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8
9 UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION

12 In re:

13 ZF IN LIQUIDATION, LLC, a
California limited liability company
14 fka ZACKY FARMS, LLC, a
California limited liability
15 company,

16 Debtor-In-Possession.

CASE NO. 12-37961

Confirmation Hearing:

Date: August 13, 2013
Time: 1:32 p.m.
Courtroom 32
501 I Street, 6th Floor
Sacramento, CA

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18 **DEBTOR'S AMENDED PLAN OF LIQUIDATION**
(DATED: JUNE 27, 2013)
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1 Zacky Farms, LLC, the above-referenced debtor and debtor in possession (the “Debtor”
2 or the “Proponent”), hereby proposes the following Plan of Liquidation (the “Plan”). All
3 Creditors¹ should review the Disclosure Statement, and its accompanying exhibits and other
4 information, before voting to accept or reject the Plan.

5 **PRELIMINARY STATEMENT**

6 The Plan sets forth a proposal for the resolution of all Claims and Interests against the
7 Debtor. In sum, the Plan provides for the Debtor to continue its wind-down efforts after
8 confirmation with its administration to be handled by a professional wind-down manager (the
9 “Plan Administrator”) replacing the Debtor’s Sole Manager, Mr. Keith Cooper, as the
10 responsible party for the liquidation. Confirmation of the Plan shall constitute and confirm the
11 appointment of the Plan Administrator, including responsibility and authority to (a) exercise the
12 rights, power, and authority of the Liquidating Debtor, under the applicable provisions of the
13 Plan and bankruptcy and non-bankruptcy law, and (b) retain post-confirmation professionals to
14 represent the Liquidating Debtor and assist the Plan Administrator in performing and
15 implementing the Plan, including without limitation retaining professionals originally engaged
16 by the Debtor or the Committee, and (c) otherwise implement the Plan, wind up the affairs of
17 the Estate and close the Chapter 11 Case.

18 The Plan contemplates the liquidation of all Estate Assets for the benefit of the holders
19 of Allowed Claims and Allowed Interests. The resulting funds, after payment of Plan
20 Expenses, will be made available for distribution to holders of Allowed Claims and Allowed
21 Interests in accordance with the Bankruptcy Code Distribution Priorities in accordance with the
22 terms of the Plan. The Plan Administrator’s operation of the Liquidating Debtor will be for the
23 purpose of liquidating and monetizing Estate Assets, which consist primarily of the Secured
24 Sale Notes, consisting of the \$6.4M 503(b)(9) Note and the \$3.5M Creditor Note.

25 From and after the Effective Date, the Liquidating Debtor, acting through the Plan
26 Administrator, shall expeditiously seek to collect, liquidate, sell and/or reduce to Cash all Estate

27 ¹ Capitalized terms shall have the meanings defined below in Article 1, or if not defined, as
28 defined in 11 U.S.C. § 101 *et seq.*

1 Assets, including, without limitation, through pursuit of the Secured Sale Notes, and use the
2 proceeds thereof to fund Plan distributions to creditors.

3 As set forth in the Disclosure Statement, the Proponent believes that the Plan will allow
4 the holders of Unsecured Claims to receive a meaningful and expeditious return on account of
5 their Allowed Claims against the Debtor.

6 With the Plan, Creditors will receive a Ballot for voting on the Plan, and a Disclosure
7 Statement that provides information concerning the Debtor and the Plan. The Disclosure
8 Statement includes a summary of the assets and liabilities of the Debtor, a summary of what
9 Creditors and Interest Holders will receive under the Plan, a discussion of certain alternatives to
10 the Plan, and a summary of the procedures and voting requirements necessary for confirmation
11 of the Plan. You should thoroughly review both the Plan and Disclosure Statement before
12 deciding whether you will accept or reject the Plan.

13 As more fully described in the Disclosure Statement, the Plan must be approved by the
14 requisite number of Creditors and the Bankruptcy Court must find that it meets the applicable
15 legal standards before the Plan can be confirmed. If the Plan is not confirmed, the Bankruptcy
16 Court may order the case dismissed, or converted to a liquidating case under Chapter 7 of the
17 Bankruptcy Code, or the Debtor or other parties in interest may propose a different plan.

18 The Debtor believes that the Plan provides the best mechanism available for maximizing
19 returns to Creditors and urges Creditors to vote in favor of the Plan.

20 **ARTICLE I**

21 **DEFINITIONS**

22 For purposes of this Plan, all capitalized terms used herein and not otherwise defined
23 shall have the meanings set forth below. A term not defined in the Plan, but defined in the
24 Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to it in the
25 Bankruptcy Code or the Bankruptcy Rules, unless the context clearly requires otherwise. The
26 rules of construction used in section 102 of the Bankruptcy Code shall apply to construction of
27 this Plan. The phrase “as soon as practicable” shall mean the later of (a) as soon as the
28 Liquidating Debtor is capable of performing, or (b) within ten (10) Business Days of the

1 relevant date. Headings and captions are utilized in this Plan for convenient reference only, and
2 shall not constitute a part of this Plan for any other purpose.

3 1.1. **“\$3.5M Creditor Note”** shall mean the \$3.5 million secured note provided by the
4 DIP Lender as part of the Zacky Farms Sale, which is attached as Exhibit 1 and incorporated
5 herein by this reference.

6 1.2. **“\$3.5M Creditor Note Payment Date”** shall mean the date on which the \$3.5M
7 Creditor Note is fully and actually paid to the Liquidating Debtor.

8 1.3. **“\$6.4M 503(b)(9) Note”** shall mean the \$6.4 million secured note provided by the
9 DIP Lender as part of the Zacky Farms Sale, which is attached as Exhibit 2 and incorporated
10 herein by this reference.

11 1.4. **“503(b)(9) Bar Date”** shall mean January 7, 2013.

12 1.5. **“503(b)(9) Bar Date Order”** shall mean the Order (Docket No. 369) entered on
13 December 5, 2012.

14 1.6. **“503(b)(9) Claim”** shall mean a Claim for the value of any goods received by the
15 Debtor within 20 days of the Petition Date in which the goods were sold to the Debtor in the
16 ordinary course of the Debtor’s business.

17 1.7. **“503(b)(9) Procedures”** shall mean the procedures set forth in the Order (Docket
18 No. 1108), entered on February 25, 2013.

19 1.8. **“503(b)(9) Settlement”** shall mean the settlement of 503(b)(9) Claims as set forth
20 in the DIP Lender Settlement Order.

21 1.9. **“503(b)(9) Settlement Election”** shall mean the settlement letter sent to holders of
22 503(b)(9) Claims on or before March 18, 2013 by the Debtor, which conveyed the offer to
23 participate in the 503(b)(9) Settlement.

24 1.10. **“Administrative Claim”** shall mean a 503(b)(9) Claim or a Claim for an expense
25 of administration of the Debtor arising during the period commencing on the Petition Date and
26 ending on the Effective Date under sections 503(b), 1114(e)(2) or 546(c)(2) of the Bankruptcy
27 Code and entitled to priority under section 507(a)(2) of the Bankruptcy Code, including, but not
28 limited to, (i) any actual and necessary cost or expense of preserving the Estate of the Debtor or

1 conducting the business of the Debtor, (ii) administrative expenses previously allowed by the
2 Bankruptcy Court, (iii) administrative claims that are timely filed prior to the applicable
3 Administrative Claims Bar Date, (iv) any Tax Claims incurred by the Debtor after the Petition
4 Date or relating to a tax year or period which occurs after the Petition Date (v) Professional Fees,
5 and (vi) all fees and charges assessed against the Debtor pursuant to 28 U.S.C. § 1930. For
6 purposes of this Plan, Administrative Claims shall also include Cure Obligations.

7 1.11. **“Administrative Claims Bar Date”** shall mean for Administrative Claims other
8 than 503(b)(9) Claims, the first Business Day that is thirty (30) days after the Effective Date
9 pursuant to which Creditors must file a request for payment of any Administrative Claim that
10 arose between October 8, 2012 and the Effective Date, for which notice shall be provided by
11 Proponent in the Notice of Effective Date. For 503(b)(9) Claims, Administrative Claims Bar
12 Date shall mean the 503(b)(9) Bar Date (January 7, 2013).

13 1.12. **“Administrative Claims Bar Date Order”** shall mean the Confirmation Order
14 for all Administrative Claims other than 503(b)(9) Claims, and shall mean the 503(b)(9) Bar Date
15 Order for all 503(b)(9) Claims.

16 1.13. **“Allowed 503(b)(9) Claims”** shall mean 503(b)(9) Claims that are not Settled
17 503(b)(9) Claims, but which have been Allowed under the 503(b)(9) Procedures.

18 1.14. **“Allowed Claim”** shall mean (other than an Administrative Claim as set forth
19 below):

- 20 (i) a Claim that appears in the Schedules, except a Claim that is listed as
21 disputed, contingent or unliquidated, or for which a contrary proof of Claim has been filed;
- 22 (ii) a Claim for which a proof of Claim has been timely filed as of the Bar Date
23 or Rejection Claim Bar Date, as applicable, and no objection thereto has been filed; or
- 24 (iii) a Claim that has been allowed, but only to the extent allowed (a) by a Final
25 Order, (b) under this Plan; and
- 26 (iv) With respect to an Administrative Claim, a request for payment that has
27 been filed prior to the Administrative Claims Bar Date, and in accordance with either section
28 503(b) of the Bankruptcy Code or the procedures for filing requests for payment of an expense of

1 administration set forth in the Administrative Claims Bar Date Order, and as to which either no
2 objection has been made on or before any applicable deadline, or if an objection has been made, a
3 claim has been allowed by Final Order.

4 1.15. **“Allowed Interest”** shall mean any Interest in the Debtor provided: (a) proof of
5 which was timely and properly filed or, if no proof of interest was filed, which is deemed filed
6 pursuant to the Bankruptcy Code or this Plan and (b) in either such case an Interest to which no
7 timely objection to the allowance thereof has been made or to which any objection has been
8 determined by a Final Order to the extent such objection was determined in favor of a person or
9 entity asserting an Interest.

10 1.16. **“Allowed Secured Claim”** shall mean that portion of an Allowed Claim (i)
11 secured by a valid, perfected and enforceable Lien that is not subject to avoidance under
12 bankruptcy or non-bankruptcy law, in an amount equal to the value, as determined by the
13 Bankruptcy Court pursuant to sections 506(a) and 1129(b) of the Bankruptcy Code and
14 Bankruptcy Rule 3012, of the interest of the holder of such Allowed Claim in the property of the
15 Debtor, the Liquidating Debtor, or the Estate, securing such Allowed Claim, or (ii) in an amount
16 equal to the amount subject to setoff by the holder of such Claim under section 553 of the
17 Bankruptcy Code.

18 1.17. **“Allowed Unsecured Claim”** shall mean any Allowed Claim (including any
19 Rejection Claim) that is not an Allowed Administrative Claim, an Allowed Secured Claim, an
20 Allowed Priority Employee Claim, an Allowed Priority Employee Benefit Claim, an Allowed
21 Priority Tax Claim, or an Assumed Obligation.

22 1.18. **“Assumed Contract”** or **“Assumed Contracts”** shall mean each Executory
23 Contract assumed by the Debtor and assigned to the DIP Lender as part of the Zacky Farms Sale.

24 1.19. **“Assumed Obligation”** shall mean any obligation assumed by the DIP Lender
25 pursuant to the DIP Lender APA and/or the DIP Lender Settlement Order.

26 1.20. **“Assumption and Cure Order”** shall mean, with respect to any Assumed
27 Contract, an order of the Bankruptcy Court approving the assumption of such Executory Contract,
28 and determining any Cure Obligation with respect thereto. The Confirmation Order may

1 constitute an Assumption and Cure Order.

2 1.21. **“Auction”** shall mean the out of Court auction held on January 15, 2013, at which
3 substantially all of the Debtor’s assets were made available for sale pursuant to the Sale
4 Procedures Order.

5 1.22. **“Available Cash”** shall mean, with respect to any distribution contemplated
6 herein, the aggregate amount of all Cash held by the Liquidating Debtor immediately prior to
7 such distribution.

8 1.23. **“Avoidance Actions”** shall mean all claims or causes of action arising under
9 Chapter 5 of the Bankruptcy Code and/or any and all state law equivalents.

10 1.24. **“Ballot”** shall mean the form for acceptance or rejection of the Plan distributed to
11 those Creditors entitled to vote on the Plan, as such form may be approved by the Bankruptcy
12 Court and which shall otherwise comply with the requirements of Bankruptcy Rule 3018(c).

13 1.25. **“Bankruptcy Code”** shall mean Title 11 of the United States Code, §§ 101 *et*
14 *seq.*, as in effect on the Petition Date, as the same thereafter has been and may be amended,
15 provided such amendments are in effect.

16 1.26. **“Bankruptcy Code Distribution Priorities”** shall mean the distribution waterfall
17 set forth in section 726 *et seq.* of the Bankruptcy Code.

18 1.27. **“Bankruptcy Court” or “Court”** shall mean the United States Bankruptcy Court
19 for the Eastern District of California (Sacramento Division), or such other court as may hereafter
20 exercise jurisdiction over the Chapter 11 Case.

21 1.28. **“Bankruptcy Rules”** shall mean the Federal Rules of Bankruptcy Procedure, as in
22 effect on the Petition Date, as the same thereafter has been and may be amended, and the Local
23 Rules of the Bankruptcy Court to the extent applicable to the Chapter 11 Case.

24 1.29. **“Bar Date”** shall mean, as applicable, (i) February 6, 2013, which was the date set
25 by the Bankruptcy Court as the last date for filing a proof of Claim for a Claim that arose before
26 the Petition Date for non-Governmental Units, and (ii) April 8, 2013, for Governmental Units.

27 1.30. **“Business Day”** shall mean any day that is not a Saturday, a Sunday or other day
28 on which banks are required or authorized by any federal, state or local law to be closed in the

1 City of Sacramento, California.

2 1.31. **“Cash”** shall mean cash and cash equivalents including, but not limited to, cash on
3 deposit in the bank accounts of the Debtor or the Liquidating Debtor, as applicable, checks, wire
4 transfers, money orders, certificates of deposit, money market or similar investments, and other
5 similar readily marketable securities or instruments.

6 1.32. **“Chapter 11 Case” “Bankruptcy Case” or “Case”** shall mean the Chapter 11
7 Case commenced by the Debtor upon the filing with the Bankruptcy Court of a voluntary petition
8 under chapter 11 of the Bankruptcy Code.

9 1.33. **“Claim”** shall mean a claim against the Debtor within the meaning of section
10 101(5) of the Bankruptcy Code.

11 1.34. **“Claimant”** shall mean the holder of a Claim.

12 1.35. **“Claims Reserve Account”** shall mean an interest bearing bank account or money
13 market account to be established and held for the benefit of holders of Allowed Unsecured Claims
14 by the Liquidating Debtor on or after the Effective Date for the purpose of holding the funds to be
15 distributed under the Plan to Unsecured Creditors and for Plan Expenses, and any interest,
16 dividends or other income earned upon the investment of such Claims Reserve Account.

17 1.36. **“Class”** shall mean a category or group of Creditors or Interest Holders which are
18 substantially similar to the Claims or Interests of the other Creditors or Interests Holders in such
19 Class, as designated by this Plan pursuant to sections 1122 and 1123 of the Bankruptcy Code.

20 1.37. **“Committee”** shall mean the Official Committee of Unsecured Creditors
21 appointed by the United States Trustee in the Debtor’s Chapter 11 Case.

22 1.38. **“Committee Members”** shall mean all members of the Committee on the
23 Effective Date.

24 1.39. **“Confirmation”** shall mean the approval of the Plan by and subject to the terms of
25 the Confirmation Order.

26 1.40. **“Confirmation Date”** shall mean the date of Confirmation.

27 1.41. **“Confirmation Hearing”** shall mean the duly noticed hearing held by the
28 Bankruptcy Court on confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.

1 The Confirmation Hearing may be adjourned by the Bankruptcy Court from time to time without
2 further notice other than the announcement of the adjourned date at the Confirmation Hearing.

3 1.42. **“Confirmation Order”** shall mean the order of the Bankruptcy Court, confirming
4 this Plan and providing for the effectuation of the transactions contemplated by this Plan in
5 accordance with the terms and provisions hereof and thereof.

6 1.43. **“Creditor”** shall mean any entity that holds a Claim.

7 1.44. **“Creditors Excluded from Plan Administrator Cap”** shall mean: (a) Creditors
8 holding Claims, which were already paid in the Chapter 11 Case, or for which on the Effective
9 Date, sufficient Cash exists to fully reserve for or to pay such Claims, and (b) any Creditors with
10 Claims for Post-Confirmation expenses, including but not limited to Post-Confirmation
11 Professional fees and expenses that are not Post-Confirmation Professional Contingent Fees.

12 1.45. **“Creditors Subject to Plan Administrator Cap”** shall mean Creditors holding:
13 (a) Allowed Claims in Classes 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, and 15, (b) Post-Confirmation
14 Professional Contingent Fees, and (c) Deferred Payment Administrative or Priority Claims paid
15 from the proceeds of the Secured Sale Notes or other post-Effective Date recovery.

16 1.46. **“CRO”** shall mean Mr. Keith Cooper.

17 1.47. **“Cure Obligation”** shall mean, individually, any monetary amount payable to the
18 non-debtor party to an Assumed Contract pursuant to section 365(b)(1) of the Bankruptcy Code
19 as a condition to the assumption of such contract or lease and, collectively, all monetary amounts
20 payable to all non-debtor parties to all Assumed Contracts.

21 1.48. **“Debt”** shall mean liability on a Claim.

22 1.49. **“Debtor”** shall mean Zacky Farms, LLC, as debtor and debtor in possession in its
23 Chapter 11 Case.

24 1.50. **“Debtor’s Members”** shall mean (a) the DIP Lender; (b) the Richard N. Zacky
25 Irrevocable Trust dated 11/25/07; (c) the Barbara Jean Zacky Irrevocable Trust dated 12/30/06;
26 (d) the Sharon Zacky Wilensky Irrevocable Trust dated 11/26/07; (e) Trust A of the Albert and
27 Beverly Zacky Trust; and (f) Trust B of the Albert and Beverly Zacky Trust.

28 ///

1 1.51. **“Deferred Payment Administrative or Priority Claims”** shall mean any
2 Administrative Claims or Priority Claims that the Estate does not have sufficient funds to pay or
3 reserved to pay on the Effective Date.

4 1.52. **“DIP Facility”** is the debtor in financing facility between the Debtor and the DIP
5 Lender, which was approved via several interim Orders, and finally approved in the DIP Facility
6 Final Order.

7 1.53. **“DIP Facility Final Order”** shall mean the order finally approving the DIP
8 Facility, which was entered on the Court’s docket on November 13, 2012 (Docket No. 292).

9 1.54. **“DIP Lender”** shall mean the Robert D. Zacky and Lillian D. Zacky Trust U/D/T
10 Dated July 26, 1988.

11 1.55. **“DIP Lender APA”** shall mean the Asset Purchase Agreement by and between
12 the DIP Lender and the Debtor dated as of February 6, 2013 (Docket No. 989), which is attached
13 as Exhibit 3 and incorporated herein by this reference.

14 1.56. **“DIP Lender Settlement Order”** shall mean the Order (Docket No. 1078)
15 entered on February 21, 2013, which is attached as Exhibit 4 and incorporated herein by this
16 reference, as modified by the Order on Stipulation Among the Movants and Official Committee
17 of Unsecured Creditors Concerning Motion, Pursuant to Federal Rules of Bankruptcy Procedure,
18 Rule 9024, to Correct Clerical Mistake, Oversight or Omission in the Order Granting Joint
19 Motion for Approval of Settlement Among the Official Committee of Unsecured Creditors, the
20 Debtor and the Robert and Lillian Zacky Trust Pursuant to Bankruptcy Rule 9019.²

21 1.57. **“Disallowed Claim”** shall mean (i) a Claim or any portion thereof, that has been
22 disallowed by a Final Order of the Bankruptcy Court; (ii) a Claim that has been listed in the
23 Schedules at zero or as contingent, disputed, or unliquidated and as to which no proof of Claim
24 has been timely filed pursuant to the Bankruptcy Code, any Final Order of the Court, or other
25 applicable law; or (iii) a Claim that has not been listed in the Schedules and as to which no proof

26 _____
27 ² An amended DIP Lender Settlement Order has been submitted to the Court as of the filing of
28 the Plan, but not yet signed that contains minor corrections. On confirmation, if the amended
Order has been signed, it shall be substituted as Exhibit 4 for the currently attached Order.

1 of Claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to the
2 Bankruptcy Code, any Final Order of the Court, or other applicable law.

3 1.58. **“Disclosure Statement”** shall mean the disclosure statement in support of the
4 Plan, in the form approved by the Bankruptcy Court, disseminated by the Proponent to the
5 holders of Claims against the Debtor in order to provide to such persons adequate information in
6 accordance with section 1125 of the Bankruptcy Code, as such disclosure statement may be
7 modified, amended or supplemented from time to time.

8 1.59. **“Disputed Claim”** shall mean any Claim or portion of a Claim as to which an
9 objection to the allowance thereof has been interposed (whether as a separate objection to claim
10 or in connection with an adversary proceeding) as of the Effective Date or any later deadline
11 fixed under the Plan or by order of the Bankruptcy Court, which objection has not been
12 withdrawn or determined by Final Order. To the extent an objection relates to the allowance of
13 only a part of a Claim, such Claim shall be a Disputed Claim only to the extent of the objection.

14 1.60. **“Disputed Claims Amount”** shall mean the aggregate amount of Disputed Claims
15 that are fixed, absolute – and neither contingent nor unliquidated. For purposes of calculating
16 distributions of Cash under the Plan, the amount of each Disputed Claim shall be based upon the
17 lower of the face amount of such Creditor’s Disputed Claim (or the disputed portion thereof) as
18 set forth in the Creditor’s filed proof of Claim, or the amount estimated by the Court for
19 distribution and/or allowance purposes.

20 1.61. **“Disputed Secured Claim”** shall mean that portion of a Secured Claim for which
21 there is a dispute as to whether the claim is secured by a valid, perfected and enforceable Lien
22 that is not subject to avoidance under bankruptcy or non-bankruptcy law.

23 1.62. **“Disputed Secured Creditors”** shall mean the Creditors holding Disputed
24 Secured Claims in Classes 3, 5, 6, 7, 8, 9, 10, and 11.

25 1.63. **“Disputed Secured Creditors’ Post-Effective Date Lien”** shall mean the lien
26 being created in this Plan in favor of the Disputed Secured Creditors, which lien will be in second
27 position (behind only the Lien of Richard Zacky Trust) on the \$3.5M Creditor Note and the
28 proceeds therefrom; such lien shall be fully perfected on the Effective Date without the need for

1 any additional filings or perfection documents.

2 1.64. **“Dreisbach”** shall mean Dreisbach Enterprises, Inc.

3 1.65. **“Effective Date”** shall mean the first Business Day on which each of the
4 conditions specified in Article VIII of the Plan has been satisfied or duly waived.

5 1.66. **“Estate”** shall mean the bankruptcy estate of the Debtor pursuant to Bankruptcy
6 Code section 541.

7 1.67. **“Estate Assets”** shall mean all remaining Estate property as of the Effective Date
8 under section 541 of the Bankruptcy Code, including all property, assets, equitable or legal rights
9 or interests, contract rights, benefits, causes of action, claims, or any other thing tangible or
10 intangible, of any kind whatsoever, owned or held by or on behalf of the Debtor in which the
11 Debtor has any right, title or interest to the full extent provided under section 541 of the
12 Bankruptcy Code including, without limitation, Available Cash, the Secured Sale Notes and
13 Avoidance Actions.

14 1.68. **“Exculpated Parties”** shall have the meaning assigned to it in Article 9.5 of this
15 Plan.

16 1.69. **“Executory Contracts”** shall mean executory contracts and unexpired leases
17 within the meaning of Bankruptcy Code section 365.

18 1.70. **“Final Order”** shall mean an order or judgment of the Bankruptcy Court or other
19 court of competent jurisdiction (i) which has not been reversed, stayed, modified or amended, (ii)
20 as to which the time to or the right to appeal or seek reconsideration, review, rehearing, or
21 certiorari has expired or been waived (without regard to whether the time to seek relief from a
22 judgment under Bankruptcy Rule 9024 has expired), and (iii) as to which no appeal or petition for
23 reconsideration, review, rehearing, or certiorari is pending.

24 1.71. **“Interest”** shall mean the rights of the Debtor’s Members, each as the holder of an
25 equity security as defined in Section 101(16) of the Bankruptcy Code.

26 1.72. **“Interest Holder”** shall mean, individually, each of the Debtor’s Members, or
27 their successors and assigns.

28 ///

1 1.73. **“Lien”** shall mean a charge against or interest in property to secure payment of a
2 debt or performance of an obligation.

3 1.74. **“Lien of Richard Zacky Trust”** shall mean the lien held by the Richard Zacky
4 Trust on the Prepetition Richard Zacky Trust Collateral.

5 1.75. **“Lillian Entities”** shall mean Lillian Zacky, individually, as trustee of the Robert
6 D. Zacky and Lillian D. Zacky Trust U/D/T dated 7/26/88, and as trustee of the Lillian D. Zacky
7 Trust U/D/T dated 7/26/88; Scott Zacky; 7915 Deep Creek LLC; 20115 Del Oro Road, Apple
8 Valley, LLC; 18606 Lords Road, Helendale, LLC; and the Samuel, LLC.

9 1.76. **“Lillian Zacky Trust”** shall mean the Lillian D. Zacky Trust dated July 26, 1988,
10 which provided \$3,000,000 in financing to the Debtor prior to the bankruptcy filing, which was
11 secured by real estate owned by the Debtor.

12 1.77. **“Liquidating Debtor”** shall mean the Debtor as reorganized and reconstituted on
13 and after the Effective Date.

14 1.78. **“Net Available Cash”** shall mean the aggregate amount of all Available Cash
15 held by the Liquidating Debtor after the payment of (or appropriate reserve for) all senior
16 obligations under the Bankruptcy Code Distribution Priorities, including but not limited to
17 Allowed Administrative Claims, Allowed Priority Tax Claims, and net of amounts reserved for
18 Disputed Claims, Post-Confirmation Professional fees and Plan Expenses.

19 1.79. **“Notice of Effective Date”** shall mean the notice filed and served by the
20 Proponent on all parties-in-interest within seven (7) days of the Effective Date of the Plan.

21 1.80. **“Official Actions”** shall mean actions taken by the Exculpated Parties in their
22 official capacities in the Chapter 11 Case after the Petition Date through the Confirmation Date. It
23 does not include actions solely in their personal capacities as Creditors of the Debtor with respect
24 to the pursuit and allowance or payment of such Creditors’ claims.

25 1.81. **“Operating Agreement”** shall mean the operating agreement together all
26 amendments duly approved by the Debtor that is in effect as of the Confirmation Date under
27 California Law.

28 ///

1 1.82. **“Order” or “Bankruptcy Order”** shall mean an order entered by the Court in
2 this Chapter 11 Case.

3 1.83. **“Permitted Liens”** shall mean those holders of Liens set forth in Section 1.1(mm)
4 of the DIP Lender APA.

5 1.84. **“Petition Date”** shall mean October 8, 2012, which is the date when the Debtor
6 filed its Chapter 11 Case.

7 1.85. **“Plan”** shall mean this chapter 11 plan of liquidation and any exhibits and
8 schedules hereto and any documents incorporated herein by reference, as the same may from time
9 to time be amended or modified as and to the extent permitted herein or by the Bankruptcy Code.

10 1.86. **“Plan Administrator”** shall mean initially Mr. Hank M. Spacone, whose
11 curriculum vitae is set forth at Exhibit 5 hereto and who shall file a further statement setting forth
12 his qualifications and affiliations, including a disclosure of any potential connections or conflicts
13 of interest, pursuant to Bankruptcy Code section 1129(a)(5)(A)(i) not less than ten days prior to
14 the last day to object to Confirmation. The Plan Administrator is a panel Chapter 7 Trustee and
15 has served as a Chapter 11 Trustee in the Eastern District of California and in the Northern
16 District of California, as well as the liquidating agent in multiple Chapter 11 cases pursuant to
17 confirmed plans. The Plan Administrator both resides in and has his principal offices located in
18 the Eastern District of California (Sacramento Division). In the event that a successor is
19 appointed, “Plan Administrator” shall mean the Successor Plan Administrator.

20 1.87. **“Plan Administrator Compensation Cap”** shall mean: (a) from appointment
21 through the date that the first one million dollars (\$1,000,000) in Cash is distributed by the Plan
22 Administrator to Creditors Subject to Plan Administrator Cap, the Plan Administrator shall not
23 receive any compensation for hourly fees billed in excess of \$53,520; (b) for distributions by the
24 Plan Administrator in excess of first one million dollars (\$1,000,000) to Creditors Subject to the
25 Plan Administrator Cap, the Plan Administrator may be paid his or her hourly fees billed up to
26 three percent (3%) of the Cash distributed; but (c) no percentage of payments or distributions
27 shall be included in the Plan Administrator Compensation Cap for any sums distributed by the
28 Plan Administrator to Creditors Excluded from Plan Administrator Cap. This Plan Administrator

1 Cap is subject to modification pursuant to Articles 6.6 and 6.8.

2 1.88. **“Plan Administrator Distribution Process”** shall mean the creation and
3 maintenance of the database to manage Creditor claims in the Chapter 11 Case, to create the
4 reports and data required to make distributions to creditors as appropriate under the Plan, to print,
5 sign and mail any and all checks for such distributions to Creditors, and to handle any returned
6 checks and updates to the creditor data base as required. The Plan Administrator Distribution
7 Process does not include the drafting of motions to obtain approvals from the Court in connection
8 with the Plan Administrator Distribution Process (e.g. claim objection motions, motions to
9 approve distributions, etc.).

10 1.89. **“Plan Expenses”** shall mean, subject to the limitations contained elsewhere in the
11 Plan, including but not limited to Article 6.20 of the Plan, all actual and necessary costs and
12 expenses incurred after the Effective Date in connection with the administration of the Plan,
13 including, but not limited to, (i) costs, expenses and legal fees incurred related to filing and
14 prosecuting objections to Claims, (ii) the costs, expenses and legal fees incurred to collect the
15 Secured Sale Notes, including, but not limited to, attorneys’ fees, accounting fees, expert witness
16 fees, consultants’ fees, and all costs relating to obtaining and distributing such recoveries,
17 incurred by the Liquidating Debtor, (iii) the costs and expenses of administration of the
18 Liquidating Debtor, including without limitation the fees and costs of the Plan Administrator; and
19 (iv) all fees payable pursuant to section 1930 of Title 28 of the United States Code.

20 1.90. **“Plan Injunction” shall mean the injunction granted on Confirmation as set**
21 **forth in Article 9.3 of the Plan.**

22 1.91. **“Post-Confirmation Budget”** shall mean the budget for Plan Expenses the
23 Liquidating Debtor projects on the Effective Date to be necessary and appropriate, in the exercise
24 of its business judgment and as approved by the Committee, to carry out the provisions of this
25 Plan. A copy of the Post Confirmation Budget is attached hereto as **Exhibit 6**. The Post-
26 Confirmation Budget may be modified with the consent of the Post-Confirmation Committee
27 and/or with Court Approval pursuant to Article 6.20.

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1 1.92. **“Post-Confirmation Committee”** shall mean the Committee Members who elect
2 to remain as members of the Post-Confirmation Committee on the Effective Date.

3 1.93. **“Post-Confirmation Motion and Opportunity for Hearing”** shall mean the
4 procedures to be utilized after the Effective Date by any party seeking approval from the Court
5 respecting matters requiring approval under this Plan which procedures are more fully described
6 in Article 6.39 herein.

7 1.94. **“Post-Confirmation Professional Contingent Fees”** shall mean attorney fees
8 owed by the Estate for Post-Confirmation Professional fees incurred and payable to such
9 professional for any approved contingent fee amount due based on a recovery in an affirmative
10 claim against a Third Party or a benefit to the Estate obtained by reducing or eliminating a Claim
11 against the Estate.

12 1.95. **“Post-Confirmation Professionals”** shall mean any professionals retained by the
13 Plan Administrator or the Committee pursuant to Plan including but not limited to pursuant to
14 Article 6.38.1 after the Effective Date, including any Professionals deemed to have been retained
15 pursuant to the terms of this Plan that were previously retained by the Debtor or the Committee
16 prior to the Effective Date.

17 1.96. **“Post-Confirmation Service List”** shall mean a service list comprised of names
18 and email addresses for all members of the Committee as of the Effective Date, the Office of the
19 United States Trustee, counsel for the Liquidating Debtor, the Plan Administrator, counsel for the
20 Post-Confirmation Committee, and any other creditor or party in interest that files with the Court
21 a request for post confirmation notice after the Effective Date and serves it on all parties on the
22 Post Confirmation Service List.

23 1.97. **“Prepetition Richard Zacky Trust Collateral”** shall mean that certain real
24 property commonly known as 16485 19th Avenue, Lemoore, California (Kings County APN 024-
25 170-020) and that certain property referred to as the “Hanford 57” located in Hanford, California
26 (Kings County APN 028-030-032), as it may be transferred to the proceeds from the \$3.5M
27 Creditor Note pursuant to the DIP Lender Settlement Order.

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1 1.98. **“Priority Claims”** shall mean such Claims that are entitled to priority under the
2 Bankruptcy Code that are not Administrative Claims, Secured Claims, and/or Unsecured Claims.

3 1.99. **“Priority Employee Benefit Claim”** shall mean that portion of an Allowed Claim
4 that is unsecured and that is entitled to priority under section 507(a)(5) of the Bankruptcy Code.

5 1.100. **“Priority Employee Claim”** shall mean that portion of an Allowed Claim that is
6 unsecured and that is entitled to priority under section 507(a)(4) of the Bankruptcy Code.

7 1.101. **“Priority Tax Claim”** shall mean that portion of a Tax Claim, if any, entitled to
8 priority in payment under section 507(a)(8) of the Bankruptcy Code.

9 1.102. **“Pro Rata” or “Pro Rata Share”** shall mean, with respect to distributions on
10 account of Allowed Claims, in the same ratio of an Allowed Claim in a particular Class to the
11 aggregate of all Allowed Claims in that Class.

12 1.103. **“Professional Fees”** shall mean all amounts allowed and awarded by the
13 Bankruptcy Court for compensation for services rendered and reimbursement of expenses
14 incurred by Professionals pursuant to sections 330(a) and 503(b) of the Bankruptcy Code.

15 1.104. **“Professionals”** shall mean those attorneys, accountants and other financial
16 advisors employed by the Debtor or Committee (pursuant to section 327 328 or 1102 of the
17 Bankruptcy Code) in the Chapter 11 Case and to be compensated for services rendered and
18 reimbursed for expenses incurred pursuant to sections 330(a) and 503(b) of the Bankruptcy Code.

19 1.105. **“Proponent”** shall mean the Debtor.

20 1.106. **“Rejected Contract(s)”** shall mean those Executory Contracts which are rejected
21 by the Debtor pursuant to section 365 or 1123(b)(2) of the Bankruptcy Code.

22 1.107. **“Rejection Claim”** shall mean any Allowed Claim under Bankruptcy Code
23 section 502(g) that arises under Bankruptcy Code section 365(g)(1) in favor of the non-debtor
24 party to any Executory Contract that is rejected by the Debtor pursuant to Bankruptcy Code
25 sections 365(a) or 1123(b)(2).

26 1.108. **“Rejection Claim Bar Date”** shall mean the earlier of (a) the date that is thirty
27 (30) days after the Effective Date as set forth in the Notice of Effective Date; and the
28 Confirmation Order shall contain notice of the consequences of a failure to timely file such proof

1 of such Rejection Claims; (b) such other date established by the Bankruptcy Court by which
2 entities asserting a Rejection Claim against the Debtor must have filed a proof of Claim; or (c) on
3 the one hundred twentieth (120th) day after the Confirmation Date.

4 1.109. **“Reserved Claims”** shall mean the amounts necessary, or reserved, to pay (i)
5 Administrative Claims, (ii) Priority Tax Claims, (iii) Allowed Claims (iv) allowed contingency
6 fees of contingency fee counsel engaged by the Debtor, the Committee, the Post-Confirmation
7 Committee and/or the Liquidating Debtor, (v) Plan Expenses in accordance with the Post-
8 Confirmation Budget, or (vi) Court-approved settlements.

9 1.110. **“Reserved Claims Pool”** shall mean the amounts which shall be funded on or
10 after the Effective Date pursuant to Article 6.12 of this Plan for the purpose of holding as reserves
11 the amounts of Administrative Claims (including amounts due for Professional Fees) which have
12 not become Allowed Claims.

13 1.111. **“Reserved Claims Pool Account”** shall mean the bank account established by the
14 Liquidating Debtor into which the Plan Administrator shall deposit the amounts which constitute
15 the Reserved Claims Pool.

16 1.112. **“Richard and Sharon Zacky Entities”** shall mean insiders other than the Lillian
17 Entities including but not limited to Integrated Grain & Milling, Inc., AB Ag Service Inc.,
18 American Huntsman, LLC, Big Feather Ranch, LLC, Lucky Wishbone, LLC, ZF Enterprises
19 LLC, Sharon Zacky Wilensky individually and as trustee of the Sharon Zacky Wilensky
20 Irrevocable Trust Dated 11/26/2007, Richard Zacky individually and as trustee of and including
21 the following trusts: the Richard Zacky Trust, the Barbara Jean Zacky Irrevocable Trust Dated
22 12/30/06, and the Survivor’s Trust of the Albert and Beverly Zacky Trust Dated 2/10/88,

23 1.113. **“Richard Zacky Trust”** shall mean collectively Richard Zacky Trustee of the
24 Richard N. Zacky Irrevocable Trust Dated 11/25/2007 and Richard N. Zacky Irrevocable Trust
25 Dated 11/25/2007.

26 1.114. **“Sale Procedures Order”** shall mean the Order entered on November 20, 2012
27 (Docket No. 323) which set forth the process by which the Debtor marketed and sold
28 substantially all of the assets of the Debtor during the case.

1 1.115. **“Schedules”** shall mean the schedules of assets and liabilities and the statement of
2 financial affairs filed by the Debtor with the Bankruptcy Court pursuant to section 521 of the
3 Bankruptcy Code and Bankruptcy Rule 1007, as amended from time to time.

4 1.116. **“Secured Sale Notes”** shall mean the \$6.4M 503(b)(9) Note and the \$3.5M
5 Creditor Note.

6 1.117. **“Secured Claim”** shall mean a Claim secured by a Lien on property of the Debtor,
7 or the Estate, or secured by an amount subject to setoff under section 553 of the Bankruptcy
8 Code, to the extent of the value of such Lien or right of setoff as determined under sections 506(a)
9 or 1129(b) of the Bankruptcy Code, as applicable.

10 1.118. **“Senior VP of Restructuring”** shall mean Mr. Sean Harding.

11 1.119. **“Settled 503(b)(9) Claims”** shall mean the 503(b)(9) Claims for which the
12 Claimant has agreed to settle its 503(b)(9) Claim pursuant to the DIP Lender Settlement Order,
13 which Claimant has accepted such treatment within the time frame described in the treatment of
14 Class 14 herein.

15 1.120. **“Sole Manager”** shall mean Keith Cooper, or such other person who is appointed
16 pursuant to the terms of the Operating Agreement prior to the Effective Date.

17 1.121. **“Successor Plan Administrator”** shall mean the successor Plan Administrator
18 appointed pursuant to Article 6.32 of the Plan.

19 1.122. **“Third Parties”** shall mean any person or entity that is not the Debtor.

20 1.123. **“Unliquidated Claim”** shall mean any Claim for which a proof of Claim has been
21 filed with the Bankruptcy Court but was not filed in a sum certain, and which Claim has not been
22 estimated, fixed or liquidated by the Bankruptcy Court at a sum certain as of the Effective Date.

23 1.124. **“Unsecured Claim”** shall mean any Claim that is neither secured nor entitled to
24 priority or administrative status under sections 507 or 503, respectively, of the Bankruptcy Code.

25 1.125. **“U.S. Trustee Fees”** shall mean all fees payable under 28 U.S.C. §1930.

26 1.126. **“Western Milling”** shall mean Western Milling, LLC.

27 1.127. **“Zacky Farms Sale”** shall mean the sale of substantially all of the Debtor’s assets
28 to the DIP Lender as set forth in the DIP Lender APA and the Zacky Farms Sale Order.

1 1.128. **“Zacky Farms Sale Order”** shall mean the Order (Docket No. 1079) entered on
2 February 21, 2013, which is attached as Exhibit 7 and incorporated herein by this reference.

3 **ARTICLE II**

4 **CLASSIFICATION OF CLAIMS AND INTERESTS**

5 2.1. **Criterion of Class.** The following is a designation of Classes of Claims under the
6 Plan. Administrative Claims and Priority Tax Claims have not been classified and are excluded
7 from the following Classes in accordance with section 1123(a)(1) of the Bankruptcy Code. A
8 Claim is classified in a particular Class only to the extent that (i) the Claim qualifies within the
9 description of that Class, and is classified in a different Class to the extent that the remainder of
10 the Claim qualifies within the description of that different Class, and (ii) the Claim, or any portion
11 or Allowed amount of such Claim, is an Allowed Claim in that Class and has not been paid,
12 released or otherwise satisfied prior to the Effective Date. In the event of a controversy as to
13 whether (a) any Class of Claims is impaired, or (b) any Class of Claims is properly designated,
14 the Bankruptcy Court shall, after notice and a hearing, determine such controversy pursuant to
15 applicable provisions of the Bankruptcy Code and Bankruptcy Rule 3013.

16 2.2. **Classes of Claims and Interests.** All Claims and Interests are divided into the
17 following Classes, which Classes shall be mutually exclusive:

18 2.3. **Class 1 Claims.** Class 1 shall consist of the Secured Claims of the DIP Lender.

19 2.4. **Class 2 Claims.** Class 2 shall consist of the Secured Claim of Western Milling.

20 2.5. **Class 3 Claims.** Class 3 shall consist of the Secured Claim of Dreisbach.

21 2.6. **Class 4 Claims.** Class 4 shall consist of the Secured Claim of the Lillian Zacky
22 Trust.

23 2.7. **Class 5 Claims.** Class 5 shall consist of the Secured Claim of Office Max North
24 America.

25 2.8. **Class 6 Claims.** Class 6 shall consist of the Secured Claim of Dave Dodge
26 Service, Inc.

27 2.9. **Class 7 Claims.** Class 7 shall consist of the Secured Claim of B&B Quality Food
28 Providers.

1 2.10. **Class 8 Claims.** Class 8 shall consist of the Secured Claim of Wei Chan DDS.

2 2.11. **Class 9 Claims.** Class 9 shall consist of the Secured Claim of the Idaho Avenue
3 Land Company.

4 2.12. **Class 10 Claims.** Class 10 shall consist of the Secured Claim of USA Petroleum
5 Corporation

6 2.13. **Class 11 Claims.** Class 11 shall consist of the Secured Claim of GFC LLC.

7 2.14. **Class 12 Claims.** Class 12 shall consist of the Secured Claim of the Richard
8 Zacky Trust.

9 2.15. **Class 13 Claims.** Class 13 shall consist of the Secured Claims of holders of
10 Permitted Liens.

11 2.16. **Class 14 Claims.** Class 14 shall consist of the Settled 503(b)(9) Claims.

12 2.17. **Class 15 Claims.** Class 15 shall consist of General Unsecured Claims.

13 2.18. **Class 16 Interests.** Class 16 shall consist of the Interests held by the Debtor's
14 Members.

15 **ARTICLE III**

16 **TREATMENT OF UNCLASSIFIED CLAIMS**

17 3.1. **Administrative Claims.** Each Allowed Administrative Claim, unless the holder
18 of such Claim has agreed to a different treatment such as holders of Settled 503(b)(9) Claims,
19 shall be paid in full by the DIP Lender in the ordinary course of business under the terms of the
20 DIP Lender APA and the DIP Lender Settlement Order; but if DIP Lender fails to make such
21 payments, and if collection efforts by the Plan Administrator against the DIP Lender do not
22 prompt such payment, and subject to the condition contained in Article 6.20, such payment(s)
23 shall be made by the Liquidating Debtor from Available Cash or the Reserved Claims Pool
24 Account (as applicable) on the latest of: (a) the Effective Date, or as soon thereafter as
25 practicable; (b) such date as may be fixed by the Bankruptcy Court, or as soon thereafter as
26 practicable; (c) the tenth Business Day after such Claim is Allowed, or as soon thereafter as
27 practicable; (d) such date as the holder of such Claim and the Liquidating Debtor may agree; (e)
28 the date that the condition contained in Article 6.20 is satisfied. Satisfaction of an Administrative

1 Claim by the Plan Administrator shall not relieve the DIP Lender from its obligations with respect
2 to such claim, and the Debtor shall be subrogated to the rights of any Claimant against any party,
3 including but not limited to the DIP Lender or its assignee, whose Administrative Claim is or has
4 previously been paid by the Debtor.

5 3.2. **Administrative Claim Bar Date.** All requests for payment of Administrative
6 Claims, other than Claims for Professional Fees, must be filed by the Administrative Claim Bar
7 Date or the holders thereof shall be forever barred from asserting such Administrative Claims
8 against the Debtor or the Liquidating Debtor or from sharing in any distribution under the Plan.

9 3.3. **Claims for Professional Fees.** Each party seeking an award by the Bankruptcy
10 Court of Professional Fees: (a) must file its final application for allowance of compensation for
11 services rendered and reimbursement of expenses incurred through the Effective Date on or
12 before the Administrative Claims Bar Date; and (b) if the Bankruptcy Court grants such an award,
13 each such party will be paid in full in Cash by the Liquidating Debtor in such amounts as are
14 allowed by the Bankruptcy Court as soon thereafter as practicable. All final applications for
15 allowance and disbursement of Professional Fees must be in compliance with all of the terms and
16 provisions of any applicable order of the Bankruptcy Court, including the Confirmation Order.

17 3.4. **Priority Tax Claims.** Each Allowed Priority Tax Claim and any other tax claims,
18 up to the aggregate amount of \$500,000, have been assumed and shall be paid by the DIP Lender
19 under the terms of the DIP Lender APA. If the DIP Lender fails to pay such Allowed Priority
20 Tax Claims, and if collection efforts by the Plan Administrator against the DIP Lender do not
21 prompt such payment, any amounts unpaid by the DIP Lender, unless the holder of such Claim
22 has agreed to a different treatment, shall, subject to the satisfaction of the condition in Article
23 6.20 be paid by the Liquidating Debtor from Available Cash or the Reserved Claims Pool
24 Account (as applicable) under the Bankruptcy Code Distribution Priorities deferred cash
25 payments to the extent permitted by section 1129(a)(9) of the Bankruptcy Code with interest on
26 the unpaid portion of such Claim at the rate established by applicable nonbankruptcy law as of the
27 calendar month in which the Plan is confirmed, or at such other rate as may be agreed upon
28 between the Liquidating Debtor and the appropriate governmental unit, provided that the

1 Liquidating Debtor may prepay any or all such Claims at any time, without premium or penalty.
2 Satisfaction of a Priority Tax Claim by the Plan Administrator shall not relieve the DIP Lender
3 from its obligations with respect to such claim, and the Debtor shall be subrogated to the rights of
4 any Claimant against any party, including but not limited to the DIP Lender or its assignee, whose
5 Priority Tax Claim is or has previously been paid by the Debtor. Allowed Priority Tax Claims
6 that have become unenforceable against the Debtor and property of the Debtor after the date of
7 the filing of the petition by satisfaction, release, creation of a defense, including any setoffs that
8 arose post-petition, or otherwise shall not receive any distributions under the Plan.

9 **3.5. Priority Employee Claims.** All Allowed Priority Employee Claims were
10 assumed by the DIP Lender under the terms of the DIP Lender APA and have previously been
11 paid or satisfied by such assumption. If the DIP Lender fails to pay such Priority Employee
12 Claims, and if collection efforts by the Plan Administrator against the DIP Lender do not prompt
13 such payment, Any amounts unpaid by the DIP Lender, subject to the satisfaction of the condition
14 in Article 6.20, shall be paid by the Liquidating Debtor from Available Cash or the Reserved
15 Claims Pool Account (as applicable) under the Bankruptcy Code Distribution Priorities as soon as
16 practicable after the Effective Date. Satisfaction of a Priority Employee Claim by the Plan
17 Administrator shall not relieve the DIP Lender from its obligations with respect to such claim.
18 and the Debtor shall be subrogated to the rights of any Claimant against any party, including but
19 not limited to the DIP Lender or its assignee, whose Priority Employee Claim is or has previously
20 been paid by the Debtor. Allowed Priority Employee Claims that have become unenforceable
21 against the Debtor and property of the Debtor after the date of the filing of the petition by
22 satisfaction, release, creation of a defense, including any setoffs that arose post-petition, or
23 otherwise shall not receive any distributions under the Plan.

