet; thence South 89°48'32" West a distance of 560.03 feet, to the point of beginning; subject to highway easement on the east & south sides thereof.

Tract E – 10.00 acres

All that part of the NE1/4 Section 26 Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 884.53 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence South 88°58'43" West a distance of 902.73 feet on said south line; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 873.58 feet on a tangential line; thence South 00°47'21" West a distance of 465.37 feet, to the point of beginning; subject to highway easement on the south side thereof.

**Exhibit F**  
Bidding Terms

# TERMS & CONDITIONS.

The Terms and Conditions of Sale are set forth upon this page in this Buyer's Prospectus and the Earnest Money Receipt and Purchase Agreement (the "**Purchase Agreement**"). The information set forth is believed to be accurate. However, the owner of the properties and Steffes Group make no warranties or guaranties expressed or implied. Information contained in this document was collected from sources deemed to be reliable and is true and correct to the best of the writer's knowledge. Auctioneers and owners will not be held responsible for advertising discrepancies or inaccuracies.

## **ALL ANNOUNCEMENTS ON AUCTION DAY TAKE PRECEDENCE OVER PREVIOUSLY ADVERTISED INFORMATION.**

Prospective buyers are advised to consult with an attorney of their choice with respect to the purchase of any real property including but not limited to, seeking legal advice from their own attorney regarding disclosures and disclaimers set forth below.

### **TERMS & CONDITIONS**

- All capitalized terms not defined herein shall have the meaning ascribed to them in the Purchase Agreement.
- Auction staff will be at the sale site approximately one hour prior to sale time.
- The successful bidder will be required to sign a Purchase Agreement at the close of the real estate auction.
- A total non-refundable deposit of **10%** of the Purchase Price (as defined in the Purchase Agreement) will be required. Those funds will be placed in the Steffes Group Auction Trust Account as good faith money until closing. The good faith money is fully earned by the Seller and non-refundable under all circumstances other than: (i) Seller's failure or refusal to tender to the successful bidder a Bankruptcy Local Form 6004-1(f) conveying the property to Buyer by which title in accordance with the terms and conditions of the Purchase Agreement could be conveyed to the successful bidder; (ii) failure of the Bankruptcy Court to approve the sale to the of the property to the Buyer; or (iii) the Debtor (as defined in the Purchase Agreement) has properly and timely exercised the ROFR (as defined below) with respect to the property.
- Purchasers who are unable to close, other than as a result of the Debtor's proper and timely exercise of the ROFR rights with respect to the property, will be in default and the deposit money will be forfeited.
- Balance of the purchase price must be paid in full in cash by certified or other immediately available funds at Closing (as defined in the Purchase Agreement).
- Within fifteen (15) business days of the auction date, the Seller shall cause a commitment for an A.L.T.A. owner's policy of title insurance to be issued at Closing (as defined in the Purchase Agreement), or as soon as possible thereafter, in the amount of the total Purchase Price, which commitment shall be issued by Old Republic National Title Insurance Company ("**Title**"), with an effective date no earlier than the date of auction date, wherein Title shall agree to insure the title in the condition required by these Terms and Conditions and the Purchase Agreement (the "**Title Commitment**") to be delivered to the Buyer. Together with the Title Commitment, Title shall deliver

to the Buyer copies of all documents recorded in the chain of title which are disclosed by Title as exceptions to title. The Seller shall pay the cost of the Title Commitment, and Buyer shall pay the costs of issuance of any owner's or lender's title insurance policies.

- Seller will convey property by Bankruptcy Local Form 6004-1(f).
- Taxes and installments of special assessments payable in 2018, and all prior years will be paid by Seller. Any taxes and installments of special assessments payable in any year subsequent to 2018, to be paid by Buyer. Real Estate Taxes are subject to reassessment under new owner.
- Closing Agent Fee will be shared equally between Buyer and Seller.
- **Please note the bidding will not close and property will not be sold until everyone has had the opportunity to make his or her highest and best bid.**
- The auction sale is for registered bidders and their guests. All bidding is open to the public and the property is offered for sale to qualified purchasers without regard to sex, race, color, religion, natural origin, or handicap.