24 **3.6. Other Priority Claims.** The Debtor does not know of or believe that any other
25 Priority Claims exist, but if there are such Claims, and upon allowance, such Allowed Priority
26 Claims shall, subject to the satisfaction of the condition in Article 6.20, be paid in accordance
27 with the Bankruptcy Code Distribution Priorities from Net Available Cash as soon as practicable
28 after the date such Claim becomes an Allowed Priority Claim. Allowed Priority Claims that have

1 become unenforceable against the Debtor and property of the Debtor after the date of the filing of
2 the petition by satisfaction, release, creation of a defense, including any setoffs that arose post-
3 petition, or otherwise shall not receive any distributions under the Plan.

4 **ARTICLE IV**

5 **TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

6 4.1. **Class 1 Claims (DIP Lender).** The Class 1 Creditor shall be treated pursuant to
7 the terms provided in the DIP Lender Settlement Order, the Zacky Farms Sale Order and the
8 Zacky Farms APA, which are incorporated by reference into this Plan treatment of Class 1
9 Claims as if restated fully herein. No distributions shall be made to the DIP Lender except as
10 required to return carved-out funds pursuant to the terms of the DIP Lender Settlement Order.
11 The DIP Lender shall remain fully responsible for and liable for all obligations and amounts due
12 the Debtor and/or any Creditors under the DIP Lender Settlement Order, the Zacky Farms Sale
13 Order, the \$6.4M 503(b)(9) Note and the \$3.5M Creditor Note as well as any other
14 documentation executed in connection with these orders and documents. To the extent that the
15 DIP Lender's Liens have not been previously expunged from the Estate Assets, any and all
16 remaining Liens of the DIP Lender on any Estate Assets shall be invalid, void and expunged on
17 the Effective Date.

18 4.2. **Class 2 Claims (Western Milling).** Western Milling's secured claim shall be
19 treated pursuant to the terms provided in the DIP Lender Settlement Order. Subject to Western
20 Milling's rights and interests provided in the DIP Lender Settlement Order (and particularly
21 Paragraph 14), to the extent that Western Milling's Liens have not been previously expunged
22 from the Estate Assets, any and all remaining Liens of Western Milling on any Estate Assets shall
23 be deemed invalid, void and expunged from all the Estate Assets on the Effective Date. Western
24 Milling shall be entitled to receive distributions on account of its Settled 503(b)(9) Claim and its
25 unsecured claim as part of distributions to Class 14 and 15 Claimants, respectfully, and as set
26 forth in the DIP Lender Settlement Order. Allowed Claims in Class 2 that have become
27 unenforceable against the Debtor and property of the Debtor after the date of the filing of the
28 petition by satisfaction, release, creation of a defense, including any setoffs that arose post-

1 petition, or otherwise shall not receive any distributions under the Plan.

2 4.3. **Class 3 Claims (Dreisbach).** Dreisbach's Disputed Secured Claim shall receive
3 one of the following two alternate treatments: (a) If the Debtor has obtained an Order prior to the
4 Confirmation Date estimating or determining the amount of Dreisbach's Disputed Secured Claim
5 at zero (\$-0-) for Plan Confirmation purposes, no further distributions shall be made to Dreisbach
6 on account of its Disputed Secured Claim and the disputed Lien of Dreisbach on any Estate
7 Assets shall be deemed invalid, void and expunged from the all the Estate Assets on the Effective
8 Date. Or, (b) If an Order referenced in Article 4.3(a) has not been obtained by the Confirmation
9 Date, Dreisbach's Disputed Secured Claim shall be secured after the Effective Date by a Disputed
10 Secured Creditors' Post-Effective Date Lien and shall be paid from the proceeds of the \$3.5M
11 Creditor Note on the later of (i) when its Disputed Secured Claim becomes an Allowed Secured
12 Claim and (ii) ninety (90) days after the \$3.5M Creditor Note Payment Date. Interest shall also be
13 paid concurrently in accordance with the underlying loan documents or at such other rate as
14 determined by the Court at the Confirmation Hearing. Unless objected to or resolved prior to the
15 Confirmation Date, the Plan Administrator shall object to Dreisbach's Disputed Secured Claim
16 and may resolve said claim pursuant to the Plan. Allowed Claims in Class 3 that have become
17 unenforceable against the Debtor and property of the Debtor after the date of the filing of the
18 petition by satisfaction, release, creation of a defense, including any setoffs that arose post-
19 petition, or otherwise shall not receive any distributions under the Plan.

20 4.4. **Class 4 Claims (Lillian Zacky Trust).** The Class 4 Creditor shall receive no Plan
21 distributions pursuant to the terms of the DIP Lender Settlement Order and the Zacky Farms Sale
22 Order. To the extent that the Lillian Zacky Trust's Liens have not been previously expunged
23 from the Estate Assets, any and all remaining Liens of the Lillian Zacky Trust on any Estate
24 Assets shall be deemed invalid, void and expunged from the all the Estate Assets on the Effective
25 Date.

26 4.5. **Class 5 Claims (Office Max North America).** Office Max North America's
27 Disputed Secured Claim shall receive one of the following two alternate treatments: (a) If the
28 Debtor has obtained an Order prior to the Confirmation Date estimating or determining the

1 amount of Office Max North America's Disputed Secured Claim at zero (\$-0-) for Plan
2 Confirmation purposes, no further distributions shall be made to Office Max North America on
3 account of its Disputed Secured Claim and the disputed Lien of Office Max North America on
4 any Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on
5 the Effective Date. Or, (b) If an Order referenced in Article 4.5(a) has not been obtained by the
6 Confirmation Date, Office Max North America's Disputed Secured Claim shall be secured after
7 the Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and shall be paid
8 from the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed Secured Claim
9 becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor Note
10 Payment Date. Interest shall also be paid concurrently in accordance with the underlying loan
11 documents or at such other rate as determined by the Court at the Confirmation Hearing. Unless
12 objected to or resolved prior to the Confirmation Date, the Plan Administrator shall object to
13 Office Max North America's Disputed Secured Claim and may resolve said claim pursuant to the
14 Plan. Allowed Claims in Class 5 that have become unenforceable against the Debtor and
15 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
16 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any
17 distributions under the Plan.

18 4.6. **Class 6 Claims (Dave Dodge Service, Inc.).** Dave Dodge Service, Inc.'s
19 Disputed Secured Claim shall receive one of the following two alternate treatments: (a) If the
20 Debtor has obtained an Order prior to the Confirmation Date estimating or determining the
21 amount of Dave Dodge Service, Inc.'s Disputed Secured Claim at zero (\$-0-) for Plan
22 Confirmation purposes, no further distributions shall be made to Dave Dodge Service, Inc. on
23 account of its Disputed Secured Claim and the disputed Lien of Dave Dodge Service, Inc. on any
24 Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on the
25 Effective Date. Or, (b) If an Order referenced in Article 4.6(a) has not been obtained by the
26 Confirmation Date, Dave Dodge Service, Inc.'s Disputed Secured Claim shall be secured after the
27 Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and shall be paid from
28 the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed Secured Claim

1 becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor Note
2 Payment Date. Interest shall also be paid concurrently in accordance with the underlying loan
3 documents or at such other rate as determined by the Court at the Confirmation Hearing. Unless
4 objected to or resolved prior to the Confirmation Date, the Plan Administrator shall object to
5 Dave Dodge Service Inc.'s Disputed Secured Claim and may resolve said claim pursuant to the
6 Plan. Allowed Claims in Class 6 that have become unenforceable against the Debtor and
7 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
8 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any
9 distributions under the Plan.

10 4.7. **Class 7 Claims (B&B Quality Food Providers).** B&B Quality Food Providers'
11 Disputed Secured Claim shall receive one of the following two alternate treatments: (a) If the
12 Debtor has obtained an Order prior to the Confirmation Date estimating or determining the
13 amount of B&B Quality Food Providers' Disputed Secured Claim at zero (\$-0-) for Plan
14 Confirmation purposes, no further distributions shall be made to B&B Quality Food Providers' on
15 account of its Disputed Secured Claim and the disputed Lien of B&B Quality Food Providers' on
16 any Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on
17 the Effective Date. Or, (b) If an Order referenced in Article 4.7(a) has not been obtained by the
18 Confirmation Date, B&B Quality Food Providers' Disputed Secured Claim shall be secured after
19 the Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and shall be paid
20 from the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed Secured Claim
21 becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor Note
22 Payment Date. Interest shall also be paid concurrently in accordance with the underlying loan
23 documents or at such other rate as determined by the Court at the Confirmation Hearing. Unless
24 objected to or resolved prior to the Confirmation Date, the Plan Administrator shall object to
25 B&B Quality Food Providers' Disputed Secured Claim and may resolve said claim pursuant to
26 the Plan. Allowed Claims in Class 7 that have become unenforceable against the Debtor and
27 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
28 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any

1 distributions under the Plan.

2 4.8. **Class 8 Claims (Wei Chan DDS).** Wei Chan DDS' Disputed Secured Claim shall
3 receive one of the following two alternate treatments: (a) If the Debtor has obtained an Order
4 prior to the Confirmation Date estimating or determining the amount of Wei Chan DDS'
5 Disputed Secured Claim at zero (\$-0-) for Plan Confirmation purposes, no further distributions
6 shall be made to Wei Chan DDS on account of its Disputed Secured Claim and the disputed Lien
7 of Wei Chan DDS on any Estate Assets shall be deemed invalid, void and expunged from the all
8 the Estate Assets on the Effective Date. Or, (b) If an Order referenced in Article 4.8(a) has not
9 been obtained by the Confirmation Date, Wei Chan DDS' Disputed Secured Claim shall be
10 secured after the Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and
11 shall be paid from the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed
12 Secured Claim becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M
13 Creditor Note Payment Date. Interest shall also be paid concurrently in accordance with the
14 underlying loan documents or at such other rate as determined by the Court at the Confirmation
15 Hearing Unless objected to or resolved prior to the Confirmation Date, the Plan Administrator
16 shall object to Wei Chan DDS's Disputed Secured Claim and may resolve said claim pursuant to
17 the Plan. Allowed Claims in Class 8 that have become unenforceable against the Debtor and
18 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
19 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any
20 distributions under the Plan.

21 4.9. **Class 9 Claims (Idaho Avenue Land Company).** The Disputed Secured Claim
22 of Idaho Avenue Land Company shall receive one of the following two alternate treatments: (a) If
23 the Debtor has obtained an Order prior to the Confirmation Date estimating or determining the
24 amount of Idaho Avenue Land Company's Disputed Secured Claim at zero (\$-0-) for Plan
25 Confirmation purposes, no further distributions shall be made to Idaho Avenue Land Company on
26 account of its Disputed Secured Claim and the disputed Lien of Idaho Avenue Land Company on
27 any Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on
28 the Effective Date. Or, (b) If an Order referenced in Article 4.9(a) has not been obtained by the

1 Confirmation Date, Idaho Avenue Land Company's Disputed Secured Claim shall be secured
2 after the Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and shall be
3 paid from the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed Secured
4 Claim becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor
5 Note Payment Date. Interest shall also be paid concurrently in accordance with the underlying
6 loan documents or at such other rate as determined by the Court at the Confirmation Hearing.
7 Unless objected to or resolved prior to the Confirmation Date, the Plan Administrator shall object
8 to Idaho Avenue Land Company's Disputed Secured Claim and may resolve said claim pursuant
9 to the Plan. Allowed Claims in Class 9 that have become unenforceable against the Debtor and
10 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
11 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any
12 distributions under the Plan.

13 4.10. **Class 10 Claims (USA Petroleum Corporation).** The Disputed Secured Claim
14 of USA Petroleum Corporation shall receive one of the following two alternate treatments: (a) If
15 the Debtor has obtained an Order prior to the Confirmation Date estimating or determining the
16 amount of USA Petroleum Corporation's Disputed Secured Claim at zero (\$-0-) for Plan
17 Confirmation purposes, no further distributions shall be made to USA Petroleum Corporation on
18 account of its Disputed Secured Claim and the disputed Lien of USA Petroleum Corporation on
19 any Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on
20 the Effective Date. Or, (b) If an Order referenced in Article 4.10(a) has not been obtained by the
21 Confirmation Date, USA Petroleum Corporation's Disputed Secured Claim shall be secured after
22 the Effective Date by a Disputed Secured Creditors' Post-Effective Date Lien and shall be paid
23 from the proceeds of the \$3.5M Creditor Note on the later of (i) when its Disputed Secured Claim
24 becomes an Allowed Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor Note
25 Payment Date. Interest shall also be paid concurrently in accordance with the underlying loan
26 documents or at such other rate as determined by the Court at the Confirmation Hearing. Unless
27 objected to or resolved prior to the Confirmation Date, the Plan Administrator shall object to
28 USA Petroleum Corporation's Disputed Secured Claim and may resolve said claim pursuant to

1 the Plan. Allowed Claims in Class 10 that have become unenforceable against the Debtor and
2 property of the Debtor after the date of the filing of the petition by satisfaction, release, creation
3 of a defense, including any setoffs that arose post-petition, or otherwise shall not receive any
4 distributions under the Plan.

5 4.11. **Class 11 Claims (GFC LLC).** The Disputed Secured Claim of GFC LLC shall
6 receive one of the following two alternate treatments: (a) If the Debtor has obtained an Order
7 prior to the Confirmation Date estimating or determining the amount of GFC LLC's Disputed
8 Secured Claim at zero (\$-0-) for Plan Confirmation purposes, no further distributions shall be
9 made to GFC LLC on account of its Disputed Secured Claim and the disputed Lien of GFC LLC
10 on any Estate Assets shall be deemed invalid, void and expunged from the all the Estate Assets on
11 the Effective Date. Or, (b) If an Order referenced in Article 4.11(a) has not been obtained by the
12 Confirmation Date, GFC LLC's Disputed Secured Claim shall be secured after the Effective Date
13 by a Disputed Secured Creditors' Post-Effective Date Lien and shall be paid from the proceeds of
14 the \$3.5M Creditor Note on the later of (i) when its Disputed Secured Claim becomes an Allowed
15 Secured Claim and (ii) ninety (90) days after the \$3.5M Creditor Note Payment Date. Interest
16 shall also be paid concurrently in accordance with the underlying loan documents or at such other
17 rate as determined by the Court at the Confirmation Hearing. Unless objected to or resolved prior
18 to the Confirmation Date, the Plan Administrator shall object to GFC LLC's Disputed Secured
19 Claim and may resolve said claim pursuant to the Plan. Allowed Claims in Class 11 that have
20 become unenforceable against the Debtor and property of the Debtor after the date of the filing of
21 the petition by satisfaction, release, creation of a defense, including any setoffs that arose post-
22 petition, or otherwise shall not receive any distributions under the Plan.

23 4.12. **Class 12 Claim (Richard Zacky Trust).** The Richard Zacky Trust's Disputed
24 Secured Claim shall remain secured by the Lien of Richard Zacky Trust until such time as said
25 claim is either Allowed or disallowed. The Committee disputes the Lien of Richard Zacky Trust,
26 and such dispute shall be resolved prior to or after the Effective Date. To the extent it becomes
27 an Allowed Claim, the Class 12 Claim shall be paid as soon as practicable from the proceeds of
28 the \$3.5M Creditor Note on the later of (a) when the Richard Zacky Trust's Disputed Secured

1 Claim becomes an Allowed Secured Claim, or (b) ninety (90) days after the \$3.5M Creditor Note
2 Payment Date (collectively (a-b) above, the “Richard Zacky Trust Payment Date”. To the extent
3 allowed, interest shall be also be paid through the Richard Zacky Trust Payment Date in
4 accordance with the underlying loan documents or at such other rate as determined by the Court
5 at the Confirmation Hearing on the Richard Zacky Payment Date. The Plan Administrator shall
6 have standing on the Effective Date to litigate or settle or otherwise resolve any and all disputes
7 regarding the Class 12 Creditor’s Disputed Secured Claim in accordance with the Plan. Allowed
8 Claims in Class 12 that have become unenforceable against the Debtor and property of the Debtor
9 after the date of the filing of the petition by satisfaction, release, creation of a defense, including
10 any setoffs that arose post-petition, or otherwise shall not receive any distributions under the Plan.

11 4.13. **Class 13 Claims (Holders of Permitted Liens).** Class 13 consists of Creditors
12 whose secured claims remain on the assets transferred to the DIP Lender pursuant to the Zacky
13 Farms Sale documents and sections 1.1(mm) and 2.1 of the DIP Lender APA and shall be
14 satisfied by the DIP Lender. No distributions shall be made to Class 13 Creditors under the Plan.
15 Satisfaction of a Claim secured by a Permitted Lien by the Debtor or the Plan Administrator shall
16 not relieve the DIP Lender or its assignee from their respective obligations with respect to such
17 claim and the Debtor shall be subrogated to the rights of any such Claimant against any party,
18 including but not limited to the DIP Lender or its assignee.

19 4.14. **Class 14 Claims (Settled 503(b)(9) Claims).** 503(b)(9) Claims became Settled
20 503(b)(9) Claims by a Claimant’s executing and returning the 503(b)(9) Settlement Election on or
21 prior to April 8, 2013, or as later allowed by the Debtor, or otherwise approved by the Court. All
22 Allowed Settled 503(b)(9) Claims shall be paid from the proceeds of the 503(b)(9) Note. Such
23 payment shall be made on or as soon as practicable after August 26, 2013. For purposes of
24 clarity, and without further order of the Bankruptcy Court or filing of any other claim, a holder of
25 Settled 503(b)(9) Claim **may file** a general unsecured claim for the difference between the
26 holder’s Settled 503(b)(9) Claim and its 503(b)(9) Claim **on or before the Confirmation Date**
27 and such amount shall share in Class 15 distributions. Allowed Claims in Class 14 that have
28 become unenforceable against the Debtor and property of the Debtor after the date of the filing of

1 the petition by satisfaction, release, creation of a defense, including any setoffs that arose post-
2 petition, or otherwise shall not receive any distributions under the Plan.

3 4.15. **Class 15 Claims (General Unsecured Creditors).** Class 15 Creditors shall be
4 paid from Estate Assets to the extent Net Available Cash exists after the payment of or reserve for
5 all senior claims under the Bankruptcy Code Distribution Priorities in accordance with the
6 provisions of this Plan. Prior to the use of any proceeds from the \$3.5M Creditor Note to pay
7 senior obligations under the Bankruptcy Code Distribution Priorities, the Plan Administrator shall
8 obtain Post-Confirmation Committee or Court approval pursuant to the provisions of Article 6.20.
9 All payments shall be made on any principal amounts due, and then on interest, if applicable, at
10 the rate of 7% per annum compounded annually. Allowed general Unsecured Claims that have
11 become unenforceable against the Debtor and property of the Debtor after the date of the filing of
12 the petition by satisfaction, release, creation of a defense, including any setoffs that arose post-
13 petition, or otherwise shall not receive any distributions under the Plan.

14 4.16. **Class 16 Interests (Debtor's Members).** The Debtor's Members shall retain their
15 Interests Post-Confirmation, but the Operating Agreement shall be deemed amended to eliminate
16 any power or right to effect management of the Debtor Post-Confirmation, except to the extent
17 authorized pursuant to other provisions in this Plan. No Member or group of Members shall have
18 any authority to perform any act on behalf of the Debtor, except to the extent authorized pursuant
19 to other provisions in this Plan. No distributions to the Debtor's Members shall be made until all
20 Allowed Claims and/or obligations to the Claimants' in Classes 1-15 are fully satisfied.

21 **ARTICLE V**

22 **UNIMPAIRED AND IMPAIRED CLASSES**

23 All Classes are impaired under this Plan.

24 **ARTICLE VI**

25 **MEANS FOR IMPLEMENTATION OF THE PLAN**

26 The Plan shall be implemented on the Effective Date. In addition to the provisions set
27 forth elsewhere in this Plan regarding means of execution, the following shall constitute the
28 principal means for implementation of the Plan.

1 6.1. **Effective Date Transactions.** Without limiting the generality of the foregoing,
2 and without altering or amending the terms of the Plan in any manner, on (or, where appropriate,
3 after) the Effective Date, the following actions shall occur:

4 6.1.1. The transactions contemplated under the Plan shall be consummated;

5 6.1.2. The Liquidating Debtor shall fund the Reserved Claims Pool Account with
6 the funds necessary to establish the Reserved Claims Pool;

7 6.1.3. The Liquidating Debtor shall reserve such funds as are necessary to fund
8 all anticipated Plan Expenses;

9 6.1.4. The Plan Administrator shall assume his or her responsibilities under the
10 Plan, unless the Confirmation Order changes the effective date of the Plan Administrator
11 appointment.

12 6.2. **Revesting of Estate Assets.** Upon the Effective Date, the Liquidating Debtor
13 shall be vested with all right, title and interest in the Estate Assets free and clear of all Claims and
14 Liens, other than as specifically provided in this Plan. The Liquidating Debtor, through the Plan
15 Administrator, is authorized to bring any and all claims against Third Parties, including the
16 Richard and Lillian Zacky Entities, including Avoidance Actions, claims for breaches of fiduciary
17 duties, recharacterization, subordination and all other claims and causes of action.

18 6.3. **Amendment of Operating Agreement.** Upon the Effective Date, or such other
19 time as is set forth in the Confirmation Order or other separate Order, the Debtor's Operating
20 Agreement shall be deemed amended to replace the Sole Manager with the Plan Administrator,
21 and the Sole Manager shall be relieved of his responsibilities for the Debtor. The Liquidating
22 Debtor, as represented by the Plan Administrator, shall be authorized to execute such other
23 documents as are necessary and appropriate to carry out the provisions of this Plan, without the
24 necessity of filing such documents with the Bankruptcy Court. In the event the Liquidating
25 Debtor seeks and obtains the assistance of the Sole Manager, the Debtor's or the Committee's
26 Professionals after Confirmation, regarding, *inter alia*, the Debtor's dissolution or the Chapter 11
27 Case, the Liquidating Debtor shall pay for such assistance at the regular hourly rates of the Sole
28 Manager, the Debtor's or the Committee's Professionals.

1 6.4. **Management of Liquidating Debtor by Plan Administrator.** Subject to the
2 oversight and consent of the Post-Confirmation Committee which is required for certain Plan
3 Administrator actions or decisions that are set forth in, *inter alia*, Article 6.20, on and after the
4 Effective Date, the Plan Administrator shall be responsible for the implementation of the Plan,
5 including with respect to the management, control and operation of the Liquidating Debtor
6 Nothing in this section shall interfere with, impede or affect in any manner the police and
7 regulatory powers of the United States Department of Agriculture with respect to the Liquidating
8 Debtor after the termination of the Plan Injunction, or with respect to any third party at any time.

9 6.5. **Plan Administrator Base Compensation.** The Plan Administrator shall be paid
10 in the ordinary course of business his or her hourly charges, based on an hourly rate not to exceed
11 \$300 per hour, but such payments may not exceed the Plan Administrator Compensation Cap.
12 The Plan Administrator may also pay his or her reasonable out of pocket expenses in the ordinary
13 course of business, but such payments may not exceed the amounts allocated for such expenses in
14 the Liquidating Debtor's Liquidation Budget. The Plan Administrator shall provide copies of
15 reasonably detailed invoices to the Post-Confirmation Committee for reasonableness review no
16 fewer than ten (10) days prior to payment of said invoices.

17 6.6. **Plan Administrator Added Compensation For Collection Activities Related to**
18 **\$6.4M 503(b)(9) Note.** If collection efforts to recover the \$6.4M 503(b)(9) Note are required, the
19 Plan Administrator may be compensated for the specific hourly fees charged for such collection
20 activities in excess of the Plan Administrator Compensation Cap as follows. (a) the Plan
21 Administrator Compensation Cap shall be deemed modified to include distributions made by the
22 Plan Administrator to the holders of 503(b)(9) Claims in the definition of Creditors Subject to
23 Plan Administrator's Contingency Fee, but (b) The Plan Administrator shall seek to have all the
24 Plan Administrator's fees and costs of collecting on the \$6.4M 503(b)(9) Note recovered from
25 and paid by the DIP Lender before the Plan Administrator pays such additional fees from the
26 proceeds of the \$6.4M 503(b)(9) Note, (c) the amount of the modification of the Plan
27 Administrator Compensation Cap will not exceed the Plan Administrator's actual fees billed in
28 the collection efforts respecting the \$6.4M 503(b)(9) Note, and (d) No payments under this

1 paragraph may be made absent Post-Confirmation Committee or Court approval of such
2 additional fees in excess of the Plan Administrator Compensation Cap.

3 **6.7. Plan Administrator Fee Application.** The Plan Administrator shall not be
4 required to provide detailed time records if the compensation sought does not exceed \$53,200.
5 Upon completion of all duties and concurrent with a Post-Confirmation Motion and Opportunity
6 for Hearing seeking closure of the Chapter 11 Case, to the extent that the Plan Administrator
7 seeks fees and expenses in excess of \$53,200, the Plan Administrator shall file a final fee
8 application seeking Court approval of all compensation and expenses paid to the Plan
9 Administrator.

10 **6.8. Court Modification of Plan Administrator Cap.** Notwithstanding anything to
11 the contrary in this Plan, upon the appointment of a Successor Plan Administrator, or upon the
12 occurrence of extraordinary events that would make the Plan Administrator Cap improvident due
13 to unforeseen circumstances, the Court, after Notice and Opportunity for Hearing, may approve a
14 reasonable adjustment to Plan Administrator Compensation Cap as is reasonably necessary to
15 carry out the purpose and intent of this Plan.

16 **6.9. Continued Business of Liquidating Debtor.** On and after the Effective Date, the
17 Liquidating Debtor shall continue to engage in its wind-down operations and may use, acquire,
18 dispose of and/or abandon Estate Assets without supervision by the Bankruptcy Court and free of
19 any restrictions under the Bankruptcy Code or the Bankruptcy Rules, except as set forth in this
20 Plan. The Liquidating Debtor will not continue or engage in the conduct of any trade or business,
21 except to the limited extent necessary to accomplish the liquidation and distribution of the Estate
22 Assets.

23 **6.10. Secured Sale Notes.** Except as otherwise limited in this Plan, on and after the
24 Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Liquidating Debtor,
25 acting through the Plan Administrator, shall enforce the Secured Sale Notes with all powers and
26 authority of a debtor in possession or trustee under the Bankruptcy Code. If collection actions are
27 necessary, the Plan Administrator shall seek to assess the DIP Lender with the costs, fees and
28 expenses of such collection actions.

1 6.11. **Other DIP Lender Obligations.** Except as otherwise limited in this Plan, on and
2 after the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Liquidating
3 Debtor, acting through the Plan Administrator, shall enforce all the obligations of the DIP Lender
4 pursuant to the DIP Lender Settlement Order, the DIP Lender APA and all other documents
5 executed or prepared in connection with the DIP Lender Settlement or the Zacky Farms Sale,
6 including but not limited to the obligations of the DIP Lender under such documents to pay
7 certain: Administrative Claims, Cure Obligations, Priority Claims, and certain assumed
8 Unsecured Claims, such as unsecured employee obligations. If collection actions are necessary,
9 the Plan Administrator shall seek to assess the DIP Lender will and the costs, fees and expenses
10 of such collection actions.

11 6.12. **Settlement of Claims and Defenses.** Subject to the restrictions in Article 6.20,
12 the Plan Administrator may investigate claims, objections or defenses and may assert, settle,
13 abandon, or enforce any such affirmative claims, objections or defenses without supervision by
14 the Bankruptcy Court and free of any restrictions under the Bankruptcy Code or the Bankruptcy
15 Rules.

16 6.13. **Bankruptcy Rule 2004.** In the course of any ongoing investigations, the Plan
17 Administrator shall have the right post-confirmation to utilize Bankruptcy Rule 2004
18 examinations, including the issuance of subpoenas, and such future examinations and subpoenas
19 shall be deemed to have been approved and authorized by the Plan and may be issued without
20 further Order of the Court.

21 6.14. **Standing.** To the extent any litigation is already pending on the Effective Date,
22 the Liquidating Debtor as successor to the Debtor and the Committee may continue the
23 prosecution of such litigation and such litigation shall be authorized without further order of the
24 Court. Without limiting the foregoing, the Plan Administrator, acting on behalf of the
25 Liquidating Debtor, shall accede to and become the holder of all rights in and to any
26 confidentiality agreements, joint defense agreements, and privilege agreements, as well as rights
27 pursuant to attorney-client privilege, attorney work product and any other or similar doctrine, of
28 the Debtor and the Committee (to the extent applicable to any litigation commenced by the

1 Committee on behalf of the Estate prior to the Effective Date). Any proceeds received from or on
2 account of such litigation shall constitute Estate Assets and shall vest entirely in the Liquidating
3 Debtor. Without limiting the foregoing, the Plan Administrator shall be authorized to pursue any
4 and all claims of the Estate against Third Parties which are preserved and vested in the
5 Liquidating Debtor.

6 **6.15. Avoidance Actions.** Except as previously released under the DIP Lender
7 Settlement Order, or other Order of the Court, on and after the Effective Date, the Liquidating
8 Debtor, acting through the Plan Administrator, shall retain and may enforce the Avoidance
9 Actions with all powers and authority of a debtor in possession or trustee under the Bankruptcy
10 Code. The Plan Administrator may investigate Avoidance Actions and may assert, settle or
11 enforce any such claims or defenses pursuant to the Plan. To the extent any Avoidance Actions
12 are already pending on the Effective Date, the Liquidating Debtor as successor to the Debtor and
13 through the Plan Administrator, may continue the prosecution of such Avoidance Actions. Any
14 proceeds received from or on account of the Avoidance Actions shall constitute Estate Assets and
15 shall vest entirely in the Liquidating Debtor. Without limiting the generality of the foregoing, any
16 and all of the Estate's claims and causes of action against the Richard and Sharon Zacky Entities
17 shall vest in and be retained by the Liquidating Debtor on the Effective Date, including but not
18 limited to claims for the recovery of fraudulent and preferential transfers, subordination and
19 recharacterization of claims, and breaches of and aiding and abetting in the breaches of fiduciary
20 duties, included but not limited to those set forth in the Complaint (as defined in the Disclosure
21 Statement) and the Debtor's Schedules. The Plan Administrator is hereby granted and shall have
22 the standing and authority to pursue any and all such claims, and 1123(b)(3) of the Bankruptcy
23 Code shall be deemed satisfied.

24 **6.16. Claims Reserve Account.** On or as soon as practical following the Effective
25 Date, the Claims Reserve Account shall be opened by the Plan Administrator and held by the
26 Liquidating Debtor and funded by all Cash not deposited in the Reserved Claims Pool Account,
27 which funds (minus all Plan Expenses) shall be held for the benefit of Creditors entitled to
28 distributions under this Plan. Unless otherwise provided in the Confirmation Order, the Claims

1 Reserve Account shall be invested by the Plan Administrator in a manner consistent with the
2 objectives of section 345(a) of the Bankruptcy Code. All duties and obligations associated with
3 the maintenance of the Claims Reserve Account, including but not limited to, any fees, taxes, tax
4 reporting or filings with any governmental authority, shall be the sole responsibility of the Plan
5 Administrator.

6 **6.17. Liquidating Debtor Liquidation Budget.** Upon the Effective Date, and to the
7 extent that Net Available Cash exists, the Plan Administrator shall exercise his or her business
8 judgment and reserve the estimated amount of all Plan Expenses and two years of United States
9 Trustee fees and may reserve additional funds post confirmation based on information available at
10 the time in the exercise of his or her business judgment.

11 **6.18. Limitation of Liability of Plan Administrator.** The Plan Administrator and his
12 or her attorneys, accountants, consultants, employees, agents and assignees, heirs, successors, and
13 assigns, shall have no liability for any error of judgment made in good faith other than as a result
14 of gross negligence or willful misconduct. The Plan Administrator shall not be liable for any
15 action taken or omitted in good faith and believed by him or her to be authorized within the
16 discretion or rights or powers conferred upon him or her by this Plan. Other than utilizing Plan
17 Administrator's office and computer resources in the conduct of the Plan Administrator
18 Distribution Process, no provisions of this Plan shall require the Plan Administrator to expend or
19 risk his or her own funds or otherwise incur personal financial liability in the performance of any
20 of duties under this Plan or in the exercise of any of the Plan Administrator's rights and powers.
21 The Liquidating Debtor shall indemnify and hold the Plan Administrator harmless from and
22 against any damages, costs, claims and other liabilities incurred in connection with his or her
23 respective duties and responsibilities hereunder, other than those damages, costs, claims and other
24 liabilities that result from such party's gross negligence or willful misconduct Notwithstanding
25 the above, nothing in this paragraph shall shield a Post-Confirmation Professional employed by
26 the Plan Administrator from injuries caused by his, her or its negligence in the performance of
27 his, her or its duties.

28 ///

1 **6.19. Termination of the Committee and Creation of Post-Confirmation**

2 **Committee.** The Committee shall cease to exist on the Effective Date. The Post-Confirmation
3 Committee shall come into existence on the Effective Date, and its members shall be the same as
4 currently serving on the Committee. Additionally, all bylaws, motions and agreements of the
5 Committee shall become bylaws motions and agreements of the Post-Confirmation Committee.
6 The Post-Confirmation Committee shall retain all rights and benefits given to the Committee
7 under the Bankruptcy Code and applicable law, including, without limitation, qualified immunity.
8 The Post-Confirmation Committee shall remain in existence until the earlier of (a) entry of a Final
9 Decree, or (b) until all members have resigned. Any member may resign from the Post-
10 Confirmation Committee by serving written notice to all members of the Post-Confirmation
11 Committee and to the Plan Administrator. Such written notice may specify the date of
12 resignation. The Plan shall amend the existing Committee bylaws to provide: (a) in the event that
13 there is a tie vote on a motion presented to the Post-Confirmation Committee or other action of
14 the Post-Confirmation Committee, the motion and/or action shall be decided based on the
15 aggregate claim amounts of the voting members, and (b) to make the minimum number of Post-
16 Confirmation Committee members one (1).

17 **6.20. Powers of Post Confirmation Committee:** The Post-Confirmation Committee
18 may retain the Professionals of the Liquidating Debtor or retain their own Professionals in the
19 Post-Confirmation Committee's discretion in accordance with Article 6.38.2, but payment for
20 such Post-Confirmation Professionals fees and expenses shall be made solely from the proceeds
21 of the \$3.5M Creditor Note and any amounts allocated for Committee Professionals in the DIP
22 Lender Settlement Order, but not fully expended as of the Effective Date. At or prior to any Post-
23 Confirmation Committee meeting as may be reasonably requested by the Post-Confirmation
24 Committee, the Plan Administrator shall give the Post-Confirmation Committee reports
25 regarding, *inter alia*, the status of the Secured Sale Notes and the Liquidating Debtor's budget to
26 actual performance regarding the Post-Confirmation Budget. The Plan Administrator shall work
27 with the Post-Confirmation Committee to schedule Post-Confirmation Committee meetings as
28 needed. The Plan Administrator may also invite such other Professionals or persons as he or she

1 believes are appropriate to give reports to the Post-Confirmation Committee. As long as the Post-
2 Confirmation Committee has one or more members remaining, the Plan Administrator may not
3 take the following actions without the approval of the Post-Confirmation Committee, or if the
4 Post-Confirmation Committee objects, approval of such action by the Bankruptcy Court:

5 6.20.1. Settle or otherwise resolve affirmative claims against and/or any objections
6 to the Claims of any of the Richard and Sharon Zacky Entities;

7 6.20.2. Settle or otherwise resolve affirmative claims against Third Parties and/or
8 Claims against the Debtor, where the net amount conceded in the settlement exceeds
9 \$100,000.00;

10 6.20.3. Expend funds in excess of 10% of the budgeted items in the aggregate on
11 the Post-Confirmation Budget or otherwise modify the Post-Confirmation Budget;

12 6.20.4. Hold Net Available Cash in excess of reasonably projected Plan Expenses
13 that would otherwise be available for distribution to Class 14 or 15 Creditors for more than a six
14 (6) month period without distributing such funds pursuant to the provisions of the Plan, unless
15 such interim distribution would not be economic in light of the amount to be distributed in the
16 business judgment of the Plan Administrator;

17 6.20.5. Use the Cash proceeds of the \$6.4M 503(b)(9) Note to pay any obligation
18 or make a distribution under the Bankruptcy Code Distribution Priorities other than distributions
19 to Class 14 Creditors;

20 6.20.6. Use the Cash proceeds of the \$3.5M Creditor Note to pay any obligation to
21 Creditors under the Bankruptcy Code Distribution Priorities other than distributions to Class 15
22 Creditors and the Post-Confirmation Committee Professionals as set forth in the Plan; or

23 6.20.7. Seek a post-Confirmation modification of Plan with no materially adverse
24 effect under Article 10.2.

25 6.21. **Material Default Under the Plan.** Failure to make any payment required to be
26 made under the Plan by the Liquidating Debtor shall be considered a default under the Plan. If
27 any default is not cured within 90 days after service of written notice of such default to the
28 Liquidating Debtor, the Plan Administrator, counsel for the Plan Administrator, the United States

1 Trustee, the Post-Confirmation Committee and any counsel for the Post-Confirmation
2 Committee, any affected Creditor, or any affected party in interest asserting such default may
3 seek to enforce its rights under the Plan.

4 6.22. **Payment of Plan Expenses.** Subject to any restrictions in this Plan, Plan
5 Expenses may be paid by the Liquidating Debtor.

6 6.23. **Distribution Procedures.** Distributions to holders of Allowed Secured or
7 Unsecured Claims shall be made as soon as practicable as determined by the business judgment
8 of the Plan Administrator based upon the amount of funds to be distributed relative to the
9 administrative costs of making a distribution. Because both the timing and the amount of
10 distributions to Unsecured Creditors are largely dependent on the proceeds from the \$3.5M
11 Creditor Note, it is anticipated that a distribution to unsecured creditors will be made within three
12 (3) months after collection of the \$3.5M Creditor Note, which is expected to be collected on or
13 before February 26, 2015. No payments or distributions shall be made by the Liquidating Debtor
14 on account of Disputed Claims unless and to the extent such Claims become Allowed Claims.
15 The funds allocated to Disputed Claims will not be distributed, but will be held in the Claims
16 Reserve Account by the Liquidating Debtor in accordance with this Plan pending resolution of
17 such Disputed Claims. Except as otherwise agreed by the holder of a particular Claim, or as
18 provided in this Plan, all amounts to be paid by the Liquidating Debtor under the Plan shall be
19 distributed in such amounts and at such times as is reasonably prudent, in the form of interim
20 and/or final distributions, with sufficient reserves established to satisfy the reserve requirements
21 for senior obligations under the Bankruptcy Code Distribution Priorities and anticipated Plan
22 Expenses, including anticipated amounts due the Plan Administrator. Unless otherwise provided
23 in this Plan, all distributions to Creditors shall be: (i) in U.S. dollars by check, draft or warrant,
24 drawn on a domestic bank, or by wire transfer from a domestic bank, and (ii) by first-class mail
25 (or by other equivalent or superior means as appropriate).

26 6.24. **Resolution of Disputed Claims.** The Plan Administrator may file objections to
27 Claims that have not been previously objected to as warranted. The Bankruptcy Court shall
28 retain jurisdiction to hear and adjudicate the allowance or disallowance of Claims, as provided for

1 in Article X of this Plan. Settled Claims shall be deemed to be Allowed Claims in the amount
2 compromised for purposes of this Plan. Under no circumstances will any distributions be made
3 on account of Disallowed Claims.

4 **6.25. Reserve Provisions for Disputed Claims.** The Liquidating Debtor shall
5 implement the following procedures with respect to the allocation and distribution of Cash held in
6 reserve for the benefit of holders of Disputed Claims that may become Allowed Claims:

7 6.25.1. Cash respecting Disputed Claims shall not be distributed, but shall be
8 withheld by the Liquidating Debtor, in an amount equal to the amount of the distributions that
9 would otherwise be made to the holders of such Claims if such Claims had been Allowed Claims;

10 6.25.2. All holders of Allowed Claims shall be entitled to receive, if available,
11 interim distributions under the Plan. No distributions may be made to the holders of Allowed
12 Claims unless adequate reserves are established for the payment of Disputed Claims and
13 sufficient funds are also reserved for senior obligations under the Bankruptcy Code Distribution
14 Priorities and Plan Expenses;

15 6.25.3. For the purposes of effectuating the provisions of this Article, the
16 Bankruptcy Court may estimate the amount of any contingent or unliquidated Claim pursuant to
17 section 502(c) of the Bankruptcy Code, which provides, "There shall be estimated for the purpose
18 of allowance under this section – (1) any contingent or unliquidated claim, the fixing or
19 liquidation of which, as the case may be, would unduly delay the administration of the case; or (2)
20 any right to payment arising from a right to an equitable remedy for breach of performance." The
21 amounts so fixed or liquidated by the Bankruptcy Court shall be deemed to be Allowed Claims
22 for purposes of distribution under this Plan, or alternatively, until such time as the Claim becomes
23 Allowed, the amount so fixed by the Bankruptcy Court shall serve as the basis to calculate the
24 appropriate Disputed Claim reserve;

25 6.25.4. When a Disputed Claim becomes an Allowed Claim, there shall be
26 distributed at the time of the next distribution to the holder of such Allowed Claim, in accordance
27 with the provisions of this Plan, Cash equal to the holder's Pro Rata Share of the Distributions
28 that have previously been made on account of the Claims in the same class. The Plan

1 Administrator may agree to make a special catch up distribution in his or her sole discretion. In
2 no event shall such holder be paid more than the amount that would otherwise have been paid to
3 such holder if the Disputed Claim (or the Allowed portion of the Disputed Claim) had not been a
4 Disputed Claim;

5 6.25.5. Interim distributions may be made from time to time to the holders of
6 Allowed Claims prior to the resolution by Final Order or otherwise of all Disputed Claims,
7 provided that, such distributions are otherwise consistent with the terms of this Plan and the
8 aggregate amount of Cash to be distributed at such time is practicable in comparison to the
9 anticipated costs of such interim distributions;

10 6.25.6. No holder of a Disputed Claim shall have any Claim against the Cash
11 reserved with respect to such Claim until such Disputed Claim shall become an Allowed Claim.
12 In no event shall any holder of any Disputed Claim be entitled to receive (under the Plan or
13 otherwise) any payment (x) which is greater than the amount reserved for such Claim pursuant to
14 this Article 6.24 or (y) except as otherwise permitted under this Plan. In no event shall the Plan
15 Administrator have any responsibility or liability for any loss to or of any amount reserved under
16 these provisions of this Plan unless the loss is caused by the Plan Administrator's gross
17 negligence or willful misconduct; and

18 6.25.7. To the extent a Disputed Claim ultimately becomes an Allowed Claim in
19 an amount less than the Disputed Claims Amount reserved for such Disputed Claim, then the
20 resulting surplus of cash shall be made available for redistribution to other holders of Allowed
21 Claims of like class until such time as each holder of an Allowed Claim has been paid the
22 Allowed amount of its Claim.

23 6.26. **Allocation of Distributions.** Distributions to any holder of an Allowed Claim
24 shall be allocated first to the principal amount of any such Allowed Claim, as determined for
25 federal income tax purposes, and then, to the extent the consideration exceeds such amount, to the
26 remainder of such Claim comprising interest, if any (but solely to the extent that interest is an
27 allowable portion of such Allowed Claim). No interest of any kind or nature will be paid on any
28 Allowed Claim until 100% of the principal amounts of all Allowed Claims are paid in full.

1 6.27. **Rounding.** Whenever any payment of a fraction of a cent would otherwise be
2 called for the actual distribution shall reflect a rounding of such fraction down to the nearest cent.

3 6.28. **De Minimis Distributions.** Notwithstanding any other provision of this Plan,
4 interim distributions of less than \$500.00 and a final distribution of less than \$50.00 need not be
5 made by the Liquidating Debtor on account of any Allowed Claim, provided that, the amount of
6 such de minimis distributions that would otherwise be made but for this provision shall be
7 reserved as in the same manner as reserves for Disputed Claims in Article 6.24, and shall carry
8 over until the next date of a distribution until the cumulative amount to which any holder of an
9 Allowed Claim is entitled is more than \$500.00, at which time the cumulative amount of such
10 distributions shall be paid to such holder of the subject Claim. Distributions that will not be made
11 as of the date of a final distribution shall be treated as unclaimed funds as provided in Article 6.28
12 of this Plan.

13 6.29. **Unclaimed Funds.** Notwithstanding any other provision of this Plan, at the point
14 when the remaining funds in the Claims Reserve Account consist of an amount impracticable to
15 distribute, the Plan Administrator may donate such Cash to a nonprofit organization or
16 organizations in this judicial district that are exempt pursuant to section 501(c) of the Internal
17 Revenue Code (Title 26 of the United States Code), or may lodge with the Bankruptcy Court such
18 sums as unclaimed funds under 11 U.S.C. § 347, and the Court Clerk shall accept such funds
19 notwithstanding that this case is a Chapter 11 case.

20 6.30. **Disputed Payments.** In the event of any dispute between and among Creditors as
21 to the right of any entity to receive or retain any payment or distribution to be made to such entity
22 under the Plan, the Liquidating Debtor may, in lieu of making such payment or distribution to
23 such entity, instead hold such payment or distribution until the disposition thereof shall be
24 determined by the Bankruptcy Court.

25 6.31. **Unclaimed Distributions.** Creditors have the obligation to file change of address
26 forms with the Court and to serve such changes of address on the Plan Administrator and his or
27 her counsel. If a Creditor fails to claim any distribution of Cash within 90 days from the date
28 upon which a distribution is made, such Creditor shall be subject to having its claim excluded

1 from future distributions. The Plan Administrator may but is not required to file an omnibus
2 Post-Confirmation Motion and Opportunity for Hearing seeking to exclude such Creditors from
3 future distributions and shall serve such Creditors at: (a) the address for service of process for
4 such Creditors as listed on the California Secretary of State web site, if any; (b) the addresses on
5 Creditors' proofs of Claim, if any; (c) the addresses scheduled by the Debtor for such Creditors, if
6 any; and (d) any addresses supplied by Creditors in the last change of address filed with the
7 Court, if any. Upon Court approval of the subject Creditors' forfeiture, such Cash (including
8 interest thereon) shall be made available for re-distribution to other holders of Allowed Claims of
9 like Class. After disallowance such Creditors shall forfeit their rights thereto and shall have no
10 claim whatsoever against the Liquidating Debtor or the Plan Administrator, as applicable, or any
11 holder of an Allowed Claim to whom distributions are made under this Plan. If the Plan
12 Administrator elects based on his or her business discretion that the cost of filing such a motion to
13 exclude Creditors does not reasonably exceed the benefit to other Creditors from such a motion,
14 the Plan Administrator may alternatively treat such returned distributions as unclaimed funds
15 under Article 6.28.

16 **6.32. Successor Plan Administrator.** If the Plan Administrator resigns or dies, or is
17 otherwise unable or unwilling to perform his or her duties under this Plan, the Post-Confirmation
18 Committee shall name the Successor Plan Administrator, which appointment shall be subject to
19 Court approval. The proposed Successor Plan Administrator shall be an existing or former
20 Chapter 7 or Chapter 11 Trustee in the Eastern District of California and who either resides in or
21 whose principal office location is within the Eastern District of California. If the Post-
22 Confirmation Committee no longer exists, the Successor Plan Administrator shall be selected by
23 the Creditor holding the largest undisputed Allowed Claim, after consultation with parties in
24 interest, including the Office of the United States Trustee and other Unsecured Creditors and
25 Interest Holders or their successors, as appropriate. Appointment of the Successor Plan
26 Administrator shall also be subject to Court approval.

27 **6.33. Setoffs.** Nothing contained in this Plan shall constitute a waiver or release by the
28 Debtor of any right of setoff or recoupment that the Debtor or the Liquidating Debtor may have

1 against any Creditor or Interest Holder.

2 **6.34. No Distributions on Late-Filed Claims.** Any Claim as to which a proof of Claim
3 was first filed after the Bar Date or the Rejection Claim Bar Date, as applicable, shall be a
4 Disallowed Claim, and no distribution shall be made to a holder of such a Claim, provided that, to
5 the extent such Claim was listed in the Schedules (other than as contingent, disputed, or
6 unliquidated), such Claim shall be treated as an Allowed Claim in the amount in which it was so
7 listed, unless such scheduled Claim is reduced or eliminated by Court Order pursuant to a duly
8 noticed Claim Objection. No motions to allow late filed claims may be filed by any Creditor after
9 the Effective Date.

10 **6.35. No Distributions on Amended Claims Filed After the Effective Date.** An
11 Amendment(s) to a proof of Claim or a scheduled Claim after the Effective Date shall be
12 ineffective, and the Plan Administrator may either ignore such amendment(s) or may object to
13 allowance of the Claim(s) as amended. No motions to allow the filing of an amended claims after
14 the Effective Date may be filed by any Creditor, unless such motion is filed prior to the Effective
15 Date.

16 **6.36. Withholding Taxes.** Pursuant to section 346(f) of the Bankruptcy Code, the
17 Liquidating Debtor may but is not required to deduct any federal, state or local withholding taxes
18 (“Withholding Tax”) from any Cash payments made with respect to Allowed Claims of the
19 former employees of the Debtor, as appropriate. If the administrative burden of compliance with
20 all Withholding Tax obligations is excessive in light of the assets available for distribution, the
21 Plan Administrator may seek court approval for substituting the filing of 1099 forms in lieu of the
22 Withholding Tax obligation. As to Claims of non-employees, no Withholding Taxes shall be
23 required. Payment of taxes shall be the sole responsibility of the Creditor receiving the
24 distribution, except to the extent that the Liquidating Debtor actually deducts Withholding Taxes
25 from a distribution.

26 **6.37. Post-Effective Date Reports.** Following the Effective Date, the Liquidating
27 Debtor shall prepare and submit to the Bankruptcy Court and the Office of the United States
28 Trustee, post-confirmation reports for the Liquidating Debtor in the form suggested by the Office

1 of the United States Trustee for Region 17. The first post-confirmation report shall be due within
2 thirty (30) days following the end of the first calendar quarter from the Effective Date and shall
3 be filed on a quarterly basis thereafter within thirty (30) days after the end of each quarter, unless
4 otherwise agreed by the Liquidating Debtor and the Office of the United States Trustee.

5 **6.38. Post-Effective Date Employment and Compensation of Professionals.**

6 6.38.1. Employment: After the Effective Date, the Plan Administrator or the Post-
7 Confirmation Committee may retain any existing Professionals of the Debtor or the Committee
8 without further employment agreements or orders, and such employments shall be deemed to
9 continue on the Effective Date. Additionally, after the Effective Date, the Plan Administrator or
10 the Post-Confirmation Committee may hire other professionals without the requirement that such
11 professionals file employment applications for Bankruptcy Court approval of their employment,
12 whether on an hourly, contingency fee or other basis, and without requirement that such
13 professionals file applications for payment of post-Effective Date fees and expenses on an interim
14 basis. Without limiting the generality of the foregoing, both the Plan Administrator and the Post-
15 Confirmation Committee may employ the same counsel and such employment shall be authorized
16 by this Plan.

17 6.38.2. Compensation:

18 (i) Litigation and Claims Objection Compensation:

19 All employment of Post-Confirmation Professionals asserting affirmative claims against
20 Third Parties and/or bringing claims objections or defending against any other claims against the
21 Estate shall be on a contingency fee arrangement, and notwithstanding anything above, any such
22 employment is subject to approval by both the Plan Administrator and the Post-Confirmation
23 Committee and, if not such approval is obtained by the Bankruptcy Court after notice and a
24 hearing. All contingency fee arrangements shall be capped at three times the hourly rates
25 charged. Unless the Plan Administrator obtains Court approval to replace a Professional(s)
26 already handling contingent fee matters for the Estate, either for the Committee or the Debtor, the
27 Plan Administrator shall continue such Professional(s) employment after the Effective Date on
28 the same terms and conditions as previously approved without the need for any additional

1 approvals by the Committee, the Plan Administrator or the Bankruptcy Court.

2 (ii) Plan Administrator Distribution Process:

3 Except for actual out of pocket costs such as copying, mailing, bank charges and the like,
4 any Post-Confirmation Professional Fees incurred in assisting the Plan Administrator to conduct
5 the Plan Administrator Distribution Process shall be solely paid by the Plan Administrator out of
6 the Plan Administrator Cap. The Plan Administrator shall not have any independent liability for
7 any such Post-Confirmation Professional Fees.

8 (iii) Hourly Rate Employment:

9 Except as set forth above in the Litigation and Claims Objections Compensation section,
10 and the Plan Administrator Distribution Process section, the Plan Administrator may compensate
11 Post-Confirmation Professionals on an hourly rate and pay expenses without Court approval, but
12 may not pay any Post-Confirmation Professional fees in excess of the Post-Confirmation Budget
13 on a line item by line item basis without Post-Confirmation Committee or in the alternative Court
14 approval of a modification of the Post-Confirmation Budget before such fees are anticipated to be
15 incurred. *Nunc pro tunc* approval of a modification of the Post-Confirmation Budget may be
16 obtained upon consent of the Plan Administrator and the Post-Confirmation Committee and, if no
17 consent is granted, upon a motion filed within ninety (90) days of the commencement of the work
18 that will exceed the Post-Confirmation Budget. Post-Confirmation Professionals employed by the
19 Post-Confirmation Committee may not be compensated for any hourly fees and expenses that
20 exceed the higher of \$50,000 or 25% of the amount actually billed for hourly rate counsel for the
21 Plan Administrator without Plan Administrator or Court approval. *Nunc pro tunc* approval of a
22 modification of compensation of the Post-Confirmation Committee Professionals may be
23 obtained upon consent of the Plan Administrator and the Post-Confirmation Committee and, if no
24 consent is granted, upon a motion filed within ninety (90) days of the commencement of the work
25 that will exceed this limitation on compensation for Post-Confirmation Professionals.

26 Notwithstanding, there shall be no limitation on compensation payable to the Post-Confirmation
27 Committee Professionals for work related to the appeal of the DIP Lender Settlement Order and
28 any other appeal related to the Debtor in which the Post-Confirmation Committee Professionals

1 are involved.

2 (iv) Modification of Post-Confirmation Professional Compensation
3 Limitations:

4 Upon the occurrence of extraordinary events that would make the foregoing limitations on
5 compensation to the Post-Confirmation Professionals improvident due to unforeseen
6 circumstances, the Court may, after notice and a hearing, approve reasonable adjustments to the
7 restrictions on such compensation set forth in this Article as are reasonably necessary to carry out
8 the purpose and intent of this Plan.

9 **6.39. Procedures for Post-Confirmation Motion and Opportunity for Hearing.** A
10 Post-Confirmation Motion and Opportunity for Hearing shall be served on the Post-Confirmation
11 Service List and shall: (i) detail the requested relief; (ii) provide evidentiary support; and (iii) give
12 any and all parties in interest fourteen (14) calendar days to file written opposition with the Court
13 and to request a hearing. If no opposition is filed, the Court may act on the Post-Confirmation
14 Motion and Opportunity for Hearing without hearing.

15 **6.40. Jurisdictional Limitations on Claims re Plan Implementation:** Any party in
16 interest who believes that the conduct of the Plan Administrator, the Post-Confirmation
17 Committee Members and/or the Post-Confirmation Professionals, is not consistent with the
18 provisions of this Plan or believes that any claims exist against the Plan Administrator, the Post-
19 Confirmation Committee Members and/or the Post-Confirmation Professionals for any conduct
20 taken with the scope of their respective duties under the Plan, all such claims, rights, requests for
21 relief, or enforcement of the Plan must be filed in and determined by the Bankruptcy Court. No
22 concurrent jurisdiction shall exist for the determination or enforcement of any such rights under
23 or arising under this Plan, or claims against the Plan Administrator, the Post-Confirmation
24 Committee Members, and/or the Post-Confirmation Professionals, in any other state, federal, or
25 foreign court.

26 **6.41. Destruction of Records.** After the Effective Date, the Plan Administrator may
27 destroy all books and records of the Liquidating Debtor which the Plan Administrator deems in
28 his or her sole discretion to be unnecessary to completing administration of the Liquidating

1 Debtor under this Plan. Nothing in this section shall interfere with, impede or affect in any
2 manner the police and regulatory powers of the United States Department of Agriculture with
3 respect to the Liquidating Debtor after the termination of the Plan Injunction, or with respect to
4 any third party at any time.

5 6.42. **Dissolution of the Debtor.** Before filing the motion seeking approval of a final
6 decree closing the case, the Plan Administrator may, but is not required to take the steps
7 reasonably required to formally dissolve the Debtor under California Law, and shall have the
8 power and authority to do so without the consent or endorsement of the Members. If such steps
9 to dissolve the Debtor are not taken prior to the entry of the final decree closing this Case, entry
10 of the final decree will serve to deem the remaining assets of the Debtor, including its existence
11 under California law abandoned pursuant to the provisions of Article 6.43.

12 6.43. **Abandonment of Assets.** The Liquidating Debtor after notice and hearing may
13 abandon any asset burdensome to the Liquidating Debtor or that is of inconsequential value and
14 benefit to the Liquidating Debtor. To the extent that assets are abandoned, and notwithstanding
15 anything to the contrary in this Plan, the Members shall administer such abandoned assets
16 pursuant to the terms of the Operating Agreement as if the Plan had not been confirmed,
17 excepting that the last amendment appointing Keith Cooper as the Sole Manager shall be deemed
18 null and void. The Members shall comply with the Bankruptcy Code Distribution Priorities with
19 respect to any proceeds from the liquidation of abandoned assets.

20 6.44. **Permanent Satisfaction.** The rights afforded in this Plan, and the treatment of all
21 Claims and Interests set forth herein, shall be in full exchange for, and in complete satisfaction of,
22 all Claims and Interests of any kind or nature whatsoever, whether known or unknown, matured
23 or contingent, liquidated or unliquidated, existing, arising or accruing, whether or not yet due,
24 prior to the Effective Date, including without limitation any Claims, or interest on Claims,
25 accruing on or after the Petition Date, against the Debtor or any of the assets or property thereof,
26 provided that such satisfaction does not affect any party's rights under the Plan. Nothing in this
27 section shall interfere with, impede or affect in any manner the police and regulatory powers of
28 the United States Department of Agriculture with respect to the Liquidating Debtor after the

1 including but not limited to the DIP Lender or its assignee, whose Assumed Obligation is or has
2 been paid by the Debtor.

3 7.2. **Plan Rejection.** Upon the Confirmation Date, any and all Executory Contracts
4 not previously assumed and assigned by the Debtor shall be rejected pursuant to the Confirmation
5 Order.

6 7.3. **Rejection.** Nothing contained herein shall constitute a waiver by the Debtor or the
7 Liquidating Debtor or a Creditor to such contracts of the right to contend that some or all of a
8 Rejected Contract is not executory, or that it was not terminated earlier by agreement or operation
9 of law. All Rejection Claims arising from the rejection of an Executory Contract pursuant to the
10 Plan or otherwise must be filed by the Rejection Claim Bar Date. Any Rejection Claim not filed
11 by the applicable Rejection Claims Bar Date shall be a Disallowed Claim and shall be forever
12 barred as a Claim against the Debtor, the Liquidating Debtor, the Committee, the Post-
13 Confirmation Committee, or any property of the Debtor and from sharing in any distribution
14 under this Plan.

15 7.4. **Order Authorizing Rejection.** The Confirmation Order (or if set forth in a
16 separate order from the Confirmation Order, the Assumption and Cure Order applicable to such
17 Assumed Contract) shall constitute an order of the Bankruptcy Court approving (effective only
18 upon the occurrence of the Confirmation Date) the rejection, pursuant to sections 365 and
19 1123(b)(2) of the Bankruptcy Code of all Executory Contracts under this Article of the Plan. The
20 contracts and leases under this Article 7 will be rejected only to the extent that any such contracts
21 or leases constitute Executory Contracts.

22 **ARTICLE VIII**

23 **CONDITIONS PRECEDENT**

24 8.1. **Conditions to Confirmation.** Confirmation of this Plan is conditioned upon the
25 entry of an order confirming the Plan in an acceptable form to the Debtor.

26 8.2. **Conditions to Effective Date.** At any time after entry of the Confirmation Order
27 (and provided no stay is then in effect), the Proponent shall have the power and authority to cause
28 the Plan to become effective by filing a Notice of Effective Date, which notice, if not previously

1 filed, shall be deemed to have been filed on the ninetieth (90) day after the Confirmation Date.

2 **ARTICLE IX**

3 **EFFECTS OF CONFIRMATION**

4 9.1. **Binding Effect of Plan.** The provisions of the confirmed Plan shall bind the
5 Debtor, the Liquidating Debtor, the Committee, the Post-Confirmation Committee and any
6 Creditor or Interest Holder, whether or not such Creditor or Interest Holder has filed a proof of
7 Claim or Interest in the Chapter 11 Case, whether or not the Claim of such Creditor or the Interest
8 of such Interest Holder is impaired under the Plan, and whether or not such Creditor or Interest
9 Holder has accepted or rejected the Plan. All Claims and Debts shall be as fixed and adjusted
10 pursuant to this Plan. Nothing in this section shall interfere with, impede or affect in any manner
11 the police and regulatory powers of the United States Department of Agriculture with respect to
12 the Liquidating Debtor after the termination of the Plan Injunction, or with respect to any third
13 party at any time.

14 9.2. **Revesting of Property Free and Clear.** Upon the Effective Date, title to all
15 Estate Assets, including but not limited to any and all affirmative claims against and/or any
16 objections to the Claims of any of the Richard and Sharon Zacky Entities, shall vest in the
17 Liquidating Debtor for the purposes contemplated under the Plan and section 1123(b)(3) shall be
18 deemed satisfied in all respects. All Unsecured Claims against the Debtor or the Estate shall be
19 of no further force or effect except with respect to the rights of holders of Allowed Claims to
20 receive payments or distributions as set forth herein. Following the Effective Date, the
21 Liquidating Debtor may use, acquire or dispose of any such property free of any restrictions
22 imposed by the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules and without
23 further approval of the Bankruptcy Court or notice to Creditors, except as may otherwise be
24 required under the Plan or the Confirmation Order. Except as otherwise expressly provided in the
25 Plan or Confirmation Order, all rights or causes of action are hereby preserved and retained for
26 enforcement solely and exclusively by and at the discretion of the Liquidating Debtor. Nothing in
27 this section shall interfere with, impede or affect in any manner the police and regulatory powers
28 of the United States Department of Agriculture with respect to the Liquidating Debtor after the

1 termination of the Plan Injunction, or with respect to any third party at any time.

2 9.3. **Injunction.** Until all remaining Estate Assets of the Liquidating Debtor and the
3 Estate are fully administered, and except as otherwise provided by the Plan, all entities who have
4 held, hold or may hold Claims against or Interests in the Debtor or the Debtor's estate that arose
5 prior to the Effective Date are enjoined from taking legal action against the Debtor or the
6 Liquidating Debtor for the purpose of directly or indirectly collecting, recovering, or receiving
7 payment or recovery with respect to any Claim or demand against the Debtor or the Liquidating
8 Debtor.

9 9.4. **No Discharge.** Pursuant to 11 U.S.C. § 1141(d)(3), confirmation of this Plan shall
10 not operate as a discharge of the Debtor.

11 9.5. **Limitation of Liability.** The Sole Member, the CRO, the Senior VP of
12 Restructuring, the Committee Members, and, effective upon approval of such Professional's final
13 fee applications in this Bankruptcy Case, the Debtor's and Committee's Professionals
14 (collectively, the "Exculpated Parties"), will neither have nor incur any liability to any entity for
15 any Official Actions in good faith taken or omitted to be taken in connection with or related to the
16 Chapter 11 Case, the investigations of potential claims or the formulation, preparation,
17 dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure
18 Statement, or any agreement created or entered into in connection with the Plan or incident to the
19 Chapter 11 Case, provided that, the foregoing shall not exonerate any of the Exculpated Parties
20 from any liability that results from an act or omission to the extent such act or omission is
21 determined by Final Order to have constituted gross negligence or willful misconduct. In
22 addition, notwithstanding any other provision of this Plan, no holder of a Claim or Interest, no
23 other party in interest, none of their respective agents, employees, representatives, financial
24 advisors, attorneys or affiliates, and no successors or assigns of the foregoing, shall have any right
25 of action against any Exculpated Party for any Official Actions made in good faith from and after
26 the Petition Date through the Confirmation Date in connection with, relating to or arising out of
27 the Chapter 11 Case or the consideration, formulation, preparation, dissemination,
28 implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any

1 transaction or document created or entered into, or any other act taken or omitted to be taken, in
2 connection therewith, except for: (a) the liability of any Exculpated Party that would otherwise
3 result from the failure to perform or pay any obligation or liability under the Plan or any contract,
4 instrument, release or other agreement or document to be entered into or delivered in connection
5 with the Plan, (b) the liability of any Exculpated Party that would otherwise result from any such
6 act or omission to the extent that such act or omission is determined in a Final Order to have
7 constituted gross negligence or willful misconduct, and (c) actions taken by Exculpated Parties
8 who are holders of a Claim and are taking actions in pursuit of the allowance or payment of such
9 Claim.

10 9.6. **Preservation of USDA Police and Regulatory Powers.** Notwithstanding any
11 provision to the contrary in the Plan, the Confirmation Order, any implementing Plan documents,
12 and any other documents, nothing in the Plan, the Confirmation Order, any implementing Plan
13 documents or any other document shall: (1) interfere with, affect or impede in any manner the
14 police and regulatory powers of the United States Department of Agriculture (USDA) with
15 respect to the Debtor, the Liquidating Debtor, non-debtors, and their successors and assigns; or
16 (2) discharge any USDA claims that have arisen or may arise against the Debtor, the Liquidating
17 Debtor, and their successors and assigns. The Bankruptcy Court may retain jurisdiction, but not
18 exclusive jurisdiction, over USDA's claims and issues arising therefrom only to the extent
19 allowed by applicable law.

20 **ARTICLE X**

21 **RETENTION OF JURISDICTION**

22 10.1. **Pre-Confirmation Modification:** The proponent may propose amendments or
23 modifications of this Plan at any time prior to the Confirmation Date consistent with Rule 3019.

24 10.2. **Post-Confirmation Modification with no Materially Adverse Effect:** After the
25 Confirmation Date, the Plan Administrator may, with approval of the Court but without notice
26 and so long as it does not materially, adversely affect the interest of Creditors, modify this Plan or
27 remedy any defect or omission or reconcile any inconsistency in the Plan in such a matter as may
28 be necessary to carry out the purpose and intent of this Plan.

1 11.8. To modify any provision of the Plan to the extent permitted by the Bankruptcy
2 Code and to correct any defect, cure any omission, or reconcile any inconsistency in the Plan or in
3 the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

4 11.9. To approve applications for Bankruptcy Rule 2004 Examinations and issuance of
5 subpoenas and any enforcement orders necessary;

6 11.10. To approve any compromise and settlements and/or abandonments of claims
7 against Third Parties, and/or the abandonment of any Asset of the Estate, which the Plan requires
8 approval, which the Plan Administrator in his or her sole discretion believes should be noticed to
9 creditors, or which is the subject of an objection by the Post-Confirmation Committee;

10 11.11. To approve any sales of assets or claims pursuant to section 363 of the Bankruptcy
11 Code, which the Plan Administrator in his or her sole discretion believes should be noticed to
12 creditors;

13 11.12. To approve interim and/or final distributions to creditors, including the approval of
14 any publication notices, which the Plan Administrator in his or her sole discretion believes should
15 be noticed to creditors;

16 11.13. To issue an injunction or injunctions post-confirmation pursuant to Bankruptcy
17 Code section 105 upon a proper showing;

18 11.14. To close the Chapter 11 Case when administration of the case has been completed
19 and to enter a discharge of the Plan Administrator of his or her duties under the Plan;

20 11.15. To enter an order or orders reopening the Case as appropriate; and

21 11.16. To hear and determine any and all claims by and against the Richard and Sharon
22 Zacky Entities.

23 **ARTICLE XII**

24 **MISCELLANEOUS**

25 12.1. **Severability of Plan Provisions.** In the event that, prior to the Confirmation Date,
26 any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or
27 unenforceable, the Bankruptcy Court shall, have the power to alter and interpret such term or
28 provision to make it valid or enforceable to the maximum extent practicable, consistent with the

1 original purpose of the term or provision held to be invalid, void or unenforceable, and such term
2 or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding,
3 alteration or interpretation, the remainder of the terms and provisions hereof shall remain in full
4 force and effect and shall in no way be affected, impaired or invalidated by such holding,
5 alteration or interpretation. The Confirmation Order shall constitute a judicial determination and
6 shall provide that each term and provision hereof, as it may have been altered or interpreted in
7 accordance with the foregoing, is valid and enforceable pursuant to its terms.

8 **12.2. Governing Law.** Except to the extent that the Bankruptcy Code or other federal
9 law is applicable, the rights, duties and obligations arising under this Plan shall be governed by,
10 and construed and enforced in accordance with, the laws of the State of California.

11 **12.3. Headings.** The headings contained in this Plan are for convenience of reference
12 only and shall not limit or otherwise affect in any way the meaning or interpretation of this Plan.

13 **12.4. Language Interpretation.** In the interpretation of this Plan, unless the context
14 otherwise requires, references in this Plan to the singular shall be construed to include references
15 to the plural and vice versa; words importing the singular shall be deemed to import the plural and
16 vice versa; words denoting gender shall include all genders; references to sections, schedules, and
17 exhibits shall mean sections, schedules, and exhibits of and to this Plan; references to part
18 includes the whole, except where the context clearly requires otherwise “or” has the inclusive
19 meaning represented by the phrase “and/or,” and the words “hereof,” “herein,” “hereunder,” and
20 similar terms in this Plan refer to this Plan as a whole and not to any particular provision of this
21 Plan.

22 **12.5. Exhibits.** All exhibits attached to this Plan or the Disclosure Statement are, by
23 this reference, hereby incorporated into the Plan. The final version of all exhibits to the Plan and
24 the Disclosure Statement will be substantially in the forms attached hereto or thereto. The
25 Proponent reserves the right to make non-substantive or minor changes and corrections to such
26 exhibits in advance of the Confirmation Hearing. If any exhibits are changed or corrected, the
27 replacement exhibits will be filed with the Bankruptcy Court prior to the commencement of the
28 Confirmation Hearing.

1 12.6. **Exemption from Transfer Taxes.** The Debtor and the Liquidating Debtor shall
2 have all the rights and benefits granted pursuant to Bankruptcy Code section 1146(c) under this
3 Plan.

4 12.7. **Notices.** All notices required or permitted to be made in accordance with the Plan
5 shall be in writing and shall be delivered personally or by nationally recognized overnight or
6 next-day courier service, first class mail or via facsimile with electronic confirmation of receipt
7 on the Post-Confirmation Service List.

8 12.8. **Computation of Time Periods.** In computing any period of time prescribed or
9 allowed by the Plan, the day of the act, event, or default from which the designated period of time
10 begins to run shall not be included. The last day of the period so computed shall be included
11 unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a
12 paper in the Bankruptcy Court, a day on which weather or other conditions have made the clerk's
13 office inaccessible, in which event the period runs until the end of the next day which is not one
14 of the aforementioned days.

15 12.9. **Defects, Omissions and Amendments.** The Proponent, with the approval of the
16 Bankruptcy Court and without notice to all holders of Claims or Interests, insofar as it does not
17 materially and adversely affect holders of Claims, may correct any defect, omission or
18 inconsistency in the Plan in such manner and to such extent as may be necessary or desirable to
19 expedite the execution of the Plan. The Plan may be altered or amended before or after
20 Confirmation as provided in section 1127 of the Bankruptcy Code.

21 12.10. **Filing of Additional Documents.** The Proponent shall file with the Bankruptcy
22 Court such agreements or other documents as may be necessary or appropriate to effectuate and
23 further evidence the terms and conditions of the Plan.

24 12.11. **Successors and Assigns.** The rights, benefits and obligations of any entity named
25 or referred to in this Plan shall be binding on, and shall inure to the benefit of, the heirs,
26 executors, administrators, successors and/or assigns of such entity. Nothing in this section shall
27 interfere with, impede or affect in any manner the police and regulatory powers of the United
28 States Department of Agriculture with respect to the Liquidating Debtor after the termination of

1 the Plan Injunction, or with respect to any third party at any time.

2 12.12. **Implementation.** Upon Confirmation, the Debtor and the Committee shall be
3 authorized to take all steps and execute all documents necessary to effectuate the provisions
4 contained in the Plan.

5 12.13. **Certain Actions.** By reason of entry of the Confirmation Order, prior to, on or
6 after the Effective Date (as appropriate), all matters provided for under the Plan that would
7 otherwise require approval of the Debtor's Members, Sole Manager, or officers of the Debtor,
8 shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as
9 appropriate), pursuant to the applicable California law without any requirement of further action
10 by the Members or officers of the Debtor.

11 12.14. **Waiver of Fourteen (14) Day Stay.** The Proponent requests as part of the
12 Confirmation Order a waiver from the Bankruptcy Court of the fourteen (14) day stay of
13 Bankruptcy Rule 3020(e) and, to the extent applicable, a waiver of the fourteen (14) day stay of
14 Bankruptcy Rule 6004(h).

15 Dated: June 27, 2013

ZF IN LIQUIDATION, LLC FKA ZACKY
FARMS, LLC

/s/ Sean M. Harding

17 SEAN M. HARDING
18 Its Senior Vice President of Restructuring

19 Dated: June 27, 2013

FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP

/s/ Thomas A. Willoughby

20 THOMAS A. WILLOUGHBY
21 Attorneys for ZF in Liquidation, LLC fka Zacky
22 Farms, LLC
23
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25
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27
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EXHIBIT 1

EXECUTION VERSION

CREDITOR RECOVERY NOTE & SECURITY AGREEMENT

\$3,500,000

Los Angeles, California
February 26, 2013

FOR VALUE RECEIVED, ZACKY & SONS POULTRY, LLC, (the "Purchaser"), hereby unconditionally promises to pay, in the manner set forth below, for the benefit of ZACKY FARMS, LLC (the "Seller"), the principal sum of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$3,500,000.00) (as such amount may be increased or reduced from time to time pursuant to Sections 3 and 4 hereof (as applicable), the "Principal Sum"), plus interest on the Principal Sum as set forth in Section 1 hereof. All capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement, dated as of February 6, 2013, by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988 and the Seller (the "Asset Purchase Agreement").

1. **Interest.** Interest on the unpaid principal amount of this Note & Security Agreement outstanding from time to time shall accrue from the date hereof to and including the date on which the outstanding principal and accrued and unpaid interest is paid in full, at the interest rate of four percent (4%) per annum, payable quarterly in arrears on each of (a) the date that is ninety (90) days from the date hereof, (b) the date that is one hundred eighty (180) days from the date hereof, (c) the date that is two hundred seventy (270) days from the date hereof, (d) the date that is three hundred sixty (360) days from the date hereof, (e) the date that is four hundred fifty (450) days from the date hereof, (f) the date that is five hundred forty (540) days from the date hereof, (g) the date that is six hundred thirty (630) days from the date hereof, and (h) the date that is the two (2) year anniversary of the date hereof. If any such date shall be a day other than a Business Day, then such interest shall be payable on the next Business Day after such date. All interest hereunder shall be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

2. **Repayment of Principal.** The Principal Sum shall become due and payable on the date that is the two (2) year anniversary of the date hereof (the "Maturity Date").

3. **Increase of Principal.** From time to time (upon the accrual, occurrence or payment of such amounts or obligations), the Principal Sum of this Note shall be automatically increased by an amount equal to all damages, obligations, liabilities, costs (including, without limitation, defense costs), fees (including, without limitation, legal fees) and other amounts paid or payable by the Seller or its bankruptcy estate on account of, related to or otherwise arising from either of the Asset Purchase Agreements (Lots 1 and 2) entered into between the Seller and Pitman (collectively, the "Pitman Purchase Agreements"), including, without limitation, any such damages, obligations, liabilities, costs, fees or other amounts resulting from any breach or alleged breach of the Pitman Purchase Agreements by the Seller.

4. **Prepayment.** The Purchaser at any time or from time to time may prepay, in cash, the unpaid principal amount of or interest on this Note & Security Agreement, in whole or in part, without penalty or premium. If Purchaser shall sell any Collateral (as defined below) with net proceeds of no less than \$50,000 other than in the ordinary course of business, the proceeds of such sale shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder. Any net amount of insurance proceeds received on account of the Collateral remaining after the cost of replacement of such Collateral shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder.

5. **Manner of Making Payments.** Payment of any amounts hereunder (whether principal or interest) shall be made to Seller in United States dollars by wire transfer of immediately available funds not later than 2:00 p.m., Los Angeles, California time, on the date such payment is due, to such bank account as Seller may from time to time designate in writing.

6. **Application of Payments.** All payments made hereunder shall be applied first to accrued and unpaid interest and then to the unpaid principal amount hereof (which shall reduce the then current Principal Sum).

7. **Pledge of Collateral.** As collateral security for the prompt and complete payment of the Purchaser's obligation under this Note & Security Agreement (whether at the stated maturity, by acceleration, or otherwise), the Purchaser hereby grants to Seller a continuing security interest in the collateral set forth on Schedule A hereto (the "Collateral"). The Purchaser hereby irrevocably authorizes Seller, at any time and from time to time, to file in any appropriate filing office, wherever located, any financing statement describing the Collateral that contains any information required by the Uniform Commercial Code of the applicable jurisdiction for the sufficiency or filing office acceptance of any financing statement. The Purchaser also authorizes Seller to take any and all actions required by law, equity, statute or otherwise to perfect and protect the security interest granted hereunder.

8. **Termination of Security Interest.** Upon the payment in full of any and all amounts payable in connection with or due under this Note & Security Agreement, the security interest granted to Seller in the Collateral shall terminate. Upon any such termination, Seller shall execute and deliver to the Purchaser such documents as the Purchaser will reasonably request to evidence such termination.

9. **Title to Collateral.** The Purchaser shall not affirmatively grant a security interest in or lien on the Collateral that is senior to or *pari passu* with the interests in Collateral provided by this Note & Security Agreement. The Purchaser will take all commercially reasonable efforts to defend the Collateral against all material claims or demands of all Persons (other than the Seller) claiming the Collateral or any interest therein.

10. **Name and Jurisdiction of Organization.** The Purchaser represents and warrants that the Purchaser's legal name is as set forth in the opening paragraph hereof, and that the Purchaser is organized and in good standing in the State of California. The Purchaser will not

change its name or jurisdiction of organization unless the Seller has been given at least ten (10) Business Days prior written notice thereof.

11. **Further Assurances; Attorney-in-Fact.**

11.1 **Further Assurances.** The Purchaser agrees that, from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Seller may reasonably request, in order to perfect and protect the security interest granted or purported to be granted hereby or to enable the Seller to exercise and enforce its rights and remedies hereunder with respect to any Collateral (but any failure to request or assure that the Purchaser execute and deliver such instrument or documents or to take such action will not affect or impair the validity, sufficiency or enforceability of this Note & Security Agreement and the security interest, regardless of whether any such item was or was not executed and delivered or action taken in a similar context or on a prior occasion).

11.2 **Identification of Collateral.** Upon Seller's reasonable request, the Purchaser will furnish to the Seller, from time to time, statements and schedules, if any, that Purchaser has prepared in the ordinary course of its business that further identify and describe the Collateral.

11.3 **Attorney-in-Fact.** In furtherance, and not in limitation, of the other rights, powers and remedies granted to the Seller in this Agreement, upon the occurrence and during the continuation of an Event of Default, the Purchaser hereby appoints the Seller the Purchaser's attorney-in-fact, with full authority in the place and stead of Purchaser and in the name of Purchaser or otherwise, from time to time in the Seller's good faith discretion, to take any action (including the right to collect on any Collateral) and to execute any instrument that the Seller may reasonably believe is necessary or advisable to accomplish the purposes of this Note & Security Agreement, in a manner consistent with the terms hereof.

12. **Taxes and Claims.** The Purchaser will promptly pay all material taxes and other material charges levied or assessed by any Governmental Authority upon or against any Collateral or upon or against the creation, perfection or continuance of the security interest, except to the extent such taxes, charges or claims are being contested by the Purchaser in good faith by appropriate proceedings.

13. **Books and Records.** The Purchaser will keep and maintain, at its own cost and expense, records of the Collateral in the ordinary course of its business consistent with past practice.

14. **Inspection, Reports, Verifications.** Upon the occurrence and during the continuation of an Event of Default, the Purchaser will at all reasonable times permit the Seller or its representatives to examine or inspect any Collateral, any evidence of Collateral and the Purchaser's books and records concerning the Collateral, wherever located.

15. **Notice of Loss.** The Purchaser will promptly notify the Seller of any material loss of or material damage to any item of Collateral with a fair market value in excess of \$50,000.

16. **Insurance.** The Purchaser will insure the Collateral in the ordinary course of its business consistent with past practice.

17. **Events of Default.** If any of the following events ("Events of Default") occurs:

(a) Purchaser shall fail to pay any principal amount or interest due under this Note & Security Agreement when the same becomes due and payable and has failed to cure such failure within ten (10) Business Days of written notice of such failure by Seller to Purchaser;

(b) Purchaser shall fail to observe or perform, in any material respect, any covenant of Purchaser set forth in this Note & Security Agreement and fails to diligently commence, within ten (10) Business Day of written notice of such failure by Seller to Purchaser, to cure the same;

(c) Purchaser shall suffer a casualty of \$500,000 or more to any item of any uninsured Collateral;

(d) Purchaser shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or application or an answer or otherwise commence any action or proceeding seeking reorganization, arrangement, consolidation, compromise or readjustment of its debts or seeking a stay which has the effect of staying any creditor or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of an interim receiver, a receiver, a receiver and manager, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment for the benefit of creditors; or (iv) be unable generally to pay its debts as they become due;

(e) An involuntary petition shall be filed or application made or an action or proceeding otherwise commenced seeking reorganization, arrangement, consolidation, compromise, or readjustment of the debts of the Purchaser or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing and such petition or proceeding shall not be dismissed within sixty (60) days after the filing or commencement thereof or an order of relief shall be entered with respect thereto;

(f) An interim receiver, administrator, administrative receiver, receiver, assignee, liquidator, sequestrator, custodian, monitor, trustee or similar officer for Purchaser or for all or any part of his property shall be appointed or a warrant of attachment, execution or

similar process shall be issued in any jurisdiction against any part of the property of Purchaser; or

(g) An Event of Default (as defined in the 503(b)(9) Note) has occurred.

then and, in any such event, Seller may proceed to protect and enforce its rights in the manner set forth in Section 16 hereof.

18. **Remedies.** If an Event of Default has occurred, (a) at the option of Seller by written notice to Purchaser, in the case of an Event of Default (other than an Event of Default under Section 16(d), (e) or (f)), and immediately and automatically, without notice or declaration of any kind, in the case of an Event of Default under Section 16(d), (e) or (f), any and all amounts outstanding hereunder shall at once become due and payable in full and in the manner set forth in Sections 2 and 4 hereof and (b) Seller may proceed to protect and enforce all rights, remedies and recourse as shall be available to Seller by law, equity, statute or otherwise by a suit or other appropriate proceeding, whether, without limitation, for the specific performance of any covenant or agreement contained in this Note & Security Agreement, or for an injunction against a violation of any of the terms hereof or in aid of the exercise of any right, power or remedy granted hereby or by law, equity, statute or otherwise. No course of dealing and no delay on the part of Seller in exercising any right, power or remedy will operate as a waiver thereof or otherwise prejudice Seller's rights, powers or remedies. No right, power or remedy conferred hereby is exclusive of any other right, power or remedy referred to herein or now or hereafter available at law, by statute or otherwise. The Purchaser hereby waives protest, presentment, demand for payment, notice of dishonor and notice of acceleration of maturity and agrees to continue to remain bound for the payment of principal, interest and all other sums due under this Note & Security Agreement, notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note & Security Agreement or by way of any extension or extensions of time for the payment of principal and interest. The Purchaser shall pay all costs of collection when incurred, including, without limitation, reasonable attorneys' fees, costs and other expenses. The Seller may, as applicable, exercise and enforce any and all rights and remedies available upon default to a secured party under Division 9 of the Uniform Commercial Code as adopted in the State of California, or as allowed to the trustee or beneficial holder (as applicable) of a deed of trust pursuant to California law.

19. **Costs and Expenses.** If an Event of Default has occurred, the Purchaser will reimburse the Seller on demand for all reasonable out-of-pocket expenses (including all reasonable fees and expenses of counsel and of any experts and agents) incurred by the Seller in connection with the foreclosure or enforcement of Seller's security interest and the enforcement of this Note & Security Agreement, and all such costs and expenses will be part of the obligations secured by the security interest granted in this Note & Security Agreement.

20. **The Seller's Duties as the Secured Party.** The powers conferred on the Seller hereunder are solely to protect its interest in the Collateral and will not impose any duty upon it to exercise any such powers. The Seller will be deemed to have exercised reasonable care in the

safekeeping of any Collateral in its possession if such Collateral is accorded treatment substantially equal to the safekeeping which the Seller accords its own property of like kind. Except for the safekeeping of any Collateral in its possession and the accounting for monies and for other properties actually received by it hereunder, the Seller will not have any duty, as to any Collateral, as to the taking of any necessary steps to preserve rights against any persons or any other rights pertaining to any Collateral. The Seller does not have any fiduciary relationship to the Purchaser, the relationship being solely that of creditor and debtor.

21. **Amendments; Waiver of Breaches.** This Note & Security Agreement may not be amended or otherwise modified or terminated (prior to payment in full in cash of all amounts owed by the Purchaser hereunder), except by a writing duly executed by the Purchaser and Seller. A waiver so signed will be effective only in the specific instance and for the specific purpose given. No waiver by Seller of any breach by the Purchaser of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision of this Note & Security Agreement. Mere delay or failure to act will not preclude the exercise or enforcement of any rights and remedies available to the Seller. All rights and remedies of the Seller will be cumulative and may be exercised singly in any order or sequence, or concurrently, at the Seller's option, and the exercise or enforcement of any such right or remedy will neither be a condition to nor bar the exercise or enforcement of any other right or remedy.

22. **Notices.** Any notice or other communication to any party in connection with this Note & Security Agreement will be in writing and will be sent by manual delivery, facsimile transmission, overnight courier or United States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party will have specified to the other party hereto in writing. All periods of notice will be measured from the date of delivery thereof if manually delivered, from the date of sending thereof with confirmed receipt if sent by facsimile transmission, from the first business day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed.

23. **Successors and Assigns.** The provisions of this Note & Security Agreement shall inure to the benefit of the Seller and any successor thereto by assignment or operation of law, and shall extend to any holder hereof, and shall be binding on any successor to the Purchaser. Notwithstanding the foregoing, the Purchaser's obligations under this Note & Security Agreement are not assignable. This Note & Security Agreement will (a) create a continuing security interest in the Collateral and will remain in full force and effect until payment in full of the obligations due hereunder, (b) be binding upon the Purchaser, its successors and assigns, and (c) inure to the benefit of, and be enforceable by, the Seller and its successors, transferees, and assigns.

24. **Headings.** Section headings used in this Note & Security Agreement are solely for convenience of reference and shall not affect the construction of this Note & Security Agreement.

25. **Severability.** Each provision of this Note & Security Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which shall remain binding and enforceable, and the rights and obligations of the parties hereto hereunder shall be construed and enforced only to such extent as shall be permitted by applicable law.

26. **Governing Law; Dispute Resolution.** This Note & Security Agreement shall be governed by and construed in accordance with, and the rights of the Purchaser and Seller with respect hereto shall be determined under, the laws of the State of California. Any action or proceeding relating in any way to this Note & Security Agreement shall be brought in the Bankruptcy case of In re Zacky Farms, LLC, E.D. Cal. Case No. 12-37961-B-11 (the "Bankruptcy Case"). If the action or proceeding is commenced after the Bankruptcy Case is closed then such matter shall be brought and enforced in any court of competent jurisdiction in Sacramento, California. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection that such party may now or hereafter have to the laying of venue of any such action or proceeding in the courts of the State of California or the United States District Court for the Central District of California, in each case, sitting in Los Angeles, California, and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

27. **Counterparts.** This Note & Security Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, but all such counterparts together will constitute but one and the same instrument.

28. **No Fraudulent Conveyance.** It is the intention of the Purchaser and the Seller that this Note & Security Agreement not constitute a fraudulent transfer or fraudulent conveyance under any state or federal law that may be applied hereto.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

Zacky & Sons Poultry, LLC, a California limited liability company

By: ~~The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988, as its Sole Member~~ 

By: 
Name: Lillian Zacky
Title: Manager

Notice Address:

Zacky & Sons Poultry, LLC
149 S. Barrington Ave., Suite 720
Los Angeles, California 90049
Attention: Lillian D. Zacky

SELLER:

Zacky Farms, LLC, debtor in possession,

By: _____
Name: Keith F. Cooper
Title: Sole Manager and Chief Restructuring Officer

Notice Address:

Zacky Farms, LLC
1111 Navy Street
Stockton, California 95206
Attention: Keith Cooper
Fax: 559-443-2706

[Signature page to page to Creditor Recovery Note]

IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

Zacky & Sons Poultry, LLC, a California limited liability company

By: _____

Name: Lillian Zacky

Title: Sole Member

Notice Address:

Zacky & Sons Poultry, LLC
149 S. Barrington Ave., Suite 720
Los Angeles, California 90049
Attention: Lillian D. Zacky

SELLER:

Zacky Farms, LLC, debtor in possession,

By: _____

Name: Keith F. Cooper

Title: Sole Manager and Chief Restructuring Officer

Notice Address:

Zacky Farms, LLC
1111 Navy Street
Stockton, California 95206
Attention: Keith Cooper
Fax: 559-443-2706

SCHEDULE A

| Facility Name | Address | City | State | ZIP |
|--|---------------------------------------|-----------|-------|-------|
| Grower Ranch (18 th) APN 026-060-007 (78.79 acres) | 17432 18 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Kent) APN 024-170-073 (77.19 acres) | 19774 Kent Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Holm) APN 024-170-020 (40 acres) | 16395 & 16485 19 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (6 th Brood, Red and Gray) APNs 046-270-004 & 035 (400 acres) | 43501 6 th Avenue | Corcoran | CA | 93212 |
| Grower Ranch (Brawley) APN 053-090-37 (80 acres) | 19010 & 19012 S. Brawley Avenue | Riverdale | CA | 93609 |
| Grower Ranch (Experimental) APN 043-050-15 (20 acres) | 590 W. Kamm Avenue | Fresno | CA | 93725 |
| Grower Ranch (G & H) APN 035-060-90 (80 acres) | 8351 McMullin Grade | Fresno | CA | 93725 |
| Turkey Hatchery APN 023-060-44S (3.99 acres) | 1486 S. Industrial Way | Kerman | CA | 93630 |

EXHIBIT 2

EXECUTION VERSION

503(b)(9) NOTE & SECURITY AGREEMENT

\$6,400,000

Los Angeles, California
February 26, 2013

FOR VALUE RECEIVED, ZACKY & SONS POULTRY, LLC (the "Purchaser"), hereby unconditionally promises to pay, in the manner set forth below, for the benefit of holders of finally allowed claims arising under Section 503(b)(9) of the Bankruptcy Code against ZACKY FARMS, LLC (the "Seller"), the principal sum of SIX MILLION FOUR HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$6,400,000.00) (as such amount may be reduced from time to time pursuant to Section 3 hereof, the "Principal Sum"), plus interest on the Principal Sum as set forth in Section 1 hereof, it being understood that the Principal Sum is subject to reduction at the Maturity Date (as defined below) pursuant to Section 2 hereof. All capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement, dated as of February 6, 2013, by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988 and Seller (the "Asset Purchase Agreement").

1. **Interest.** Interest on the unpaid principal amount of this Note & Security Agreement outstanding from time to time shall accrue from the date hereof to and including the date on which the outstanding principal and accrued and unpaid interest is paid in full, at the interest rate of four percent (4%) per annum, payable quarterly in arrears on (a) the date that is ninety (90) days from the date hereof and (b) the date that is one hundred eighty (180) days from the date hereof, and if either such date shall be a day other than a Business Day, then such interest shall be payable on the next Business Day after such date. All interest hereunder shall be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

2. **Repayment of Principal.** On the date that is one hundred eighty (180) days from the date hereof or, if such date shall be a day other than a Business Day, then the next Business Day (the "Maturity Date"), the Principal Sum shall be automatically reduced by an amount equal to fifty percent (50%) of the amount by which \$6,400,000 exceeds the finally allowed amount of claims against Seller arising under Section 503(b)(9) of the Bankruptcy Code as of the Maturity Date, but in no event shall the Principal Sum be reduced below \$0. On the Maturity Date, the Principal Sum (after the application of the foregoing sentence) shall become due and payable.

3. **Prepayment.** The Purchaser at any time or from time to time may prepay, in cash, the unpaid principal amount of or interest on this Note & Security Agreement, in whole or in part, without penalty or premium. If Purchaser shall sell any Collateral (as defined below) with net proceeds of no less than \$50,000 other than in the ordinary course of business, the proceeds of such sale shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder. Any net amount of insurance proceeds received on account of the Collateral remaining after the cost of replacement of such Collateral

shall be applied to the prepayment of this Note & Security Agreement, to the extent there any amounts outstanding hereunder.

4. **Manner of Making Payments.** Payment of any amounts hereunder (whether principal or interest) shall be made to the 503(b)(9) Account in United States dollars by wire transfer of immediately available funds not later than 2:00 p.m., Los Angeles, California time, on the date such payment is due, or an optional prepayment is made.

5. **Application of Payments.** All payments made hereunder shall be applied first to accrued and unpaid interest and then to the unpaid principal amount hereof (which shall reduce the then current Principal Sum).

6. **Pledge of Collateral.** As collateral security for the prompt and complete payment of the Purchaser's obligation under this Note & Security Agreement (whether at the stated maturity, by acceleration, or otherwise), the Purchaser hereby grants to Seller a continuing security interest in (i) other than real property, all property rights and rights of Purchaser in all its assets, now owned or hereafter at any time acquired by the Purchaser, including, without limitation, all accounts, accounts receivable, money, deposit accounts, goods, inventory, chattel paper, documents, instruments, insurance proceeds, investment property, letter-of-credit rights, payment intangibles, general intangibles, commodity contracts, commodity accounts, farm products and livestock (the "Non-Real Estate Collateral") and (ii) the collateral set forth on Schedule A hereto (the "Real Estate Collateral") and any other tangible or intangible property received upon the sale or other disposition of all or any of the foregoing (collectively, the Non-Real Estate Collateral and the Real Estate Collateral, the "Collateral"). The Purchaser hereby irrevocably authorizes Seller, at any time and from time to time, to file in any appropriate filing office, wherever located, any financing statement describing the Collateral that contains any information required by the Uniform Commercial Code of the applicable jurisdiction for the sufficiency or filing office acceptance of any financing statement. The Purchaser also authorizes Seller to take any and all actions required by law, equity, statute or otherwise to perfect and protect the security interest granted hereunder.

7. **Termination of Security Interest.** Upon the payment in full of any and all amounts outstanding in connection with or due under this Note & Security Agreement, the security interest granted to Seller in the Collateral shall terminate. Upon any such termination, Seller shall execute and deliver to the Purchaser such documents as the Purchaser will reasonably request to evidence such termination.

8. **Title to Collateral.** The Purchaser shall not affirmatively grant a security interest in or lien on the Collateral that is senior to or *pari passu* with the interests in Collateral provided by this Note & Security Agreement. The Purchaser will take all commercially reasonable efforts to defend the Collateral against all material claims or demands of all Persons (other than the Seller) claiming the Collateral or any interest therein.

9. **Name and Jurisdiction of Organization.** The Purchaser represents and warrants that the Purchaser's legal name is as set forth in the opening paragraph hereof, and that the

Purchaser is organized and in good standing in the State of California. The Purchaser will not change its name or jurisdiction of organization unless the Seller has been given at least ten (10) Business Days prior written notice thereof.

10. **Further Assurances; Attorney-in-Fact.**

10.1 **Further Assurances.** The Purchaser agrees that, from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Seller may reasonably request, in order to perfect and protect the security interest granted or purported to be granted hereby or to enable the Seller to exercise and enforce its rights and remedies hereunder with respect to any Collateral (but any failure to request or assure that the Purchaser execute and deliver such instrument or documents or to take such action will not affect or impair the validity, sufficiency or enforceability of this Note & Security Agreement and the security interest, regardless of whether any such item was or was not executed and delivered or action taken in a similar context or on a prior occasion).

10.2 **Identification of Collateral.** Upon Seller's reasonable request, the Purchaser will furnish to the Seller, from time to time, statements and schedules, if any, that Purchaser has prepared in the ordinary course of its business that further identify and describe the Collateral.

10.3 **Attorney-in-Fact.** In furtherance, and not in limitation, of the other rights, powers and remedies granted to the Seller in this Agreement, upon the occurrence and during the continuation of an Event of Default, the Purchaser hereby appoints the Seller the Purchaser's attorney-in-fact, with full authority in the place and stead of Purchaser and in the name of Purchaser or otherwise, from time to time in the Seller's good faith discretion, to take any action (including the right to collect on any Collateral) and to execute any instrument that the Seller may reasonably believe is necessary or advisable to accomplish the purposes of this Note & Security Agreement, in a manner consistent with the terms hereof.

11. **Taxes and Claims.** The Purchaser will promptly pay all material taxes and other material charges levied or assessed by any Governmental Authority upon or against any Collateral or upon or against the creation, perfection or continuance of the security interest, except to the extent such taxes, charges or claims are being contested by the Purchaser in good faith by appropriate proceedings. The Purchaser will pay any and all amounts due to suppliers of feed to the Purchaser such that neither of the following events occur: (i) suppliers of feed cease delivering feed to the Purchaser for five or more consecutive days on the basis of non-payment or (ii) suppliers of feed exercise remedies with respect to any statutory liens on the Collateral resulting in a material interruption in the Business that continues for five or more consecutive days.

12. **Books and Records.** The Purchaser will keep and maintain, at its own cost and expense, records of the Collateral in the ordinary course of its business consistent with past practice.

13. **Inspection, Reports, Verifications.** Upon the occurrence and during the continuation of an Event of Default, the Purchaser will at all reasonable times permit the Seller or its representatives to examine or inspect any Collateral, any evidence of Collateral and the Purchaser's books and records concerning the Collateral, wherever located.

14. **Notice of Loss.** The Purchaser will promptly notify the Seller of any material loss of or material damage to any item of Collateral with a fair market value in excess of \$50,000.