**THIS IS A 5% BUYER'S PREMIUM AUCTION. FIVE PERCENT WILL BE ADDED TO THE FINAL BID TO ARRIVE AT THE CONTRACT SALE PRICE.**

**THE PROPERTY WILL BE SOLD "AS-IS", "WITH ALL FAULTS", WITH NO WARRANTIES EXPRESSED OR IMPLIED.**

- The Property being purchased and sold "**AS-IS**," "**WITH ALL FAULTS**," and without any representations or warranties of any kind by the Seller, express or implied, and all such representations and warranties are expressly hereby disclaimed by Seller and hereby waived by the Buyer. The Buyer is purchasing the property based upon his/her/its own investigation and inquiry and is not relying on any representation of Seller or other person, and Buyer agrees to accept the property, including the property's extent, condition and completeness, and shall have no claim against Seller or the Debtor's bankruptcy estate on account of any of the foregoing.

**THE PROPERTY WILL BE SOLD FREE AND CLEAR OF ALL LIENS, ENCUMBRANCES, AND OTHER INTERESTS, BUT SUBJECT TO THE RIGHT OF FIRST REFUSAL.**

- The property will be sold free and clear of all liens, encumbrances, and other interests, but subject to easements of record and the Debtor's right of first refusal (the "**ROFR**") provided in that certain Memorandum of Understanding approved by the bankruptcy court on March 20, 2017 [Doc. No. 392]. In order to exercise the ROFR on any property, on or before fifteen (15) days following the filing of the auction report the Debtor shall (a) provide written notice to the Seller of his intention to exercise the ROFR on the specific property and (b) remit to the Seller a nonrefundable deposit of ten percent (10%) of the amount of the successful bid for the specific property in certified funds.

**THE PROPERTY WILL BE SOLD SUBJECT TO BANKRUPTCY COURT APPROVAL.**

- Within five (5) business days following the expiration of the ROFR, the Seller shall file a motion with the bankruptcy court on an expedited basis seeking one or more orders of the court approving the sale of each property to the successful bidder for that property or, if the Debtor has properly and timely exercised the ROFR for a specific property, to the Debtor for that specific property, and authorizing the Seller to close all such sales (collectively, the "Sale Approval Orders").

**PROPERTY SOLD WITHOUT WARRANTY**

- All dimensions and descriptions are approximations only based upon the best information available and are subject to possible variation. Sketches may not be drawn to scale, and photographs may not depict the current condition of the property. Bidders should inspect the property and review all the pertinent documents and information available, as each bidder is responsible for evaluation of the property and shall not rely upon the Seller, Broker or Auctioneer, their Employees or Agents. The property will be sold **“AS-IS”**, **“WITH ALL FAULTS”**, and without any warranties or representations, express or implied.

### **SUCCESSFUL BIDDER**

- The successful bidder of the property shall be determined by competitive bidding. Should any dispute arise between bidders, the auctioneer shall have the right to make the final decision to either determine the successful bidder or to re-offer the property that is in dispute. The auction will be recorded, and the auctioneer’s records shall be conclusive in all respects.

### **CLOSING**

- The successful bidder will be required, at the close of the auction, to complete the Purchase Agreement. A sample Purchase Agreement is included in this Prospectus. The balance of the Purchase Price is due in cash by certified or other immediately available funds at Closing (as defined in the Purchase Agreement). Closing will take place through Heartland Title.

### **SELLER’S PERFORMANCE**

- The Seller has agreed to the terms of the sale as published. However, the Broker and Auctioneer make no warranties or guaranties as to the Seller’s performance.

### **AGENCY DISCLOSURE**

- **Steffes Group, Inc. is representing the Seller.**

### **POSSESSION**

- Possession will be at Closing (as defined in the Purchase Agreement) unless otherwise agreed to in writing and agreeable by Buyer and Seller.

### **ENVIRONMENTAL DISCLAIMER**

- The Seller, Broker and Auctioneers do not warrant with respect to the existence or nonexistence of any pollutants, contaminants or hazardous waste prohibited by federal, state or local law. Buyer is responsible for inspection of the property prior to purchase for conditions including but not limited to water quality, and environmental conditions that may affect the usability or value of the property. No warranties are made as to the existence or nonexistence of water wells on the property, or the condition of any wells.