15. **Insurance.** The Purchaser will insure the Collateral in the ordinary course of its business consistent with past practice.

16. **Events of Default.** If any of the following events ("Events of Default") occurs:

(a) Purchaser shall fail to pay any principal amount or interest due under this Note & Security Agreement when the same becomes due and payable and has failed to cure such failure within ten (10) Business Days of written notice of such failure by Seller to Purchaser;

(b) Purchaser shall fail to observe or perform, in any material respect, any covenant of Purchaser set forth in this Note & Security Agreement and fails to diligently commence, within ten (10) Business Day of written notice of such failure by Seller to Purchaser, to cure the same;

(c) Purchaser shall suffer a casualty of \$500,000 or more to any item of any uninsured Collateral, excluding live poultry;

(d) Purchaser shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or application or an answer or otherwise commence any action or proceeding seeking reorganization, arrangement, consolidation, compromise or readjustment of its debts or seeking a stay which has the effect of staying any creditor or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of an interim receiver, a receiver, a receiver and manager, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment for the benefit of creditors; or (iv) be unable generally to pay its debts as they become due;

(e) An involuntary petition shall be filed or application made or an action or proceeding otherwise commenced seeking reorganization, arrangement, consolidation, compromise, or readjustment of the debts of the Purchaser or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing and such petition or proceeding shall not be dismissed

within sixty (60) days after the filing or commencement thereof or an order of relief shall be entered with respect thereto;

(f) An interim receiver, administrator, administrative receiver, receiver, assignee, liquidator, sequestrator, custodian, monitor, trustee or similar officer for Purchaser or for all or any part of his property shall be appointed or a warrant of attachment, execution or similar process shall be issued in any jurisdiction against any part of the property of Purchaser; or

(g) An Event of Default (as defined in the Creditor Recovery Note) has occurred.

then and, in any such event, Seller may proceed to protect and enforce its rights in the manner set forth in Section 17 hereof.

17. **Remedies.** If an Event of Default has occurred, (a) at the option of Seller by written notice to Purchaser, in the case of an Event of Default (other than an Event of Default under Section 16(d), (e) or (f)), and immediately and automatically, without notice or declaration of any kind, in the case of an Event of Default under Section 16(d), (e) or (f), any and all amounts outstanding hereunder shall at once become due and payable in full and in the manner set forth in Sections 2 and 4 hereof (with the "Maturity Date" being such date the amounts outstanding hereunder shall become due and payable in full) and (b) Seller may proceed to protect and enforce all rights, remedies and recourse as shall be available to Seller by law, equity, statute or otherwise by a suit or other appropriate proceeding, whether, without limitation, for the specific performance of any covenant or agreement contained in this Note & Security Agreement, or for an injunction against a violation of any of the terms hereof or in aid of the exercise of any right, power or remedy granted hereby or by law, equity, statute or otherwise. No course of dealing and no delay on the part of Seller in exercising any right, power or remedy will operate as a waiver thereof or otherwise prejudice Seller's rights, powers or remedies. No right, power or remedy conferred hereby is exclusive of any other right, power or remedy referred to herein or now or hereafter available at law, by statute or otherwise. The Purchaser hereby waives protest, presentment, demand for payment, notice of dishonor and notice of acceleration of maturity and agrees to continue to remain bound for the payment of principal, interest and all other sums due under this Note & Security Agreement, notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note & Security Agreement or by way of any extension or extensions of time for the payment of principal and interest. The Purchaser shall pay all costs of collection when incurred, including, without limitation, reasonable attorneys' fees, costs and other expenses. The Seller may, as applicable, exercise and enforce any and all rights and remedies available upon default to a secured party under Division 9 of the Uniform Commercial Code as adopted in the State of California, or as allowed to the trustee or beneficial holder (as applicable) of a deed of trust pursuant to California law.

18. **Costs and Expenses.** If an Event of Default has occurred, the Purchaser will reimburse the Seller on demand for all reasonable out-of-pocket expenses (including all

reasonable fees and expenses of counsel and of any experts and agents) incurred by the Seller in connection with the foreclosure or enforcement of Seller's security interest and the enforcement of this Note & Security Agreement, and all such costs and expenses will be part of the obligations secured by the security interest granted in this Note & Security Agreement.

19. **The Seller's Duties as the Secured Party.** The powers conferred on the Seller hereunder are solely to protect its interest in the Collateral and will not impose any duty upon it to exercise any such powers. The Seller will be deemed to have exercised reasonable care in the safekeeping of any Collateral in its possession if such Collateral is accorded treatment substantially equal to the safekeeping which the Seller accords its own property of like kind. Except for the safekeeping of any Collateral in its possession and the accounting for monies and for other properties actually received by it hereunder, the Seller will not have any duty, as to any Collateral, as to the taking of any necessary steps to preserve rights against any persons or any other rights pertaining to any Collateral. The Seller does not have any fiduciary relationship to the Purchaser, the relationship being solely that of creditor and debtor.

20. **Amendments; Waiver of Breaches.** This Note & Security Agreement may not be amended or otherwise modified or terminated (prior to payment in full in cash of all amounts owed by the Purchaser hereunder), except by a writing duly executed by the Purchaser and Seller. A waiver so signed will be effective only in the specific instance and for the specific purpose given. No waiver by Seller of any breach by the Purchaser of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision of this Note & Security Agreement. Mere delay or failure to act will not preclude the exercise or enforcement of any rights and remedies available to the Seller. All rights and remedies of the Seller will be cumulative and may be exercised singly in any order or sequence, or concurrently, at the Seller's option, and the exercise or enforcement of any such right or remedy will neither be a condition to nor bar the exercise or enforcement of any other right or remedy.

21. **Notices.** Any notice or other communication to any party in connection with this Note & Security Agreement will be in writing and will be sent by manual delivery, facsimile transmission, overnight courier or United States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party will have specified to the other party hereto in writing. All periods of notice will be measured from the date of delivery thereof if manually delivered, from the date of sending thereof with confirmed receipt if sent by facsimile transmission, from the first business day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed.

22. **Successors and Assigns.** The provisions of this Note & Security Agreement shall inure to the benefit of the Seller and any successor thereto by assignment or operation of law, and shall extend to any holder hereof, and shall be binding on any successor to the Purchaser. Notwithstanding the foregoing, the Purchaser's obligations under this Note & Security Agreement are not assignable. This Note & Security Agreement will (a) create a continuing security interest in the Collateral and will remain in full force and effect until payment in full of the obligations due hereunder, (b) be binding upon the Purchaser, its

successors and assigns, and (c) inure to the benefit of, and be enforceable by, the Seller and its successors, transferees, and assigns.

23. **Headings.** Section headings used in this Note & Security Agreement are solely for convenience of reference and shall not affect the construction of this Note & Security Agreement.

24. **Severability.** Each provision of this Note & Security Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which shall remain binding and enforceable, and the rights and obligations of the parties hereto hereunder shall be construed and enforced only to such extent as shall be permitted by applicable law.

25. **Governing Law; Dispute Resolution.** This Note & Security Agreement shall be governed by and construed in accordance with, and the rights of the Purchaser and Seller with respect hereto shall be determined under, the laws of the State of California. Any action or proceeding relating in any way to this Note & Security Agreement shall be brought in the Bankruptcy case of In re Zacky Farms, LLC, E.D. Cal. Case No. 12-37961-B-11 (the "Bankruptcy Case"). If the action or proceeding is commenced after the Bankruptcy Case is closed then such matter shall be brought and enforced in any court of competent jurisdiction in Sacramento, California. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection that such party may now or hereafter have to the laying of venue of any such action or proceeding in the courts of the State of California or the United States District Court for the Central District of California, in each case, sitting in Los Angeles, California, and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

26. **Counterparts.** This Note & Security Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, but all such counterparts together will constitute but one and the same instrument.

27. **No Fraudulent Conveyance.** It is the intention of the Purchaser and the Seller that this Note & Security Agreement not constitute a fraudulent transfer or fraudulent conveyance under any state or federal law that may be applied hereto.

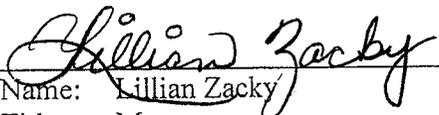
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IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

Zacky & Sons Poultry, LLC, a California limited liability company

By: ~~The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988, as its Sole Member~~ 

By: 
Name: Lillian Zacky
Title: Manager

Notice Address:

Zacky & Sons Poultry, LLC
149 S. Barrington Ave., Suite 720
Los Angeles, California 90049
Attention: Lillian D. Zacky

SELLER:

Zacky Farms, LLC, debtor in possession,

By: _____
Name: Keith F. Cooper
Title: Sole Manager and Chief Restructuring Officer

Notice Address:

Zacky Farms, LLC
1111 Navy Street
Stockton, California 95206
Attention: Keith Cooper
Fax: 559-443-2706

[Signature page to page to 503 (b)(9) Note]

IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

Zacky & Sons Poultry, LLC, a California limited liability company

By: _____
Name: Lillian Zacky
Title: Sole Member

Notice Address:

Zacky & Sons Poultry, LLC
149 S. Barrington Ave., Suite 720
Los Angeles, California 90049
Attention: Lillian D. Zacky

SELLER:

Zacky Farms, LLC, debtor in possession,

By: 
Name: Keith F. Cooper
Title: Sole Manager and Chief Restructuring Officer

Notice Address:

Zacky Farms, LLC
1111 Navy Street
Stockton, California 95206
Attention: Keith Cooper
Fax: 559-443-2706

SCHEDULE A

The real property assets set forth below:

| Facility Name | Address | City | State | ZIP |
|--|---|----------|-------|-------|
| Stockton Plant APN 163-260-07 (15.17 acres) | 1111 Navy Drive | Stockton | CA | 95206 |
| Warehouse APN 458-240-09 | By Fresno Mill | Fresno | CA | |
| Vacant Land 57 APN 028-030-032 | Approximately 58.30 acres open land located in Hanford, CA | Hanford | CA | |
| Turkey Processing Plant APN 480-040-06S (4.98 acres) | 2222 & 2240 S. East Avenue | Fresno | CA | 93721 |
| Empire Facility APN 480-040-11 (11.53 acres) | 2950 E. California Street | Fresno | CA | 93721 |
| Litter Yard APN 055-310-29 (22.56 acres) | 18804 S. Camden Avenue | Laton | CA | 93242 |
| Garage APN 458-250-02 (2.18 acres) | 190 N. Thorne Avenue | Fresno | CA | 93706 |
| Mill Annex APN 458-240-09 (.48 acres) | 245, 249, 251 North H Street | Fresno | CA | 93701 |
| Corporate Offices APN 468-040-07S (9.57 acres) | 1888 & 2020 S. East Avenue | Fresno | CA | 93721 |
| Warehouse APN 480-040-07 (2.97 acres) | 2272 S. East Avenue | Fresno | CA | 93721 |

EXHIBIT 3

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

**THE ROBERT D. ZACKY AND LILLIAN D. ZACKY TRUST
U/D/T DATED JULY 26, 1988**

AND

ZACKY FARMS, LLC

FEBRUARY 6, 2013

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT dated as of February 6, 2013 (this "Agreement") is entered into by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988, a California trust ("Purchaser"), and Zacky Farms, LLC, a California limited liability company ("Seller"). Purchaser and Seller are sometimes individually referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS:

WHEREAS, Seller operates a vertically integrated poultry business consisting of breeding, hatching and growing turkeys and chickens, processing fresh and frozen poultry products, and marketing and distributing such products to retail and foodservice customers (the "Business");

WHEREAS, Seller desires to sell, transfer, convey, assign and deliver the Purchased Assets (as defined below) and to assign the Assumed Liabilities (as defined below), and Purchaser desires to purchase, take delivery of, and acquire such Purchased Assets and to assume such Assumed Liabilities, upon the terms and subject to the conditions set forth herein;

WHEREAS, on October 8, 2012 (the "Petition Date"), Seller filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of California (the "Bankruptcy Court");

WHEREAS, Seller's chapter 11 bankruptcy case is currently being administered under Case No. 12-37961-B-11 in the Bankruptcy Court (the "Bankruptcy Case");

WHEREAS, on November 20, 2012, the Bankruptcy Court entered an order [Docket No. 323] (the "Sale Procedures Order") approving certain marketing and sale procedures related to the sale of Seller's assets (including the Purchased Assets); and

WHEREAS, the transactions contemplated by this Agreement (the "Transactions") will be consummated pursuant to an Approval Order (as defined below) to be entered in the Bankruptcy Case under Sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code, and the Transactions and this Agreement are subject to the approval of the Bankruptcy Court.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, covenants, representations, warranties and promises set forth herein, and in order to prescribe the terms and conditions of such purchase and sale, intending to be legally bound, the Parties agree as follows:

1. Definitions.

1.1. Definitions. The following terms, as used herein, have the following meanings:

(a) “503(b)(9) Account” means a control account to be established by Seller to hold proceeds from the 503(b)(9) Note, with respect to which the prior written consent of the Purchaser, Seller and the Committee shall be required for the release of any proceeds, with such consent to be given in accordance with Section 2.9(b) of this Agreement.

(b) “Accounts Receivable” means all accounts and notes receivable (whether current or non-current) of Seller in respect of goods shipped, products sold or services rendered prior to the Closing Date.

(c) “Acquired Real Property” means all of the real property of Seller, together with all Improvements located thereon and all easements, rights of way, servitudes, tenements, hereditaments, appurtenances, privileges and other rights and interests appurtenant thereto owned by Seller.

(d) “Administrative Claims” means those allowed administrative claims arising under section 503 of the Bankruptcy Code.

(e) “Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such other Person.

(f) “Business Day” means a day other than Saturday, Sunday or other day on which commercial banks in Fresno, California are authorized or required by Law to close.

(g) “CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), and any Laws promulgated thereunder.

(h) “Claim” means a “claim” as defined in Section 101 of the Bankruptcy Code.

(i) “Closing Date” means the date of the Closing.

(j) “Code” means the Internal Revenue Code of 1986, as amended.

(k) “Contract Motions” means the following motions filed by Seller in the Bankruptcy Case: (i) *Debtor’s Motion for Authority to Assume and Assign Certain Unexpired Nonresidential Real Property Leases in Connection with the Proposed Sale of Substantially all of the Debtor’s Assets* [Docket No. 387]; (ii) *Debtor’s Motion for Authority to Assume and Assign Certain Grower Contracts in Connection with the Proposed Sale of Substantially all of the Debtor’s Assets* [Docket No. 392]; (iii) *Debtor’s Motion for Authority to Assume and Assign Certain Supply Contracts in Connection with the Proposed Sale of Substantially all of the Debtor’s Assets* [Docket No. 396]; and (iv) *Debtor’s Motion for Authority to Assume and Assign Certain Unexpired Other Executory Contracts and Leases in Connection with the Proposed Sale of Substantially*

all of the Debtor's Assets [Docket No. 400], together with any other motions filed by Seller with respect to the assumption and assignment of the Assumed Contracts.

(l) “Contract Orders” means the Orders of the Bankruptcy Court in the Bankruptcy Case granting the Contract Motions.

(m) “Creditor Recovery Account” means a segregated account to be established by Seller to hold proceeds from the Creditor Recovery Note

(n) “Cure Costs” means all amounts that must be paid, including any amounts provided for in the Contract Orders, and all obligations that otherwise must be satisfied, including pursuant to Sections 365(b)(1)(A) and (B) of the Bankruptcy Code, in connection with the assumption and/or assignment of the Assumed Contracts to Purchaser as provided herein.

(o) “DIP Agreement” means that certain Senior Secured Superpriority Debtor in Possession Credit Agreement dated October 8, 2012, by and between Seller and Purchaser.

(p) “Employee Benefit Plan” means any “employee benefit plan” (as defined in ERISA § 3(3)) and any other benefit or compensation plan, program, agreement or arrangement maintained, sponsored, or contributed or required to be contributed to by Seller or any ERISA Affiliate or with respect to which Seller or any ERISA Affiliate has any liability, including any Multiemployer Plan.

(q) “Environmental Laws” means, whenever in effect, all federal, state, and local Laws and other provisions having the force or effect of Law, all judicial and administrative Orders and determinations, all contractual obligations and all common Law, in each case concerning public health and safety, pollution or protection of the environment, including all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, processing, discharge, Release, threatened Release, control, or cleanup of any Hazardous Substances or wastes (including CERCLA and analogous state Laws).

(r) “ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and all Laws issued thereunder.

(s) “ERISA Affiliate” means any Person that, at any relevant time, is or was treated as a single employer with Seller for purposes of Code § 414.

(t) “Excess 503(b)(9) Amount” means the amount obtained by subtracting (i) the actual amount of finally allowed claims arising under section 503(b)(9) of the Bankruptcy Code against Seller from (ii) \$6,400,000, but in no event shall the Excess 503(b)(9) Amount be less than \$0.

(u) “Final Order” means an Order or judgment of the Bankruptcy Court as entered on the docket of the Clerk of the Bankruptcy Court, that has not been reversed, stayed, modified or amended and as to which the time to appeal, petition for

certiorari, reargue or seek rehearing has expired and no proceeding for certiorari, reargument or rehearing is pending or if an appeal, petition for certiorari, reargument, or rehearing has been sought, the order or judgment of the Bankruptcy Court has been affirmed by the highest court to which the order was appealed, from which the reargument or rehearing was sought, or certiorari has been denied and the time to take any further appeal or to seek certiorari or further reargument or rehearing has expired.

(v) “GAAP” means, at a given time, United States generally accepted accounting principles, consistently applied.

(w) “Governmental Authority” means any federal, state, local, municipal, foreign, supranational or other governmental or quasi-governmental authority of any nature (including any governmental agency, branch, bureau, commission, department, official or entity and any court or other tribunal), or any administrative, executive, judicial, legislative, police, regulatory or Taxing Authority, or arbitral body.

(x) “Grower Contract” means any contract or agreement between Seller, on the one hand, and a third party, on the other hand, pursuant to which such third party has agreed to house, grow, feed or otherwise care for turkeys or chickens owned by Seller as set forth on Schedule 1.1(x).

(y) “Hazardous Substances” means any pollutants, contaminants or chemicals, and any industrial, toxic or otherwise hazardous materials, substances or wastes and any other substance with respect to which liability or standards of conduct may be imposed under any Environmental Laws, including petroleum and petroleum related substances, products, by products and wastes, asbestos, urea, formaldehyde and lead based paint.

(z) “Improvements” means all buildings, improvements, structures, streets, roads and fixtures located, placed, constructed or installed on or under the Acquired Real Property, including all utilities, fire protection, security, surveillance, telecommunications, computer, wiring, cable, heat, exhaust, ventilation, air conditioning, electrical, mechanical, plumbing and refrigeration systems, facilities, lines, installations and conduits.

(aa) “Intellectual Property Rights” means all of the intellectual property rights of Seller (but, in each case, only to the extent such intellectual property rights are transferrable without the consent of any third party), including: (i) patents, patent applications and patent rights; (ii) trademarks (registered and at common law), trademark registrations and applications, trade names, logos, trade dress, brand names, service marks (registered and at common law), service mark registrations and applications, websites, domain names and other indicia of source and all goodwill associated therewith; (iii) works of authorship, copyrights, copyright registrations and applications for registration, and moral rights; (iv) know-how, trade secrets, customer lists, proprietary information, proprietary processes and formulae, databases and data collections; (v) source and object code, software, algorithms, architecture, structure, display screens, layouts, inventions, and development tools; (vi) right, title and interest in and to the name

“Zacky Farms” and any abbreviations, derivations or variations thereof; and (vii) documentation and media constituting, describing or relating to the above, including, manuals, memoranda and records.

(bb) “Inventory” means all supplies, goods, finished goods, materials, raw materials, work in process, live inventory and stock in trade, including all grain inventory, eggs, live poultry, medication and vaccines, corn meal, soybean meal, finished feed and feed ingredients, manure, spices and ingredients, dressed poultry and packaging materials related to dressed poultry, replacement and spare parts and fuels and other similar items and any other inventory owned by Seller, wherever located, whether or not prepaid.

(cc) “Knowledge of Seller” or any other similar knowledge qualification in this Agreement means all facts actually known by the following individuals: Kirk VanderGeest, Keith Cooper, Sean Harding and Marcus Currey.

(dd) “Law” means any law, statute, regulation, rule, code, decree, constitution, ordinance, treaty, rule of common law, or Order of, or administered or enforced by or on behalf of, any Governmental Authority.

(ee) [Intentionally Omitted.]

(ff) “Leased Real Property” means the real property leased by Seller, together with, to the extent leased by Seller, all buildings and other structures or facilities currently or hereafter located thereon, all fixtures, systems, equipment and items of Personal Property of Seller attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

(gg) “Lien” means, with respect to any property or asset, any mortgage, lien (statutory or otherwise), pledge, security interest, Claim, encumbrance, restriction, charge, instrument, preference, priority, option, or right of first refusal, of any kind or nature, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown. For the avoidance of doubt, the definition of Lien shall not include any license or sublicense of Intellectual Property Rights granted by Seller, or any lease or sublease by Seller (as lessor or sublessor) of real property.

(hh) “Material Adverse Effect” means a material adverse effect on the Business, taken as a whole, excluding any such effect to the extent resulting from or arising in connection with (i) the Transactions or the public announcement thereof; (ii) changes or conditions affecting the industries generally in which Seller operates; (iii) changes in national or international business, economic, political or social conditions, including the engagement by the United States of America in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States of America or any of its territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States of America; (iv) changes in financial, banking or

securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) changes in Law or in GAAP or interpretations thereof; (vi) the failure of Seller to meet or otherwise achieve internal or public projections, forecasts, financial goals, benchmarks or estimates, provided that the exceptions in this subsection (vi) are limited to any such failure in and of itself and shall not prevent or otherwise affect a determination that any change, event, effect or fact underlying such failure has resulted in, or contributed to, a Material Adverse Effect; (vii) changes resulting from the commencement and continuation of the Bankruptcy Case; (viii) the pendency or completion of the Transactions; (ix) any action take by Seller as required by this Agreement; or (x) actions taken by Seller pursuant to (or as contemplated by) Orders entered by the Bankruptcy Court in the Bankruptcy Case.

(ii) “Multiemployer Plan” means any “multiemployer plan” (as defined in ERISA § 3(37)) contributed to by Seller or any ERISA Affiliate or with respect to which Seller or any ERISA Affiliate has any liability.

(jj) “Non-Released Persons” means Richard N. Zacky, Big Feather Ranch, LLC, Lucky Wishbone, LLC, Trust A of the Albert and Beverly Zacky Trust, Trust B of the Albert and Beverly Zacky Trust, the Richard N. Zacky Irrevocable Trust dated 11/25/07, ZF Enterprises LLC, the Sharon Zacky Wilensky Irrevocable Trust dated 11/26/07, the Barbara Jean Zacky Irrevocable Trust dated 12/30/06, Sharon Zacky Wilensky, Barbara Jean Zacky, Integrated Grain and Milling, Inc., AB Ag Service, Inc. and American Huntsman, LLC.

(kk) “Order” means any award, decision, decree, order, directive, injunction, ruling, judgment, or consent of or entered, issued, made or rendered by any Governmental Authority.

(ll) “Permits” means licenses, permits, approvals, certificates of occupancy, authorizations, operating permits, registrations, concessions, grants, plans and other similar documents and authorizations issued by any Government Authority to Seller.

(mm) “Permitted Liens” means (i) Liens granted by Purchaser at or after the Closing; (ii) non-monetary Liens that do not materially interfere with the ability of Purchaser to own and operate the Purchased Assets in substantially the manner as operated immediately prior to the execution of this Agreement; (iii) Liens that arise under zoning, building codes, land use and other similar Laws, none of which would materially interfere with the ownership or operation by Purchaser of the Purchased Assets following the Closing in substantially the manner as owned and operated immediately prior to the execution of this Agreement; (iv) Liens for Taxes not yet due and payable; (v) all covenants, agreements, conditions, easements, restrictions and rights affecting the Acquired Real Property that are reflected in the applicable real estate records; (vi) any and all matters that would be shown by a physical inspection of the Acquired Real Property; (vii) indebtedness to Robert Reiser & Co., Inc. secured by a security interest in one VEMAG Model MMP220 Minced Meat Portioner; one Model. 2380 Tray Feeder; and one Model 1120 Tray Denester - PTP pursuant to a UCC-1 financing statement filed

on October 31, 2011; and (viii) the asserted mechanic's lien of Justin Carey Enterprises Inc.

(nn) "Person" means an individual, corporation, partnership, limited liability company, association, joint venture, trust or other entity or organization, including a Governmental Authority.

(oo) "Property Taxes" means all real property Taxes, personal property Taxes and similar ad valorem obligations levied with respect to the Purchased Assets.

(pp) "Release" has the meaning set forth in CERCLA.

(qq) "Released Purchaser-Related Persons" means the Purchaser, Lillian D. Zacky, Scott Zacky, the Robert D. Zacky and Lillian D. Zacky Trust U/D/T dated 7/26/88, the Lillian D. Zacky Trust U/D/T dated 7/26/88, 7915 Deep Creek LLC, 20115 Del Oro, Apple Valley, LLC, 18606 Lords Road, Helendale, LLC, the Samuel, LLC.

(rr) "Tax" means (i) any tax, governmental fee or other like assessment or charge of any kind whatsoever (including withholding on amounts paid to or by any Person), together with any interest, penalty, addition to tax or additional amount imposed by any Governmental Authority (a "Taxing Authority") responsible for the imposition of any such tax (domestic or foreign), or (ii) liability for the payment of any amounts of the type described in clause (i) as a result of being party to any agreement or any express or implied obligation to indemnify any other Person.

1.2. Cross References. Each of the following terms is defined in the Section set forth opposite such term:

| <u>Term</u> | <u>Section</u> |
|-------------------------------------|----------------|
| 503(b)(9) Note | 2.9(a) |
| Agreement | Preamble |
| Allocation | 2.9(c) |
| Approval Order | 7.4 |
| Assumption and Assignment Agreement | 2.11(a) |
| Assumed Contracts | 2.1(b) |
| Assumed Liabilities | 2.3 |
| Bankruptcy Case | Recitals |
| Bankruptcy Code | Recitals |
| Bankruptcy Court | Recitals |
| Budget | 2.9(a) |
| Business | Recitals |
| Cash Purchase Price | 2.9(a) |
| Closing | 2.10 |
| Committee | 11.4 |
| Creditor Recovery Note | 2.9(a) |
| Credit Bid | 2.9(a) |

| | |
|-----------------------------------|----------|
| End Date | 11.1(b) |
| Excluded Assets | 2.2 |
| Excluded Employees | 5.5 |
| Excluded Liabilities | 2.4 |
| Party or Parties | Preamble |
| Permitted Purchaser Assignee | 12.3 |
| Personal Property | 2.1(g) |
| Petition Date | Recitals |
| Pitman | 2.1 |
| Pitman Breeder Purchase Agreement | 2.1 |
| Post-Petition Payables | 2.3(g) |
| Potentially Assumed Contracts | 2.1(b) |
| Purchase Price | 2.9(a) |
| Purchased Assets | 2.1 |
| Purchaser | Preamble |
| Purchaser WARN Act Liabilities | 6.5 |
| Rejected Contracts | 2.1(b) |
| Sale Procedures Order | Recitals |
| Seller | Preamble |
| Seller Contracts | 2.1(b) |
| Seller Releasors | 12.4 |
| Seller WARN Act Liabilities | 6.5 |
| Taxing Authority | 1.1(rr) |
| Transactions | Recitals |
| Transfer Taxes | 8.2 |
| Transferred Employees | 5.5 |
| WARN Act | 6.5(a) |

2. Purchase and Sale.

2.1. Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, at the Closing, Seller agrees to sell, transfer and deliver to Purchaser, and Purchaser agrees to purchase, acquire and accept from Seller, on an “as is, where is” basis and without any representation or warranty on the part of Seller as to fitness, merchantability or otherwise, all right, title and interest of Seller as of the Closing Date in and to the following assets, properties and rights (the “Purchased Assets”), free and clear of all Liens (other than Permitted Liens and Assumed Liabilities) to the maximum extent permitted by Sections 363 and 365 of the Bankruptcy Code; provided, however, to the extent that Seller and Pitman Family Farms (“Pitman”) close the transactions contemplated by that certain Asset Purchase Agreement (Lot 2), dated as of January 30, 2013, by and between Seller and Pitman Family Farms, pursuant to which Seller has agreed to sell the assets of the Business related to the operation of the breeder ranches (the “Pitman Breeder Purchase Agreement”), prior to the Closing, all assets and rights sold, transferred, assigned or otherwise conveyed to Pitman pursuant to the Pitman Breeder Purchase Agreement shall not be included in the Purchased Assets and shall be deemed Excluded Assets:

(a) all the Acquired Real Property, including all of the Acquired Real Property listed on Schedule 2.1(a);

(b) all contracts (other than Employee Benefit Plans) and leases to which Seller is party (the "Seller Contracts") that are identified on Schedule 2.1(b) (such Seller Contracts identified on Schedule 2.1(b), the "Assumed Contracts"), which list of Assumed Contracts shall be deemed to include the Grower Contracts, and all rights, privileges, deposits, cash prepayments, pre-paid items, open orders, claims and options relating or pertaining to the Assumed Contracts; provided, that at any time prior to Closing, Purchaser in its sole discretion may amend Schedule 2.1(b) to include additional Seller Contracts; provided that no later than the Closing Date, the Purchaser, in its sole discretion, may provide the Seller a list of additional Seller Contracts (such additional Seller Contracts, the "Potentially Assumed Contracts"), each of which it may designate as an Assumed Contract, in its sole discretion, by providing written notice to Seller no later than 30 days after the Closing Date; provided, however, that no Assumed Contract (including any Potentially Assumed Contract) shall be assumed by Seller and assigned to Purchaser until the Bankruptcy Court enters an Order approving such assumption and assignment after due and proper notice has been given to the third-party to such Assumed Contract (which notice shall be given by Seller promptly after Purchaser designates a Seller Contract as an Assumed Contract); provided further, that Purchaser shall have no obligation to acquire any rights or assume any obligations or liabilities with respect to any Seller Contract that is not an Assumed Contract (each such Seller Contract, a "Rejected Contract"); provided, however, that the Purchaser shall be liable for any Administrative Claims arising after the Closing Date on account of any Potentially Assumed Contract until such contract has been either assumed and assigned to Purchaser or otherwise rejected;

(c) all rights of Seller in or under any Employee Benefit Plan Purchaser is assuming pursuant to Section 5.5, including all pre-payments, deposits and refunds thereunder and any assets maintained pursuant thereto or in connection therewith;

(d) all of the Leased Real Property subject to a lease that is an Assumed Contract;

(e) all Accounts Receivable, credits, deposits, prepayments and payment intangibles, and all Claims against third parties related to the collectability thereof, other than the Creditor Recovery Note and the 503(B)(9) Note;

(f) all Inventory;

(g) all tangible personal property owned by Seller, including all machinery, equipment, fans, cool cells, feed lines, water lines, stoves, farm products, tools, vehicles, computers, mobile phones, personal digital assistants, computer equipment, hardware, peripherals, information technology infrastructure, telephone systems, furniture, fixtures, furnishings, office supplies, production supplies, other miscellaneous supplies, and other tangible personal property of any kind owned by Seller, including the equipment set forth on Schedule 2.1(g) ("Personal Property");

(h) all rolling stock, cars, trucks, trailers, tractors, forklifts, scrapers, sprayers, other industrial vehicles and other motor vehicles owned by Seller, including the vehicles set forth on Schedule 2.1(h);

(i) all books, records, files and papers of Seller, including equipment logs, operating guides and manuals, and other similar documents (all in the state in which such records and information currently exist); provided, that Seller shall be entitled to retain copies of such books, records, files and papers;

(j) all Intellectual Property Rights, including the Intellectual Property Rights set forth on Schedule 2.1(j);

(k) all advertising and promotional materials, catalogues, price lists, correspondence, mailing lists, customer lists, vendor lists, photographs, production data, sales materials and records, purchasing materials and records, personnel records of employees, billing records, accounting records, other financial records, and sale order files, in each case relating to the Business;

(l) to the extent transferrable without the consent of any Governmental Authority, all Permits relating to the Business, including all Permits set forth on Schedule 2.1(l);

(m) [Intentionally Omitted];

(n) all of Seller's cash and cash equivalents on hand and in banks or other financial institutions, including all checks received prior to the close of business on the Closing Date, whether or not deposited or cleared prior to the close of business on the Closing Date, commercial paper, certificates of deposit and other bank deposits, register cash, petty cash and cash equivalents, other than the Cash Purchase Price;

(o) all of Seller's utility deposits, security deposits, deposits held by contract counter-parties, deposits held by vendors or trade creditors, and other deposits of any kind or nature whatsoever (other than retainers held by Seller's attorneys or other retained professionals);

(p) all insurance policies relating to the Business and all Claims arising under such policies, and all credits, premium refunds, proceeds, causes of action or rights thereunder; provided, however, Seller shall continue to be a named insured on such policies with respect to events that occur and liabilities that arise prior to the Closing Date;

(q) any claim, right or interest of Seller in or to any refund, rebate, reimbursement, abatement or other recovery or credits for all Taxes of any kind, together with any interest due thereon or penalty rebate arising therefrom;

(r) all amounts owed to Seller by any one or more of Seller's Affiliates;

(s) all bank accounts, deposit accounts, securities accounts, brokerage accounts and other accounts holding any cash, cash equivalents or securities belonging to Seller;

(t) all goodwill of Seller relating to the Business;

(u) so far as legally permissible under applicable data protection, medical confidentiality or other applicable Laws (including with a Transferred Employee's written consent), all work and payroll histories, personnel and medical records of each Transferred Employee; and

(v) all assets, properties, interests and rights of Seller of any kind and nature, whether tangible or intangible, and wherever located and by whomever possessed used in, related or incidental to, or otherwise associated with, the Business and not otherwise specifically included in clauses (a) through (v) above, other than Excluded Assets.

2.2. Excluded Assets. Notwithstanding any other provision of this Agreement to the contrary, the Purchased Assets shall not include (the "Excluded Assets"):

(a) any Rejected Contract;

(b) the cash deposit posted in favor of Dreisbach Enterprises to secure its general warehouse lien;

(c) any equity interest in Seller;

(d) any personal property of Seller that is subject to a capital lease not included in the Assumed Contracts;

(e) all rights of Seller arising under this Agreement or in connection with the Transactions;

(f) the Cash Purchase Price;

(g) the Creditor Recovery Note;

(h) the 503(B)(9) Note;

(i) Seller's company seals, membership ledgers or other equity records, minute books and organizational documents;

(j) to the extent that Seller and Pitman close the transactions contemplated by the Pitman Breeder Purchase Agreement prior to the Closing, all assets and rights sold, transferred, assigned or otherwise conveyed to Pitman pursuant to the Pitman Breeder Purchase Agreement; and

(k) all avoidance Claims or other Claims of Seller, and all known or

unknown rights, demands, claims, credits, allowances, rebates, warranties, causes of action or rights of set-off that Seller may have against any third party (including in relation to or in connection with any Taxes), whether arising under the Bankruptcy Code, applicable state Law or otherwise and the proceeds thereof, including actions available to Seller under chapter 5 of the Bankruptcy Code, of whatever kind or nature, and whether asserted or unasserted, provided, however, such claims shall only be asserted by Seller for the purpose of set-off or asserting affirmative defenses and Seller shall not prosecute such claims for the purpose of affirmative recoveries, subject only to the Seller's right to pursue affirmative recoveries against the Non-Released Persons, and Persons who assert claims under Section 503(b)(9) of the Bankruptcy Code, and further subject to the release of such claims pursuant to the proposed settlement contained in the settlement between the Purchaser, Seller and the Committee; provided, however, in the event any Released Purchaser-Related Person faces any claim for indemnification, contribution or otherwise based on an estate cause of action against any party, the estate shall waive any recovery on account of such affirmative claims to the extent necessary to eliminate any such indemnification, contribution or other claim against any Released Purchaser-Related Person and further subject to the release of such claims pursuant to the proposed settlement contained in the settlement between the Purchaser, Seller and the Committee.

2.3. Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, Purchaser agrees, effective at the time of the Closing, to assume, pay, perform and discharge, promptly when payment or performance is due or required, the following liabilities and obligations of Seller (the "Assumed Liabilities"):

- (a) all liabilities and obligations of Seller related to or arising under the Assumed Contracts (it being expressly understood that Purchaser is not liable for any liability or obligation arising prior to the Closing Date, or the date an Assumed Contract is assumed after the Closing Date pursuant to Section 2.1(b), as applicable, with respect to an Assumed Contract, if any, except for Cure Costs);
- (b) all Cure Costs;
- (c) all employee benefit liabilities and obligations that Purchaser is assuming pursuant to Section 5.5;
- (d) all of the Tax-related liabilities and obligation that Purchaser is assuming pursuant to Section 8;
- (e) any Administrative Claims arising after the Closing Date on account of any Potentially Assumed Contract until such contract has been either assumed and assigned to Purchaser or otherwise rejected;
- (f) all liabilities and obligations arising under Section 6.5;
- (g) all accounts payable and other trade payables incurred by Seller after the Petition Date in the ordinary course of business that remain unpaid as of the Closing (the "Post-Petition Payables"); provided, however, the Post-Petition Payables shall in no event include any obligations for any fees, expenses or other amounts owed by

Seller to attorneys, consultants, advisors or other “professional persons” (as such term is defined in the Bankruptcy Code) in connection with the Bankruptcy Case, the Transactions or this Agreement, other than ordinary course attorneys and professionals; and

(h) any and all costs and expenses necessary in connection with providing “adequate assurance of future performance” with respect to the Assumed Contracts (as contemplated by Section 365 of the Bankruptcy Code).

2.4. Excluded Liabilities. Notwithstanding any other provision of this Agreement to the contrary, Purchaser is assuming only the Assumed Liabilities and is not assuming, agreeing to pay, perform or discharge when due, or be liable with respect to, any other debt, obligation, duty, liability or responsibility of Seller of any nature or kind whatsoever, including any unknown, undisclosed, unmaturing, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability. All such other liabilities and obligations shall be retained by, and remain liabilities and obligations of, Seller (all such liabilities and obligations not being assumed being herein referred to as the “Excluded Liabilities”).

2.5. Assumption/Assignment of Contracts and Rights. To the maximum extent permitted by the Bankruptcy Code and subject to Section 2.1(b), the Assumed Contracts shall be assumed by Seller and assigned to Purchaser at the Closing pursuant to Section 365 of the Bankruptcy Code. Purchaser shall have sole responsibility for paying any Cure Costs due in connection with the assumption and assignment of the Assumed Contracts. In the case of licenses, certificates, approvals, authorizations, Permits, Assumed Contracts and other commitments included in the Purchased Assets (a) that cannot be transferred or assigned effectively without the consent of third parties, which consent has not been obtained prior to the Closing (after giving effect to the Approval Order and the Bankruptcy Code), Seller shall, subject to any approval of the Bankruptcy Court that may be required, reasonably cooperate with Purchaser, at the cost and expense of Seller, in endeavoring to obtain such consent, and if any such consent is not obtained, Seller shall, subject to any approval of the Bankruptcy Court that may be required, reasonably cooperate with Purchaser, in all reasonable respects and at Seller’s cost and expense, to provide to Purchaser the benefits thereof in some other manner, or (b) that are otherwise not transferable or assignable (after giving effect to the Approval Order and the Bankruptcy Code), Seller shall, subject to any approval of the Bankruptcy Court that may be required, reasonably cooperate with Purchaser, at the cost and expense of Seller, to provide to Purchaser the benefits thereof in some other manner (including the exercise of the rights of Seller thereunder); provided, that Seller shall not be required to expend unreasonable amounts pursuant to clauses (a) or (b) of this paragraph.

2.6. Possession. Right to possession of the Purchased Assets shall transfer to Purchaser on the Closing Date. Seller shall transfer and deliver to Purchaser on the Closing Date or as promptly as practicable thereafter, such keys, passwords, combinations, lock and safe combinations and other similar items as Purchaser shall require to obtain immediate and full occupation and control of the Purchased Assets, and shall also make available to Purchaser at Seller’s then existing locations all documents in Seller’s possession that are required to be transferred to Purchaser by this Agreement.

2.7. Post-Closing Asset Deliveries. Should Seller or Purchaser, in their reasonable discretion, determine that any Purchased Assets are still in the possession of Seller after the Closing, Seller shall promptly deliver them to Purchaser at Seller's sole cost and expense.

2.8. Prorations. Except for Cure Costs, rent, utilities and other items of expense and income relating to or attributable to the Business shall be prorated between Seller and Purchaser as of the Closing Date. All such obligations due in respect of periods prior to the Closing Date shall be paid in full or otherwise satisfied by Seller, and all obligations due in respect of periods on and after the Closing Date shall be paid in full or otherwise satisfied by Purchaser. Rent shall be prorated on the basis of a thirty (30) day month. After the Closing Date, Purchaser and Seller shall cooperate in calculating any of the prorations under this Section 2.8.

2.9. Purchase Price; Allocation of Purchase Price.

(a) In addition to the assumption of the Assumed Liabilities, in consideration for the sale, transfer and delivery of the Purchased Assets at the Closing, the aggregate purchase price for the Purchased Assets shall consist of (i) a credit bid by Purchaser of TWENTY-SIX MILLION DOLLARS (\$26,000,000) of the secured debt pursuant to the DIP Agreement pursuant to Section 363(k) of the Bankruptcy Code (the "Credit Bid"), (ii) cash in the amount of TWO MILLION NINE HUNDRED THOUSAND DOLLARS (\$2,900,000) plus cash in an amount equal to the amount of accrued professional fees incurred pursuant to the budget attached hereto as Exhibit A (the "Budget") that have not been funded by the Purchaser as of the Closing Date based on each professional's good faith estimate of its expected accrued fees, as of the Closing Date, which shall not exceed the budgeted amount through the Closing Date for any such professional, provided at least two Business Days prior to the Closing Date (collectively, the "Cash Purchase Price"), it being understood that such Cash Purchase Price represents a "carve out" from Purchaser's Liens granted in connection with the DIP Agreement, with such "carve out" amount having been set in accordance with the Budget and the other agreements entered into by the Parties, (iii) the issuance of a secured note to Seller, in the form attached hereto as Exhibit B, in the principal amount of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) (the "Creditor Recovery Note"), and (iv) the issuance of a secured note to Seller, in the form attached hereto as Exhibit C, in the principal amount of SIX MILLION FOUR HUNDRED THOUSAND DOLLARS (\$6,400,000) (the "503(b)(9) Note" and, collectively with the Creditor Recovery Note, the Credit Bid and the Cash Purchase Price, the "Purchase Price"). The Cash Purchase Price shall be paid by Purchaser to Seller to deposit in a bank account as shall be designated in writing no later than two Business Days prior to the Closing Date by Seller to Purchaser. To the extent that the total amount of finally allowed professional fees, on an aggregate basis, for the period through the Closing Date is less than the aggregate amount paid by Purchaser on account of such professional fees at the Closing, the Seller shall be obligated to refund such amount to Purchaser, and shall remit such payment to Purchaser promptly.

(b) Payments made on the 503(b)(9) Note shall be deposited into the 503(b)(9) Account. Distributions from the 503(b)(9) Escrow Account shall be paid first, to holders of finally allowed claims arising under section 503(b)(9) of the Bankruptcy Code against Seller; second, to Seller in an amount, if any, equal to 50% of the Excess 503(b)(9) Amount; and third, all remaining amounts to Purchaser.

(c) Payments made on the Creditor Recovery Note shall be deposited into the Creditor Recovery Account.

(d) The Purchaser shall determine the allocation of the Purchase Price and Assumed Liabilities among the assets of the Business for all purposes (including financial, accounting and tax) (the "Allocation"). Purchaser and Seller shall each report the federal, state and local income and other Tax consequences of the purchase and sale contemplated hereby in a manner consistent with the Allocation, including, if applicable, the preparation and filing of Forms 8594 under Section 1060 of the Code (or any successor form or successor provision of any future Tax law) with their respective federal income Tax returns for the taxable year which includes the Closing Date, and neither will take any position inconsistent with the Allocation unless otherwise required under applicable Law. Seller shall provide Purchaser and Purchaser shall provide Seller with a copy of any information required to be furnished to the Secretary of the Treasury under Code Section 1060.

2.10. Closing. The closing (the "Closing") of the purchase and sale of the Purchased Assets and assumption of the Assumed Liabilities shall take place at the offices of Felderstein Fitzgerald Willoughby & Pascuzzi LLP, 400 Capitol Mall, Suite 1750, Sacramento, California 95814-4434, no later than five (5) Business Days after satisfaction of the conditions set forth in Section 9 (other than those requiring a delivery, or the taking of other action, at the Closing but subject to the fulfillment of any such condition), or at such other time or place as Purchaser and Seller may agree.

2.11. Deliveries by Seller. At the Closing, Seller will deliver or cause to be delivered to Purchaser (unless delivered previously) the following:

(a) a Bill of Sale, Assumption and Assignment Agreement substantially in form and substance reasonably satisfactory to Purchaser and Seller (the "Assumption and Assignment Agreement"), duly executed by Seller;

(b) duly executed deeds transferring fee simple title to the Acquired Real Property to Purchaser, in form and substance reasonably satisfactory to Purchaser and Seller;

(c) originals (or, to the extent originals are not available, copies) of all Assumed Contracts (together with all material amendments, supplements or modifications thereto) to the extent not already located at the Acquired Real Property;

(d) physical possession of all of the Purchased Assets capable of passing by delivery with the intent that title in such Purchased Assets shall pass by and upon delivery;

(e) a duly executed assignment agreement or agreements transferring the Intellectual Property Rights to Purchaser, in form and substance reasonably satisfactory to Purchaser;

(f) an affidavit from Seller, sworn under penalty of perjury and dated as of the Closing Date, in form and substance required under the Treasury Laws issued pursuant to Section 1445 of the Code stating that Seller is not a foreign person as defined in Section 1445 of the Code;

(g) certificates of title and title transfer documents to all titled motor vehicles included within the Purchased Assets; and

(h) all other documents, instruments and writings reasonably requested by Purchaser to be delivered by Seller at or prior to the Closing pursuant to this Agreement, and reasonably acceptable to Seller.

2.12. Deliveries by Purchaser. At the Closing, Purchaser will deliver or cause to be delivered to Seller (unless previously delivered) the following:

(a) the Cash Purchase Price;

(b) the Creditor Recovery Note;

(c) the 503(b)(9) Note;

(d) the Assumption and Assignment Agreement, duly executed by Purchaser;

(e) a list of Potentially Assumed Contracts, any of which may be designated as Assumed Contracts pursuant to Section 2.1(b);

(f) all other documents, instruments and writings reasonably requested by Seller to be delivered by Purchaser at or prior to the Closing pursuant to this Agreement, and reasonably acceptable to Purchaser; and

(g) such security agreements, deeds of trust, and other security documents related to the Creditor Recovery Note and the 503(B)(9) Note, in form and substance reasonably acceptable to Seller, Purchaser and the Committee.

3. Representations and Warranties of Seller. Subject to the terms, conditions and limitations set forth in this Agreement, Seller hereby represents and warrants to Purchaser as of the date of this Agreement as follows:

3.1. Organization. Seller is a limited liability company validly existing under the Laws of the State of California, and has the corporate power and authority to own, lease and operate the Purchased Assets, and to carry on in all material respects the Business as now being conducted. Seller has no direct or indirect subsidiaries and does not own or control, directly or indirectly, any equity interest in any Person.

3.2. Corporate Authorization. The execution, delivery and performance by Seller of this Agreement and the consummation of the Transactions are within Seller's corporate powers and have been duly authorized by all necessary actions on the part of Seller. Subject to entry by the Bankruptcy Court of the Approval Order in the Bankruptcy Case, this Agreement constitutes a valid and binding agreement of Seller that is enforceable in accordance with its terms.

3.3. Governmental Authorization. Except as disclosed on Schedule 3.3, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby by Seller require no action by or in respect of, or filing with, any Governmental Authority other than (a) consents, approvals or authorizations of, or declarations or filings with, the Bankruptcy Court, and (b) any such action or filing as to which the failure to make or obtain would not have a Material Adverse Effect.

3.4. Noncontravention. Subject to entry by the Bankruptcy Court of the Approval Order in the Bankruptcy Case, the execution, delivery and performance by Seller of this Agreement and the consummation of the Transactions do not and will not (a) violate Seller's articles of organization or operating agreement, as amended, (b) assuming compliance with the matters referred to in Section 3.3, materially violate any applicable Law, (c) except as to matters which would not reasonably be expected to have a Material Adverse Effect, constitute a default under or give rise to any right of termination, cancellation or acceleration of any right or obligation or to a loss of any benefit relating to any Purchased Asset to which Seller is entitled under any provision of any agreement or other instrument binding upon Seller, except for breaches and defaults referred to in Section 365(b)(2) of the Bankruptcy Code, or (d) result in the creation or imposition of any Lien on any Purchased Asset, except for Permitted Liens and Assumed Liabilities or Liens that will be released at or prior to Closing.

3.5. Required Consents. Except for consents, approvals or authorizations of, or declarations or filings with, the Bankruptcy Court, and except as otherwise set forth on Schedule 3.5, there is no agreement or other instrument binding upon Seller requiring a consent or other action by any Person as a result of the execution, delivery and performance of this Agreement, except such consents or actions as would not, individually or in the aggregate, have a Material Adverse Effect if not received or taken by the Closing Date.

3.6. Litigation. Except as disclosed on Schedule 3.6, as of the date hereof, there is no action, suit, investigation or proceeding pending against, or to the Knowledge of Seller, threatened against or affecting, the Purchased Assets before any Governmental Authority which is reasonably likely to have a Material Adverse Effect or which in any manner challenges or seeks to prevent, enjoin, alter or materially delay the Transactions.

3.7. Intellectual Property Rights. Schedule 2.1(j) sets forth an accurate and complete list of all registered Intellectual Property Rights included in the Purchased Assets. Except as set forth on Schedule 3.7, to the Knowledge of Seller, as of the date hereof, there exist no outstanding challenges to the ownership and use by Seller of the Intellectual Property Rights, nor any alleged infringements of such Intellectual Property Rights by third parties. Except as set forth on Schedule 3.7, none of the Intellectual Property Rights included in the Purchased Assets have been licensed by Seller to any other Person. Seller does not license any intellectual

property rights, and no licensing of intellectual property rights is required to operate the Business in the ordinary course of business consistent with past practice.

3.8. Permits. To the Knowledge of Seller, Schedule 3.8 sets forth a list of all Permits required to conduct the Business in a manner consistent with the current practices of Seller. Except as set forth on Schedule 3.8, to the Knowledge of Seller, (a) Seller is in material compliance with the terms and requirements of each such Permit, and (b) no written notice of violation of any such Permit has been received from any Governmental Authority and no proceeding is pending seeking to revoke or limit any such Permits.

3.9. Compliance with Laws and Court Orders. To the Knowledge of Seller, Seller is not in violation of any Law applicable to the Purchased Assets or the conduct of the Business, except for violations which would not reasonably be expected to have a Material Adverse Effect.

3.10. Environmental Matters. Other than as may be set forth in the reports described on Schedule 3.10, Seller has not received written notice from any Governmental Authority or third party of any violation of or failure to comply with any Environmental Laws with respect to the Acquired Real Property which to the Knowledge of Seller remains uncorrected, or of any obligation to undertake or bear the cost of any remediation with respect to the Acquired Real Property which to the Knowledge of Seller remains unperformed.

3.11. Real Property. With respect to each parcel of Acquired Real Property, except as set forth on Schedule 3.11, (a) Seller has fee simple title free and clear of all encumbrances, except for Permitted Liens and Liens that will be released at or prior to Closing; (b) there are no leases, subleases, licenses, concessions, or other agreements, written or oral, granting to any Person the right of use or occupancy of any portion of such Acquired Real Property; (c) there are no outstanding options, rights of first offer, or rights of first refusal to purchase such Acquired Real Property (other than the right of Purchaser pursuant to this Agreement), or any portion thereof or interest therein; and (d) there are no condemnation or eminent domain proceedings pending or, to the Knowledge of Seller, threatened with respect to all or any part of the Acquired Real Property.

3.12. Sufficiency of and Title to the Purchased Assets. Seller will have at Closing good and marketable title to all of the Purchased Assets. Upon consummation of the Transactions at the Closing, Purchaser will have acquired good, valid and marketable title in and to each of the Purchased Assets, free and clear of all Liens (other than Assumed Liabilities and Permitted Liens) to the maximum extent permitted by Section 363 of the Bankruptcy Code.

3.13. Certain Fees. Except for the fees and expenses of Imperial Capital, LLC, Seller has not incurred any liability for any investment banking fees, brokerage fees, finders' fees, or other similar fees in connection with this Agreement or the Transactions.

3.14. "AS IS" TRANSACTION. PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT, NOTWITHSTANDING THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN THIS SECTION 3, THE CONSENT OF A PARTY TO THE CLOSING SHALL CONSTITUTE A WAIVER BY SUCH PARTY OF ANY

CONDITIONS TO CLOSING NOT SATISFIED AS OF THE CLOSING DATE, AND FOLLOWING CLOSING SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PURCHASED ASSETS, INCLUDING INCOME TO BE DERIVED OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE PURCHASED ASSETS, THE PHYSICAL CONDITION OF ANY PERSONAL OR REAL PROPERTY COMPRISING A PART OF THE PURCHASED ASSETS OR WHICH IS THE SUBJECT OF ANY LEASE OR CONTRACT TO BE ASSIGNED TO PURCHASER AT THE CLOSING, THE ENVIRONMENTAL CONDITION OR ANY OTHER MATTER RELATING TO THE PHYSICAL CONDITION OF ANY REAL PROPERTY OR IMPROVEMENTS, THE ZONING OF ANY SUCH REAL PROPERTY OR IMPROVEMENTS, THE VALUE OF THE PURCHASED ASSETS (OR ANY PORTION THEREOF), THE TRANSFERABILITY OF THE PURCHASED ASSETS, THE TERMS, AMOUNT, VALIDITY OR ENFORCEABILITY OF ANY ASSUMED LIABILITIES, THE TITLE OF THE PURCHASED ASSETS (OR ANY PORTION THEREOF), THE MERCHANTABILITY OR FITNESS OF THE PERSONAL PROPERTY OR ANY OTHER PORTION OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER OR THING RELATING TO THE PURCHASED ASSETS OR ANY PORTION THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SELLER HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS. PURCHASER FURTHER ACKNOWLEDGES THAT PURCHASER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF THE PURCHASED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE PURCHASED ASSETS AS PURCHASER DEEMED NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE PURCHASED ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION 3, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, UPON THE CLOSING DATE, PURCHASER WILL ACCEPT THE PURCHASED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

4. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller as follows:

4.1. Organization. Purchaser is a trust duly organized and validly existing under the Laws of California and has all trust powers and all material governmental licenses, authorizations, permits, consents and approvals required to carry on its business as now conducted.

4.2. Trust Authorization. The execution, delivery and performance by Purchaser of this Agreement and the consummation of the Transactions are within the trust powers of Purchaser and have been duly authorized by all necessary actions on the part of Purchaser. This Agreement constitutes a valid and binding agreement of Purchaser that is enforceable in accordance with its terms.

4.3. Governmental Authorization. The execution, delivery and performance by Purchaser of this Agreement and the consummation of the Transactions by Purchaser require no action by or in respect of, or filing with, any Governmental Authority other than (a) consents, approvals or authorizations of, or declarations or filings with, the Bankruptcy Court and (b) any such action or filing as to which the failure to make or obtain would not have a material adverse effect on the Purchaser or its ability to close the Transactions.

4.4. Noncontravention. Neither the execution and delivery of this Agreement nor the consummation of the Transactions will (a) conflict with or result in any breach of any provision of the organizational documents of Purchaser; (b) require any filing with, or the obtaining of any permit, authorization, consent or approval of, any Governmental Authority; (c) violate, conflict with or result in a default (or any event which, with notice or lapse of time or both, would constitute a default) under, or give rise to any right of termination, cancellation or acceleration under, any of the terms, conditions or provisions of any note, mortgage, other evidence of indebtedness, guarantee, license, agreement, lease or other contract, instrument or obligation to which Purchaser is a party or by which Purchaser or any of its assets may be bound; or (d) violate any Law applicable to Purchaser, excluding from the foregoing clauses (b), (c) and (d) such requirements, violations, conflicts, defaults or rights (i) which would not adversely affect the ability of Purchaser to consummate the Transactions, or (ii) which become applicable as a result of any acts or omissions by, or the status of or any facts pertaining to, Seller.

4.5. Financing. Purchaser has sufficient cash, available lines of credit or other sources of immediately available funds to enable it to make payment of the Cash Purchase Price and any other amounts to be paid by it hereunder.

4.6. Litigation. There is no action, suit, investigation or proceeding pending against or, to the knowledge of Purchaser, threatened against or affecting Purchaser before any Governmental Authority which in any manner challenges or seeks to prevent, enjoin, alter or materially delay the Transactions.

4.7. Certain Fees. Purchaser has not employed any broker, finder, investment banker, or other intermediary or incurred any liability for any investment banking fees, financial advisory fees, brokerage fees, finders' fees, or other similar fees in connection with this Agreement or the Transactions.

4.8. Inspections; No Other Representations. Purchaser is an informed and sophisticated purchaser, and has engaged expert advisors, experienced in the evaluation and purchase of properties and assets such as the Purchased Assets and assumption of liabilities such as the Assumed Liabilities as contemplated hereunder. Purchaser has undertaken such investigation and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Agreement. Purchaser acknowledges that Seller has given Purchaser reasonable and open access to the key employees, documents and facilities of the Business. Purchaser acknowledges and agrees that the Purchased Assets are being sold on an "as is, where is" basis and Purchaser agrees to accept the Purchased Assets and the Assumed Liabilities in the condition they are in on the Closing Date based on its own inspection, examination and determination with respect to all matters and without reliance upon any express

or implied representations or warranties of any nature made by or on behalf of or imputed to Seller, except as expressly set forth in this Agreement. Without limiting the generality of the foregoing, Purchaser acknowledges that Seller makes no representation or warranty with respect to (a) any projections, estimates or budgets delivered to or made available to Purchaser of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of the Business or the future prospects or operations of the Business or (b) any other information or documents made available to Purchaser or its counsel, accountants or advisors with respect to the Business, except as expressly set forth in this Agreement.

5. Covenants of Seller. Seller agrees that:

5.1. Conduct of the Business. From the date hereof until the earlier of the termination of this Agreement pursuant to Section 11.1 or the Closing Date, except (i) as disclosed on Schedule 5.1, (ii) as may be required by the Bankruptcy Court, (iii) for the consequences resulting from the continuation of the Bankruptcy Case, or (iv) as may be required or contemplated by this Agreement, (x) Seller shall conduct the Business only in the ordinary course of business and in a manner consistent with past practice, (y) use its commercially reasonable efforts to preserve intact the Business, keep available the services of its employees, and maintain and preserve the Seller's existing relationships and goodwill with customers, vendors and others having business dealing with Seller, and (z) Seller shall not (except in the ordinary course of business substantially consistent with past practice):

(a) with respect to the Business, acquire a material amount of assets from any other Person;

(b) sell, lease, license or otherwise dispose of any Purchased Assets, or permit, offer, agree or commit any Purchased Asset to become subject, directly or indirectly, to any Lien, except for Permitted Liens;

(c) enter into, amend, terminate, waive any material right under, or otherwise modify any contract, agreement or understanding to which Seller is a party;

(d) hire or terminate any employees, or increase the compensation or benefits to which any employee is entitled;

(e) approve, adopt or expand the coverage of any Employee Benefit Plan;

(f) take any action that would reasonably be expected to cause the failure of any condition contained in Section 9.2 (other than actions taken by Seller in connection with the discharge of its fiduciary duties during the Bankruptcy Case); or

(g) agree or commit to do any of the foregoing.

5.2. Access to Information. From the date hereof until the earlier of the termination of this Agreement pursuant to Section 11.1 or the Closing Date, Seller shall reasonably afford, and shall cause its officers, employees, attorneys and other agents to

reasonably afford, to Purchaser and its counsel, accountants and other representatives, access (at reasonable times during normal business hours) to officers and other employees of Seller for the purposes of evaluating the Business and all properties, books, accounts, records and documents of, or relating to, the Business.

5.3. Accounts Receivable Payments. If Seller receives any payment on account of the Accounts Receivable following the Closing, Seller shall turn over such payment to Purchaser within three (3) Business Days of receipt of such payment. Any payment made pursuant to this Section 5.3 shall be made by wire transfer of immediately available federal funds to an account designated by Purchaser.

5.4. Notices of Certain Events. Seller shall promptly notify Purchaser of:

(a) any notice or other written communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the Transactions;

(b) any material written communication from any Governmental Authority in connection with or relating to the Transactions; and

(c) the commencement of any actions, suits, investigations or proceedings relating to Seller or the Business that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 3.6.

5.5. Employee Matters. On the Closing Date, Seller shall terminate all employees employed by Seller as of the Closing in connection with the Business (the "Transferred Employees"), and Purchaser shall make, or shall cause an Affiliate of Purchaser to make, an offer of employment to each Transferred Employee effective as of the Closing, other than employees that Purchaser determines not to make an offer of employment pursuant to written notice delivered by Purchaser to Seller prior to the Closing (such excluded employees, the "Excluded Employees"). Such offers of employment to the Transferred Employees by Purchaser shall be on terms and conditions, including with respect to compensation and benefits, similar in the aggregate to the compensation and benefits provided by Seller to the Transferred Employees as of immediately prior to the date hereof. As of the Closing, Purchaser shall be responsible for the payment and satisfaction of the following contingent wages, benefits and contractual obligations Seller may owe to either the Transferred Employees or the Excluded Employees (but, for the avoidance of doubt, excluding any employees of Seller terminated prior to the Closing Date): all accrued and unpaid wages, ordinary course expense-reimbursement obligations, accrued or unused vacation, holiday and sick-leave time, and severance obligations to the extent that such severance obligations arise from a contract, agreement or understanding, whether or not in writing, which Seller entered into prior to the Petition Date. In addition, as of the Closing, Seller shall assign to Purchaser, and Purchaser shall assume, each Employee Benefit Plan set forth on Schedule 5.5 to the extent such assignment and assumption is permitted by the terms of such Employee Benefit Plan without the consent of any third party and by applicable Law. Purchaser shall also assume liability for all workers' compensation claims of the Transferred Employees and the Excluded Employees existing as of the Closing Date. Notwithstanding any other provision of this Section 5.5, it is expressly understood that Purchaser

shall not assume any obligation or liability relating to any severance, separation pay, change of control or other termination payment, benefit or penalty pursuant to any contract, agreement or understanding, whether or not in writing, which Seller entered into on or after the Petition Date, and any such obligation or liability shall remain the obligation and liability of Seller. Upon request, Seller shall provide Purchaser with such documents, data and information as may reasonably be necessary or advisable, subject to applicable Law, to implement the provisions of this Section 5.5 and to allow Purchaser to assume and administer the Employee Benefit Plans that Purchaser is assuming from Seller pursuant to this Section 5.5. Nothing in this Agreement (including in this Section 5.5) shall be construed as (a) conferring any legal rights upon any Transferred Employee for continuation of employment by Purchaser or any of its Affiliates, (b) requiring Purchaser to implement, or limiting the rights of Purchaser to amend or discontinue, any Employee Benefit Plan, or (c) conferring upon any Transferred Employee any rights or remedies under this Agreement (including under this Section 5.5).

6. Covenants of Purchaser. Purchaser agrees that:

6.1. Access. On and after the Closing Date, upon reasonable advance written notice to the Seller or its successor, Purchaser will afford Seller or its successor and their counsel, advisors and other agents reasonable access during normal business hours to Purchaser's properties, books, records, and a member of Purchaser's management designated by Purchaser, to the extent necessary for the Seller's or its successor's financial reporting and accounting matters, employee benefits matters, preparation and filing of any Tax returns, reports or forms, defense of any Tax audit, Claim or assessment, reconciliation of Claims in the Bankruptcy Cases, or in connection with addressing any other issues arising in connection with or relating to the Bankruptcy Case; provided, however, that (x) any such access shall not unreasonably interfere with the conduct of the business of Purchaser, (y) Purchaser shall in no event be required to provide any such access in connection with any action, suit, investigation or proceeding involving Purchaser or its Affiliates, and (z) Purchaser shall in no event be required to disclose any books, records or other material or information that is privileged or that constitutes a trade secret or proprietary information. The Seller or its successor will hold, and will cause its Affiliates, equityholders, officers, directors, managers, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of Law, all confidential documents and information concerning Purchaser or the Business provided to it pursuant to this Section 6.1.

6.2. Title Insurance. Purchaser shall use its commercially reasonable efforts to obtain prior to the Closing (at the sole cost and expense of Purchaser), owner's policies of title insurance for the Acquired Real Property or any portion thereof, including fee title to the applicable Acquired Real Property, subject only to Permitted Liens, containing or accompanied by such affirmative insurance and endorsements as Purchaser shall reasonably require and as are available in the state where the Acquired Real Property is located. Seller will cooperate in good faith with Purchaser with respect to Purchaser's efforts to obtain such owner's policies of title insurance for the Acquired Real Property; provided, however, any owner's affidavit to be executed in connection with such policies shall be in form and substance satisfactory to Seller in its sole discretion.

6.3. [Intentionally Omitted.]

6.4. [Intentionally Omitted.]

6.5. WARN Act. Purchaser shall assume all obligations and liabilities for the provision of notice or payment in lieu of notice and any applicable penalties under the Worker Adjustment and Retraining Notification Act (the "WARN Act") or any similar state or local Law arising as a result of the termination by Purchaser at or after the Closing of any Transferred Employees or termination by Seller at the Closing of any Excluded Employee (the "Purchaser WARN Act Liabilities"). For the avoidance of doubt, Seller shall retain all obligations and liabilities arising from or relating to any "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) effectuated by Seller prior to the Closing, but only to the extent such obligations and liabilities existed as of the Closing or are solely attributable to actions taken by Seller on or prior to Closing (the "Seller WARN Act Liabilities"). Purchaser hereby agrees to indemnify Seller against and agrees to hold Seller harmless from any and all expenses, losses, Claims and damages incurred or suffered by Seller with respect to the Purchaser WARN Act Liabilities. Seller hereby agrees to indemnify Purchaser against and agrees to hold Purchaser harmless from any and all expenses, losses, Claims and damages incurred or suffered by Purchaser with respect to the Seller WARN Act Liabilities.

7. Covenants of Purchaser and Seller. Purchaser and Seller agree that:

7.1. Efforts; Further Assurances. Subject to the terms and conditions of this Agreement, Purchaser and Seller will use their respective commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable Laws to consummate the Transactions contemplated by this Agreement; provided, however, Seller shall be entitled to take such actions as are required in connection with the discharge of its fiduciary duties during the Bankruptcy Case. Seller and Purchaser agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to vest in Purchaser good title to the Purchased Assets or to evidence the assumption by Purchaser of the Assumed Liabilities. Purchaser agrees to cooperate with the Seller, the Committee or their successors in connection with the pursuit of any avoidance Claims or other Claims of Seller excluded pursuant to Section 2.2(j).

7.2. Certain Filings. Seller and Purchaser shall cooperate with one another in good faith (a) in determining whether any action by or in respect of, or filing with, any Governmental Authority is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any Assumed Contracts or Intellectual Property Rights, in connection with the consummation of the Transactions, and (b) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.

7.3. Public Announcements. Neither Purchaser nor Seller shall make any public announcements or statements concerning the Transactions without the prior written consent of the other Party. Purchaser acknowledges and agrees that Seller may provide copies of this Agreement to parties in interest in the Bankruptcy Case and to those parties to whom Seller determines it is necessary to provide copies in connection with soliciting higher or better bids for the Purchased Assets or as otherwise necessary or desirable in connection with the Bankruptcy

Case. Seller also shall be entitled to file copies with the Bankruptcy Court or as otherwise required by Law and shall be entitled to publish notice of the contemplated Transactions in any newspaper selected by Seller.

7.4. Bankruptcy Issues. Seller and Purchaser shall each use their commercially reasonable efforts, and shall cooperate, assist and consult with each other, to secure the entry of an Order (the "Approval Order") of the Bankruptcy Court in the Bankruptcy Case (i) approving this Agreement, (ii) to the maximum extent permitted by applicable Law, authorizing the sale of the Purchased Assets pursuant to Section 363 of the Bankruptcy Code free and clear of all Liens (excluding Permitted Liens), including Section 363(k) of the Bankruptcy Code, (iii) authorizing the assumption and assignment of the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code; (iv) authorizing the Transactions; (v) providing a release of any and all known and unknown direct or derivative claims of Seller (including the statutory committee of unsecured creditors) against the Released Purchaser-Related Persons and any of their respective current, former and future, direct and indirect, parents, subsidiaries, affiliates, stockholders, partners, members, equityholders, principals, directors, managers, officers, employees, agents, representatives, attorneys, consultants, independent contractors, predecessors and successors in interest, beneficiaries, assigns (whether by operation of law or otherwise), insurers, and any other persons or entities who acted on their behalf, but in no event shall such release extend to any Non-Released Person; and (vi) providing that this Agreement and the Transactions are undertaken by Purchaser and Seller at arm's length, without collusion, and in good faith within the meaning of Section 363(m) of the Bankruptcy Code, that Purchaser and Seller are entitled to the protections of Section 363(m) of the Bankruptcy Code, and that the provisions of Section 363(n) of the Bankruptcy Code are not applicable; provided, however, Seller shall be entitled to take such actions as may be required in connection with the discharge of its fiduciary duties in the Bankruptcy Case (including soliciting higher or better offers for the Purchased Assets). In connection with the assumption and assignment of the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code, Purchaser shall take all actions required to provide "adequate assurance of future performance" by Purchaser under the Assumed Contracts after the Closing. Purchaser shall cooperate in good faith with Seller in connection with seeking entry of the Approval Order, and Purchaser shall provide evidence (including direct testimony) at the hearing held in the Bankruptcy Case to approve this Agreement sufficient to support determinations that this Agreement and the Transactions are undertaken by Purchaser and Seller at arm's length, without collusion, and in good faith within the meaning of Section 363(m) of the Bankruptcy Code, that Purchaser and Seller are entitled to the protections of Section 363(m) of the Bankruptcy Code, and that the provisions of Section 363(n) of the Bankruptcy Code are not applicable. Seller and Purchaser shall consult with one another in good faith regarding pleadings that either of them intends to file, or positions either of them intend to take, with the Bankruptcy Court in connection with or that might reasonably affect the Bankruptcy Court's entry of the Approval Order.

7.5. Corporate Name Change. Promptly following the Closing, Seller shall take all corporate and other actions to change its corporate name to a name which is not confusingly similar to "Zacky Farms, LLC" and thereafter shall not use the name "Zacky Farms, LLC" or any abbreviation or variation thereof.

7.6. Notices. If at any time (a) Purchaser becomes aware of any material breach by Seller of any representation, warranty, covenant or agreement contained herein and such breach is capable of being cured by Seller, or (b) Seller becomes aware of any breach by Purchaser of any representation, warranty, covenant or agreement contained herein and such breach is capable of being cured by Purchaser, the Party becoming aware of such breach shall promptly notify the other Party, in accordance with Section 12.1, in writing of such breach. Upon such notice of breach, the breaching Party shall have until the earlier of (y) ten (10) days after receiving such notice, and (z) the End Date, to cure such breach prior to the exercise of any remedies in connection therewith.

8. Tax Matters.

8.1. Tax Cooperation. Purchaser and Seller agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Business and the Purchased Assets (including access to books and records) as is reasonably necessary for the preparation and filing of all Tax returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing Authority, and the prosecution or defense of any Claim, suit or proceeding relating to any Tax. Seller and Purchaser shall cooperate with each other in good faith in the conduct of any audit or other proceeding relating to Taxes involving the Purchased Assets or the Business.

8.2. Transfer Taxes. Any and all sales, use, transfer, recording or other similar taxes or charges (the "Transfer Taxes") assessed at Closing or at any time thereafter on the transfer of any Purchased Assets shall be paid by Purchaser when due and payable. Seller shall cooperate with Purchaser as reasonably requested by Purchaser in connection with Purchaser's payment of such Transfer Taxes.

8.3. Taxes. All of Seller's obligations for the payment of Property Taxes or any other Tax accrued as the Closing shall be assumed by Purchaser and paid by Purchaser when due and payable up to a maximum amount of \$500,000. Seller shall cooperate with Purchaser as reasonably requested by Purchaser in connection with Purchaser's payment of such Taxes.

8.4. Tax Preparation. Purchaser shall, consistent with the information or assistance provided or made available by Seller, timely prepare or cause to be timely prepared and delivered to Seller all federal, state and local income tax returns of Seller for taxable periods commencing on or after January 1, 2012 and that end on or before or that include the effective date of a plan of reorganization under chapter 11 of the Bankruptcy Code or the date of conversion to a case under chapter 7 of the Bankruptcy Code, if applicable, including expending reasonable professional and other fees in connection therewith. Any such tax returns prepared by or at the direction of Purchaser shall be executed and submitted by the appropriate party as designated in the plan of reorganization. Except as otherwise specifically provided in this Agreement, nothing in this Section 8.4 shall be treated as creating an obligation of Seller or Purchaser to pay any taxes due with respect to such taxable periods.

9. Closing Conditions.

9.1. Conditions to Obligations of Purchaser and Seller. The obligations of Purchaser and Seller to consummate the Closing are subject to the satisfaction of the following conditions:

(a) The Bankruptcy Court shall have entered the Approval Order in the Bankruptcy Case, authorizing the Transactions and approving this Agreement under Sections 105(a), 363 and 365 of the Bankruptcy Code, in form and substance acceptable to Purchaser and Seller, each in its reasonable discretion, and as of the Closing Date the Approval Order shall be in full force and effect, shall not then be stayed, and shall not have been vacated or reversed.

(b) The Bankruptcy Court shall have entered one or more Contract Orders as necessary to effect the assumption and assignment of the Assumed Contracts under Section 365 of the Bankruptcy Code, and as of the Closing Date such Contract Orders shall be in full force and effect, shall not then be stayed, and shall not have been vacated or reversed.

(c) All terminations or expirations of waiting periods imposed (and any extension thereof) by any Governmental Authority necessary for consummation of the Transactions contemplated under this Agreement, if any, shall have occurred.

(d) No injunction, stay or similar Order issued by any Governmental Authority shall be in effect that restrains, enjoins, stays or prohibits the consummation of the Transactions.

(e) The Bankruptcy Court shall have entered an Order approving the settlement between the Purchaser, Seller and the Committee in form and substance acceptable to Purchaser, Seller and the Committee, each in its reasonable discretion, and as of the Closing Date such Order shall be in full force and effect, shall not then be stayed, and shall not have been vacated or reversed.

9.2. Conditions to Obligations of Purchaser. The obligation of Purchaser to consummate the Closing is subject to the satisfaction (or waiver by Purchaser) of the following further conditions:

(a) Seller shall have performed in all material respects all of its obligations hereunder required to be performed by Seller on or prior to the Closing Date.

(b) The representations and warranties of Seller contained in Section 3 hereof shall each be true and correct in all material respects (except for such representations and warranties as are qualified by materiality, which representations and warranties shall each be true and correct in all respects) at and as of the Closing Date, as if made at and as of such date (other than such representations and warranties that are expressly made as of a certain date, which each need only be true and correct in all material respects or true and correct, as the case may be, as of such date).

(c) Purchaser's title insurance company shall be prepared to issue to Purchaser a marked title binder without exception, except for Permitted Liens or as

approved by Purchaser, in connection with the transfer of the Acquired Real Property; provided, however, in the event that said title insurance company is not so prepared and such failure to be prepared is due to any factor other than Seller's failure to cooperate pursuant to Section 6.2 hereof, then the title company's failure to be prepared shall not be a condition to the Closing.

9.3. Conditions to Obligations of Seller. The obligation of Seller to consummate the Closing is subject to the satisfaction (or waiver by Seller) of the following further conditions:

(a) Released Purchaser-Related Persons shall have agreed to waive and release all Claims and Liens against Seller and its current directors, managers, officers, employees, attorneys, financial advisors and other professionals.

(b) Purchaser shall have performed in all material respects all of its obligations hereunder required to be performed by it at or prior to the Closing Date.

(c) The representations and warranties of Purchaser contained in Section 4 hereof shall each be true and correct in all material respects (except for such representations and warranties as are qualified by materiality, which representations and warranties shall each be true and correct in all respects) at and as of the Closing Date, as if made at and as of such date (other than such representations and warranties that are expressly made as of a certain date, which each need only be true and correct in all material respects or true and correct, as the case may be, as of such date).

(d) Seller shall have received all documents it may reasonably request relating to the existence of Purchaser and the authority of Purchaser for this Agreement, all in form and substance reasonably satisfactory to Seller.

10. Survival; Indemnification.

10.1. Survival. The (a) representations and warranties of Seller, and (b) covenants and agreements of Seller that by their terms are to be performed before Closing, contained in this Agreement or in any certificate or other writing delivered in connection herewith, shall not survive the Closing. The covenants and agreements of Seller contained herein that by their terms are to be performed after Closing shall survive the Closing in accordance with such terms.

10.2. Indemnification. Each of Purchaser and Seller agrees to indemnify the other with respect to any investment banking fees, financial advisory fees, brokerage fees, finders' fees, or other similar fees which are alleged to be due and payable with respect to the Transactions and which are asserted as a result of the actions of the indemnifying party. There shall be no post-Closing indemnification of Purchaser by Seller with respect to any matter not set forth in this Section 10.2.

11. Termination.

11.1. Grounds for Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written agreement of Seller and Purchaser with the approval of the Bankruptcy Court;
- (b) by Seller or Purchaser, if the Closing shall not have been consummated on or before February 22, 2013 (the "End Date"), unless the Party seeking termination is in breach of its obligations hereunder;
- (c) by Seller or Purchaser, if any condition set forth in Section 9.1 is not satisfied, and such condition is incapable of being satisfied by the End Date;
- (d) by Purchaser, if any condition set forth in Section 9.2 has not been satisfied, and such condition is incapable of being satisfied by the End Date;
- (e) by Seller, if any condition set forth in Section 9.3 has not been satisfied, and such condition is incapable of being satisfied by the End Date; or
- (f) by Seller, if (i) Seller executes a definitive agreement with a third party (other than Purchaser) for the acquisition of all or substantially all the Purchased Assets, and (ii) the order entered by the Bankruptcy Court in the Bankruptcy Case approving such definitive agreement becomes a Final Order.

The Party desiring to terminate this Agreement pursuant to this Section 11.1 (other than pursuant to Section 11.1(a)) shall give notice of such termination to the other Party in accordance with Section 12.1.

11.2. Effect of Termination. If this Agreement is terminated as permitted by Section 11.1, such termination shall be without liability of any Party (or any stockholder, trustee, beneficiary, director, officer, employee, agent, consultant or representative of such Party) to the other Party to this Agreement, except as expressly provided in Section 11.4. The provisions of Sections 10.2, 11.2, 11.3 and 11.4, and Section 12, shall survive any termination hereof pursuant to Section 11.1.

11.3. Expenses. Except as otherwise set forth expressly herein, all costs and expenses incurred in connection with this Agreement or the Transactions shall be paid by the Party incurring such cost or expense.

11.4. Exclusive Remedies. Purchaser and Seller acknowledge and agree that if this Agreement is terminated pursuant to Section 11.1, the provisions of Section 11.2 and this Section 11.4 set forth the sole and exclusive remedies of the Parties. Purchaser and Seller further acknowledge and agree that if this Agreement is terminated by Seller pursuant to either (y) Section 11.1(e), or (z) Section 11.1(b) (provided that any of the conditions of Section 9.3 have not been satisfied), then, in addition to Seller's remedies set forth in Section 11.2, Seller shall also retain any and all claims, rights, remedies, prayers for damages and causes of action, whether arising in Law or in equity, arising from or related to any breach of this Agreement by Purchaser, including the right to specific performance and all rights, remedies and claims

available to the Debtor pursuant to that certain settlement by and among Seller, Purchaser and the unsecured creditors committee (the "Committee") dated as of the date of this Agreement.

12. Miscellaneous.

12.1. Notices. All notices, requests and other communications to any Party hereunder shall be in writing (including facsimile transmission) and shall be given,

if to Purchaser, to:

The Robert D. Zacky and Lillian D. Zacky Trust
149 S. Barrington Ave., Suite 720
Los Angeles, California 90049
Attention: Lillian D. Zacky

with a copy to (which shall not constitute notice):

The Lobel Firm, LLP
840 Newport Center Dr, Suite 750
Newport Beach, California 92660
Attention: William N. Lobel
Fax: 949-999-2870

if to Seller, to:

Zacky Farms, LLC
1111 Navy Street
Stockton, California 95206
Attention: Keith Cooper
Fax: 559-443-2706

with copies to (which shall not constitute notice):

FTI Consulting
1201 West Peachtree Street
Suite 500
Atlanta, Georgia 30309
Attention: Keith Cooper
Fax: 404-460-6230

King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Attention: Paul Ferdinands
Fax: 404-572-5131

Felderstein Fitzgerald Willoughby & Pascuzzi LLP

400 Capitol Mall
Suite 1450
Sacramento, California 95814
Attention: Donald W. Fitzgerald
Fax: 916-329-7435

Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068
Attn: Jeffrey D. Prol
Facsimile: (973) 597-2491

All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

12.2. Waivers. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative.

12.3. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided, however, that no Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the written consent of the other Party. Notwithstanding the foregoing, the Purchaser may assign this Agreement and all of its rights and obligations hereunder to one or more of its Affiliates (each, a "Permitted Purchaser Assignee") without the consent of Seller, in which case, the term "Purchaser" hereunder shall mean the Permitted Purchaser Assignee(s), unless the context requires a different meaning, but in no event shall any such assignment relieve the Purchaser from any obligation under this Agreement to consummate the Transactions.

12.4. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of California and any applicable provisions of the Bankruptcy Code, without regard to the principles of conflicts of Law that would provide for application of another Law.

12.5. Jurisdiction.

(a) Prior to the closing of the Bankruptcy Case, the Parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the Transactions shall be brought exclusively in the Bankruptcy Court, and each of the Parties hereby irrevocably consents to the jurisdiction of the Bankruptcy Court (and of the appropriate appellate courts therefrom) in any

such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in the Bankruptcy Court or that any such suit, action or proceeding which is brought in the Bankruptcy Court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 12.1 shall be deemed effective service of process on such Party.

(b) After the closing of the Bankruptcy Case, except as otherwise expressly provided in this Agreement, the Parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the Transactions may be brought in any court having subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of California, and each of the Parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 12.1 shall be deemed effective service of process on such Party.

12.6. Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS.

12.7. No Third Party Beneficiaries. No provision of this Agreement is intended to confer upon any Person other than the Parties hereto any rights or remedies hereunder.

12.8. Entire Agreement; Amendments; Counterparts. This Agreement (including the Schedules and Exhibits hereto) sets forth the entire agreement among the Parties with respect to the subject matter hereof and may be amended only by a writing executed by Purchaser and Seller. This Agreement may be executed in counterparts, each of which when taken together shall constitute an original. This Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto.

12.9. Headings; Interpretation. The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of authorship of any provisions of this Agreement.

12.10. Disclosure Schedules. The Parties acknowledge and agree that (i) the Schedules to this Agreement may include certain items and information solely for informational purposes for the convenience of Purchaser and (ii) the disclosure by Seller of any matter in the Schedules shall not be deemed to constitute an acknowledgment by Seller that the matter is required to be disclosed by the terms of this Agreement or that the matter is material. If any Schedule discloses an item or information, the matter shall be deemed to have been disclosed in all other Schedules, notwithstanding the omission of an appropriate cross-reference to such other Schedules.

12.11. Attorneys' Fees. If either Party brings an action or other proceeding to enforce or interpret the terms and provisions of this Agreement, then the prevailing Party in that action or proceeding shall be entitled to have and recover from the non-prevailing Party all fees, costs and expenses (including all court costs and reasonable attorneys' fees) as the prevailing Party may suffer or incur in the pursuit or defense of such action or proceeding.

12.12. Severability. Should any provision, or any portion thereof, of this Agreement for any reason be held illegal, invalid or unenforceable, such decision shall not affect the validity or enforceability of any of the other provisions, or portions thereof, of this Agreement, which other provisions, and portions, shall remain in full force and effect, and the application of such illegal, invalid or unenforceable provision, or portion thereof, to persons or circumstances other than those as to which it is held illegal, invalid or unenforceable shall be valid and be enforced to the fullest extent permitted by Law.

12.13. Risk of Loss. Prior to the Closing, all risk of loss, damage or destruction to all or any part of the Purchased Assets shall be borne exclusively by Seller; provided, however, that, in the event of the Closing, Purchaser shall be entitled to receive any insurance proceeds payable therefor.

12.14. Seller Release. As of the Closing, Seller, on behalf of itself and its estate (the "Seller Releasers"), hereby waives, sets aside, discharges, settles, compromises and releases any and all claims, causes of action, rights or remedies of any kind or nature, which they have, may have or could have asserted against Released Purchaser-Related Persons or any of their respective direct or indirect Affiliates or the former or present trustees, beneficiaries, equityholders, directors, managers, officers, employees, attorneys, financial advisors or other professionals of Purchaser or its Affiliates, but in no event shall such release extend to any Non-Released Person; provided, however, the Seller Releasers are not releasing or waiving (and shall not be deemed to have released or waived) any Claims, causes of actions, rights or remedies related to Purchaser's obligations set forth herein (including any payment obligations evidenced by the Creditor Recovery Note or the 503(B)(9) Note).

To the extent that either of the foregoing releases are releases as to which Section 1542 of the California Civil Code or similar provisions of other applicable law applies, it is the intention of each of the Seller Releasers that such release shall be effective as a bar to any and all causes of action of whatsoever character, nature in kind, known or unknown, suspected or unsuspected, herein and above specified to be so barred. In furtherance of this intention, the Seller Releasers hereby expressly waive any and all rights and benefits conferred upon them by the provisions of

Section 1542 of the California Civil Code or similar provisions of other applicable law, and acknowledge that Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

THE ROBERT D. ZACKY AND LILLIAN D. ZACKY
TRUST U/D/T DATED JULY 26, 1988

By: Lillian D. Zacky
Name: LILLIAN D. ZACKY
Title: TRUSTEE

ZACKY FARMS, LLC

By: Keith F. Cooper
Name: KEITH F. COOPER
Title: SOLE MANAGER & CFO

Schedules

Delivered Pursuant to the Terms
and Conditions of the Asset Purchase Agreement

February 6, 2013

These Schedules (these "Schedules") are being furnished in connection with the execution and delivery of that certain Asset Purchase Agreement (the "Agreement"), dated as of the date hereof, by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988, a California trust ("Purchaser"), and Zacky Farms, LLC, a California limited liability company ("Seller"), pursuant to which Purchaser has agreed to purchase certain assets related to certain poultry operations conducted by Seller. Unless the context otherwise requires, all capitalized terms used in these Schedules shall have the respective meanings ascribed to them in the Agreement.

The representations and warranties of Seller set forth in the Agreement are made and given subject to the disclosures in these Schedules. The disclosures made in these Schedules relate to any and all of the representations and warranties made by Seller in the Agreement. If any Schedule discloses an item, matter or information, such item, matter or information shall be deemed to have been disclosed in all other Schedules, notwithstanding the omission of an appropriate cross-reference to such other Schedule(s).

Matters reflected in these Schedules are not necessarily limited to matters required by the Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes and do not necessarily include other matters of a similar nature. In no event shall the inclusion of any such additional matter in these Schedules be deemed or interpreted to broaden Seller's representations, warranties, covenants or agreements contained in the Agreement. The mere inclusion of an additional item in these Schedules shall not be deemed an admission by Seller that such item represents a material exception or fact, event, or circumstance or that such item is reasonably likely to result in a Material Adverse Effect.

Any attachments to these Schedules form an integral part of these Schedules and are incorporated by reference for all purposes as if set forth fully herein. These Schedules supersede and replace any other disclosure schedules previously provided to Purchaser. These Schedules may be supplemented or amended by Seller or Purchaser to the extent permitted by the Agreement.

Schedule 1.1(x)
Grower Contracts

| Grower Name | Address | City | State | Zip | Type | Date Contract was Entered Into | Cure Amount |
|--------------------------|------------------------|------------|-------|-------|---------|--------------------------------|-------------|
| Doug Lind Ranch | 22133 N. Devries Road | Lodi | CA | 95242 | Chicken | January 27, 2012 | \$0 |
| Ron Lind Ranch | 14190 N. Davis Road | Lodi | CA | 95242 | Chicken | January 27, 2012 | \$0 |
| Fred Schwabenland Ranch | 10465 S. Westlawn | Fresno | CA | 93706 | Turkey | March 5, 2012 | \$0 |
| G & R Roush Turkey Ranch | 20256 Everett Avenue | Riverdale | CA | 93656 | Turkey | February 8, 2012 | \$0 |
| Ida Potter | 15956 S. East Avenue | Caruthers | CA | 93609 | Turkey | February 8, 2012 | \$0 |
| Leroy Fite | 19109 Road 20 | Waukena | CA | 93274 | Turkey | February 9, 2012 | \$0 |
| Ron Froese Ranch | 22687 E. Floral Avenue | Dinuba | CA | 93618 | Turkey | March 19, 2012 | \$0 |
| Tom Fry Ranch | 12594 Avenue 22-1/2 | Chowchilla | CA | 93610 | Turkey | February 8, 2012 | \$0 |
| Dalena Farms Inc. | 7636 Road 34 | Madera | CA | 93638 | Turkey | February 8, 2012 | \$0 |
| Cross Creek Turkey Farm | 8700 Fargo Avenue | Hanford | CA | 93230 | Turkey | March 19, 2012 | \$0 |

Schedule 2.1(a)
Acquired Real Property

| Facility Name | Address | City | State | ZIP |
|--|---|-----------|-------|-------|
| Stockton Plant APN 163-260-07 (15.17 acres) | 1111 Navy Drive | Stockton | CA | 95206 |
| Grower Ranch (18 th) APN 026-060-007 (78.79 acres) | 17432 18 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Kent) APN 024-170-073 (77.19 acres) | 19774 Kent Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Holm) APN 024-170-020 (40 acres) | 16395 & 16485 19 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (6 th Brood, Red and Gray) APNs 046-270-004 & 035 (400 acres) | 43501 6 th Avenue | Corcoran | CA | 93212 |
| Grower Ranch (Brawley) APN 053-090-37 (80 acres) | 19010 & 19012 S. Brawley Avenue | Riverdale | CA | 93609 |
| Grower Ranch (Experimental) APN 043-050-15 (20 acres) | 590 W. Kamm Avenue | Fresno | CA | 93725 |
| Grower Ranch (G & H) APN 035-060-90 (80 acres) | 8351 McMullin Grade | Fresno | CA | 93725 |
| Warehouse APN 458-240-09 | By Fresno Mill | Fresno | CA | |
| Vacant Land 57 APN 028-030-032 | Approximately 58.30 acres open land located in Hanford, CA | Hanford | CA | |
| Turkey Processing Plant APN 480-040-06S (4.98 acres) | 2222 & 2240 S. East Avenue | Fresno | CA | 93721 |
| Empire Facility APN 480-040-11 (11.53 acres) | 2950 E. California Street | Fresno | CA | 93721 |
| Turkey Hatchery APN 023-060-44S (3.99 acres) | 1486 S. Industrial Way | Kerman | CA | 93630 |
| Litter Yard APN 055-310-29 (22.56 acres) | 18804 S. Camden Avenue | Laton | CA | 93242 |

| Facility Name | Address | City | State | ZIP |
|---|-------------------------------|-------------|-------|-------|
| Garage APN 458-250-02 (2.18 acres) | 190 N. Thorne Avenue | Fresno | CA | 93706 |
| Mill Annex APN 458-240-09 (.48 acres) | 245, 249, 251 North H Street | Fresno | CA | 93701 |
| Corporate Offices APN 468-040-07S (9.57 acres) | 1888 & 2020 S. East Avenue | Fresno | CA | 93721 |
| Warehouse APN 480-040-07 (2.97 acres) | 2272 S. East Avenue | Fresno | CA | 93721 |
| Breeder Ranch (Alta) APNs 373-360-01&04 (38.62 acres) | 22133 & 22141 E. South Avenue | Reedley | CA | 93654 |
| Breeder Ranch (Central Lay) APN 025-110-46 (40 acres) | 12591 W. Central Avenue | Kerman | CA | 93630 |
| Breeder Ranch (Central Dark) APN 025-110-29 (39.1 acres) | 4220 S. Howard Avenue | Kerman | CA | 93630 |
| Breeder Ranch (Hayes) APN 041-120-43 (39.72 acres) | 12233 & 12229 S. Hayes Avenue | Caruthers | CA | 93609 |
| Breeder Ranch (Simerly) APN 056-110-24 (35.58 acres) | 4511 & 4515 E. Simerly Avenue | Laton | CA | 93242 |
| Breeder Ranch (Smith Mountain) APNs 373-130-28 & 29 (54.38 acres) | 9760 S. Hill Avenue | Orange Cove | CA | 93646 |
| Breeder Ranch (Smith Dark) APN 373-160-01 (19 acres) | 25137 E. Dinuba Avenue | Orange Cove | CA | 93646 |
| Breeder Ranch (Twin Palms) APN 333-070-50 (141.96 acres) | 20090 E. Central Avenue | Reedley | CA | 93654 |
| Breeder Ranch (Campbell Mountain) (Included in Twin Palms APN and acreage) | 20364 E. Central Avenue | Reedley | CA | 93654 |
| Vacant Land APNs 458-240-33 and 458-240-10 | | Fresno | CA | 93721 |

Schedule 2.1(b)
Assumed Contracts

SUPPLY CONTRACTS

| Vendor Name | Type | Contract Commencement Date |
|---------------------------------------|--|-----------------------------------|
| AT&T Mobility National Accounts LLC | AT&T Corporate Digital Advantage Agreement Version 8-A | 10/29/12 |
| Shell Energy North America (US), L.P. | Energy Sales Agreement | 10/26/12 |
| Shell Energy North America (US), L.P. | Base Sales Agreement | 10/26/12 |

OTHER CONTRACTS

| Vendor Name | Type | Contract Commencement Date |
|---|-----------------------------|-----------------------------------|
| San Joaquin Valley Air Pollution Control District | Heavy-Duty Program Contract | 10/8/12 |
| Farmer Boys Food, Inc. | Sales Agreement | 12/19/12 |
| Dah Chong Hong | Sales Agreement | 12/13/12 |
| Gene Hull Trucking, Inc. | Trucking Agreement | 12/10/12 |

All Grower Contracts set forth on Schedule 1.1(x).