### **SELLER DISCLAIMER OF ALL REPRESENTATIONS AND WARRANTIES**

- The Seller makes no representations or warranties whatsoever regarding the property. By submitting a bid in this auction, Buyer acknowledges and agrees as follows: (i) the Seller is the court appointed chapter 11 trustee of the bankruptcy estate of Tracy J. Clement, *In re Tracy J. Clement*, United States Bankruptcy Court for the District of Minnesota, Bankruptcy Case No. 16-31189; (ii) the Seller has never been in possession of or occupied any of the property subject to this auction, and does not have any particular knowledge with respect to any property subject to

this auction or its extent, condition or completeness; and (iii) the Seller has no knowledge of the extent and ownership of the furniture, fixtures, equipment and other personal property located on any of the property subject to this auction, and the Seller, therefore, makes no representations, warranties or covenants of any kind, nature, or extent with regard to the furniture, fixtures, equipment and other personal property. The property subject to this auction being purchased and sold in accordance with these Terms and Conditions and the Purchase Agreement is being purchased and sold “**AS-IS,**” “**WITH ALL FAULTS,**” and without any representations or warranties of any kind by Seller, express or implied, and all such representations and warranties are expressly hereby disclaimed by Trustee and hereby waived by Buyer. The Buyer is purchasing the property based upon his/her/its own investigation and inquiry and is not relying on any representation of Seller or other person, and Buyer has agreed to accepted the property, including the property’s extent, condition and completeness, and shall have no claim against Seller or the Debtor’s bankruptcy estate on account of any of the foregoing. The Seller hereby disclaims all warranties, express or implied, contractual, statutory or otherwise, and the Buyer hereby waives all such warranties and claims of warranty.

### **EASEMENTS AND SURVEY**

- The property to be sold is subject to any restrictive covenants or easements of record and any results that an accurate survey may show.

### **BIDDING PROCEDURE**

**As a buyer you have two objectives to accomplish:**

1. Purchasing the property.
2. Purchasing the property at a price you can afford.

**How is this accomplished?**

1. Estimate comparative value
2. Experienced buyers always decide what to pay before the bidding begins.
3. Inspect the property carefully.
4. Compare with other properties available in the area.
5. Check the selling price of previously sold properties.
6. Discuss your buying plans with a lender. Have your financing arrangements made in advance.
7. **This sale is not subject to financing.**

### **AVOID OVER OR UNDER BIDDING**

- Always bid on a property toward a price.
- Establish that price before the bidding begins. By doing this you will avoid getting caught up in the auction excitement and pay a price that is too high for the market or one that you cannot afford. It will also make you confident to bid to your established fair market value. Many bidders who do not plan ahead end up with regrets after the auction because they were too nervous or uncertain about their judgment to bid.

### **THE BIDDING STRATEGY**

- Research and know the value of the property.

- Have your financing arranged before the auction.
- Establish your highest and best bid **before** the bidding begins.
- Make your bids promptly to force other bidders up or out without delay.

GP:4828-1256-2522 v2

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Case No. 16-31189

Tracy John Clement,

Chapter 11

Debtor.

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**MEMORANDUM IN SUPPORT OF MOTION FOR SALE OF THE ESTATE'S  
INTEREST IN THE WEST HALF OF THE NOLT PROPERTY FREE AND CLEAR OF  
LIENS, ENCUMBRANCES, AND OTHER INTERESTS**

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Phillip L. Kunkel, the Trustee, submits this Memorandum of Law in support of his Motion for Sale of the Estate's Interest in the West Half of the Nolt Property Free and Clear of Liens, Encumbrances, and Other Interests (the "Motion") pursuant to 11 U.S.C. §§ 363(b) and 363(f).

**FACTS**

The factual background is set forth in the verified Motion. All capitalized terms not otherwise defined have the meaning ascribed to them in the Motion.