Schedule 2.1(g)
Specified Included Equipment

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|---------|
| Processing | Stockton Facility | PUMP, MARLEN OPTI 200 | 181,438 |
| Processing | Stockton Facility | STUFFER, POLY CLIP | 166,891 |
| Processing | Stockton Facility | OVEN #3,BATCH - LARGE | 153,194 |
| Processing | Stockton Facility | OVEN#4 RECONDITION | 150,456 |
| Processing | Stockton Facility | WEBER SLICER COMPUT CONTR | 121,553 |
| Processing | Stockton Facility | MULTIVAC PACKAGING MACHIN | 64,862 |
| Processing | Stockton Facility | HOPPER,MARLEN "A"STYLE | 60,518 |
| Processing | Stockton Facility | SAUSAGE LINKING LINE | 55,823 |
| Processing | Stockton Facility | POLYCLIP SIZER 8700 | 54,168 |
| Processing | Stockton Facility | CONVEYOR, PACKOUT | 45,496 |
| Processing | Stockton Facility | HITEC LINER #4 | 44,796 |
| Processing | Stockton Facility | HITEC LINKER #2 | 44,796 |
| Processing | Stockton Facility | HITEC LINER #3 | 44,796 |
| Processing | Stockton Facility | HITEC LINER #1 | 44,796 |
| Processing | Stockton Facility | EVAP UNITS (8)CONVERSION | 39,835 |
| Processing | Stockton Facility | PACKAGER,RAPIDPAK | 39,722 |
| Processing | Stockton Facility | CHAIN, RAPIDPAK,LINE 11 | 39,508 |
| Processing | Stockton Facility | PLANET FRANK LOADER | 36,679 |
| Processing | Stockton Facility | MAHAFFEY,RBLD FA#67166 | 32,475 |
| Processing | Stockton Facility | PACKAGER,RAPIDPAK,ATDL | 32,102 |
| Processing | Stockton Facility | SAUSAGE DIE SET MULTIVAC | 31,824 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|--------|
| Processing | Stockton Facility | PUMP, VACUUM VANE | 30,783 |
| Processing | Stockton Facility | WATER SOFTNER 3TANK SYS | 30,169 |
| Processing | Stockton Facility | GRIPPER ROLLER CHAIN | 30,167 |
| Processing | Stockton Facility | OIL BROWNER/FRYER | 29,889 |
| Processing | Stockton Facility | SMOKE TRITRATION SYSTEM | 29,216 |
| Processing | Stockton Facility | MARLEN DEPOSITOR DUALHEAD | 28,290 |
| Processing | Stockton Facility | PLANET FRANK LOADER, ADTL | 28,174 |
| Processing | Stockton Facility | PACKAGING MACHINE CRYOVAC | 27,574 |
| Processing | Stockton Facility | OVEN CHAIN #2 BOTTOM | 27,159 |
| Processing | Stockton Facility | AIR CURTAINS (2) | 26,432 |
| Processing | Stockton Facility | PACKOUT LINE MODIFICATION | 25,669 |
| Processing | Stockton Facility | VACUUM PUMP | 25,384 |
| Processing | Stockton Facility | CONDENSATE PANS,INSTL | 25,096 |
| Processing | Stockton Facility | COZZINI EMULSIFIER | 24,693 |
| Processing | Stockton Facility | WEILER UPGRADE | 23,896 |
| Processing | Stockton Facility | OVEN UPGRADE | 23,199 |
| Processing | Stockton Facility | HAM MOLDS | 23,165 |
| Processing | Stockton Facility | OVEN CHAINS,CONTINUOUS | 22,993 |
| Processing | Stockton Facility | RAIL,OH,RAW FAB,UPGR67257 | 21,236 |
| Processing | Stockton Facility | BOILER BURNER - RETROFIT | 20,018 |
| Processing | Stockton Facility | CONTINUOUS OVEN INTERIOR | 19,820 |
| Processing | Stockton Facility | VACUUM PUMP W/MOTOR | 19,135 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|--------|
| Processing | Stockton Facility | SUREFLOW PACKAGING SYSTEM | 18,617 |
| Processing | Stockton Facility | MOD 80581 STEINFRYER | 18,515 |
| Processing | Stockton Facility | BOILER FOOTINGS | 17,899 |
| Processing | Stockton Facility | OVER CHAIN #1 BOTTON | 17,675 |
| Processing | Stockton Facility | CONTROL SYSTEM,KSIINJECTO | 17,588 |
| Processing | Stockton Facility | HAM MOLD RACKS | 16,762 |
| Processing | Stockton Facility | PALLETS, S/S | 16,755 |
| Processing | Stockton Facility | FANS, WALL MOUNT | 16,241 |
| Processing | Stockton Facility | BATCH SAUSAGE RACKS | 15,967 |
| Processing | Stockton Facility | CHAIN ROLLER,RAPID PAK | 15,469 |
| Processing | Stockton Facility | RIETSCHLE VAC PUMP | 15,396 |
| Processing | Stockton Facility | PALLET JACK,WALKIE RIDER | 15,302 |
| Processing | Stockton Facility | MOTOR 250HP | 15,059 |
| Processing | Stockton Facility | PLANET SERVO LOADER 05498 | 14,928 |
| Processing | Stockton Facility | PLANET SERVO LOADER 05398 | 14,928 |
| Processing | Stockton Facility | PEELER #2 TOWNSEND | 14,607 |
| Processing | Stockton Facility | PEELER #1 TOWNSEND | 14,607 |
| Processing | Stockton Facility | DOOR SEALS,SHIP DOCK (8) | 14,380 |
| Processing | Stockton Facility | HITEC PUMP UNIT | 14,253 |
| Processing | Stockton Facility | CONDENSATE TANK | 13,794 |
| Processing | Stockton Facility | CHILLER UPGRADE | 13,511 |
| Processing | Stockton Facility | BOOSTER PUMP | 13,008 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|---------|
| Processing | Stockton Facility | TOTE STANDS | 12,996 |
| Processing | Stockton Facility | MOTOR & STARTER COMPRES#2 | 12,973 |
| Processing | Stockton Facility | PUMP,MEAT-FULLASSY WHINGE | 12,680 |
| Processing | Stockton Facility | KSI PICKLE INJECTOR | 11,755 |
| Processing | Stockton Facility | SLICE-N-TACT BH-15 | 11,691 |
| Processing | Stockton Facility | MINCEMASTER RBLD 67783 | 11,079 |
| Processing | Stockton Facility | FORKLIFT,KOMATSU,2005,LPG | 11,076 |
| Processing | Stockton Facility | BOILER,REFRACTORY,CB | 11,040 |
| Processing | Stockton Facility | VEMAG 500 ROBOT STUFFER | 11,003 |
| Processing | Stockton Facility | SAFETY CIRCUIT UPGRADE | 10,977 |
| Processing | Stockton Facility | DURAWEIGH O/H FLOOR SCALE | 10,881 |
| Processing | Stockton Facility | PADK COOLER O/H RAIL UPGR | 10,759 |
| Processing | Stockton Facility | MAHAFFY HARDER 730 | 10,669 |
| Processing | Stockton Facility | REBUILD MAHAFFY HARDER | 10,515 |
| Processing | Stockton Facility | PUMP,FOR HOPPER #3 | 10,491 |
| Processing | Stockton Facility | METAL DETECTOR UPGRADE | 10,366 |
| Processing | Stockton Facility | BIRD CARMELIZER | 10,331 |
| Processing | Fresno Facilities | CHUBMAKER 4000 | 396,568 |
| Processing | Fresno Facilities | RAYMOND FORKLIFT | 227,169 |
| Processing | Fresno Facilities | HEAT EXCHANGER,SCRAP SURF | 189,350 |
| Processing | Fresno Facilities | POSS GRINDER | 153,302 |
| Processing | Fresno Facilities | OSSID 750E OVERWRAP SYSTM | 145,767 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|--------|
| Processing | Fresno Facilities | SCALE,IN LINE,OSSID | 93,122 |
| Processing | Fresno Facilities | SLICER,SCALLOPINI | 88,638 |
| Processing | Fresno Facilities | NUTEC PATTY MACHINE | 67,933 |
| Processing | Fresno Facilities | DAPEC THIGH DEBONER | 65,528 |
| Processing | Fresno Facilities | VEMAG HP-10-C | 63,100 |
| Processing | Fresno Facilities | TOP SEALER,ROSS IN-PACK | 56,130 |
| Processing | Fresno Facilities | VEMAG HP-10-C VAC STUFFER | 54,504 |
| Processing | Fresno Facilities | TENDER TENDON PULLER | 53,679 |
| Processing | Fresno Facilities | BOILER/IRON FIREMAN 100HP | 37,633 |
| Processing | Fresno Facilities | PROFAT SS 120V/240V | 33,067 |
| Processing | Fresno Facilities | FEATHER AUGER | 31,232 |
| Processing | Fresno Facilities | LIVEHANG PLATFORM | 28,546 |
| Processing | Fresno Facilities | BONE-IN INJECTOR | 27,629 |
| Processing | Fresno Facilities | OSSID END SEAL SHRINK | 26,810 |
| Processing | Fresno Facilities | ROSS TOP SEALER UPGRADE | 26,025 |
| Processing | Fresno Facilities | SEYDELMAN GRINDER UPGR | 25,360 |
| Processing | Fresno Facilities | GUT AUGER | 24,756 |
| Processing | Fresno Facilities | METAL DETECTOR, ERIEZ | 24,558 |
| Processing | Fresno Facilities | FRICK SCREW COMPRESSOR | 24,247 |
| Processing | Fresno Facilities | DANSENSOR UNIT,TRAYPACK | 24,191 |
| Processing | Fresno Facilities | BOILERS - TKY PLANT | 23,795 |
| Processing | Fresno Facilities | GAS ANALYZER,DANSENSOR | 23,050 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|--------|
| Processing | Fresno Facilities | APV #4 | 21,764 |
| Processing | Fresno Facilities | BATTERY RAYMOND LIFT | 21,382 |
| Processing | Fresno Facilities | ICE MAKER REBUILD | 21,359 |
| Processing | Fresno Facilities | METAL DETECTOR,EZ TEL DSP | 21,340 |
| Processing | Fresno Facilities | CHAIN,SL348,EVIS | 20,619 |
| Processing | Fresno Facilities | HURST 50HP PRESSUR VESSEL | 20,387 |
| Processing | Fresno Facilities | DETECTOR,METAL,EZ TEC | 20,212 |
| Processing | Fresno Facilities | CONVEYOR | 19,986 |
| Processing | Fresno Facilities | PRINTER,INK JET | 19,494 |
| Processing | Fresno Facilities | BAGGING LINE CONVEYORS | 17,441 |
| Processing | Fresno Facilities | FORKLIFT 2007 MITSUBISHI | 17,234 |
| Processing | Fresno Facilities | SIMMONS SF-7002 STUNNER | 17,116 |
| Processing | Fresno Facilities | CLIPPER,ROTAMATIC,SS | 16,960 |
| Processing | Fresno Facilities | COMPRESSOR #6 | 16,414 |
| Processing | Fresno Facilities | CO2 TANK AND SLAB | 15,812 |
| Processing | Fresno Facilities | LABEL APPLICATOR,CASE END | 15,491 |
| Processing | Fresno Facilities | METAL DETECTOR EZ TEC | 15,195 |
| Processing | Fresno Facilities | TRUCK HOIST,GEARS,RACKS | 15,145 |
| Processing | Fresno Facilities | TRAYPACK REFRIG. SYSTEM | 15,021 |
| Processing | Fresno Facilities | ALASKA GAS FLUSH OVWRP | 14,609 |
| Processing | Fresno Facilities | TRUCK HOIST UPGRADE | 14,327 |
| Processing | Fresno Facilities | OSSID AUTO-INDEXER | 14,304 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|--------|
| Processing | Fresno Facilities | TOWNSEND SKINNER | 14,290 |
| Processing | Fresno Facilities | BATTERY FORKLIFT | 14,142 |
| Processing | Fresno Facilities | CURTAINS, SAFETY | 13,950 |
| Processing | Fresno Facilities | KILL LINE CHAIN | 13,574 |
| Processing | Fresno Facilities | SWITCH,SAFETY,MAIN | 13,133 |
| Processing | Fresno Facilities | CLIPPER,TIPPER TIE | 13,129 |
| Processing | Fresno Facilities | PALLET JACK,CROWN 2006 | 13,085 |
| Processing | Fresno Facilities | SAWS, KFC, CKN | 12,894 |
| Processing | Fresno Facilities | PUMP, WAUKESHA | 12,802 |
| Processing | Fresno Facilities | VE-MAG HOPPER ASSEMBLY | 12,611 |
| Processing | Fresno Facilities | MORRIS CHILLER #3 | 11,885 |
| Processing | Fresno Facilities | MORRIS CHILLER #2 | 11,885 |
| Processing | Fresno Facilities | TRASH SUM PUMP | 11,736 |
| Processing | Fresno Facilities | TOE TAG SERVER UPGRADE | 11,653 |
| Processing | Fresno Facilities | MORRIS CHILLER #1 | 11,589 |
| Processing | Fresno Facilities | CHAIN LINK ASSYK ASSY | 11,245 |
| Processing | Fresno Facilities | FORKLIFT, 2002,MITSUBISHI | 10,944 |
| Processing | Fresno Facilities | BLOOD PUMP DIAPHRAGM | 10,901 |
| Processing | Fresno Facilities | BLISSMATIC BOXFORMER LINE | 10,820 |
| Processing | Fresno Facilities | BATTERY, PALLET JACK | 10,792 |
| Processing | Fresno Facilities | SANITATION SYSTEM | 10,732 |
| Processing | Fresno Facilities | PRINTER,CIMA-M INKJET | 10,645 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|----------------------|---------------------------|---------|
| Processing | Fresno Facilities | COMPRESSOR REBILD | 10,056 |
| Hatchery | Kerman Hatchery | (8) HATCHERS TVH66-120 | 134,099 |
| Hatchery | Kerman Hatchery | (2) INCUBATORS A18T-120 | 90,263 |
| Hatchery | Kerman Hatchery | CHILLED WATER PIPING | 43,041 |
| Hatchery | Kerman Hatchery | HATCHER | 21,644 |
| Hatchery | Kerman Hatchery | TANK, WASTE W/OSHA LADDER | 16,350 |
| Hatchery | Kerman Hatchery | EGG FLATS (165 EGG) | 16,153 |
| Hatchery | Kerman Hatchery | EGG FLATS (120 EGG) | 16,114 |
| Hatchery | Kerman Hatchery | REFRIG COOLING SYS 3STAGE | 14,152 |
| Hatchery | Kerman Hatchery | VENTILATION | 11,490 |
| Hatchery | Kerman Hatchery | HOT WATER BOILER | 10,974 |
| Grower | 18th Ave | CURTAIN 3500FT SIDEWALL | 16,543 |
| Grower | 6th Ave | MACHINES/MOTORS | 149,057 |
| Grower | 6th Ave | CURTAINS,WALL | 65,866 |
| Grower | 6th Ave | TANK,PRESSURE | 35,648 |
| Grower | 6th Ave | STOVES BROODER | 21,820 |
| Grower | 6th Ave | MASSEY FERG TRACTOR 2006 | 17,370 |
| Grower | 6th Ave | CUMBERLAND GROWOUT EQUIPM | 15,612 |
| Grower | 6th Ave | MASSEY FERGUSON TRACTOR | 13,281 |
| Grower | Brawley | RANGE PENS | 26,393 |
| Grower | Brawley | BROODER STOVES (94) | 12,864 |
| Grower | Experimental | TRACTOR,FARMS,2WD,2009 | 13,282 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|-----------------------------------|---------------------------|---------|
| Grower | G&H | FEED LINE SYSTEM | 160,092 |
| Grower | G&H | AUTO FEED SYSTEM | 91,025 |
| Grower | G&H | ELECTRICAL BOXES | 56,029 |
| Grower | G&H | FORD TRACTOR | 40,040 |
| Grower | G&H | CURTAIN RPLCMNT | 39,868 |
| Grower | G&H | WATER SYSTEM UPGRADE | 36,513 |
| Grower | G&H | FOGGER SYSTEM | 35,904 |
| Grower | G&H | MASSEY FERGUSON 492-4 | 30,556 |
| Grower | G&H | FAN REPLACEMENT | 29,860 |
| Grower | G&H | BROODER STOVES | 24,516 |
| Grower | G&H | CURTAIN UPGRADE | 18,437 |
| Grower | G&H | SIDEWALL NETTING | 16,750 |
| Grower | G&H | TANK, 2100 GAL (WEST WELL | 14,286 |
| Grower | Holm | BROODER STOVES (155) | 24,312 |
| Grower | Holm | #8660 MASSEY FERGUSON | 15,501 |
| Grower | Kent | CURTAINS,3500FT SIDEWALL | 15,254 |
| Grower | Kent | RANGE PENS | 10,438 |
| Other | Corp G&A | HEMICELL ENZYME AP EQ | 136,468 |
| Other | Fresno Fryer Overhead - Field Ops | FORKLIFT,MANITOU | 23,343 |
| Other | Litter Sales and Storage | KOMATSU WHEEL LOADER 1999 | 79,852 |
| Other | Litter Sales and Storage | KOMATSU MAJOR RPR | 14,079 |
| Other | Quality Control Div | PROTEIN ANALYZER | 23,455 |

| PROPERTY CATEGORY | PROPERTY DESCRIPTION | DETAIL | NBV |
|-------------------|------------------------------|---------------------------|--------|
| Other | Quality Control Div | VIDAS - MINI | 16,955 |
| Other | Quality Control Div | SOXTEC SOLVENT EXTRAC SYS | 16,061 |
| Other | Turkey Div Contract Overhead | TRACTOR,70DT,DEUTZ FAHR | 19,382 |
| Other | Turkey Div Contract Overhead | WINDROWER,LEWIS POULTRY | 17,847 |
| Breeder | Central | NEST,WOODEN,W/TRAPS,200 | 26,633 |
| Breeder | Simerly | COOL CELL,BARN 2 & 3 | 41,992 |
| Breeder | Smith Mtn | FANS,SIDEWALL 48" | 13,695 |

**Schedule 2.1(h)
Vehicles**

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|-------------------|---------|---------------|------------------------|
| 0038 | 2008 SUV | CHEVROLET | EQUINOX FW | 2CNDL13F186008170 | 6DXH248 | G. HENDERSON | SALES |
| 0111 | 2011 CHEVROLET TA | CHEVROLET | TAHOE 2WD | IGNSCAE00BR249452 | 6SGK388 | | G&A |
| 0115 | 2005 TAHOE SUV | CHEVY | TAHOE C150 | IGNEC13T55J133189 | 5MBG593 | TC TAN | HATCHERY |
| 0127 | 2007 4 DOOR SEDAN | CHEVROLET | IMPALA | 2G1WDS8C879117392 | 6CEX641 | LOUIE MASUCCI | SALES |
| 0216 | 2006 MID-SIZE P/U | CHEVROLET | COLORADO | IGCCS148268289258 | 8J48960 | HUNTSMAN-E. R | GROWOUT |
| 289 | 1999 WHEEL LOADER | KOMATSU | WA-450-3 | 50227 | | LITTER YARD | LITTER |
| 0410 | 2000 S-10 PICKUP | CHEVROLET | S-10 EXT C | IGCCS195XYK299038 | 6J18213 | GROWOUT | GROWOUT |
| 0490 | 2000 S-10 PICKUP | CHEVROLET | S-10 | IGCCS144XYK141880 | 6H48619 | GRAYSON CKN | FRESNO FRYER (CHICKEN) |
| 0541 | 2011 PICKUP TRK | FORD | RANGER 2DR | 1FTKR1AD1BPA17681 | 21778A1 | CKN A. CISNER | FRESNO FRYER (CHICKEN) |
| 0606 | 2006 PICKUP | CHEVROLET | COLORADO | IGCCS196768319667 | 8G44722 | ALFREDO BARRE | GROWOUT |
| 0607 | 2007 EXT CAB P/U | CHEVROLET | COLORADO | IGCCS199978156757 | 8K19676 | RIGO CARRASCO | GROWOUT |
| 0608 | 2008 EXT CAB P/U- | GMC | CANYON | IGTCS199888120690 | 8R37990 | ADRIAN DIAZ | GROWOUT |
| 0616 | 2006 EXT CAB P/U | CHEVROLET | SILVERADO | 2GCEC192861305375 | 8G44723 | DAN HAWKINS | GROWOUT |
| 0617 | 2007 FORD PU | FORD | F150 | 1FTPX125X7NA23646 | 8G82536 | HATCHERY | HATCHERY |
| 0626 | 2006 EXT CAB P/U | CHEVROLET | COLORADO | IGCCS196468276647 | 8C82821 | MARIO TORRES | GROWOUT |
| 0635 | 1995 FORD PU | FORD | RE | 1FDKE37F7SHA47757 | 5A11972 | CKN GAME HEN | FRESNO FRYER |
| 0636 | 2006 EXT CAB P/U | CHEVROLET | COLORADO | IGCCS196968289085 | 8D65076 | 6TH AVE.MAINT | (CHICKEN) |
| 0646 | 2006 EXT CAB P/U | GMC | CANYON | IGTCS196168281580 | 8C37687 | RODRIGO PADIL | GROWOUT |
| 0656 | 2006 EXT CAB P/U | CHEVROLET | COLORADO | IGCCS196968301560 | 8E52986 | MATT BARKLOW | GROWOUT |
| 0666 | 2006 FORD PU | FORD | F350 | 1FTWF31566EC69409 | 8C54895 | CKN OP-O. ROS | FRESNO FRYER |
| 0727 | 2007 SUV | CHEVROLET | TRAILBLAZE | IGNDS13S472273284 | 6AYM812 | TODD BEAL | (CHICKEN) |
| 0728 | 2008 SMALL PICKUP | GMC | CANYON | IGTCS14E788128137 | 8T89591 | CHRIS COOLIDG | QUALITY CONTROL |
| 0737 | 2007 SUV | CHEVROLET | TRAILBLAZE | IGNDS13S772293089 | 6AYM811 | MARCUS CURREY | GROWOUT |
| 0799 | 2009 HYBRID MID-S | CHEVROLET | MALIBU HYB | IGIZF57519F134717 | 6KUZ084 | POOL CAR | G&A |
| 0830 | 2000 FULL SIZE PI | GMC | 1500 SIERR | IGTEC19V2YE317584 | 6L43896 | D/F FIELD OPS | G&A |
| 0831 | 2011 CHEV SILV EX | CHEVROLET | SILVERADO | IGCRCPEX4BZ341817 | 30483D1 | LARRY AYTO | GROWOUT |
| 0911 | 2001 SMALL PICKUP | GMC | SONOMA | IGTCS14541K179829 | 6Y22084 | UTIL/ANNEX | GROWOUT |
| 0947 | 2007 EXT. CAB P/U | GMC | SIERRA CLA | 2GTCE13V871107659 | 8K01092 | TERI SCARABEL | GROWOUT |
| 0977 | 1997 PICKUP TRK | FORD | RANGER | 1FTCR10AXVUA07717 | 6V99112 | ISMAEL CARRAS | GROWOUT |
| 0989 | 1999 SMALL P/U | FORD | RANGER | 1FTYR10C3XUA85766 | 5Z17512 | SECURITY | SECURITY |
| 1063 | 1993 3X TRACTOR | FREIGHTLIN | FLD 120-64 | 1FUYDCXB1PH444301 | 9B29041 | EAST SHUTTLE | EMPIRE |
| 1228 | 1998 3 AXLE TRACT | KENWORTH | T600B | 1XKADR9X5WR768899 | 9B43808 | LIC SURRENDER | HATCHERY |
| 1255 | 1995 FRTLNR S | FREIGHTLIN | FLC-12064 | 1FUKBSEA7SL651409 | 9A36956 | E.TUG PNO | EMPIRE |
| 1258 | 1988 3X TRUCK TRA | FREIGHTLIN | | 1FUY2CYB3JP333346 | 9C01099 | EAST TUG PNO | EMPIRE |
| 1265 | 1995 FREIGHTLINER | FREIGHTLIN | | 1FUKBSEA5SL651411 | 9A36954 | CHICKEN | TURKEY LIVE HAUL |
| 1344 | 1994 3 AX TRACTOR | FREIGHTLIN | M112 | 1FUBDCXBORH865073 | 9A95246 | EMP. SHUTTLE | COLD STORAGE |
| 1345 | 2013 TRACTOR FRTL | FREIGHTLIN | M112 | 1FUBC5DV3DHBY1052 | 9E23512 | LIVE HAUL | TURKEY LIVE HAUL |
| 1346 | 2013 TRACTOR FRTL | FREIGHTLIN | M112 | 1FUBC5DV5DHBY1053 | 9E23513 | LIVE HAUL | TURKEY LIVE HAUL |
| 1347 | 2013 TRACTOR FRTL | FREIGHTLIN | M112 | 1FUBC5DV7DHBY1054 | 9E23514 | LIVE HAUL | TURKEY LIVE HAUL |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|----------|--------------------|---------|---------------|------------------------------------|
| 1348 | 2013 TRACTOR FRTL | FREIGHTLIN | M112 | 1FUBCSDV9DHBV1055 | 9E23515 | LIVE HAUL | TURKEY LIVE HAUL FINISHED GOODS |
| 1349 | 2013 STOR-DOOR FR | FREIGHTLIN | CASCADIA | 1FUBGBDV1DLFA4476 | 9E23516 | EMPIRE TRANS | HAUL |
| 1350 | 2013 2 AXLE TRACT | FREIGHTLIN | M2112 | 1FUBCSDV0DFH1148 | 9E98588 | LIVE HAUL | TURKEY LIVE HAUL |
| 1351 | 2013 3 AXLE TRACT | FREIGHTLIN | CA125DC | 3AKJGEDV0DSFH1149 | 9E98589 | FEED DEL | FEED DELIVERY |
| 1352 | 2013 3 AXLE TRACT | FREIGHTLIN | CA125DC | 3AKJGEDV7DSFH1150 | 9E98590 | FEED DEL | FEED DELIVERY |
| 1353 | 2013 3 AXLE TRACT | FREIGHTLIN | CA125DC | 3AKJGEDV9DSFH1151 | 9E98591 | FEED DEL | FEED DELIVERY |
| 1355 | 2013 3 AXLE TRACT | FREIGHTLIN | CA125DC | 3AKJGEDV0DSFH1152 | 9E98592 | FEED DEL | FEED DELIVERY |
| 1356 | 2013 3 AXLE TRACT | FREIGHTLIN | CA125DC | 1FUJGEDV9DLFH1713 | 9E98593 | FEED DEL | FEED DELIVERY |
| 1357 | 1997 3X TRUCK TRA | FREIGHTLIN | | 1FUJ3MDBXVH696185 | 9B43751 | LIC SURRENDER | FEED DELIVERY |
| 1375 | 1995 FRTLNR 3 AXL | FREIGHTLIN | | 1FUKBSEA4VL651369 | 9B13338 | E/YARD DOG | EMPIRE |
| 1377 | 1997 3X TRUCK TRA | FREIGHTLIN | | 1FUY3MDB0VH696177 | 9B43750 | LIC SURRENDER | FEED DELIVERY |
| 1385 | '95 FRTLNR 3X TRA | FREIGHTLIN | | 1FUKBSEA8VL651357 | 9B13327 | PNO Y/D | EMPIRE |
| 1496 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH86N446992 | 9D83143 | FIN GOODS | FINISHED GOODS |
| 1506 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH86N446989 | 9D78618 | FIN GOODS | FINISHED GOODS |
| 1516 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH66N446988 | 9D78617 | HATCHERY | HAUL |
| 1526 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH46N446990 | 9D78616 | FIN GOODS | HATCHERY |
| 1536 | 2006 3 AXLE TRACT | VOLVO | VNL 64T | 4V4NC9GH66N446991 | 9E26951 | FIN GOODS | FINISHED GOODS |
| 1546 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH16N446994 | 9D78658 | FIN GOODS | HAUL |
| 1556 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH36N446995 | 9D78669 | FIN GOODS | FINISHED GOODS |
| 1566 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH56N446996 | 9D78659 | FIN GOODS | FINISHED GOODS |
| 1576 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GHX6N446993 | 9E06900 | FIN GOODS | HAUL |
| 1586 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH76N446997 | 9D83145 | FIN GOODS | FINISHED GOODS |
| 1596 | 2006 3X TRACTOR | VOLVO | VNL 64T | 4V4NC9GH96N446998 | 9D78882 | HATCHERY | HAUL |
| 1716 | 1976 2 AXLE TRACT | WHITE | | CA112HP121119 | 0000000 | GOAT-4SALE | HATCHERY |
| 1775 | '95 FRTLNR CAB-OV | FREIGHTLIN | | 1FUKBSEA5SL651408 | 9A36957 | E/YDOG PNO | EMPIRE |
| 1777 | 1977 2 AXLE TRACT | FREIGHTLIN | | CA212HL134318 | | EAST-4SALE | EMPIRE |
| 1854 | 1994 2 AXLE TRACT | KENWORTH | T800B | 1XKDA68X6RR621677 | 9A35009 | TURKEY | OUT OF STATE SALES |
| 1880 | 2000 2 AX TRACTOR | KENWORTH | T800B | 3WKDA08XXYF842312 | 9B56547 | LIC SURRENDER | OUT OF STATE SALES |
| 1979 | 1999 2X TRACTOR | FREIGHTLIN | FLD120 | 1FUWDCXA8XL952888 | 9D43993 | LIC SURRENDER | OUT OF STATE SALES |
| 1989 | 1999 2X TRACTOR | FREIGHTLIN | FLD120 | 1FUWDCXA7XL952901 | 9D43994 | LIC SURRENDER | OUT OF STATE SALES |
| 1999 | 1999 2X TRACTOR | FREIGHTLIN | FLD120 | 1FUWDCXA4XL952905 | 9D43995 | LIC SURRENDER | OUT OF STATE SALES |
| 2037 | 1967 TRAILER | FMC | IRST NEW | BU1286 | 1WF8646 | CHICKEN | CHICKEN LIVE HAUL |
| 2139 | 1969 REF TRLR | TIMPT | VAN | 16761 | 1WC3168 | STOCKTON/PNO | STOCKTON |
| 2147 | 1997 48' REF TRAI | UTILITY | | 1UYVVS2489VU257008 | 1WH6749 | HATCH-STRG | HATCHERY |
| 2198 | 1968 TRAILER | FMC | IRST NEW | BU1271A | 1WH3653 | CHICKEN | CHICKEN LIVE HAUL |
| 2353 | 1993 48' REF TRL | UTILITY | VS2R | 1UYVVS2480PU837704 | 4BU3401 | HATCHERY-STRG | HATCHERY |
| 2363 | 1993 28 FT REFER | REEFER UTI | | 1UYVVS1272PU829205 | 4AW5182 | LIVEHAUL | CHICKEN DELIVERY |
| 2403 | 1993 48' REF TRLR | UTILITY | VS2R | 1UYVVS2489PU837703 | 4BU3404 | HATCHERY-STRG | HATCHERY |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LiC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|-------------------|---------|---------------|---------------------|
| 2408 | 1998 REFER 28FT T | WABASH | REFER | IJJVZ81W9WL469054 | 4CF468 | LIVEHAUL | CHICKEN DELIVERY |
| 2423 | TRAILER FIXED RAC | UTILITY | V52R | IUYVS2486PU837707 | 4BU3405 | EAST AVE-STRG | EMPIRE |
| 2540 | 1970 BQ42F TRL | SPCNS | FIXED RACK | DR1110461T | 4DY4293 | AB AG @ CVTR | OUT OF STATE SALES |
| 2600 | 1970 BQ42F TRL | LAKESIDE | FIXED RACK | DR1110464T | 4MF7045 | AB AG | OUT OF STATE SALES |
| 2620 | TRAILER | LAKESIDE | FIXED RACK | DR1090690T | 4HD5258 | TURKEY L/HAUL | OUT OF STATE SALES |
| 2640 | 1970 TRAILER | UTILITY | FIXED RACK | 7L03334002 | 4CJ9448 | LIVE HAUL | OUT OF STATE SALES |
| 2697 | 1967 TRAILER | FREUHAUF | BRIGHT-96 | VYH415701 | 1UR4661 | TURKEY L/HAUL | OUT OF STATE SALES |
| 2714 | 1974 TRAILER | UTILITY | FIXED RACK | 7L46705002 | 4CJ9434 | AB AG@CVTR | OUT OF STATE SALES |
| 2790 | 1970 TRAILER | UTILITY | BRIGHT-96 | 6L92755001 | 4AN3160 | TURKEY L/HAUL | OUT OF STATE SALES |
| 2807 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S53247B073281 | 4HF2644 | LITTER | LITTER |
| 2827 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S53287B073283 | 4HF2699 | LITTER | LITTER |
| 2837 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S532X7B073284 | 4HB9088 | LITTER | LITTER |
| 2847 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S53217B073285 | 4HF2811 | LITTER | LITTER |
| 2857 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S53237B073286 | 4HB9119 | LITTER | LITTER |
| 2867 | 2007 WALKING FLOO | TTC | CARRIER BO | IT92S53257B073287 | 4HF2560 | LITTER | LITTER |
| 3010 | 1970 TRAILER | UTILITY | BRIGHT-96 | 7L03296003 | 4AN7485 | TURKEY L/HAUL | OUT OF STATE SALES |
| 3020 | 1970 TRAILER | UTILITY | BRIGHT-96 | 7L03296008 | 1VH2577 | TURKEY L/HAUL | OUT OF STATE SALES |
| 3111 | 1991 38' FEED TRL | LEDWELL | BRIGHT-96 | 1L9BD12COML033122 | 4FC4503 | FEED DELIVERY | FEED DELIVERY |
| 3207 | 1967 TURKEY TRAIL | UTILITY | BRIGHT-96 | 6L70966007 | 4CA2122 | LIVEHAUL | OUT OF STATE SALES |
| 3236 | 300 GAL WATER TAN | WATER TANK | | | | HUNTSMAN | GROWOUT |
| 3246 | 1986 TILT TRAILER | SPCNS | RC | CA447955 | 4MB8531 | P.BROWN MAINT | MAINTENANCE |
| 3264 | TILT BED TRAILER | ZACKY | | DR772193T | | EXPERIMENTAL | GROWOUT |
| 3282 | 1982 CONGEAR | ZACKY | | 3282 | | YARD DOLLY | EMPIRE |
| 3326 | 1966 TRAILER | UTILITY | | 6T60063009 | 4JF8299 | AB AG | OUT OF STATE SALES |
| 3356 | 1966 TRAILER | UTILITY | | 6T60063008 | 4JN5601 | LIVE HAUL | OUT OF STATE SALES |
| 3388 | 1969 CONGEAR | FRUEHAUF | | 1181010 | 4AW5110 | LIVEHAUL | CHICKEN DELIVERY |
| 3443 | 1973 TRAILER | TRAILMOBIL | BRIGHT-96 | K22276 | 1WP1408 | TKY LIVE HAUL | OUT OF STATE SALES |
| 3453 | 1973 TRAILER | TRAILMOBIL | BRIGHT-96 | K22279 | 1WP1407 | TKY LIVE HAUL | OUT OF STATE SALES |
| 3460 | 1970 TRAILER | PIKE | BRIGHT-96 | 70F1144 | 4CJ9449 | TURKEY L/H | OUT OF STATE SALES |
| 3470 | 1970 FIXED RACK T | PIKE | BRIGHT-96 | CA397284 | 4BU3409 | LIVE HAUL | OUT OF STATE SALES |
| 3540 | 1970 CONGEAR | SPCNS | | DR1110463T | 4AN7489 | TURKEY L/HAUL | CHICKEN LIVE HAUL |
| 3550 | 1970 CONGEAR | SPCNS | | DR1110460T | 4HD5553 | TKY L/H | OUT OF STATE SALES |
| 3560 | SPCNS DOLLY 1970 | SPCNS | | DR1090688T | 4CY7954 | CHICKEN | TURKEY LIVE HAUL |
| 3609 | 1969 CONGEAR | TRAILMOBIL | DOLLY | E64450 | 1VB9591 | A B AG | OUT OF STATE SALES |
| 3631 | 2001 36' FEED TRA | PINSON | AA84V288FF | IP9AB3624IP255662 | 1WZ3209 | FEED DELIVERY | FEED DELIVERY |
| 3637 | 2007 36' FEED TRA | PINSON | AA84V288FF | IP9AB36297P255066 | 4HZ1492 | FEED DELIVERY | FEED DELIVERY |
| 3651 | CONGEAR | UTILITY | | CA1123502 | 4LV5535 | LIVE HAUL | OUT OF STATE SALES |
| 3661 | 2001 36' FEED TRA | PINSON | AA84V288FF | IP9AB3622IP255661 | 4MB8550 | FEED DELIVERY | FEED DELIVERY |
| 3667 | 2007 FEED TRAILER | PINSON | 0784V28S32 | IP9AB36237P255080 | 4JN5600 | FEED DELIVERY | FEED DELIVERY |
| 3741 | 1971 CONGEAR | UTILITY | DOLLY | DMV16046CA | 1UG8910 | TURKEY L/HAUL | OUT OF STATE SALES |
| 3773 | 1973 CONGEAR | TRAILMOBIL | | J24370 | 4CA2139 | LIVE HAUL | OUT OF STATE SALES |
| 3788 | 1978 CONGEAR | UTILITY | | 7N02846005 | 1VNI734 | LIVE HAUL | OUT OF STATE SALES |
| 3791 | 2001 36' FEED TRA | PINSON | AA84V288FF | IP9AB3620IP255660 | 1WZ3210 | FEED DELIVERY | FEED DELIVERY |
| 3894 | 1964 CONGEAR | FREUHAUF | | FRE234301 | 1VH2581 | TKY LIVE HAUL | OUT OF STATE SALES |
| 3985 | 1965 CONGEAR | BROWN | | S651203 | 4DY4289 | CHICKEN | OUT OF STATE SALES |
| 4024 | 1994 50' RRF TRLR | GREAT DANE | 7011TZ-1 | IGRAA0021RB096702 | 1XA4517 | 6TH AVE STORA | GROWOUT |
| 4041 | 2001 36' FEED TRA | PINSON | AA84V288FF | IP9AB3624IP255659 | 4KH4206 | FEED DELIVERY | FEED DELIVERY |
| 4128 | 1988 48' INSULATE | GREAT DANE | INSULATED | IGRAA9223JB191803 | 4AP3708 | E/EMP SHUTTLE | EMPIRE |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|-------------|--------------------|---------|----------------------------|---------------------|
| 4154 | 1994 50' REF TRLR | TRAILMOBIL | 01AN | 1PT01ANH5R90004815 | 1WP1777 | E/EMP SHUTTLE | EMPIRE |
| 4192 | 1992 53' REF TRLR | TRAILMOBIL | 01AN | 1PT01ANH3N9005665 | 1VD8551 | E/EMP SHUTTLE | EMPIRE |
| 4293 | 1983 FLATBED TRK | FORD | LN 8000 | 1FDXR80U8DV A35203 | 2U78713 | DELORO FLD OP | GROWOUT |
| 4335 | 1985 28'X96" TR | TUFF BOY | FLAT | 1T9A61320F1030912 | 4AY6706 | LIVEHAUL | CHICKEN DELIVERY |
| 4345 | 1985 28'X96" TR | TUFF BOY | FLAT | 1T9A6131XF1030911 | 4AY6705 | LIVEHAUL | CHICKEN DELIVERY |
| 4402 | 1972 28'X96" TR | BROWN | FLAT | S725780 | 4AY6712 | LIVEHAUL | CHICKEN DELIVERY |
| 4412 | 1972 28'X96" TR | BROWN | FLAT | 5725790 | 4AY6711 | LIVEHAUL | CHICKEN DELIVERY |
| 4604 | 1974 TRAILER | UTILITY | FIXED RACK | 7L47540015 | 4AN6740 | AB AG | OUT OF STATE SALES |
| 4616 | 1966 TRAILER | UTILITY | FIXED RACK | 44706 | IUY6707 | CHICKEN | CHICKEN LIVE HAUL |
| 4626 | 1966 TKY TRLR | UTILITY | FIXED RACK | 44707 | IUY6706 | CHICKEN | CHICKEN LIVE HAUL |
| 4642 | 1972 FB TRAILER | TRAILMOBIL | | J20720 | 4CY8758 | TURKEY L/HAUL | OUT OF STATE SALES |
| 4652 | 1972 FB TRAILER | TRAILMOBIL | | J20719 | 4CY8759 | TURKEY L/HAUL | OUT OF STATE SALES |
| 4662 | 1972 FB TRAILER | TRAILMOBIL | | H65675 | 4CY8760 | TURKEY L/HAUL | OUT OF STATE SALES |
| 4670 | 1970 CONGEAR | UTILITY | | 7N02848002 | IUY6708 | TURKEY PNO | OUT OF STATE SALES |
| 4773 | 1973 CONGEAR | STRICK | DOLLY | CP607539 | 4AN6738 | AB AG L/H | OUT OF STATE SALES |
| 4799 | 1989 TRAILER | SPCNS | | CA498673 | 4KB9580 | TURKEY GROWOU | GROWOUT |
| 4809 | 1989 TRAILER | SPCNS | | CA498671 | 4KB9579 | TURKEY GROWOU | GROWOUT |
| 4851 | 1981 CONGEAR | TODCO | | JU743027 | 4AN6739 | LIVE HAUL | OUT OF STATE SALES |
| 5058 | 2008 POULT TRANSF | SMITHWAY | POULT TRAN | 1GRAA76288B704178 | 4HZ1815 | KERMAN HATCHE | HATCHERY |
| 5065 | 1995 POULT VAN | FREIGHTLIN | FL-70 | 1FV6HFBAOSL656166 | 7K40307 | LIC SURRENDER | HATCHERY |
| 5070 | 2013 28' REFR. TR | GREAT DANE | EVEREST TL | 1GRAA5614DB706502 | 4MF7064 | F/G | FINISHED GOODS |
| 5098 | 1998 48' REEFER T | GREAT DANE | REEFER | 1GRAA9621WB184303 | 4GZ1933 | TKY HATCHERY | HAUL |
| 5103 | 2003 UTILITY P/U | CHEVROLET | SILVERADO | 1GCHC24U73E347321 | 7G81505 | FERNANDO MACI | HATCHERY |
| 5110 | 2010 DODGE CREW C | DODGE 4DR | RAM 2500 | 3D7UT2CL7AG174614 | 56011DI | CHICKEN | MAINTENANCE |
| 5112 | 2012 DODGE RAM CH | DODGE | RAM 5500 | 3C7WDMBL8CG122900 | 46736F1 | GROWOUT | CHICKEN LIVE HAUL |
| 5113 | 2003 UTILITY P/U | FORD | F250 SUPER | 3FTNF20L93MB26692 | 8J13390 | SANTIAGO GARC | GROWOUT |
| 5114 | 2004 UTILITY P/U | CHEVROLET | SILVERADO | 1GBJC39U94E362621 | 7V59310 | ALVARO CALDER | MAINTENANCE |
| 5122 | 2012 RAM CHASSIS | DODGE 550 | RAM CREW C | 3C7WDNEL9CG145667 | 7G24309 | JOSE GARCIA | MAINTENANCE |
| 5123 | 2003 UTILITY P/U | CHEVROLET | SILVERADO | 1GCHC24U13E354636 | 8G73662 | DANIEL TORRES | OUT OF STATE SALES |
| 5126 | 2006 PICKUP | FORD | F550 | 1FDAF56P76EB73736 | 8R00529 | GROW.POULT TR | GROWOUT |
| 5133 | 2003 UTILITY P/U | FORD | F-250 XL SU | 3FTNF20L23MB38182 | 8R00529 | ROBERTO CALDE | MAINTENANCE |
| 5147 | 1997 F/B TRUCK | FORD | F450 | 1FDL147FOVEA04701 | 6KS3325 | TRANSFER TRUC | GROWOUT |
| 5197 | 1997 F/B TRUCK | FORD | F800 | 1FDNF80C3VV A24764 | 6D86783 | RECOVERED - BEING REPAIRED | COLD STORAGE |
| 5217 | 1997 CHEV 1 TON E | CHEV | MDL 3500 | 1GCHG39RXV1081916 | 5R12057 | TKY HATCHERY | HATCHERY |
| 5241 | 2001 UTILITY EXT | CHEVROLET | SILVERADO | 1GBJK39U81F126955 | 8J13393 | PARKER BROWN | MAINTENANCE |
| 5245 | 1995 XL PICKUP | FORD | F250 | 1FTEF25N5SLA36210 | 5D73981 | KERMAN HATCHE | HATCHERY |
| 5300 | WABASH 2000 | WABASH 53F | REFER | IJUV532W6YL640192 | 4GE4344 | FIN GOODS | FINISHED GOODS |
| 5301 | TRAILMOBILE 53 FT | REFER TRAI | REFER | IPTO1ANH918001698 | 4GE4317 | FINISHED GOOD | FINISHED GOODS |
| 5310 | WABASH 53FT REFER | WABASH | REFER | IJUV532W2YL640142 | 4JN5618 | FIN GOODS | FINISHED GOODS |
| 5320 | WABASH 53 FT | WABASH REF | REFER | IJUV532W2YL640162 | 4GE4348 | FIN GOODS | FINISHED GOODS |
| 5330 | WABASH 53 FT REF | WABASH REF | WABASH REF | IJUV532W9YL640168 | 4JN5608 | FIN GDS | FINISHED GOODS |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|--------------------|---------|---------------|---------------------------|
| 5340 | WABASH 53 FT REFE | WABASH | REFER | IJJV532W0YL640169 | 4GE4346 | FIN GOODS | HAUL FINISHED GOODS |
| 5350 | WABASH 53 FT | | REFER | IJJV532W1XL640129 | 4KB9834 | FIN GOODS | HAUL FINISHED GOODS |
| 5369 | 2009 53' REFER TR | GREAT DANE | SUPER SEAL | IGRAA062X9W702403 | 4JN6363 | F/G | HAUL FINISHED GOODS |
| 5370 | TRAILMOBILE 48' 2 | TRAILMOBIL | REEFER | IPT01ADH0X9012481 | 4GE4318 | FIN GOODS | HAUL |
| 5561 | 1991 48 X 102 REF | TRAILMOBIL | O1AN-1UAL | IPT01ANHXM90004978 | IVS2978 | FIN GOODS | EMPIRE FINISHED GOODS |
| 5605 | 1995 48X102 REFER | UTILITY | VS2R | IUYV52483SU600505 | IWD2341 | FIN GOODS | HAUL |
| 5609 | '99 UTIL 48'X102" | UTILITY | REFER TRAI | IUYV52482XU029306 | 4LJ1238 | EAST PLNT | EMPIRE FINISHED GOODS |
| 5615 | 1995 48X102 REEFE | UTILITY | VS2R | IUYV52487SU600507 | IWD2343 | FIN GOODS | HAUL FINISHED GOODS |
| 5619 | '99 GREAT DANE 48 | GREAT DANE | REFER TRAI | IGRAA9624XB129037 | 4LJ1239 | F/G | HAUL FINISHED GOODS |
| 5625 | 1995 REFER TRAIL | UTILITY | VS2R | IUYV52487SU600510 | IWD2349 | FIN GOODS | HAUL |
| 5710 | MOBILE HOME | SHOREMANOR | | CAL363744 HUD | 8514401 | G&H RANCH | GROWT |
| 5711 | MOBILE HOME | CHAMPION | 125 | CAL212206 | LAA1679 | G&H RANCH | GROWT |
| 5716 | MOBILE HOME | FREEDOM | | 216118 HUD | AAF1166 | G&H RANCH | GROWT |
| 5720 | MOBILE HOME | BENDIX | | A401876 HUD | AAD7342 | G&H RANCH | GROWT |
| 5725 | MOBILE HOME | MATEE | 125 | 095701S9027C | ABI7295 | G&H RANCH | GROWT |
| 5726 | MOBILE HOME | CHAMPION | 125 | CALI92041 HUD | LAA1678 | G&H RANCH | GROWT |
| 5744 | 12X60 COM'L COACH | SPECTRUM | 1260 | 84110975 | CCA8114 | LITTER(#5884) | LITTER |
| 5748 | HOUSE TRAILER | SPECTRUM | 1260 | 88024279 | CCD8068 | BRAWLEY | GROWT FINISHED GOODS |
| 5765 | MOBILE HOME | SPECTRUM D | 1260 | 85101800 | CCA3078 | TRNSP-EMPIRE | FINISHED GOODS |
| 5807 | 1977 OFFICE TRLR | SCOTSMAN | COACH | 7719S8781 | ICP9731 | GUARD-E/PLNT | HAUL EMPIRE |
| 5869 | ROTOTILLER | BEFCO | 11-150-366 | 265000 | | G&H RANCH | GROWT |
| 5892 | 74" ROTOTILLER | BUSH HOG | RTS74-03 | 12-00749 | | SAMUEL #1 | GROWT |
| 5949 | 1979 3 AXLE TRLR | ZIEMAN | FLAT BED | ZP50848 | UJZ2626 | D/F OPS. | GROWT |
| 5965 | 1985 FORKLIFT | TOYOTA | 42-3FGC13 | 12480 | | COLD STORAGE | COLD STORAGE |
| 5972 | B/C 3WHEEL FORKLI | BC35000 | BRIGHT COO | BC35005901112 | | CHICKEN | FRESNO FRYER (CHICKEN) |
| 5999 | ROTOTILLER | BEFCO | T50 | 267726 | | BRAWLEY | GROWT |
| 6000 | 6' BOX SCRAPER | | | | | AMER/BROODER | GROWT |
| 6002 | 28X5 BEAVERTAIL T | BIG TEX UT | 430 22GN-2 | 16GVX2822C2608451 | 4LX8460 | TRKY GROW-OUT | GROWT |
| 6008 | WINDROWER | LEWIS BROS | 8FT/45GA T | UNKNOWN | | GROW-OUT | GROWT |
| 6009 | 2009 FARM TRACTOR | 2009 DENTZ | AGROLUX70 | 1252 | | GROW-OUT | GROWT |
| 6010 | BLADE | RHINO | LK | LR-111805 | | PLACER | GROWT |
| 6020 | 8' BOX SCRAPER | CHAPHIN SP | | | | AMERICAN | GROWT |
| 6035 | 2005 FARM TRACTOR | MASSEY FER | 492-4LP | BP20048 | | AMERICAN | GROWT |
| 6044 | ANGLE BLADE | RHINO | LR-7 | 73772 | | D/F OPS | GROWT |
| 6074 | ROTARY MOWER | RHINO | S-5 MOWER | 10626 | | DESERT FIELD | GROWT |
| 6088 | 2008 FARM TRACTOR | MASSEY FER | GC2300 | JSA20116 | | AMERICAN BROO | GROWT |
| 6254 | SOILMOVER | | 425R | 018414200 | | HUNTSMAN | GROWT |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|-------------|------------|-------------------|---------|---------------|---------------------|
| 6269 | 1989 ROTOTILLER | BEFCO | 11-G50-231 | 115682 | | 18TH AVE RANC | GROWOUT |
| 6289 | 1999 GOOSENECK TR | TRU-TRAILER | PRO TRAK | 5BNDG252XXCOO1430 | 4CY8752 | TURKEY FIELD | GROWOUT |
| 6330 | CARRYALL 1YD | | | | | DESERT | GROWOUT |
| 6340 | SPRAYER | BRIGGS STR | 250 GAL SP | | | EXPERIMENTAL | GROWOUT |
| 6350 | SPRAYER | JEAN BEAN | 500 GAL SP | | | DESERT | ORO GRANDE FRYER |
| 6370 | SPRAYER | | | | | DESERT | ORO GRANDE FRYER |
| 6390 | SPRAYER | | | | | DESERT | (CHICKEN) |
| 6396 | SPRAYER,POULTRY H | LEWIS | 200 GAL SP | | | HUNTSMAN | GROWOUT |
| 6440 | SPRAYER | AIR O FAN | 200 GAL SP | 1162 | | G & H RANCH | GROWOUT |
| | | | 500 GALLON | | | BRAWLEY TKY R | GROWOUT |
| | | | 500 GAL SP | | | | ORO GRANDE FRYER |
| 6453 | HOUSEKEEPER | LEWIS | 150 GAL SP | | | DESERT FIELD | (CHICKEN) |
| 6470 | SPRAYER | JOHN BEAN | | | | EXPERIMENTAL | GROWOUT |
| 6490 | MEDICATION TANK | | | | | HUNTSMAN | GROWOUT |
| 6520 | FEED CART | LEHMAN | | | | BRAWLEY | GROWOUT |
| 6530 | FEED CART | DOJEN | | | | TURKEY FIELD | GROWOUT |
| 6540 | FEED CART | LEHMAN | | | | EXPERIMENTAL | GROWOUT |
| 6550 | FEED CART | LEHMAN | | | | HOLM BROOD | GROWOUT |
| 6560 | FEED CART | LEHMAN | | | | BRAWLEY | GROWOUT |
| 6579 | 8' BOX SCRAPER | | | KKBB961-3 | | 18TH AVE | GROWOUT |
| 6589 | 8' BOX SCRAPER | | | KKBB961-2 | | 18TH AVE | GROWOUT |
| 6590 | 1990 BLADE | RHINO | 500 | B46103A | | 18TH AVE | GROWOUT |
| 6600 | POST HOLE DIGGER | DAN MUSER | | 1350 | | KENT RANCH | GROWOUT |
| 6638 | 1988 SOIL MOVER | CARRYALL | | 1H8-16379 | | BRAWLEY | GROWOUT |
| 6650 | FEED CART | | | | | 18TH AVE | GROWOUT |
| 6670 | SWEEPER | SWEEPER | S32P7 | 18020 | | HUNTSMAN | GROWOUT |
| 6682 | 2002 FORKLIFT 5 | TOYOTA | 426FGU25 | 65549 | | HOLM BROOD | GROWOUT |
| 6688 | 1998 FARM TRACTOR | FORD | | 067488B | | EAST PLANT | EMPIRE |
| 6689 | 1999 MITSUBISHI F | MITSUBISHI | FGC20K | AF82C-01193 | | 18TH AVE | GROWOUT |
| 6691 | 72" ROTARY CUTTER | BUSHHOG | | 12442 | | EAST PLANT | EMPIRE |
| 6700 | SCRAPER | | | | | AMERICAN | GROWOUT |
| 6720 | 2010 6' REAR SCRA | BISON | NVH-180-T | 101065983 | | BRAWLEY | GROWOUT |
| 6730 | SCRAPER | | | | | 6TH AVE BROOD | GROWOUT |
| 6741 | HOUSEKEEPER | LEWIS | 3 | 947 | | EXPERIMENTAL | GROWOUT |
| 6759 | 1989 FARM TRACTOR | KUBOTA | M7030DTL | 50232 | | HUNTSMAN | GROWOUT |
| 6841 | 74" ROTOTILLER | BEFCO | 374-232 | 130137 | | BRAWLEY | GROWOUT |
| 6851 | 74" ROTOTILLER | BEFCO | 374-232 | 130586 | | AMERICAN GROV | GROWOUT |
| 6861 | 50" ROTOTILLER | BEFCO | G50 | 127630 | | PLACER | GROWOUT |
| 6891 | SOIL MOVER | CARRYALL | 500RF | 1H816381 | | AMERICAN BROO | GROWOUT |
| 6892 | SOIL MOVER | PORTERS WE | MCE8 | 1731 | | AMERICAN BROO | GROWOUT |
| 6901 | 500 GL SPRAYER | MINI BLAST | MB536 | M913314 | | G&H RANCH | GROWOUT |
| 6941 | 8' SCRAPER | CHAPIN | DB96 | KK-BB-96-1-7 | | AMERICAN BROO | GROWOUT |
| 6958 | FIELD CART | | 3 TON | | | PLACER GROV | GROWOUT |
| 6992 | LEWIS PLTRY HOUSE | | | 1505 | | HUNTSMAN | GROWOUT |
| 7001 | 2009 FARM TRACTOR | MASSEY FER | 2615 (CLAS | 502475 | | DESERT | GROWOUT |
| 7010 | YALE FORKLIFT | YALE | M20R4S071 | S-185717 | | MARS #1 | GROWOUT |
| 7019 | 2009 ROTARY TILLE | BUSH HOG | RTS-62 | 12-01044 | | COLD STORAGE | COLD STORAGE |
| | | | | | | MARS BROOD | GROWOUT |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|-------------------|---------|---------------|---------------------|
| 7029 | 2009 FARM TRACTOR | DEUTZ-FAHR | AGROLUX 60 | D105523WXE1312 | | EXPERIMENTAL | GROWOUT |
| 7037 | TRANSPORT AUGER | TRANSPORT | 8X34 | 80-10834P | | BRAWLEY TKY. | GROWOUT |
| 7039 | 2009 FARM TRACTOR | DEUTZ-FAHR | AGROLUX 60 | D105523WXE1308 | | SAMUEL #1-GRO | GROWOUT |
| 7148 | 2008 FARM TRACTOR | MASSEY FER | GC2400 | JTC02111 | | BRAWLEY RANCH | GROWOUT |
| 7177 | 1997 FARM TRACTOR | JOHN DEERE | 5500N | LV5500N670887 | | DESERT FIELD | GROWOUT |
| 7199 | 1988 FARM TRACTOR | KUBOTA | B6200DT | 64536 | | 18TH AVE RANC | GROWOUT |
| 7219 | 2009 ROTARY TILLE | BUSH HOG | RTS62 | 12-00493 | | HUNTSMAN | GROWOUT |
| 7220 | 2010 ROTARY TILLE | FALC | BSS-1800 | 32873 | | KENT | GROWOUT |
| 7223 | 1993 FARM TRACTOR | FORD | 6610 | ZX3505 93 | | G & H RANCH | GROWOUT |
| 7229 | ROTOTILLER | BEFCO | 11-G50-231 | 115665 | | HUNTSMAN | GROWOUT |
| 7252 | GENERATOR, DIESEL | KOHLER | 250R0781 | 012134 | | KERMAN HATCHE | HATCHERY |
| 7324 | 1994 FARM TRACTOR | KUBOTA | L3600DT | L3600DT50990 | | TURKEY | GROWOUT |
| 7330 | 1990 FARM TRACTOR | KUBOTA | M8030DT | 50418 | | D/F OOS | GROWOUT |
| 7331 | LOW PROFILE TRACT | MASSEY FER | 492 | BN30013 | | DESERT FIELD | GROWOUT |
| 7359 | 6' BOX SCRAPER | CHAPIN | RT-5 | 20833 | | 18TH AVENUE | GROWOUT |
| 7372 | TILLER | NEW HOUSE | 11-374-232 | 121309 | | 18TH AVENUE | GROWOUT |
| 7379 | BEFCO ROTOTILLER | BEFCO | RT-5 | 20833 | | 18TH AVENUE | GROWOUT |
| 7491 | 2001 2 AXLE GENER | CARSON | 11-374-232 | 4HXHDI62X1C034338 | 4CN3592 | MILL MAINT. | MAINTENANCE |
| 7611 | 2011 BUSH HOG | BUSH HOG | SQ10 - 5' | 12-052 | | 6TH AVE | GROWOUT |
| 7613 | 1983 FORKLIFT | CLARK | C-500-45 | 355-508-2548 | | FRESNO GARAGE | FRESNO GARAGE |
| 7618 | DRAG SCRAPER | GEARMOR | DS10-FL | 1984 | | G&H RANCH | GROWOUT |
| 7717 | 1987 FEED CART | LEHMAN | 550 | JK1AFBC131B529977 | | AMERICAN BROO | GROWOUT |
| 7800 | 2001 MULE | KA WASAKI | LEHMAN | | | AMERICAN BROO | GROWOUT |
| 7802 | FEED CART | 25 KVA | | | | G&H RANCH | GROWOUT |
| 7857 | GENERATOR | | | | | BRAWLEY | GROWOUT |
| 7887 | ROLLING MAGNET | | | | | EAST PLANT | EMPIRE |
| 7907 | 1987 OFFSET DISC | G & L | 416MD | 416-MD-203-1186 | | EXPERIMENTAL | GROWOUT |
| 7971 | 1991 5000# FORKLI | MITSUBISHI | FG25 | AF17A-50065 | | PARKER BROWN | MAINTENANCE |
| 8007 | 1987 8 FT DISC | | TANDEM | | | HUNTSMAN | GROWOUT |
| 8027 | 1967 FORKLIFT | CLARK | F163 | IT40-63-837-167 | | STOCKTON F.P. | STOCKTON |
| 8060 | DISC | DOMRIES | H10-600 | 8980 | | 18TH AVE | GROWOUT |
| 8070 | N00 GAL SPRAYER | DURANDWAYL | AF500DPG | 12795 | | 6TH AVE BROOD | GROWOUT |
| 8090 | 1990 4000 GAL WAT | PETERBILT | CONV | D276765GL----- | 55936DI | TURKEY/FLD OP | GROWOUT |
| 8101 | GRAIN ELEVATOR | MY-D HAN-D | | | | AMERICAN BROO | GROWOUT |
| 8119 | CLARK FORKLIFT | CLARK | C40B | 86-399 | | TURKEY PLANT | EMPIRE |
| 8126 | GRAIN ELEVATOR | MY-D HAN-D | 41'X6' | | | 6TH AVE BROOD | GROWOUT |
| 8139 | MASSEY FERGUSON | M/F | SJ327E | FS415778 | | AMERICAN GROV | GROWOUT |
| 8143 | 1993 FARM TRACTOR | KUBOTA | M7030DTN-B | 70739 | | PLACER | GROWOUT |
| 8176 | 2006 FARM TRACTOR | MASSEY FER | 492-4WD | BP37031 | | 6TH AVE | GROWOUT |
| 8180 | SCRAPER | MISKIN | 7500 | 19014 | | 6TH AVE BROOD | GROWOUT |
| 8200 | SCRAPER | MISKIN | 7500 | 19219 | | 6TH AVE BROOD | GROWOUT |
| 8210 | POULT TRAILER | | | 001 | | 6TH AVE | GROWOUT |
| 8220 | POULT TRAILER | | | 002 | | 6TH AVE | GROWOUT |
| 8230 | POULT TRAILER | | | 003 | | 6TH AVE | GROWOUT |
| 8240 | POST HOLE DIGGER | | 08570 | MD-PHD2101 | | 6TH AVE BROOD | GROWOUT |
| 8250 | DISC | | | 30936 | | 6TH AVE BROOD | GROWOUT |
| 8260 | CULTI PAK | | | 004 | | 6TH AVE BROOD | GROWOUT |
| 8280 | MOWER | PACIFIC | | 005 | | 6TH AVE BROOD | GROWOUT |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|--------------------|------------|------------|-------------------|---------|---------------|---------------------|
| 8290 | BOX SCRAPER | LAND PRIDE | BB2666 | L42962 | | 6TH AVE BROOD | GROWOUT |
| 8306 | ROTO TILLER | BEFCO | T-60-274 | 263380 | | 6TH AVE/RED | GROWOUT |
| 8320 | HYD SCRAPER | | | 008 | | 6TH AVE BROOD | GROWOUT |
| 8330 | TRAILER 17 CU FT | AGRI FAB | | 009 | | 6TH AVE | GROWOUT |
| 8340 | TRAILER | | | CA795443 | 1FK2491 | 6TH AVE BROOD | GROWOUT |
| 8344 | 8.5X14 F/B TRAILER | CARSON | DOVETAIL | 4HXFB142XDC163975 | 4ML1711 | CHICKEN | CHICKEN DELIVERY |
| 8356 | 1996 500 GAL SPRA | REARS | MB500 | M95173 | ORANGE | 6TH AVE BROOD | GROWOUT |
| 8362 | FARM TRACTOR | KUBOTA | L3010 GST | 76020 | | 6TH AVENUE | GROWOUT |
| 8366 | FEED AUGER | KOLER | 7 | 7 | | G&H | GROWOUT |
| 8372 | FARM TRACTOR | KUBOTA | L3010 GST | 75950 | | 6TH AVENUE | GROWOUT |
| 8391 | 3-POINT FORKLIFT | GEARMORE | L500 | 2291 | | 6TH AVE BROOD | GROWOUT |
| 8393 | 1983 L.P.G FORKLI | DATSUN/NIS | C-3000 | | | COLD STORAGE | COLD STORAGE |
| 8415 | 1985 SOIL MOVER | SOIL MOVER | 225 RF | I144-14531 | | DESERT FIELD | GROWOUT |
| 8430 | TEFONI SPRAY RIG | TEFONI | 500 GAL SP | 25 1137 | | DESERT FIELD | GROWOUT |
| 8445 | GENERATOR | | 832-0-809 | A35279TK | | EXPERIMENTAL | GROWOUT |
| 8446 | 1996 GENERATOR SE | DETROIT DI | 75KW 4-71 | 4A199006 | | 6TH AVENUE | GROWOUT |
| 8483 | 1993 FARM TRACTOR | KUBOTA | M8030DTL | 60334 | | HUNTSMAN OOS | GROWOUT |
| 8492 | 2002 GOLF CART | CLUB CAR | 48V ELECTR | AA0238204226 | | 6TH AVENUE | GROWOUT |
| 8497 | 2006 CLUB CAR | UTILITY LI | CCUL-06 | PH0846-981838 | | ROFF RNCH (LE | FRESNO FRYER |
| 8509 | 2009 FARM TRACTOR | DUETZ-FAHR | AGROLUX 70 | 1399 | | HUNTSMAN | (CHICKEN) |
| 8510 | 1980 FARM TRACTOR | KUBOTA | M7500DT | 10113 | | DESERT FIELD | GROWOUT |
| 8540 | GEARMORE SPEADER | SWEEPSTER | S32P7L | 001024 (12045) | | 6TH AVE | GROWOUT |
| 8554 | 1994 FARM TRACTOR | KUBOTA | M8030DT | 70707 | | T/I | GROWOUT |
| 8555 | 2005 FARM TRACTOR | MASSEY FER | 492-4LP | BN34010 | | 6TH AVE | GROWOUT |
| 8574 | 1994 FARM TRACTOR | KUBOTA | M8030DT | 70734 | | 6TH AVE | GROWOUT |
| 8595 | 1995 FARM TRACTOR | FORD | 4430 4WD | 59149 | | KENT | GROWOUT |
| 8642 | 2002 GOLF CART | CLUB CAR | 48V ELECTR | AA0238204228 | | 6TH AVENUE | GROWOUT |
| 8643 | 2006 GOLF CART | CLUB CAR | CCUL-06 | PQ0738-815454 | | | FRESNO FRYER |
| 8646 | 2006 GOLF CART | E-Z GO | TXT ELECTR | 2333538 | | EAST PLANT | (CHICKEN) |
| 8647 | 3 PT DISC | HOMEMADE | BENS TRACT | CAT1 | | 18TH AVENUE | EMPIRE |
| 8660 | 2004 FARM TRACTOR | MASSEY FER | 492-4WD | BN43051 | | HOLM RANCH | GROWOUT |
| 8690 | SCRAPER | | | | | BRAWLEY | GROWOUT |
| 8700 | MANITOU FORKLIFT | 5000# 3-WH | TMT320HT/T | 750427 | | CHICKEN | FRESNO FRYER |
| 8707 | 2007 FARM TRACTOR | MASSEY FER | 492 | 8029BP34069 | | KERMAN TURKEY | (CHICKEN) |
| 8717 | ROTARY TILLER 6 | BEFCO | T50-366 | 267727 | | KERMAN TURKEY | GROWOUT |
| 8727 | SOIL MOVER | CARRY-ALL | MEC8 | | | KERMAN TURKEY | GROWOUT |
| 8793 | 2003 GOLF CART | CLUB CAR | 48V IQ ELE | AO0352354202 | | BRAWLEY | GROWOUT |
| 8796 | 1996 POULTRY HOUS | LEWIS MFG | 450 GAL SP | 355 | | BRAWLEY | GROWOUT |
| 8900 | 0000 GOLF CART | EZ GO | 60890 | 597360 | | DESERT FIELD | ORO GRANDE FRYER |
| 8902 | ELECT GOLF CART 4 | CLUB CAR | PQ0738 | 815410 | | BIG FEATHER | (CHICKEN) |
| 8903 | 2003 GOLF CART | CLUB CAR | DS 48V | AO0318-281569 | | G & H RANCH | GROWOUT |
| 8904 | ELECT GOLD CART 4 | CLUB CAR | PQ0738 | 8015470 | | SAMUEL #1 | GROWOUT |
| 8905 | 2005 FARM TRACTOR | MASSEY FER | 492-4WD LP | BP 34068 | | G & H RANCH | GROWOUT |
| 8906 | ROTARY CUTTER | BUSH HOG | | 1108111 | | BRAWLEY | GROWOUT |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|-------------------|---------|---------------|---------------------|
| 8907 | ELECT GOLF CART 4 | CLUB CAR | P00745 | 840970 | | 6TH AVE BROOD | GROWOUT |
| 8913 | 2003 GOLF CART | CLUB CAR | DS 48V | AQ0318-281616 | | G & H RANCH | GROWOUT |
| 8915 | 2005 FARM TRACTOR | MASSEY FER | 492-4WD LP | BP 34069 | | G & H RANCH | GROWOUT |
| 8916 | 5X12 FLATBED TRLR | HOMEMADE | | | | G&H RANCH | GROWOUT |
| 8917 | PLT TRLR 8'X30' | HOMEMADE | | | | G&H RANCH | GROWOUT |
| 8936 | 1986 FARM TRACTOR | KUBOTA | M7500DT | 11619 | | PARKER BROWN | GROWOUT |
| 8955 | 1955 GENERATOR | OKEEFE & M | 20 KV | | | DESERT FIELD | GROWOUT |
| | WELDER-PORTABLE | | | | | | |
| 8999 | G | PRAXAIR | BOBCAT 225 | MAZ70569H | | TKY FIELD MAI | MAINTENANCE |
| 9446 | 1996 END DUMP REA | ALLCO | EDRL22 | 1A9ED2213TC152549 | 7LY1049 | MORTALITY | GROWOUT |
| 9721 | 2001 TURKEY LOADE | BRIGHT | STANDARD | 9-2001 | | A.B.AG TURKEY | OUT OF STATE SALES |
| 9806 | 2006 FORD PU TRUC | FORD | F350 | IFDW33P26EB49312 | 7Z33537 | SERGIO SANCHE | OUT OF STATE SALES |
| 9811 | 2001 S10 PICKUP | CHEVROLET | S-10 | IGCCS14581K178859 | 6V10281 | E. RADILLO | OUT OF STATE SALES |
| 9825 | 2005 4X4 P/U | FORD | F350 | IFTWW33P25EB86184 | 7U11680 | LIC SURRENDER | OUT OF STATE SALES |
| 9838 | TRACTOR LOADER | CASE | 480E | 17003902 | | DESERT FIELD | GROWOUT |
| 9872 | 2002 PICKUP TRUCK | CHEVY | C1500 | 2GCEC19V121334398 | 6W80482 | ZACKY | G&A |
| 9926 | 2006 EXT CAB P/U | CHEVROLET | SILVERADO | IGCEC19TX6Z153232 | 8B34898 | D. MARTINEZ | TURKEY LIVE HAUL |
| 5710B | MOBILE HOME | SHOREMANOR | | CAL363743 HUD | 8514401 | G&H RANCH | GROWOUT |
| 5711B | MOBILE HOME | CHAMPION | 125 | CAL212207 | LAA1679 | G & H RANCH | GROWOUT |
| 5726B | MOBILE HOME | CHAMPION | 125 | CAL192042 HUD | LAA1678 | G & H RANCH | GROWOUT |
| 89999 | 1993 TRAILER | SHOP BUILT | BAR-B-QUE | CA706795 | 4CY8522 | COMPANY GRILL | G&A |
| R5300 | CARRIER 2000 PHOE | CARRIER | NDA94MNO-A | GAG90481115 | | FINISHED GOOD | FINISHED GOODS |
| R5301 | THERMO KING | SBH11 30 S | YSZXLO2.2Y | 11064C2457 | | FINISHED GOOD | FINISHED GOODS |
| R5310 | PHOENIX ULTRA XL | CARRIER | NDA94MNO-A | SAE90476856 | | FINISHED GOOD | FINISHED GOODS |
| R5320 | CARRIER PHOENIX U | CARRIER | NDA94MNO-A | GAD90472737 | | FINISHED GOOD | FINISHED GOODS |
| R5330 | CARRIER PHOENIX U | CARRIER | NDA94MNO-A | GAE90476848 | | FINISHED GOOD | FINISHED GOODS |
| R5340 | CARRIER PHOENIX U | CARRIER | NDA94MNO-A | GAE90476849 | | FINISHED GOOD | FINISHED GOODS |
| R5350 | CARRIER PHOENIX U | XKBXL02.2E | NDA94MNO-A | GAE90476847 | | FINISHED GOOD | FINISHED GOODS |
| R5360 | CARRIER PHOENIX U | CARRIER | NDA94MNO-A | GAG90481117 | | FINISHED GOOD | FINISHED GOODS |
| R5369 | CARRIER 2500 REF | CARRIER | | | | FINISHED GOOD | FINISHED GOODS |
| R5370 | THERMO KING | THERMO KIN | SB111 SR+ | 08984C8374 | | FINISHED GOOD | FINISHED GOODS |
| 0206 | 2006 2WD P/U-MID | CHEVROLET | COLORADO | IGCCS148968240185 | 8J48959 | DAVID QUINTAN | HAUL |
| 0207 | 2007 EXT CAB P/U | CHEVROLET | COLORADO | IGCCS199578151703 | 8J48961 | TKY FIELD | BREEDER |
| 0444 | 1994 CARGO VAN | CHEVROLET | ASTRO | IGCDM1929RB218288 | 5D73834 | LIC SURRENDER | BREEDER |
| 0451 | 2001 S-10 PICKUP | CHEVROLET | S-10 FLEET | IGCCS145018151569 | 6U51522 | S. BAINS | BREEDER |
| 0571 | 2011 PICKUP TRK | FORD | RANGER 2DR | IFTKRIAD7BPA31214 | 21779A1 | MANUEL PALACI | BREEDER |
| 0753 | 1993 S-10 PICKUP | CHEVROLET | S-10 | IGCCS14RXP0160919 | 4U05243 | CENTRAL PNO | BREEDER |
| 4830 | UTILITY TRAILER | UNKNOWN | 5'2"X20' | NONE | | SMITH MOUNTAI | BREEDER |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code | Description |
|---------|-------------------|------------|------------|--------------------|---------|---------------|---------|-------------|
| 4840 | UTILITY TRAILER | SEARS & RO | 5'10" X12' | 8-86809 | OFFROAD | HAYES | BREEDER | |
| 5039 | 1999 F/B TRUCK | FORD | F450 | 1FDXF46F7XEC83540 | 6Y21275 | D. QUINTANA | BREEDER | |
| 5331 | 1991 1 1/2 PICKUP | FORD | F450 | 2FDLF47G5MCA05274 | 4M50890 | TWIN PALMS | BREEDER | |
| 5387 | 1997 FORD F450 PF | FORD | F-450 SPR | 3FELF47G3VMA46035 | 5K60739 | LIC SURRENDER | BREEDER | |
| 5889 | ROTOTILLER | BEFCO | T60-274 | 209792 | | ALTA RANCH | BREEDER | |
| 5899 | ROTOTILLER | BEFCO | T60-274 | 210959 | | CAMPBELL MTN | BREEDER | |
| 6001 | GOOSENECK TRLR | SPCNS | | CA624639 | 4AN3161 | TKY BREEDERS | BREEDER | |
| 6066 | 3 YARD SCRAPER | EVERSMEN | 2S | 2S 161 | | TWIN PALMS TK | BREEDER | |
| 6087 | 1987 GENERATOR | | | | | ALTA RANCH | BREEDER | |
| 6096 | 265 GAL SPRAYER | THORNE | COMET AZ 9 | N69 0185 | | SMITH MOUNTAI | BREEDER | |
| 6113 | 1983 SCRAPER | 6FT.BOX SC | MF18 | 1406003357 | | TWIN PALMS TK | BREEDER | |
| 6150 | 1990 SCRAPER | EVERSMAN | | | | ALTA | BREEDER | |
| 6169 | SPRAYER 390 GALLO | GEARMORE | GS 300 SSR | ATE 049 51 | | CENTRAL DARK | BREEDER | |
| 6226 | BOX SCRAPER | SOUTHEAST | BIG OX | 95913 | | CAMPBELL MTN | BREEDER | |
| 6369 | SPRAYER - 550 GAL | CROPLINER | 200 DL | 12118 | | SIMERLY RNCH | BREEDER | |
| 6382 | SPRAYER | REARS | MB536 | MO2-136 | | HAYES RANCH | BREEDER | |
| 6437 | 1987 BOX SCRAPER | SOUTHEAST | BIG OX | | | SMITH MOUNTAI | BREEDER | |
| 6469 | SPRAYER 390 GALLO | GEARMORE | 400 SSR | ATE 0113H | | SIMERLY | BREEDER | |
| 6623 | 1972 TRAILER | WTFLD | MODIFIED | 62902 | 4FC4135 | HAYES-PNO | BREEDER | |
| 6649 | SCRAPER/HYDRAULIC | EVERSMAN | 2S | 25169 | | HAYES TKY RAN | BREEDER | |
| 6669 | 72" ROTARY MOWER | BUSH HOG | SQ72R-3 | 1107160 | | HAYES | BREEDER | |
| 6679 | 1989 SWEEPER | SWEEPSTER | RHFA | 891311 | | HAYES | BREEDER | |
| 6710 | BOX SCRAPER | G & M LINE | 2012-8HD | 35411892012-8HD-35 | | SIMERLY | BREEDER | |
| 6721 | GENERATOR | DETROIT DI | 371 | A35279TK | | SMITH MOUNTAI | BREEDER | |
| 6981 | TURKEY HAULER | SPCNS | | CA642766 | | CENTRAL REPL | BREEDER | |
| 6991 | TILT TRAILER | SPCNS | TILT TRAIL | CAL15058 | E391637 | BREEDERS | BREEDER | |
| 7011 | 1981 FARM TRACTOR | MASSEY FER | 230 | 9A340191 | UR 1304 | HAYES RANCH | BREEDER | |
| 7057 | MURPHY GENERATOR | MURPHY | 200207 | 91728-3 | 187963 | SMITH MOUNTAI | BREEDER | |
| 7058 | GENERATOR | MURPHY | 80-18834R | 22155 | | CAMPBELL | BREEDER | |
| 7077 | TRANSPORT AUGER | GT 34 | 3.0 OFFSET | 7002 | | SMITH MOUNTAI | BREEDER | |
| 7106 | 1986 6' DISC | G & M | | 416-201-786 | | CENTRAL RANCH | BREEDER | |
| 7119 | DISK | | | | | SMITH MOUNTAI | BREEDER | |
| 7213 | 1993 FARM TRACTOR | KUBOTA | M7030/M503 | 70770 | | SIMERLY RANCH | BREEDER | |
| 7221 | A108512 BUSH HOG | SQ172 | ROTARY | | | CENTRAL | BREEDER | |
| 7251 | GENERATOR | KOHLER ELE | MOW | 12-13266 | | TURKEY BREEDE | BREEDER | |
| 7281 | 2000 KUBOTA TRACT | | KUBOTA | 320408 | | | BREEDER | |
| 7341 | TURKEY HAULER | SPCNS | | CA642848 | E391692 | TKY BREEDERS | BREEDER | |
| 7351 | TURKEY HAULER | SPCNS | | CA642857 | E617259 | SMITH MTN REP | BREEDER | |
| 7440 | 1990 CUTTER | BUSH HOG | BUSH HOG | 1107688 | | ALTA | BREEDER | |
| 7449 | 1989 BUSH HOG MOW | BUSH HOG | SQ72R-3 | | | SIMERLY | BREEDER | |
| 7450 | 1990 SWEEPER | GEARMORE | R-HF | | | ALTA | BREEDER | |
| 7460 | 1990 SCRAPER | CHAPIN | 8' BOX | 229586 | | ALTA | BREEDER | |
| 7472 | 2002 ROTOTILLER | BEFCO | T60-274 | | | HAYES RANCH | BREEDER | |
| 7480 | 1990 SPRAYER | MINI BLAST | 500 GAL | | | ALTA | BREEDER | |
| 7487 | 1987 55KW GENERAT | JOHN DEERE | 55KW | 4FJ147379 | | HAYES RANCH | BREEDER | |
| 7598 | 1988 GENERATOR | L7760-19 D | F0459300 | 4239TF001 | | CENTRAL LAY | BREEDER | |
| 7608 | SWEEPER | SWEEPSTER | R-HFAC-6 | 870618 | | CENTRAL RANCH | BREEDER | |

| EQUIP # | DESCRIPTION | MAKE | MODEL | SERIAL NUMBER | LIC # | OPERATOR | GL Code Description |
|---------|-------------------|------------|------------|-----------------|--------|---------------|---------------------|
| 7628 | 1987 SCRAPER | EVERSMAN | 2ST | 2ST166 | | CENTRAL RANCH | BREEDER |
| 7638 | 1988 BUSH HOG | BUSH HOG | 72" ROTARY | 1103717 | | CENTRAL RANCH | BREEDER |
| 7648 | 6FT BOX SCRAPER | | | BB72-1-1 | | CENTRAL LAY | BREEDER |
| 7658 | 3FT DISC | | | 414-215-1187 | | CENTRAL RANCH | BREEDER |
| 7668 | 550 GAL SPRAYER | CROPLINER | G&M | 12008 | | CENTRAL LAY | BREEDER |
| 7678 | S&A FEED CART | S & A MFG | GFC674 | 2637 | | CENTRAL LAY | BREEDER |
| 7702 | TILLER | KUBOTA | BL60C | 31532 | | SMITH MTN. | BREEDER |
| 7703 | 2003 BEFCO TILLER | BEFCO | T-60 | 238757 | | CENTRAL LAY | BREEDER |
| 7727 | 1987 SWEEPSTER | SWEEPSTER | RHFAC6 | 98597 | | SMITH MOUNTAI | BREEDER |
| 7737 | G&M DISC | G&M OFFSET | 414 | 414-213-0487 | | HAYES | BREEDER |
| 7747 | BEFCO TILLER | BEFCO | 11-266-23X | 102944 | | SMITH MOUNTAI | BREEDER |
| 7757 | BUSH HOG | BUSH HOG | SQ72R-3 | 1100384 | | SMITH MOUNTAI | BREEDER |
| 7801 | FEED CART | | | | 187850 | TWIN PALMS BR | BREEDER |
| 7883 | 24KW GENERATOR | MURPHY | 800419 | 897503 | | TWIN PALMS BR | BREEDER |
| 7902 | FARM TRACTOR | KUBOTA | L3010 GST | 76048 | | SMITH MTN. | BREEDER |
| 7905 | STEAM CLEANER P | HYDRO-BOSS | ST-35004VG | 200500618 | | TURKEY BREEDE | BREEDER |
| 7965 | FARM TRACTOR | KUBOTA | L3130 GST | 51727-113 | | CENTRAL DARK | BREEDER |
| 7966 | ROTOTILLER | KUBOTA | BL 60C | 31744 | | CENTRAL DARK | BREEDER |
| 7977 | CROPLINER SPRAYER | ANNOVI REV | 2000 | 11902 | | TWIN PALMS | BREEDER |
| 7982 | 1992 FARM TRACTOR | KUBOTA | M8030DT | 60329 | | SMITH MTN | BREEDER |
| 7992 | 1991 FARM TRACTOR | KUBOTA | M8030DTL | 60168 | | CENTRAL LAY | BREEDER |
| 8004 | 500 GAL SPRAYER | REARS | LB536 | M944073 | | SMITH MTN | BREEDER |
| 8012 | 84" BOX SCRAPER | BUSH HOG | SBX-840 | 12-00042 10956R | | TWIN PALMS BR | BREEDER |
| 8037 | EVERSMAN | EVERSMAN 2 | 2S | 165 | | CENTRAL LAY | BREEDER |
| 8059 | 1999 9'OFFSET DIS | DOMRIES | EH 10-9940 | M-5425 | | SMITH MOUNTAI | BREEDER |
| 8355 | 1995 500 GAL SPRA | MINI BLAST | MB500 36 | M903272 | | CAMPBELL MOUN | BREEDER |
| 8496 | 2006 CLUB CAR | UTILITY LI | CCUL-06 | PQ0719-756391 | | CENTRAL LAY | BREEDER |
| 8539 | 1999 FARM TRACTOR | KUBOTA | M9000DTL | 50056 | | CAMPBELL MTN | BREEDER |
| 8541 | SOILMOVER | SOILMOVER | SM35 | 1H9-17009 | | SIMERLY RANCH | BREEDER |
| 8685 | 1975 GENERATOR | DELCO A/C | YE-5392-20 | 47-A-63 | | CENTRAL DARK | BREEDER |
| 8688 | GOLF CART-REFURBI | | | | | TWIN PALMS | BREEDER |
| 8698 | GOLF CART-REFURBI | | | | | SMITH MT. | BREEDER |
| 8834 | 5' LITTER GITTE | PRIEFERT | T75 | 404 | | TWIN PALMS | BREEDER |
| 8839 | 1999 LITTER GITTE | PRIEFERT | 90 | 1560 | | CENTRAL DARK | BREEDER |
| 8869 | 1999 LITTER GITTE | PRIEFERT | 90 | 1557 | | SMITH MOUNTAI | BREEDER |
| 8879 | 1999 FARM TRACTOR | KUBOTA | M9000DT | 50480 | | HAYES TURKEY | BREEDER |
| 8891 | 1991 LITTER GITTE | PRIEFERT | | | | TWIN PALMS | BREEDER |
| 8991 | 5' LITTER GITTE | PRIEFERT | T-75-063 | 4619412 | | SIMERLY | BREEDER |
| 9372 | CENTRAL TKY MISC | | | | | CENTRAL LAY | BREEDER |
| 9382 | ALTA TKY MISC | | | | | ALTA | BREEDER |
| 9460 | 2000 FARM TRACTOR | KUBOTA | M9000DTL | M90050130 | | ALTA RANCH | BREEDER |
| 9470 | 2000 SQUEALER | BUSH HOG | SQ6000 | 12-11528 | | TWIN PALMS | BREEDER |
| 9481 | 2001 GENERATOR W/ | CUMMINS | DGFC-49618 | FO10255071 | | HAYES | BREEDER |
| 9491 | 2001 GENERATOR W/ | CUMMINS | DGFC-49618 | FO10255073 | | CAMPBELL MTN. | BREEDER |
| 9561 | 2001 GENERATOR W/ | CUMMINS | DGFC-49618 | | | TWIN PALMS | BREEDER |
| 9620 | 1990 GENERATOR | LISTER | 3165-0009 | A80925BA | | SMITH MTN.TOM | BREEDER |

Schedule 2.1(j)
Intellectual Property Rights

Marks

U.S. Applications / Registrations

| Mark | Filing Date | Reg. No./Issue Date | Status |
|---------------------------|-------------|----------------------|--------------|
| THE WESTERNER | 2/28/2011 | App. No. 85253535 | Current/Live |
| THE CALIFORNIAN | 4/18/2011 | 4045537 - 10/25/2011 | Current/Live |
| TENDER GOLD | 4/18/2011 | 4031760 - 9/27/2011 | Current/Live |
| ZACKY FARMS (STYLIZED) | 2/1/1985 | 1351943 - 7/30/1985 | Current/Live |
| ZACKY FARMS | 8/23/2002 | 2781924 - 11/11/2003 | Current/Live |
| SAMUEL'S RANCH | 12/17/2012 | App No. 85804435 | Pending |
| INTERNATIONAL POULTRY | 12/17/2012 | App No. 85804398 | Pending |

California Registrations

| Mark | Issue Date | Reg. No. | Status |
|--------------------------|------------|----------|--------------|
| QUICK 'N LEAN | 1/5/2001 | 106948 | Current/Live |
| TENDER GOLD | 7/22/1999 | 105299 | Current/Live |
| POPPY | 7/22/1999 | 105301 | Current/Live |
| SOUP'R CHICKEN | 7/22/1999 | 105298 | Current/Live |
| CULINARY CLASSICS | 7/22/1999 | 105297 | Current/Live |
| INTERNATIONAL POULTRY | 7/22/1999 | 105296 | Current/Live |
| ZACKY FARMS | 2/19/1985 | 75993 | Current/Live |

Domain Name

| Domain Name | Expiration Date | Registrant |
|--------------------|-------------------|---|
| www.zacky.com | expires 9/18/2014 | Joe Zacky PO Box 12556 Fresno, CA 93778 |
| www.zackyfarms.com | expires 11/6/2014 | Joe Zacky PO Box 12556 Fresno, CA 93778 |

Trade Names

Zacky
Zacky Farms

Schedule 2.1(I)
Permits and Licenses

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|------------------------------|---------------|---------------|------------------------------|--|
| PSM/RMP | US EPA | Turkey Plant | 06/25/09 | 06/25/14 | EPA #1000 0013 9021, Anhydrous Ammonia |
| PSM/RMP | US EPA | Empire (West) | 06/25/09 | 06/25/14 | EPA #1000 0013 9076, Anhydrous Ammonia |
| PSM/RMP | US EPA | Empire (East) | 06/25/09 | 06/25/14 | EPA #1000 0013 8059, Anhydrous Ammonia |
| Haz Mat Business Plan | Fresno County Environ Health | Turkey Plant | 03/09/11 | 03/09/14 | Fac # FA 0169345 |
| Haz Mat Business Plan | Fresno County Environ Health | Empire | 06/27/08 | 12/31/12 | Fac # FA 0268250 (due for renewal) |
| HAZ MAT DISPOSAL | CAL DTSC | Empire | on going | on going | CAL EPA # CAL9222262476, established 20+ yrs ago |
| HAZ MAT DISPOSAL | CAL DTSC | Turkey Plant | on going | on going | CAL EPA # CAL920784019, established 20+ yrs ago |
| Pressure vessel operating permit | Cal OSHA | Turkey Plant | 08/28/10 | 08/28/13 | Permit # L016364-07, for propane tank |
| Pressure vessel operating permit | Cal OSHA | Turkey Plant | 05/05/12 | 05/05/13 | Permit # B016363-07, for boiler # 1 |
| Pressure vessel operating permit | Cal OSHA | Turkey Plant | 05/05/12 | 05/05/13 | Permit # B016389-07, for boiler # 2 |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|-----------------------------|--------------|---------------|------------------------------|--|
| Pressure vessel operating permit | Cal OSHA | Empire | 03/23/10 | 03/22/13 | Permit # L027316-96, for propane tank |
| Pressure vessel operating permit | Cal OSHA | Empire | 11/05/11 | 11/05/12 | Permit # B014827-09, for boiler |
| Special Hazard Material | City of Fresno | Empire | 08/11/09 | 09/01/11 | Fire Dept permit # 14149 |
| PEER | SJVUAPCD (Air District) | Turkey Plant | | 05/15/14 | Permit Exempt Equipment Registration (Boiler) C-2074-1-0 |
| PEER | SJVUAPCD (Air District) | Empire | 08/25/09 | 08/25/14 | Permit Exempt Equipment Registration (Boiler) C-7831-1-0 |
| Devise Registration | County of Fresno | Turkey Plant | 02/01/10 | 12/31/11 | Weights & Measures, Scale |
| Weigh Master | Cal Dept Food & Agriculture | Turkey Plant | 07/01/12 | 07/01/13 | Deputy Weigh Masters |
| PDA/PL | Cal Dept Food & Agriculture | Both | 01/01/10 | 01/01/11 | Processor License, A17629 |
| Unified Program Facility Permit | Fresno County Public Health | Turkey Plant | 01/01/12 | 12/31/12 | #16943/49190, ext haz sub handler |
| Unified Program Facility Permit | Fresno County Public Health | Turkey Plant | 01/01/12 | 12/31/12 | #16944/54890, haz waste gen |
| Unified Program Facility Permit | Fresno County Public Health | Turkey Plant | 01/01/12 | 12/31/12 | #16945/54891, Cal/Arp RMP |
| Fire Prevention Permit | City of Fresno | Turkey Plant | 09/01/09 | 09/01/10 | Permit # 21333 |
| Pressure vessel operating permit | Cal OSHA | Turkey Plant | 06/24/12 | 06/24/17 | Permit #A001422-98, Air Pressure Tank |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|-----------------------------|--------------|---------------|------------------------------|---------------------------------------|
| Pressure vessel operating permit | Cal OSHA | Turkey Plant | 06/26/12 | 06/26/17 | Permit #A001421-98, Air Pressure Tank |
| Inedible Permit | Cal Dept Food & Agriculture | Turkey Plant | 11/10/03 | until revoked | |
| WasteWater Discharge Permit | City of Fresno | Turkey Plant | 05/18/12 | 05/18/13 | #FI(e)-85591 |
| WasteWater Discharge Permit | City of Fresno | Empire | 05/18/12 | 05/18/13 | #FI(e)-109607 |
| Pressure vessel operating permit | Cal OSHA | Empire | 06/26/12 | 06/26/17 | Permit #A001595-96, Air Pressure Tank |
| Pressure vessel operating permit | Cal OSHA | Empire | 06/24/12 | 06/24/17 | Permit #A001650-90, Air Pressure Tank |
| Unified Program Facility Permit | Fresno County Public Health | Empire | 06/30/12 | 06/30/13 | #14881/49167, ext haz sub handler |
| Unified Program Facility Permit | Fresno County Public Health | Empire | 06/30/12 | 06/30/13 | #14882/55761, haz waste gen |
| Unified Program Facility Permit | Fresno County Public Health | Empire | 06/30/12 | 06/30/13 | #14883/59237, CalArp RMP |
| Pressure vessel operating permit | Cal OSHA | Stockton | | 06/18/16 | Permit #A016303-96, Air Pressure Tank |
| Pressure vessel operating permit | Cal OSHA | Stockton | | 06/18/16 | Permit #A022389-74, Air Pressure Tank |
| Pressure vessel operating permit | Cal OSHA | Stockton | | 06/18/13 | Permit #B022388-74, Boiler |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|---------------------------------------|--|----------|---------------------------------|------------------------------|--|
| Pressure vessel operating permit | Cal OSHA | Stockton | | | Permit # , LPG Tank |
| Waste Water Discharge Permit | City of Stockton | Stockton | 09/01/10 | 08/31/15 | As specified in 40 CFR 403.3 |
| Slug Discharge Control Plan | City of Stockton | Stockton | 11/26/12 | 11/25/13 | As specified in 40 CFR 403.5 |
| Storm Water Pollution Prevention Plan | State of California Regional Water Quality Control Board | Stockton | on-going with renewal fees paid | | WDID # 5S39I013719 |
| Permit to Operate | SJVUAPCD (Air District) | Stockton | | 11/30/13 | N-715-2-3, 15.7 MMBTU Boiler |
| Haz Mat Management Plan | San Joaquin County OES | Stockton | 12/27/11 | 03/01/13 | Facility 8251 |
| Environmental Health permit | San Joaquin Co. Envir Health | Stockton | | 12/31/12 | PT0010565 |
| Fire Permit | City of Stockton Fire Dept | Stockton | | 03/02/13 | 64089/69503 42906 |
| Business License Tax Cert | City of Stockton | Stockton | | 03/31/13 | (2), 12-00050380 0042781 & 12-00055300 0047255 |
| HAZ MAT DISPOSAL | CAL DTSC | Stockton | on going | on going | CAL EPA # CAL00128476 |
| CalARP RMP | San Joaquin County | Stockton | 08/05/10 | 08/05/15 | |
| Storm Water Pollution Prevention Plan | State of California Regional Water Quality Control Board | Garage | on-going with renewal fees paid | | WDID # 5F10I004630 |
| HAZ MAT DISPOSAL | CAL DTSC | Annex | on going | on going | CAL EPA # CAL000353062 |
| Pressure vessel operating permit | Cal OSHA | Hatchery | 01/04/12 | 10/23/14 | Permit A028668-04, Air pressure tank |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|-------------------------|---------------|---------------|------------------------------|--------------------------------------|
| Pressure vessel operating permit | Cal OSHA | Hatchery | 01/04/12 | 10/23/14 | Permit A008742-82, Air pressure tank |
| Pressure vessel operating permit | Cal OSHA | Hatchery | 10/23/09 | 10/23/14 | Permit A014838-09, Air pressure tank |
| Permit to Operate | SJVUAPCD (Air District) | Brawley Ranch | 01/23/12 | 12/31/14 | C-5409-1-2, C-5409-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | Brawley Ranch | 09/08/11 | 09/07/16 | Permit L001463-98, LPG tank |
| Pressure vessel operating permit | Cal OSHA | Brawley Ranch | 09/08/11 | 09/07/16 | Permit L001815-87, LPG tank |
| Pressure vessel operating permit | Cal OSHA | Brawley Ranch | 09/08/11 | 09/07/16 | Permit L001814-87, LPG tank |
| Pressure vessel operating permit | Cal OSHA | Brawley Ranch | 09/08/11 | 09/07/16 | Permit L001813-87, LPG tank |
| Pressure vessel operating permit | Cal OSHA | Brawley Ranch | 09/08/11 | 09/07/16 | Permit L001811-87, LPG tank |
| Permit to Operate | SJVUAPCD (Air District) | G & H Ranch | 01/23/12 | 12/31/14 | C-7306-1-2, C-7306-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003399-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003396-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003397-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003398-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003400-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003401-08, LPG |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|---------------------------|-------------|---------------|------------------------------|--------------------------------------|
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003402-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003403-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit L003404-08, LPG |
| Pressure vessel operating permit | Cal OSHA | G & H Ranch | 02/05/08 | 02/04/13 | Permit A003395-08, Air pressure tank |
| Permit to Operate | SJVUAPCD (Air District) | Kent Ranch | 01/12/12 | 12/31/14 | C-5406-1-2, C-5406-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | Kent Ranch | | | LPG |
| Haz Mat Business Plan | Kings County Envir Health | Kent Ranch | 06/01/12 | 06/01/15 | FA0000673 |
| Cond Use Permit | Kings County | Kent Ranch | 01/03/89 | on-going | CUP# 1495 |
| Permit to Operate | SJVUAPCD (Air District) | Holm Ranch | 01/31/12 | 12/31/14 | C-5410-1-2, C-5410-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | Holm Ranch | | | LPG |
| Haz Mat Business Plan | Kings County Envir Health | Holm Ranch | 06/01/12 | 06/01/15 | FA0000553 |
| Cond Use Permit | Kings County | Holm Ranch | | on-going | |
| Permit to Operate | SJVUAPCD (Air District) | 18th Ranch | 01/31/12 | 12/31/14 | C-5404-1-2, C-5404-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | 18th Ranch | | | LPG |
| Haz Mat Business Plan | Kings County Envir Health | 18th Ranch | 06/01/12 | 06/01/15 | FA0000600 |
| Cond Use Permit | Kings County | 18th Ranch | 01/03/89 | on-going | CUP # 1496 |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|-----------------------------|--------------|---------------|------------------------------|---|
| Permit to Operate | SJVUAPCD (Air District) | 6th Ranch | 01/31/12 | 12/31/14 | C-5412-1-2, C-5412-2-2 plus CMP's |
| Pressure vessel operating permit | Cal OSHA | 6th Ranch | | | LPG |
| Pressure vessel operating permit | Cal OSHA | 6th Ranch | | | LPG |
| Pressure vessel operating permit | Cal OSHA | 6th Ranch | | | LPG |
| Pressure vessel operating permit | Cal OSHA | 6th Ranch | | | Air Tank |
| Haz Mat Business Plan | Kings County Envir Health | 6th Ranch | 05/31/12 | 05/31/15 | FA0002119 |
| Conservation Management Plan | SJVUAPCD (Air District) | Experimental | 01/01/05 | continuous | C-5401-CMPP-0, CMP's only |
| Pressure vessel operating permit | Cal OSHA | Experimental | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Experimental | | | LPG |
| Cond Use Permit | Fresno County | Litter Yard | | continuous | |
| Business License | City of Fresno | Empire | 10/06/01 | continuous | #169159 |
| Business License | City of Kerman | Hatchery | 01/01/13 | 12/31/13 | #12-3186 |
| Business License | City of Los Angeles | Crossroads | 04/04/10 | continuous | #998257-0001-0 |
| Business Tax Certificate | City of Oakland | | | 12/31/2012 | #695769 |
| Business License | City of Pico Rivera | | | 12/31/2012 | #28151 |
| Business Tax Certificate | City of Riverside | | | 12/31/2012 | #BL00006762 |
| Health Permit | City of Vernon Health Dept. | | 08/30/2012 | 06/30/2013 | Facility ID: FA0000819 (wholesale food truck) |
| Pressure vessel operating permit | Cal OSHA | Alta | | | |

| License / Permit | Permitting Agency | Location | Date of Issue | Date of Expiration / Renewal | Acct./ Certificate No. |
|----------------------------------|-------------------|---------------|---------------|------------------------------|------------------------|
| Pressure vessel operating permit | Cal OSHA | Central Lay | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Central Dark | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Hayes | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Simerly | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Simerly | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Smith Mint | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Smith Mint 3 | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Twin Palms | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Twin Palms | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Twin Palms | | | LPG |
| Pressure vessel operating permit | Cal OSHA | Campbell Mint | | | LPG |

Schedule 3.3
Required Governmental Authorizations

None.

Schedule 3.5
Required Consents

None.