**ARGUMENT**

**I. THE SALE OF THE ESTATE'S INTEREST IN THE WEST HALF OF THE NOLT PROPERTY SATISFIES 11 U.S.C. § 363(b)(1).**

Section 363(b)(1) of the Bankruptcy Code provides that the trustee "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1); see also *In re Hanson Industries*, 90 B.R. 405 (Bankr. D. Minn. 1988). Once a trustee articulates a valid business justification for a proposed sale of assets of the estate, the business judgment rule presumes that, in making the business decision, the trustee



acted on an informed basis, in good faith, and in the honest belief that the action was in the best interests of the company. *In re SNA Nut Company*, 186 B.R. 98 (Bankr. N.D. Ill 1995).

Here, the Trustee has determined, after a reasonable investigation under the circumstances, that the proposed sale of the West Half of the Nolt Property, as legally defined in **Exhibit D** attached to the Motion, is beneficial to the estate. The value of the estate's interest in the West Half of the Nolt Property is minimal at best. Selling the West Half of the Nolt Property will allow the estate to recover a fair and reasonable amount for the property. Further, the sale of the West Half of the Nolt Property will allow the Trustee to pay the CSB Payment and Judgment Creditors Payment in accordance with the terms of the Mediation Agreement.

**II. THE TRUSTEE MAY SELL THE WEST HALF OF THE NOLT PROPERTY FREE AND CLEAR OF LIENS, ENCUMBRANCES, AND INTERESTS UNDER 11 U.S.C. § 363(f).**

Section 363(f) of the Bankruptcy Code permits a trustee to sell property “free and clear of any interest in such property of an entity other than the estate” if one of the following five criteria is met:

- (1) applicable nonbankruptcy law permits the sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f); *see also Lindsey v. Ipock*, 732 F.2d 619, 622 (8th Cir. 1984). Courts consider the amount of the lien as well as to whether the estate has any equity in the property in approving sale. *In re Riverside Inv. Partnership*, 674 F.2d 634, 640 (7th Cir. 1982). The failure to object to a

proposed sale could be construed as consent to the sale. *Veltman v. Whetzal*, 93 F.3d 517, 521-522 (8th Cir. 1996)

The criteria set forth in section 363(f)(2) is obviously present here. The lienholders of the West Half of the Nolt Property, CSB and the Conrad Judgment Creditors, consent to the sale, which satisfies 11 U.S.C. § 363(f)(2). CSB and the Conrad Judgment Creditors consent to the sale because that is how the Trustee will be able to satisfy the CSB Payment and the Judgment Creditors Payment. Consequently, the sale of the West Half of the Nolt Property may be sold free and clear of the liens, encumbrances, and other interests under 11 U.S.C. § 363(f).

### **CONCLUSION**

For the foregoing reasons, the Trustee respectfully requests that the Motion be granted and that the sale of the West Half of the Nolt Property free and clear of liens, encumbrances, and interests be approved.

Dated: November 7, 2018

**GRAY, PLANT, MOOTY,  
MOOTY & BENNETT, P.A.**

/s/Samuel J.H. Sigelman  
Samuel Sigelman (#331089)  
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Minneapolis, Minnesota 55402  
Telephone: 612-632-3001  
Fax: 612-632-4001  
Email: Samuel.sigelman@gpmlaw.com

*Attorney for Phillip L. Kunkel, as Trustee*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:	:	Bankruptcy Case 16-31189
	:	
Tracy J. Clement,	:	Chapter 11
	:	
Debtor.	:	Hon. Michael E. Ridgway
	:	
	:	

**CERTIFICATE OF SERVICE**

I, Samuel J.H. Sigelman, hereby certify that on the 7th day of November, 2018, I caused a true and correct copy of the foregoing:

- ***NOTICE OF HEARING AND MOTION FOR SALE OF THE ESTATE'S INTEREST IN THE WEST HALF OF THE NOLT PROPERTY FREE AND CLEAR OF LIENS, ENCUMBRANCES, AND OTHER INTERESTS***
- ***TRUSTEE'S MEMORANDUM OF LAW IN SUPPORT OF MOTION***
- ***CERTIFICATE OF SERVICE***
- ***PROPOSED ORDER***

to be served on all parties receiving service through the Electronic Case Filing (ECF) system via electronic mail in this proceeding and via US Mail on the following parties:

Internal Revenue Service Wells Fargo Place 30 E 7 <sup>th</sup> St Mail Stop 5700 St. Paul, MN 55101
Internal Revenue Service Centralized Insolvency Operations Unit PO Box 7346 Philadelphia, PA 19101

MN Department of Revenue Collection Enforcement 551 Bankruptcy Section 600 North Robert Street St Paul, MN 55101-2228
Office of the U.S. Attorney 600 US Courthouse 300 S Fourth St Minneapolis, MN 55415
Fillmore County Treasurer 101 Fillmore Street PO Box 466 Preston MN 55965

Goodhue County Assessor 509 W Fifth Street Red Wing MN 55066
Cargill Incorporated 2509 E 54 <sup>th</sup> St. N Sioux Falls, SD 57104
Howard County Treasurer Howard County Courthouse 137 N Elm Street Cresco IA 52136
Mower County Treasurer 201 First Street NE, Ste 7 Austin MN 55912

Olmsted County Treasurer Olmsted County Government Center 151 Fourth Street SE Rochester MN 55904
Tracy Clement 12515 County 3 Spring Valley, MN 55975
C US Bank 111 N Elm Street Cresco IA 52136
Citizens State Bank PO Box 5 Hayfield MN 55940
Lake City Federal Savings 201 E Marion St. Lake City MN 55041
CNH Industrial Capital America 100 Brubaker Ave New Holland PA 17557
Nancy Clement 12915 County Rd 3 Spring Valley MN 55975
FLCC Financing 103 20 <sup>th</sup> Street NE, Ste. 4 Stewartville MN 55976
METABANK 600 Main Ave PO Box 98 Brookings SD 57006
Plains Commerce Bank PO Box 1059 Aberdeen SD 57402
Manaco Corp. PO Box 535 Brooklyn IA 52211-0535
Adam Manatt 1775 Old 6 Road Brooklyn IA 52211
G. Mark Rice Whitfield & Eddy, P.L.C. 699 Walnut Street, Ste 2000 Des Moines, IA 50309

Cone Ag Aviation, LLC Attn.: Russell Hollingsworth 145 Riverplace Drive Pierre SD 57501-4600
Cone Ag Inc. Attn.: Russell Hollingsworth 145 Riverplace Drive Pierre SD 57501-4600
Cone Ag Aviation, LLC c/o Paul Bachand, Esq., Moreno, Lee & Bachand, P.C. 206 W. Missouri Ave., Pierre, SD 57501-1174
Cone Ag Inc. c/o Paul Bachand, Esq., Moreno, Lee & Bachand, P.C. 206 W. Missouri Ave., Pierre, SD 57501-1174
Veridian Credit Union Paul A. Hayes 229 Jackson Street, Suite 124 Anoka, MN 55303
BerganKDV, Ltd 220 Park Ave S PO Box 1304 St Cloud, MN 56301
Steven A. Boyum 9144 County 30 Boulevard Wanamingo, MN 55983
CliftonLarsonAllen LLP 109 N Main St PO Box 217 Austin, MN 55912
Dairyland Real Estate LLC 16 S Madison St Ste C Evansville, WI 53536
R. Bruce Henry Alliance Agri Services PO Box 69 Austin, MN 55912
Killergear, LLC 1825 E. Army Post Rd. Des Moines, IA 50320

Todd P. Langel Faegre Baker Daniels LLP 801 Grand Avenue, 33rd Floor Des Moines, IA 50309-8003
Meincke-Schurhammer Real Estate LLC 109 S Lakeshore Dr. Lake City, MN 55041
SEMA Equipment, Inc. 1210 1/2 - 7th St NW Suite 220 Rochester, MN 55901
James B Sowka Seygarth Shaw LLP 233 S. Wacker Dr., Ste 8000 Chicago, IL 60606-6448
Steffes Group Inc. 24400 MN Highway 22 South Litchfield, MN 55355-5840
Tri-State AgCorp 3180 US 75 Ave Hull, IA 51239

Dated: November 7, 2018

**GRAY, PLANT, MOOTY,  
MOOTY & BENNETT, P.A.**

*/s/ Samuel J.H. Sigelman*

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Tracy John Clement,

Debtor.

Case No. 16-31189

Chapter 11

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**ORDER AUTHORIZING THE SALE OF THE ESTATE'S INTEREST  
IN THE WEST HALF OF THE NOLT PROPERTY FREE AND CLEAR OF LIENS,  
ENCUMBRANCES, AND OTHER INTERESTS**

---

This matter came before the Court on the Notice of Hearing for Entry of an Order Authorizing the Sale of the Estate's Interest in the West Half of the Nolt Property Free and Clear of Liens, Encumbrances, and Other Interests (the "Sale Motion") filed by the chapter 11 trustee, Phillip L. Kunkel (the "Trustee"), for an order authorizing the sale of, among other things, certain tracts of real property (each a "Tract" and collectively "Tracts") more fully described in this Order, free and clear of liens, encumbrances and other interests pursuant to 11 U.S.C. §§ 363(b) and 363(f), Fed. R. Bankr. P. 6006, and Local Rule 6004-1. Based upon all of the files, records and proceedings herein,

**THE COURT HEREBY FINDS AND DETERMINES THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052, made applicable to this proceeding pursuant to Fed. R. Bankr. P. 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. As evidenced by the affidavits of service filed with the Court, the Trustee has provided proper, timely, adequate and sufficient notice to the Debtor, and all creditors and other parties in interest in this case, including Conrad Clement's judgment creditors who have perfected their interest against the real property at issue, of the relief requested in the Sale Motion and the hearing thereon.

C. The relief granted pursuant to the Sale Motion and this Order is in the best interest of the Debtor, the estate, and all creditors and other parties in interest in this case.

D. The Trustee has demonstrated a sufficient basis and compelling circumstances requiring the sale of the estate's interest in the West Half of the Nolt Property, as legally defined in **Exhibit 1** attached to this Order, under 11 U.S.C. § 363 prior to confirmation of a plan of reorganization under 11 U.S.C. § 1129. Such action is an appropriate exercise of the Trustee's business judgment and is in the best interests of the Debtor, the estate, and all creditors and other parties in interest in this case.

**IT IS HEREBY ORDERED**

1. The Trustee is authorized to sell the estate's interest in the West Half of the Nolt Property, as legally identified in **Exhibit 1** attached to this Order, free and clear of all liens, encumbrances, and other interests, in accordance with the procedures set forth in this Order, but subject to (1) easements of record; (2) and the Debtor's right of first refusal (the "Debtor's ROFR") as provided in the Memorandum of Understanding approved by the Court on March 20, 2017 [Doc. No. 392] and as outlined below.

2. In order to maximize the amount realized by the estate from the sale of the West Half of the Nolt Property, the Trustee, through his duly employed auctioneers Steffes Group, Inc. ("Steffes"), is authorized to conduct an auction for all of the West Half of the Nolt Property (the

“Auction”) at such date, time and location as the Trustee, in consultation with Steffes, may determine. The terms and conditions that govern the Auction are set forth on **Exhibit F** attached to the Trustee’s Motion (the “Bidding Terms”).

3. The Trustee, in consultation with Steffes, is authorized to determine the number and configuration of the sub-parcels or sub-tracts in which the West Half of the Nolt Property will be offered for sale and to establish any other or additional terms or procedures before and during the Auction, as they deem reasonable in their sole and absolute discretion. All bidding shall be conducted at the Auction and no bids shall be tendered or accepted after the Auction has concluded.

4. Steffes shall provide copies of the Bidding Terms to all parties who are known to have expressed an interest in any of the West Half of the Nolt Property or who Steffes otherwise believes may have an interest in any of the West Half of the Nolt Property.

5. At the conclusion of the Auction, the Trustee, in consultation with Steffes, shall identify the highest and best bid (the “Successful Bid”) for each Parcel or Tract. The Trustee shall retain full discretion and right to exercise his business judgment to determine which bid or combination of bids, if any, constitutes the highest or otherwise best bid based on all of the circumstances, and which bid or combination of bids should be selected as the Successful Bid for each Parcel or Tract, all of which are subject to final approval by the Court.

6. Within two (2) business days after the conclusion of the Auction, the Trustee will file a report with the Court setting forth the name of the bidder (the “Successful Bidder”) and the amount of the bid selected as the Successful Bid for each parcel offered at the Auction (the “Auction Report”). On the date the Auction Report is filed with the Court, the Trustee shall serve the Auction Report on counsel for the Debtor, the holders of each lien affecting any of the West



Half of the Nolt Property, their respective counsel, counsel for the Official Committee of Unsecured Creditors, and the Office of the United States Trustee

7. The filing of the Auction Report shall initiate the Debtor's fifteen-day period to exercise the ROFR on each Tract or Parcel for which a Successful Bid was reported.

8. In order to exercise the Debtor's ROFR on the Debtor's interest in any Tract or Parcel, on or before fifteen days following the filing of the Auction Report the Debtor shall (a) provide written notice to the Trustee of his intention to exercise the Debtor's ROFR on the specific Tract or Parcel and (b) remit to the Trustee a nonrefundable deposit of ten percent (10%) of the amount of the Successful Bid for the specific Tract or Parcel in certified or immediately available funds.

9. Within five (5) business days following the expiration of the ROFR, the Trustee shall file a motion with the Court on an expedited basis seeking one or more orders of the Court approving the sale of each Tract or Parcel to the Successful Bidder for that Tract or Parcel or, if the Debtor has properly and timely exercised the ROFR for a specific Tract or Parcel, to the Debtor for that specific Tract or Parcel, and authorizing the Trustee to close all such sales (collectively the "Sale Approval Orders").

10. Each Successful Bidder shall close the sale(s) of its respective Tract(s) or Parcel(s) no later than thirty (30) days after the expiration of the ROFR if the Debtor does not properly and timely exercise the ROFR with respect to that Successful Bidder's respective Parcel(s). The Debtor shall close the sale(s) of the Tract(s) or Parcel(s) for which the Debtor has properly and timely exercised the ROFR no later than sixty-five (65) days after the filing of the Auction Report.

11. All liens, encumbrances, and other interests that attach to a Tract or Parcel shall attach to the proceeds of the sale of that Tract or Parcel with the same validity, priority and extent

as the liens, encumbrances, and other interests attached to the Parcel or Tract prior to the closing of the sale.

12. From the sale proceeds, the Trustee shall pay (a) CSB the amount of \$360,000.00, plus interest at 6% that shall begin to accrue on the date of this Approval Order until the date of the closing of the sale of the real property at issue (the “CSB Payment”); (b) Ag Cone Aviation, LLC and Cone Ag, Inc. collectively \$5,000.00 (the “Ag Cone Payment”); and (c) Manaco Corp. the amount of \$20,000.00 (the “Manaco Payment” and along with the Ag Cone Payment, collectively the “Judgment Creditor Payment”).

13. The sales proceeds obtained from such sales shall be used by Heartland Title, LLC (the “Escrow Agent”) to pay all closing costs and expenses of the Auction and sales which are the responsibility of the Trustee, including, but not limited to, the cost of surveys, permits, taxes and other usual and customary closing expenses. Any amounts in excess of such closing costs (the “Net Sales Proceeds”) shall be held by the Escrow Agent pending further order of the Court. To avoid any doubt, that portion of the Net Sales Proceeds attributable to the CSB Payment and Judgment Creditor Payment shall be retained by the Escrow Agent pending the entry of the Sale Approval Order. Upon entry of the Sale Approval Order, the Escrow Agent may pay CSB and the Judgment Creditors without further order of the Court. All proceeds in excess of the CSB Payment and the Judgment Creditors Payment are to be paid to the Trustee without further order of the Court.

14. The Trustee is authorized to take such other actions and execute and deliver such additional documents or instruments as the Trustee deems reasonably necessary to effectuate the transactions contemplated in the Sale Motion and the terms and provisions of this Order.

15. The fourteen (14) day stay provided by Fed. R. Bankr. P. 6004(h) is waived, and this Order is effective immediately.

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
Michael E. Ridgway  
United States Bankruptcy Judge

**Exhibit 1**

West Half of the Nolt Property – Tract A and Tract C

Tract A – 79.37 acres

All that part of the SW1/4 & SE1/4 Section 23, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Beginning at the northwest corner of said SE1/4; thence North 89°03'26" East a distance of 853.21 feet on an assumed bearing on the north line of said SE1/4; thence South 08°03'36" East a distance of 323.02 feet; thence South 21°02'11" East a distance of 277.74 feet; thence South a distance of 201.50 feet on a tangential curve concave to the West with a radius of 457.15 feet and a central angle of 25°15'16"; thence South 21°32'53" West a distance of 81.23 feet on a nontangential line; thence South 32°08'58" West a distance of 150.84 feet; thence South 54°55'12" West a distance of 259.05 feet; thence South 45°42'33" West a distance of 144.87 feet; thence South 24°18'48" West a distance of 166.33 feet; thence Southwest a distance of 371.74 feet, on a nontangential curve, concave to the Southeast with a central angle of 40°20'40", a radius of 527.93 feet, a chord bearing of South 23°58'12" West, and a chord length of 364.11 feet; thence South 03°47'52" West a distance of 129.00 feet on a nontangential line; thence South 07°14'42" East a distance of 318.75 feet; thence South 10°19'24" East a distance of 205.77 feet; thence South 32°46'09" East a distance of 178.85 feet; thence South 49°37'33" East a distance of 120.43 feet; thence South 34°21'33" East a distance of 69.31 feet, to the south line of said SE1/4; thence South 88°57'10" West a distance of 1298.58 feet on the south line of said SW1/4 and SE1/4, to the southwest corner of the E1/2 E1/2 SW1/4 of said Section 23; thence North 00°58'28" West a distance of 2646.54 feet on the west line of said E1/2 E1/2 SW1/4, to the northwest corner of said E1/2 E1/2 SW1/4; thence North 89°03'26" East a distance of 662.16 feet on said north line, to the point of beginning; subject to highway easement on the north side thereof.

Tract C – 107.28 acres

All that part of the NW1/4 & NE1/4 Section 26, Township 101 North, Range 14 West, Mower County, Minnesota; described as follows:

Commencing at the southeast corner of said NE1/4; thence South 88°58'43" West a distance of 1787.25 feet on an assumed bearing on the south line of said NE1/4, to the point of beginning; thence North 04°36'55" West a distance of 405.78 feet; thence Northeasterly a distance of 112.92 feet on a tangential curve concave to the Southeast with a radius of 68.52 feet and a central angle of 94°25'27"; thence North 89°48'32" East a distance of 313.55 feet; thence North 10°14'57" East a distance of 133.32 feet; thence North 32°46'57" East a distance of 83.41 feet; thence North 00°54'42" East a distance of 156.46 feet; thence North 03°05'30" West a distance of 145.97 feet; thence North 01°07'34" East a distance of 155.64 feet; thence North 01°41'09" West a distance of 108.78 feet; thence North 02°20'10" East a distance of 179.37 feet; thence North 05°09'04" West a distance of 137.88 feet; thence North 25°47'55" West a distance of 81.37 feet; thence North 17°34'46" West a distance of 109.33 feet; thence North 29°36'44" West a distance of 126.28 feet; thence North 38°51'08" West a distance of 260.19 feet; thence North 24°25'41" West a distance of

224.56 feet; thence North  $40^{\circ}50'37''$  West a distance of 309.35 feet; thence North  $34^{\circ}21'33''$  West a distance of 185.36 feet, to the north line of said NE1/4; thence South  $88^{\circ}57'10''$  West a distance of 1299.54 feet on the north line of said NW1/4 & NE1/4, to a point which is North  $00^{\circ}59'50''$  West from a point on the south line of said NW1/4 which is 1965.62 feet east of the southwest corner of said NW1/4; thence South  $00^{\circ}59'50''$  East a distance of 2649.45 feet, to a point on the south line of said NW1/4, which is 1965.62 feet east of the southwest corner of said NW1/4; thence North  $88^{\circ}58'43''$  East a distance of 1540.05 feet on the south line of said NW1/4 & NE1/4, to the point of beginning; subject to highway easement on the south side thereof.