Schedule 3.6
Litigation

| Caption of Suit and Case Number | Nature of Proceeding | Court and Location | Status or Disposition |
|--|---|--|--|
| Foster Poultry Farms v. Zacky Farms, Inc., Adversary Proceeding No. 12-02672 | Complaint for breach of contract and unfair competition | U.S. Bankruptcy Court, Eastern District of California | Pending |
| Philcohn, Inc. v. Zacky Farms, LLC, Case No. 37-2012-00091880-CUSC-CTL | Complaint for breach of contract | Superior Court of the State of California in and for the County of San Diego | Judgment was entered against Zacky Farms for \$23,250 on July 30, 2012. |
| Carter, Alvin v. Zacky Farms, Case No. ADJ3498080 | Workers Compensation | Fresno Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |
| Gonzalez, Isidro v. Zacky Farms, Case No. ADJ7352163 | Workers Compensation | Fresno Workers Compensation Appeals Board | Case settled for \$1000. Will close in the next 30 days. |
| Mancha, John v. Zacky Farms ADJ7989853 | Workers Compensation | Fresno Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |
| Reinhardt, Joseph v. Zacky Farms, Case Nos. ADJ7888333 & ADJ7831912 | Workers Compensation | Stockton Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |

| Caption of Suit and Case Number | Nature of Proceeding | Court and Location | Status or Disposition |
|---|----------------------|--|---|
| Sanchez, Jesus v. Zacky Farms, Case No. ADJ8328229 | Workers Compensation | Ventura Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |
| Soto, Juana v. Zacky Farms Case No. ADJ8037779 | Workers Compensation | Fresno Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |
| Torrecillas, Minerva v. Zacky Farms Case No. ADJ8344658 | Workers Compensation | Fresno Workers Compensation Appeals Board | Workers compensation claim contested by Zacky Farms. Matter pending before the WCAB. |
| Cruz, Richard v Zacky Farms, LLC, Case No. 39-2010-00244196-CU-PL-STK | Personal Injury | San Joaquin County Superior Court | Pending. Zacky Farms' defense is being provided by Nationwide Agribusiness insurance. Mr. Cruz has agreed to forego any claim against Zacky Farms and limit his recovery to Zacky's insurance policy. |

Schedule 3.7

Challenges, Infringements and Licenses of Intellectual Property Rights

Challenges

On November 20, 2012, Foster Poultry Farms (“Foster”) filed a complaint against Seller alleging that Seller has breached the purchase and trademark agreements between the parties by offering chicken products for sale under the Zacky Farms trademark (Registration No. 1351943). Foster’s adversary proceeding against Seller seeks (i) a judgment in favor of Foster and against Seller for breach of the purchase and trademark agreements; (ii) a preliminary and permanent injunction preventing Seller from selling chicken under the disputed trademark name; (iii) a judgment in favor of Foster and against Seller for unfair competition; (iv) disgorgement of any revenues derived from Seller’s allegedly wrongful actions; and (v) Foster’s costs of the lawsuit and other expenses and costs of litigation, including attorney’s fees.

Infringements

None.

Licenses

None.

Schedule 3.8
Permits

See Schedule 2.1(1).

Schedule 3.10
Environmental Matters

1. Those certain Phase I and Phase II Environmental Site Assessments, Zacky Farms, LLC, Stockton Plant, 1111 Navy Drive, Stockton, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated October 13, 1995.
2. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Stockton Plant, 1111 Navy Drive, Stockton, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated April 26, 2007.
3. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Sunbird (leased property), 5606 E. Davis Avenue, Laton, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated November 8, 2006.
4. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Samuel Brood (leased property), 9633 Niles Avenue, Corcoran, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated February 23, 2006.
5. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Samuel Grow and Big Feather (leased properties), 11005 and 11009 Nevada Avenue, Corcoran, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated February 24, 2006.
6. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Mars (leased property), 8777 Road 88, 8631 Road 88 and 8688 Road 84, Pixley, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated January 9, 2007.
7. Those certain Phase I and Phase II Environmental Site Assessments, Zacky Farms, LLC, Kerman Turkey (leased property), 25757 W. Whitesbridge Avenue, Kerman, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated June 4, 2007.
8. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Florence Warehouse, 2272 S. East Avenue, Fresno, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated April 8, 2008.
9. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Vacant Land in Hanford, California, PTN of N ½ of NE ¼ SEC 24/19/21, Hanford, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated May 29, 2008.
10. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, G & H, 8351 McMullin Grade, Fresno, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated June 6, 2006.

11. That certain Phase I Environmental Site Assessment, Zacky Farms, LLC, Empire Facility and Corporate Offices, 2950 E. California Street, Fresno, California and 2020 S. East Avenue, Fresno, California, prepared for Zacky Farms, LLC, prepared by Krazan & Associates, Inc., dated April 26, 2007.

Schedule 3.11
Exceptions to Real Property

Except as otherwise provided for in the title reports for the Acquired Real Property, none.

Schedule 5.1
Ordinary Course Exceptions

None.

Schedule 5.5
Employee Benefit Plans

Plans

Self-Funded Medical Insurance Plan

- a. **Medical**
Preferred Provider Network (PPO) style plan. Seller contracts with HealthComp Administrators, Inc. (“HealthComp”) to provide third-party administrative services for the Health Plan. HealthComp contracts with Anthem Blue Cross to allow Seller to have access to the preferred Blue Cross billing rates.
- b. **Prescription**
Seller contracts with Restat, LLC (“Restat”) to provide third-party managed pharmacy benefit services. The agreement with Restat provides for claims processing and access to Restat’s contracted retail, mail order and specialty network pharmacies.
- c. **Dental**
Network is MetLife/SafeGuard DMO
- d. **Vision**
Employee may submit receipts to HealthComp for reimbursement.

Retirement Plans

“Union Only” 401-K Plan

“Non-Union Only” 401-K Plan

Life and AD&D Insurance Plan

Seller contracts with Sun Life Insurance Company of Canada to provide life and accidental death and dismemberment insurance. Salaried employees have the option to purchase supplemental life and long-term disability insurance at their own cost.

Workers Compensation Plan

Seller maintains a self-insurance program for the payment of workers’ compensation claims. Seller contracts with Acclamation Insurance Management Services to provide third-party administrative services for this plan. CorVel Healthcare Corporation provides third-party medical cost containment and managed care services for the plan.

Collective Bargaining Agreements

Seller entered into those certain Collective Bargaining Agreements with United Food & Commercial Workers Union 8-Golden State for its Fresno, California and Stockton, California locations (each a “Collective Bargaining Agreement”). The Fresno, California Collective Bargaining Agreement is in effect from March 1, 2011 to March 31, 2014. The Stockton, California Collective Bargaining Agreement is in effect from March 1, 2011 to October 31, 2014.

Other

Healthcare Flexible Spending Account

Dependent Care Flexible Spending Account

Non-Compliance
None.

Zacky Farms, LLC
Weekly Cash Flow Forecast
As of 2/6/13

Forecast Week:
Week-Ending:
(\$ in 000s)

| | 1 8-Feb Forecast | 2 15-Feb Forecast | 3 22-Feb Forecast | 4 1-Mar Forecast | 4 Week Total Forecast |
|---|------------------------|-------------------------|-------------------------|------------------------|-----------------------------|
| Total Sales | \$ 2,960.2 | \$ 2,331.3 | \$ 2,183.0 | \$ 2,234.4 | \$ 9,708.8 |
| Sales Receipts | 2,060.0 | 2,060.0 | 2,060.0 | 2,960.2 | 9,140.1 |
| | \$ 2,060.0 | \$ 2,060.0 | \$ 2,060.0 | \$ 2,960.2 | \$ 9,140.1 |
| Disbursements | | | | | |
| Feed | \$ 1,117.1 | \$ 1,135.2 | \$ 1,059.7 | \$ 1,078.6 | \$ 4,390.6 |
| Salaries | 693.0 | 500.0 | 693.0 | 500.0 | 2,386.0 |
| Contract Grower Pay | 15.7 | 17.7 | 16.6 | 16.4 | 66.4 |
| Outside Raw Material Purchases | 250.0 | 250.0 | 250.0 | 250.0 | 1,000.0 |
| Other Live Costs | 119.2 | 122.2 | 120.5 | 120.2 | 482.1 |
| Affiliate Ranch Leases | 186.0 | - | - | 186.0 | 372.1 |
| Debt Service | 257.4 | - | - | 296.4 | 553.9 |
| Capital Expenditures | 62.5 | 62.5 | 62.5 | 62.5 | 250.0 |
| Transportation | 79.4 | 82.8 | 78.7 | 80.1 | 321.0 |
| Utilities ¹ | 43.7 | 265.3 | 67.2 | 61.9 | 438.2 |
| Packaging | 311.6 | 316.6 | 163.8 | 163.3 | 955.4 |
| Repairs & Maintenance | 125.0 | 125.0 | 125.0 | 125.0 | 500.0 |
| SG&A | 283.6 | 161.6 | 160.0 | 175.1 | 780.4 |
| Other | 125.0 | 125.0 | 125.0 | 125.0 | 500.0 |
| Professional Fees and Other: | | | | | |
| Debtor Financial Advisors ¹ | \$ 125.0 | \$ 834.1 | \$ 125.0 | \$ 125.0 | \$ 1,209.1 |
| Debtor Counsel ¹ | 50.0 | 373.9 | 50.0 | 50.0 | 523.9 |
| Debtor Investment Banker | - | - | - | - | - |
| Debtor Transaction Counsel ¹ | 125.0 | 562.5 | 125.0 | 125.0 | 937.5 |
| DIP Professionals | 37.5 | 37.5 | 37.5 | 37.5 | 150.0 |
| Debtor Claims Agent | - | 15.0 | - | - | 15.0 |
| Debtor and DIP Lender Professional Fees | \$ 337.5 | \$ 1,823.0 | \$ 337.5 | \$ 337.5 | \$ 2,835.5 |
| Committee Professional Fees ¹ | \$ 10.0 | \$ 90.0 | \$ 10.0 | \$ 10.0 | \$ 120.0 |
| US Trustee Fees | - | - | - | 30.0 | 30.0 |
| Collateral Monitoring Fee | 25.0 | - | - | 25.0 | 50.0 |
| Total Disbursements | \$ 4,041.9 | \$ 5,076.9 | \$ 3,269.5 | \$ 3,643.1 | \$ 16,031.5 |
| Operating Cash Flow | \$ (1,981.9) | \$ (3,017.0) | \$ (1,209.6) | \$ (683.0) | \$ (6,891.4) |
| Cumulative Operating Cash Flow (Current Forecast) | \$ (1,981.9) | \$ (4,998.9) | \$ (6,208.4) | \$ (6,891.4) | \$ (6,891.4) |
| Cumulative Operating Cash Flow (DIP Period with Actual) | \$ (4,861.1) | \$ (7,878.0) | \$ (9,087.6) | \$ (9,770.6) | |
| Loan Structure | | | | | |
| Pre-Petition Loan: | | | | | |
| Beginning Balance | \$ 1,800.4 | \$ - | \$ - | \$ - | \$ 1,800.4 |
| Borrowing Needs - Draw / (Paydown) | (1,800.4) | - | - | - | (1,800.4) |
| Ending Balance | \$ - | \$ - | \$ - | \$ - | \$ - |
| Post Petition Loan: | | | | | |
| Beginning Balance | \$ 57,300.0 | \$ 61,082.3 | \$ 64,099.3 | \$ 65,308.8 | \$ 57,300.0 |
| Facility Front End Fee | - | - | - | - | - |
| Collateral Provided for Letter of Credit | - | - | - | - | - |
| Borrowing Needs - Draw / (Paydown) | 3,782.3 | 3,017.0 | 1,209.6 | 683.0 | 8,691.8 |
| Ending Balance | \$ 61,082.3 | \$ 64,099.3 | \$ 65,308.8 | \$ 65,991.8 | \$ 65,991.8 |
| Total Outstanding Debt | \$ 61,082.3 | \$ 64,099.3 | \$ 65,308.8 | \$ 65,991.8 | \$ 65,991.8 |
| Accrued/Unpaid Admin Claims (excluding Prof Fees) | \$ 2,117.1 | \$ - | \$ - | \$ - | \$ 2,117.1 |
| Outstanding Deposits to be Recovered Post-Close | \$ 740.0 | \$ - | \$ - | \$ - | \$ 740.0 |

¹ Amount in the week ending February 15, 2013 includes accrued and unpaid liabilities.

EXHIBIT B

FORM OF CREDITOR RECOVERY NOTE & SECURITY AGREEMENT

\$3,500,000

Los Angeles, California
[•], 2013

FOR VALUE RECEIVED, [•], a [•] (the “Purchaser”), hereby unconditionally promises to pay, in the manner set forth below, for the benefit of ZACKY FARMS, LLC (the “Seller”), the principal sum of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$3,500,000.00) (as such amount may be increased or reduced from time to time pursuant to Sections 3 and 4 hereof (as applicable), the “Principal Sum”), plus interest on the Principal Sum as set forth in Section 1 hereof. All capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement, dated as of February 6, 2013, by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988 and Seller (the “Asset Purchase Agreement”).

1. **Interest.** Interest on the unpaid principal amount of this Note & Security Agreement outstanding from time to time shall accrue from the date hereof to and including the date on which the outstanding principal and accrued and unpaid interest is paid in full, at the interest rate of four percent (4%) per annum, payable quarterly in arrears on each of (a) the date that is ninety (90) days from the date hereof, (b) the date that is one hundred eighty (180) days from the date hereof, (c) the date that is two hundred seventy (270) days from the date hereof, (d) the date that is three hundred sixty (360) days from the date hereof, (e) the date that is four hundred fifty (450) days from the date hereof, (f) the date that is five hundred forty (540) days from the date hereof, (g) the date that is six hundred thirty (630) days from the date hereof, and (h) the date that is the two (2) year anniversary of the date hereof. If any such date shall be a day other than a Business Day, then such interest shall be payable on the next Business Day after such date. All interest hereunder shall be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

2. **Repayment of Principal.** The Principal Sum shall become due and payable on the date that is the two (2) year anniversary of the date hereof (the “Maturity Date”).

3. **Increase of Principal.** From time to time (upon the accrual, occurrence or payment of such amounts or obligations), the Principal Sum of this Note shall be automatically increased by an amount equal to all damages, obligations, liabilities, costs (including, without limitation, defense costs), fees (including, without limitation, legal fees) and other amounts paid or payable by the Seller or its bankruptcy estate on account of, related to or otherwise arising from either of the Asset Purchase Agreements (Lots 1 and 2) entered into between the Seller and Pitman (collectively, the “Pitman Purchase Agreements”), including, without limitation, any such damages, obligations, liabilities, costs, fees or other amounts resulting from any breach or alleged breach of the Pitman Purchase Agreements by the Seller.

4. **Prepayment.** The Purchaser at any time or from time to time may prepay, in cash, the unpaid principal amount of or interest on this Note & Security Agreement, in whole or in part, without penalty or premium. If Purchaser shall sell any Collateral (as defined below) with net proceeds of no less than \$50,000 other than in the ordinary course of business, the proceeds of such sale shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder. Any net amount of insurance proceeds received on account of the Collateral remaining after the cost of replacement of such Collateral shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder.

5. **Manner of Making Payments.** Payment of any amounts hereunder (whether principal or interest) shall be made to Seller in United States dollars by wire transfer of immediately available funds not later than 2:00 p.m., Los Angeles, California time, on the date such payment is due, to such bank account as Seller may from time to time designate in writing.

6. **Application of Payments.** All payments made hereunder shall be applied first to accrued and unpaid interest and then to the unpaid principal amount hereof (which shall reduce the then current Principal Sum).

7. **Pledge of Collateral.** As collateral security for the prompt and complete payment of the Purchaser's obligation under this Note & Security Agreement (whether at the stated maturity, by acceleration, or otherwise), the Purchaser hereby grants to Seller a continuing security interest in the collateral set forth on Schedule A hereto (the "Collateral"). The Purchaser hereby irrevocably authorizes Seller, at any time and from time to time, to file in any appropriate filing office, wherever located, any financing statement describing the Collateral that contains any information required by the Uniform Commercial Code of the applicable jurisdiction for the sufficiency or filing office acceptance of any financing statement. The Purchaser also authorizes Seller to take any and all actions required by law, equity, statute or otherwise to perfect and protect the security interest granted hereunder.

8. **Termination of Security Interest.** Upon the payment in full of any and all amounts payable in connection with or due under this Note & Security Agreement, the security interest granted to Seller in the Collateral shall terminate. Upon any such termination, Seller shall execute and deliver to the Purchaser such documents as the Purchaser will reasonably request to evidence such termination.

9. **Title to Collateral.** The Purchaser shall not affirmatively grant a security interest in or lien on the Collateral that is senior to or *pari passu* with the interests in Collateral provided by this Note & Security Agreement. The Purchaser will take all commercially reasonable efforts to defend the Collateral against all material claims or demands of all Persons (other than the Seller) claiming the Collateral or any interest therein.

10. **Name and Jurisdiction of Organization.** The Purchaser represents and warrants that the Purchaser's legal name is as set forth in the opening paragraph hereof, and that the Purchaser is organized and in good standing in the State of [●]. The Purchaser will not change

its name or jurisdiction of organization unless the Seller has been given at least ten (10) Business Days prior written notice thereof.

11. **Further Assurances; Attorney-in-Fact.**

11.1 **Further Assurances.** The Purchaser agrees that, from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Seller may reasonably request, in order to perfect and protect the security interest granted or purported to be granted hereby or to enable the Seller to exercise and enforce its rights and remedies hereunder with respect to any Collateral (but any failure to request or assure that the Purchaser execute and deliver such instrument or documents or to take such action will not affect or impair the validity, sufficiency or enforceability of this Note & Security Agreement and the security interest, regardless of whether any such item was or was not executed and delivered or action taken in a similar context or on a prior occasion).

11.2 **Identification of Collateral.** Upon Seller's reasonable request, the Purchaser will furnish to the Seller, from time to time, statements and schedules, if any, that Purchaser has prepared in the ordinary course of its business that further identify and describe the Collateral.

11.3 **Attorney-in-Fact.** In furtherance, and not in limitation, of the other rights, powers and remedies granted to the Seller in this Agreement, upon the occurrence and during the continuation of an Event of Default, the Purchaser hereby appoints the Seller the Purchaser's attorney-in-fact, with full authority in the place and stead of Purchaser and in the name of Purchaser or otherwise, from time to time in the Seller's good faith discretion, to take any action (including the right to collect on any Collateral) and to execute any instrument that the Seller may reasonably believe is necessary or advisable to accomplish the purposes of this Note & Security Agreement, in a manner consistent with the terms hereof.

12. **Taxes and Claims.** The Purchaser will promptly pay all material taxes and other material charges levied or assessed by any Governmental Authority upon or against any Collateral or upon or against the creation, perfection or continuance of the security interest, except to the extent such taxes, charges or claims are being contested by the Purchaser in good faith by appropriate proceedings.

13. **Books and Records.** The Purchaser will keep and maintain, at its own cost and expense, records of the Collateral in the ordinary course of its business consistent with past practice.

14. **Inspection, Reports, Verifications.** Upon the occurrence and during the continuation of an Event of Default, the Purchaser will at all reasonable times permit the Seller or its representatives to examine or inspect any Collateral, any evidence of Collateral and the Purchaser's books and records concerning the Collateral, wherever located.

15. **Notice of Loss.** The Purchaser will promptly notify the Seller of any material loss of or material damage to any item of Collateral with a fair market value in excess of \$50,000.

16. **Insurance.** The Purchaser will insure the Collateral in the ordinary course of its business consistent with past practice.

17. **Events of Default.** If any of the following events (“Events of Default”) occurs:

(a) Purchaser shall fail to pay any principal amount or interest due under this Note & Security Agreement when the same becomes due and payable and has failed to cure such failure within ten (10) Business Days of written notice of such failure by Seller to Purchaser;

(b) Purchaser shall fail to observe or perform, in any material respect, any covenant of Purchaser set forth in this Note & Security Agreement and fails to diligently commence, within ten (10) Business Day of written notice of such failure by Seller to Purchaser, to cure the same;

(c) Purchaser shall suffer a casualty of \$500,000 or more to any item of any uninsured Collateral;

(d) Purchaser shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or application or an answer or otherwise commence any action or proceeding seeking reorganization, arrangement, consolidation, compromise or readjustment of its debts or seeking a stay which has the effect of staying any creditor or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of an interim receiver, a receiver, a receiver and manager, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment for the benefit of creditors; or (iv) be unable generally to pay its debts as they become due;

(e) An involuntary petition shall be filed or application made or an action or proceeding otherwise commenced seeking reorganization, arrangement, consolidation, compromise, or readjustment of the debts of the Purchaser or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing and such petition or proceeding shall not be dismissed within sixty (60) days after the filing or commencement thereof or an order of relief shall be entered with respect thereto;

(f) An interim receiver, administrator, administrative receiver, receiver, assignee, liquidator, sequestrator, custodian, monitor, trustee or similar officer for Purchaser or for all or any part of his property shall be appointed or a warrant of attachment, execution or

similar process shall be issued in any jurisdiction against any part of the property of Purchaser; or

(g) An Event of Default (as defined in the 503(b)(9) Note) has occurred.

then and, in any such event, Seller may proceed to protect and enforce its rights in the manner set forth in Section 16 hereof.

18. **Remedies.** If an Event of Default has occurred, (a) at the option of Seller by written notice to Purchaser, in the case of an Event of Default (other than an Event of Default under Section 16(d), (e) or (f)), and immediately and automatically, without notice or declaration of any kind, in the case of an Event of Default under Section 16(d), (e) or (f), any and all amounts outstanding hereunder shall at once become due and payable in full and in the manner set forth in Sections 2 and 4 hereof and (b) Seller may proceed to protect and enforce all rights, remedies and recourse as shall be available to Seller by law, equity, statute or otherwise by a suit or other appropriate proceeding, whether, without limitation, for the specific performance of any covenant or agreement contained in this Note & Security Agreement, or for an injunction against a violation of any of the terms hereof or in aid of the exercise of any right, power or remedy granted hereby or by law, equity, statute or otherwise. No course of dealing and no delay on the part of Seller in exercising any right, power or remedy will operate as a waiver thereof or otherwise prejudice Seller's rights, powers or remedies. No right, power or remedy conferred hereby is exclusive of any other right, power or remedy referred to herein or now or hereafter available at law, by statute or otherwise. The Purchaser hereby waives protest, presentment, demand for payment, notice of dishonor and notice of acceleration of maturity and agrees to continue to remain bound for the payment of principal, interest and all other sums due under this Note & Security Agreement, notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note & Security Agreement or by way of any extension or extensions of time for the payment of principal and interest. The Purchaser shall pay all costs of collection when incurred, including, without limitation, reasonable attorneys' fees, costs and other expenses. The Seller may, as applicable, exercise and enforce any and all rights and remedies available upon default to a secured party under Division 9 of the Uniform Commercial Code as adopted in the State of California, or as allowed to the trustee or beneficial holder (as applicable) of a deed of trust pursuant to California law.

19. **Costs and Expenses.** If an Event of Default has occurred, the Purchaser will reimburse the Seller on demand for all reasonable out-of-pocket expenses (including all reasonable fees and expenses of counsel and of any experts and agents) incurred by the Seller in connection with the foreclosure or enforcement of Seller's security interest and the enforcement of this Note & Security Agreement, and all such costs and expenses will be part of the obligations secured by the security interest granted in this Note & Security Agreement.

20. **The Seller's Duties as the Secured Party.** The powers conferred on the Seller hereunder are solely to protect its interest in the Collateral and will not impose any duty upon it to exercise any such powers. The Seller will be deemed to have exercised reasonable care in the safekeeping of any Collateral in its possession if such Collateral is accorded treatment

substantially equal to the safekeeping which the Seller accords its own property of like kind. Except for the safekeeping of any Collateral in its possession and the accounting for monies and for other properties actually received by it hereunder, the Seller will not have any duty, as to any Collateral, as to the taking of any necessary steps to preserve rights against any persons or any other rights pertaining to any Collateral. The Seller does not have any fiduciary relationship to the Purchaser, the relationship being solely that of creditor and debtor.

21. **Amendments; Waiver of Breaches.** This Note & Security Agreement may not be amended or otherwise modified or terminated (prior to payment in full in cash of all amounts owed by the Purchaser hereunder), except by a writing duly executed by the Purchaser and Seller. A waiver so signed will be effective only in the specific instance and for the specific purpose given. No waiver by Seller of any breach by the Purchaser of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision of this Note & Security Agreement. Mere delay or failure to act will not preclude the exercise or enforcement of any rights and remedies available to the Seller. All rights and remedies of the Seller will be cumulative and may be exercised singly in any order or sequence, or concurrently, at the Seller's option, and the exercise or enforcement of any such right or remedy will neither be a condition to nor bar the exercise or enforcement of any other right or remedy.

22. **Notices.** Any notice or other communication to any party in connection with this Note & Security Agreement will be in writing and will be sent by manual delivery, facsimile transmission, overnight courier or United States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party will have specified to the other party hereto in writing. All periods of notice will be measured from the date of delivery thereof if manually delivered, from the date of sending thereof with confirmed receipt if sent by facsimile transmission, from the first business day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed.

23. **Successors and Assigns.** The provisions of this Note & Security Agreement shall inure to the benefit of the Seller and any successor thereto by assignment or operation of law, and shall extend to any holder hereof, and shall be binding on any successor to the Purchaser. Notwithstanding the foregoing, the Purchaser's obligations under this Note & Security Agreement are not assignable. This Note & Security Agreement will (a) create a continuing security interest in the Collateral and will remain in full force and effect until payment in full of the obligations due hereunder, (b) be binding upon the Purchaser, its successors and assigns, and (c) inure to the benefit of, and be enforceable by, the Seller and its successors, transferees, and assigns.

24. **Headings.** Section headings used in this Note & Security Agreement are solely for convenience of reference and shall not affect the construction of this Note & Security Agreement.

25. **Severability.** Each provision of this Note & Security Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason, such illegality or invalidity shall not affect the balance of the

terms and provisions hereof, which shall remain binding and enforceable, and the rights and obligations of the parties hereto hereunder shall be construed and enforced only to such extent as shall be permitted by applicable law.

26. **Governing Law; Dispute Resolution.** This Note & Security Agreement shall be governed by and construed in accordance with, and the rights of the Purchaser and Seller with respect hereto shall be determined under, the laws of the State of California. Any action or proceeding relating in any way to this Note & Security Agreement shall be brought in the Bankruptcy case of In re Zacky Farms, LLC, E.D. Cal. Case No. 12-37961-B-11 (the "Bankruptcy Case"). If the action or proceeding is commenced after the Bankruptcy Case is closed then such matter shall be brought and enforced in any court of competent jurisdiction in Sacramento, California. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection that such party may now or hereafter have to the laying of venue of any such action or proceeding in the courts of the State of California or the United States District Court for the Central District of California, in each case, sitting in Los Angeles, California, and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

27. **Counterparts.** This Note & Security Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, but all such counterparts together will constitute but one and the same instrument.

28. **No Fraudulent Conveyance.** It is the intention of the Purchaser and the Seller that this Note & Security Agreement not constitute a fraudulent transfer or fraudulent conveyance under any state or federal law that may be applied hereto.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

[PURCHASER]

By: _____

Name:

Title:

Notice Address:

SELLER:

Zacky Farms, LLC, debtor in possession,

By: _____

Name:

Title:

Notice Address:

SCHEDULE A

| Facility Name | Address | City | State | ZIP |
|--|---------------------------------------|-----------|-------|-------|
| Grower Ranch (18 th) APN 026-060-007 (78.79 acres) | 17432 18 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Kent) APN 024-170-073 (77.19 acres) | 19774 Kent Avenue | Lemoore | CA | 93245 |
| Grower Ranch (Holm) APN 024-170-020 (40 acres) | 16395 & 16485 19 th Avenue | Lemoore | CA | 93245 |
| Grower Ranch (6 th Brood, Red and Gray) APNs 046-270-004 & 035 (400 acres) | 43501 6 th Avenue | Corcoran | CA | 93212 |
| Grower Ranch (Brawley) APN 053-090-37 (80 acres) | 19010 & 19012 S. Brawley Avenue | Riverdale | CA | 93609 |
| Grower Ranch (Experimental) APN 043-050-15 (20 acres) | 590 W. Kamm Avenue | Fresno | CA | 93725 |
| Grower Ranch (G & H) APN 035-060-90 (80 acres) | 8351 McMullin Grade | Fresno | CA | 93725 |
| Turkey Hatchery APN 023-060-44S (3.99 acres) | 1486 S. Industrial Way | Kerman | CA | 93630 |

EXHIBIT C

FORM OF 503(b)(9) NOTE & SECURITY AGREEMENT

\$6,400,000

Los Angeles, California
[•], 2013

FOR VALUE RECEIVED, [•], a [•] (the “Purchaser”), hereby unconditionally promises to pay, in the manner set forth below, for the benefit of holders of finally allowed claims arising under Section 503(b)(9) of the Bankruptcy Code against ZACKY FARMS, LLC (the “Seller”), the principal sum of SIX MILLION FOUR HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$6,400,000.00) (as such amount may be reduced from time to time pursuant to Section 3 hereof, the “Principal Sum”), plus interest on the Principal Sum as set forth in Section 1 hereof, it being understood that the Principal Sum is subject to reduction at the Maturity Date (as defined below) pursuant to Section 2 hereof. All capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement, dated as of February 6, 2013, by and between The Robert D. Zacky and Lillian D. Zacky Trust U/D/T Dated July 26, 1988 and Seller (the “Asset Purchase Agreement”).

1. **Interest.** Interest on the unpaid principal amount of this Note & Security Agreement outstanding from time to time shall accrue from the date hereof to and including the date on which the outstanding principal and accrued and unpaid interest is paid in full, at the interest rate of four percent (4%) per annum, payable quarterly in arrears on (a) the date that is ninety (90) days from the date hereof and (b) the date that is one hundred eighty (180) days from the date hereof, and if either such date shall be a day other than a Business Day, then such interest shall be payable on the next Business Day after such date. All interest hereunder shall be calculated on the basis of a 360-day year and paid for the actual number of days elapsed.

2. **Repayment of Principal.** On the date that is one hundred eighty (180) days from the date hereof or, if such date shall be a day other than a Business Day, then the next Business Day (the “Maturity Date”), the Principal Sum shall be automatically reduced by an amount equal to fifty percent (50%) of the amount by which \$6,400,000 exceeds the finally allowed amount of claims against Seller arising under Section 503(b)(9) of the Bankruptcy Code as of the Maturity Date, but in no event shall the Principal Sum be reduced below \$0. On the Maturity Date, the Principal Sum (after the application of the foregoing sentence) shall become due and payable.

3. **Prepayment.** The Purchaser at any time or from time to time may prepay, in cash, the unpaid principal amount of or interest on this Note & Security Agreement, in whole or in part, without penalty or premium. If Purchaser shall sell any Collateral (as defined below) with net proceeds of no less than \$50,000 other than in the ordinary course of business, the proceeds of such sale shall be applied to the prepayment of this Note & Security Agreement, to the extent there are any amounts outstanding hereunder. Any net amount of insurance proceeds received on account of the Collateral remaining after the cost of replacement of such Collateral

shall be applied to the prepayment of this Note & Security Agreement, to the extent there any amounts outstanding hereunder.

4. **Manner of Making Payments.** Payment of any amounts hereunder (whether principal or interest) shall be made to the 503(b)(9) Account in United States dollars by wire transfer of immediately available funds not later than 2:00 p.m., Los Angeles, California time, on the date such payment is due, or an optional prepayment is made.

5. **Application of Payments.** All payments made hereunder shall be applied first to accrued and unpaid interest and then to the unpaid principal amount hereof (which shall reduce the then current Principal Sum).

6. **Pledge of Collateral.** As collateral security for the prompt and complete payment of the Purchaser's obligation under this Note & Security Agreement (whether at the stated maturity, by acceleration, or otherwise), the Purchaser hereby grants to Seller a continuing security interest in (i) other than real property, all property rights and rights of Purchaser in all its assets, now owned or hereafter at any time acquired by the Purchaser, including, without limitation, all accounts, accounts receivable, money, deposit accounts, goods, inventory, chattel paper, documents, instruments, insurance proceeds, investment property, letter-of-credit rights, payment intangibles, general intangibles, commodity contracts, commodity accounts, farm products and livestock (the "Non-Real Estate Collateral") and (ii) the collateral set forth on Schedule A hereto (the "Real Estate Collateral") and any other tangible or intangible property received upon the sale or other disposition of all or any of the foregoing (collectively, the Non-Real Estate Collateral and the Real Estate Collateral, the "Collateral"). The Purchaser hereby irrevocably authorizes Seller, at any time and from time to time, to file in any appropriate filing office, wherever located, any financing statement describing the Collateral that contains any information required by the Uniform Commercial Code of the applicable jurisdiction for the sufficiency or filing office acceptance of any financing statement. The Purchaser also authorizes Seller to take any and all actions required by law, equity, statute or otherwise to perfect and protect the security interest granted hereunder.

7. **Termination of Security Interest.** Upon the payment in full of any and all amounts outstanding in connection with or due under this Note & Security Agreement, the security interest granted to Seller in the Collateral shall terminate. Upon any such termination, Seller shall execute and deliver to the Purchaser such documents as the Purchaser will reasonably request to evidence such termination.

8. **Title to Collateral.** The Purchaser shall not affirmatively grant a security interest in or lien on the Collateral that is senior to or *pari passu* with the interests in Collateral provided by this Note & Security Agreement. The Purchaser will take all commercially reasonable efforts to defend the Collateral against all material claims or demands of all Persons (other than the Seller) claiming the Collateral or any interest therein.

9. **Name and Jurisdiction of Organization.** The Purchaser represents and warrants that the Purchaser's legal name is as set forth in the opening paragraph hereof, and that the

Purchaser is organized and in good standing in the State of [●]. The Purchaser will not change its name or jurisdiction of organization unless the Seller has been given at least ten (10) Business Days prior written notice thereof.

10. **Further Assurances; Attorney-in-Fact.**

10.1 **Further Assurances.** The Purchaser agrees that, from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that the Seller may reasonably request, in order to perfect and protect the security interest granted or purported to be granted hereby or to enable the Seller to exercise and enforce its rights and remedies hereunder with respect to any Collateral (but any failure to request or assure that the Purchaser execute and deliver such instrument or documents or to take such action will not affect or impair the validity, sufficiency or enforceability of this Note & Security Agreement and the security interest, regardless of whether any such item was or was not executed and delivered or action taken in a similar context or on a prior occasion).

10.2 **Identification of Collateral.** Upon Seller's reasonable request, the Purchaser will furnish to the Seller, from time to time, statements and schedules, if any, that Purchaser has prepared in the ordinary course of its business that further identify and describe the Collateral.

10.3 **Attorney-in-Fact.** In furtherance, and not in limitation, of the other rights, powers and remedies granted to the Seller in this Agreement, upon the occurrence and during the continuation of an Event of Default, the Purchaser hereby appoints the Seller the Purchaser's attorney-in-fact, with full authority in the place and stead of Purchaser and in the name of Purchaser or otherwise, from time to time in the Seller's good faith discretion, to take any action (including the right to collect on any Collateral) and to execute any instrument that the Seller may reasonably believe is necessary or advisable to accomplish the purposes of this Note & Security Agreement, in a manner consistent with the terms hereof.

11. **Taxes and Claims.** The Purchaser will promptly pay all material taxes and other material charges levied or assessed by any Governmental Authority upon or against any Collateral or upon or against the creation, perfection or continuance of the security interest, except to the extent such taxes, charges or claims are being contested by the Purchaser in good faith by appropriate proceedings. The Purchaser will pay any and all amounts due to suppliers of feed to the Purchaser such that neither of the following events occur: (i) suppliers of feed cease delivering feed to the Purchaser for five or more consecutive days on the basis of non-payment or (ii) suppliers of feed exercise remedies with respect to any statutory liens on the Collateral resulting in a material interruption in the Business that continues for five or more consecutive days.

12. **Books and Records.** The Purchaser will keep and maintain, at its own cost and expense, records of the Collateral in the ordinary course of its business consistent with past practice.

13. **Inspection, Reports, Verifications.** Upon the occurrence and during the continuation of an Event of Default, the Purchaser will at all reasonable times permit the Seller or its representatives to examine or inspect any Collateral, any evidence of Collateral and the Purchaser's books and records concerning the Collateral, wherever located.

14. **Notice of Loss.** The Purchaser will promptly notify the Seller of any material loss of or material damage to any item of Collateral with a fair market value in excess of \$50,000.

15. **Insurance.** The Purchaser will insure the Collateral in the ordinary course of its business consistent with past practice.

16. **Events of Default.** If any of the following events ("Events of Default") occurs:

(a) Purchaser shall fail to pay any principal amount or interest due under this Note & Security Agreement when the same becomes due and payable and has failed to cure such failure within ten (10) Business Days of written notice of such failure by Seller to Purchaser;

(b) Purchaser shall fail to observe or perform, in any material respect, any covenant of Purchaser set forth in this Note & Security Agreement and fails to diligently commence, within ten (10) Business Day of written notice of such failure by Seller to Purchaser, to cure the same;

(c) Purchaser shall suffer a casualty of \$500,000 or more to any item of any uninsured Collateral, excluding live poultry;

(d) Purchaser shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or application or an answer or otherwise commence any action or proceeding seeking reorganization, arrangement, consolidation, compromise or readjustment of its debts or seeking a stay which has the effect of staying any creditor or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of an interim receiver, a receiver, a receiver and manager, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment for the benefit of creditors; or (iv) be unable generally to pay its debts as they become due;

(e) An involuntary petition shall be filed or application made or an action or proceeding otherwise commenced seeking reorganization, arrangement, consolidation, compromise, or readjustment of the debts of the Purchaser or for any other relief under the Bankruptcy Code, or under any other bankruptcy, insolvency, liquidation, winding up, corporate or similar, equivalent, or applicable act or law, state, federal, provincial or foreign, in any jurisdiction, now or hereafter existing and such petition or proceeding shall not be dismissed

within sixty (60) days after the filing or commencement thereof or an order of relief shall be entered with respect thereto;

(f) An interim receiver, administrator, administrative receiver, receiver, assignee, liquidator, sequestrator, custodian, monitor, trustee or similar officer for Purchaser or for all or any part of his property shall be appointed or a warrant of attachment, execution or similar process shall be issued in any jurisdiction against any part of the property of Purchaser; or

(g) An Event of Default (as defined in the Creditor Recovery Note) has occurred.

then and, in any such event, Seller may proceed to protect and enforce its rights in the manner set forth in Section 17 hereof.

17. **Remedies.** If an Event of Default has occurred, (a) at the option of Seller by written notice to Purchaser, in the case of an Event of Default (other than an Event of Default under Section 16(d), (e) or (f)), and immediately and automatically, without notice or declaration of any kind, in the case of an Event of Default under Section 16(d), (e) or (f), any and all amounts outstanding hereunder shall at once become due and payable in full and in the manner set forth in Sections 2 and 4 hereof (with the "Maturity Date" being such date the amounts outstanding hereunder shall become due and payable in full) and (b) Seller may proceed to protect and enforce all rights, remedies and recourse as shall be available to Seller by law, equity, statute or otherwise by a suit or other appropriate proceeding, whether, without limitation, for the specific performance of any covenant or agreement contained in this Note & Security Agreement, or for an injunction against a violation of any of the terms hereof or in aid of the exercise of any right, power or remedy granted hereby or by law, equity, statute or otherwise. No course of dealing and no delay on the part of Seller in exercising any right, power or remedy will operate as a waiver thereof or otherwise prejudice Seller's rights, powers or remedies. No right, power or remedy conferred hereby is exclusive of any other right, power or remedy referred to herein or now or hereafter available at law, by statute or otherwise. The Purchaser hereby waives protest, presentment, demand for payment, notice of dishonor and notice of acceleration of maturity and agrees to continue to remain bound for the payment of principal, interest and all other sums due under this Note & Security Agreement, notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note & Security Agreement or by way of any extension or extensions of time for the payment of principal and interest. The Purchaser shall pay all costs of collection when incurred, including, without limitation, reasonable attorneys' fees, costs and other expenses. The Seller may, as applicable, exercise and enforce any and all rights and remedies available upon default to a secured party under Division 9 of the Uniform Commercial Code as adopted in the State of California, or as allowed to the trustee or beneficial holder (as applicable) of a deed of trust pursuant to California law.

18. **Costs and Expenses.** If an Event of Default has occurred, the Purchaser will reimburse the Seller on demand for all reasonable out-of-pocket expenses (including all

reasonable fees and expenses of counsel and of any experts and agents) incurred by the Seller in connection with the foreclosure or enforcement of Seller's security interest and the enforcement of this Note & Security Agreement, and all such costs and expenses will be part of the obligations secured by the security interest granted in this Note & Security Agreement.

19. **The Seller's Duties as the Secured Party.** The powers conferred on the Seller hereunder are solely to protect its interest in the Collateral and will not impose any duty upon it to exercise any such powers. The Seller will be deemed to have exercised reasonable care in the safekeeping of any Collateral in its possession if such Collateral is accorded treatment substantially equal to the safekeeping which the Seller accords its own property of like kind. Except for the safekeeping of any Collateral in its possession and the accounting for monies and for other properties actually received by it hereunder, the Seller will not have any duty, as to any Collateral, as to the taking of any necessary steps to preserve rights against any persons or any other rights pertaining to any Collateral. The Seller does not have any fiduciary relationship to the Purchaser, the relationship being solely that of creditor and debtor.

20. **Amendments; Waiver of Breaches.** This Note & Security Agreement may not be amended or otherwise modified or terminated (prior to payment in full in cash of all amounts owed by the Purchaser hereunder), except by a writing duly executed by the Purchaser and Seller. A waiver so signed will be effective only in the specific instance and for the specific purpose given. No waiver by Seller of any breach by the Purchaser of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision of this Note & Security Agreement. Mere delay or failure to act will not preclude the exercise or enforcement of any rights and remedies available to the Seller. All rights and remedies of the Seller will be cumulative and may be exercised singly in any order or sequence, or concurrently, at the Seller's option, and the exercise or enforcement of any such right or remedy will neither be a condition to nor bar the exercise or enforcement of any other right or remedy.

21. **Notices.** Any notice or other communication to any party in connection with this Note & Security Agreement will be in writing and will be sent by manual delivery, facsimile transmission, overnight courier or United States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party will have specified to the other party hereto in writing. All periods of notice will be measured from the date of delivery thereof if manually delivered, from the date of sending thereof with confirmed receipt if sent by facsimile transmission, from the first business day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed.

22. **Successors and Assigns.** The provisions of this Note & Security Agreement shall inure to the benefit of the Seller and any successor thereto by assignment or operation of law, and shall extend to any holder hereof, and shall be binding on any successor to the Purchaser. Notwithstanding the foregoing, the Purchaser's obligations under this Note & Security Agreement are not assignable. This Note & Security Agreement will (a) create a continuing security interest in the Collateral and will remain in full force and effect until payment in full of the obligations due hereunder, (b) be binding upon the Purchaser, its

successors and assigns, and (c) inure to the benefit of, and be enforceable by, the Seller and its successors, transferees, and assigns.

23. **Headings.** Section headings used in this Note & Security Agreement are solely for convenience of reference and shall not affect the construction of this Note & Security Agreement.

24. **Severability.** Each provision of this Note & Security Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which shall remain binding and enforceable, and the rights and obligations of the parties hereto hereunder shall be construed and enforced only to such extent as shall be permitted by applicable law.

25. **Governing Law; Dispute Resolution.** This Note & Security Agreement shall be governed by and construed in accordance with, and the rights of the Purchaser and Seller with respect hereto shall be determined under, the laws of the State of California. Any action or proceeding relating in any way to this Note & Security Agreement shall be brought in the Bankruptcy case of In re Zacky Farms, LLC, E.D. Cal. Case No. 12-37961-B-11 (the "Bankruptcy Case"). If the action or proceeding is commenced after the Bankruptcy Case is closed then such matter shall be brought and enforced in any court of competent jurisdiction in Sacramento, California. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection that such party may now or hereafter have to the laying of venue of any such action or proceeding in the courts of the State of California or the United States District Court for the Central District of California, in each case, sitting in Los Angeles, California, and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

26. **Counterparts.** This Note & Security Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, but all such counterparts together will constitute but one and the same instrument.

27. **No Fraudulent Conveyance.** It is the intention of the Purchaser and the Seller that this Note & Security Agreement not constitute a fraudulent transfer or fraudulent conveyance under any state or federal law that may be applied hereto.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Note & Security Agreement and delivered the same as of the date first written above.

PURCHASER:

[PURCHASER]

By: _____

Name:

Title:

Notice Address:

SELLER:

Zacky Farms, LLC, debtor in possession,

By: _____

Name:

Title:

Notice Address:

SCHEDULE A

The real property assets set forth below:

| Facility Name | Address | City | State | ZIP |
|--|---|-------------|--------------|------------|
| Stockton Plant APN 163-260-07 (15.17 acres) | 1111 Navy Drive | Stockton | CA | 95206 |
| Warehouse APN 458-240-09 | By Fresno Mill | Fresno | CA | |
| Vacant Land 57 APN 028-030-032 | Approximately 58.30 acres open land located in Hanford, CA | Hanford | CA | |
| Turkey Processing Plant APN 480-040-06S (4.98 acres) | 2222 & 2240 S. East Avenue | Fresno | CA | 93721 |
| Empire Facility APN 480-040-11 (11.53 acres) | 2950 E. California Street | Fresno | CA | 93721 |
| Litter Yard APN 055-310-29 (22.56 acres) | 18804 S. Camden Avenue | Laton | CA | 93242 |
| Garage APN 458-250-02 (2.18 acres) | 190 N. Thorne Avenue | Fresno | CA | 93706 |
| Mill Annex APN 458-240-09 (.48 acres) | 245, 249, 251 North H Street | Fresno | CA | 93701 |
| Corporate Offices APN 468-040-07S (9.57 acres) | 1888 & 2020 S. East Avenue | Fresno | CA | 93721 |
| Warehouse APN 480-040-07 (2.97 acres) | 2272 S. East Avenue | Fresno | CA | 93721 |

EXHIBIT 4

FOX ROTHSCHILD LLP

1 Michael A. Sweet, Esq. (Bar No. 184345)
2 Dale L. Bratton, Esq. (Bar No. 124328)
3 Avi E. Muhtar, Esq. (Bar No. 260728)
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4 San Francisco, CA 94104
Telephone: (415) 364-5548
5 Facsimile: (415) 391-4436
msweet@foxrothschild.com
6 dbratton@foxrothschild.com
amuhtar@foxrothschild.com

7 -and-

LOWENSTEIN SANDLER LLP

8 Jeffrey D. Prol, Esq. (admitted *pro hac vice*)
9 Wojciech F. Jung, Esq. (admitted *pro hac vice*)
65 Livingston Avenue
Roseland, NJ 07068
10 Telephone: (973) 597-2500
Facsimile: (973) 597-2400
11 jprol@lowenstein.com
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Bruce S. Nathan, Esq. (admitted *pro hac vice*)
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 262-6700
Facsimile: (973) 422-6851
bnathan@lowenstein.com

12 *Co-Counsel to the Official Committee of Unsecured Creditors*

13
14 **UNITED STATES BANKRUPTCY COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**
16 **SACRAMENTO DIVISION**

17 In re
18 ZACKY FARMS, LLC, a California
19 limited liability company,
20 Debtor-In-Possession.

Case No. 12-37961- B-11
Chapter 11
DCN: FWP-25
Hearing Date: February 20, 2013
Time: 2:00 p.m.
Courtroom: 32
501 I Street, 6th Floor
Sacramento, CA 95814

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25 **ORDER GRANTING JOINT MOTION FOR APPROVAL OF SETTLEMENT**
26 **AMONG THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS,**
27 **THE DEBTOR AND THE ROBERT AND LILLIAN ZACKY TRUST PURSUANT TO**
28 **BANKRUPTCY RULE 9019**

RECEIVED

February 20, 2013

CLERK, U. S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0004670408

Y01-20253894.1

ORDER GRANTING JOINT MOTION
FOR APPROVAL OF SETTLEMENT

1 The Joint Motion For Approval Of Settlement Among The Official Committee Of
2 Unsecured Creditors, The Debtor And The Robert And Lillian Zacky Trust Pursuant To
3 Bankruptcy Rule 9019 (the "Settlement Motion") brought by the Official Committee of Unsecured
4 Creditors (the "Committee") and Zacky Farms, LLC (the "Debtor"), came on for hearing before
5 this Court on February 20, 2013, at 2:00 p.m. Appearances of counsel for the Committee, the
6 Debtor, the Robert and Lillian Trust (as defined below) and other parties in interest, and all
7 responses and objections (if any) to the Motion, were as stated on the record of the hearing. The
8 Court having considered the Motion, the pleadings filed in support of the Motion and any
9 pleadings (if any) in opposition, and the arguments of counsel, and good cause appearing therefor;

10 THE COURT HEREBY FINDS:

- 11 A. The findings and conclusions set forth in this Order constitute the Court's findings of fact
12 and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable by Bankruptcy
13 Rule 9014.
- 14 B. To the extent that any of the following findings of fact constitute conclusions of law, they
15 are adopted as such. To the extent that any of the following conclusions of law constitute
16 findings of fact, they are adopted as such.
- 17 C. The Court has jurisdiction over the Settlement Motion pursuant to 28 U.S.C. §§ 1334 and
18 157. The Settlement Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
19 Venue of this chapter 11 case, and the Settlement Motion, is proper in this district pursuant
20 to 28 U.S.C. §§ 1408 and 1409.
- 21 D. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
22 § 158(a). To any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the
23 Federal Rules of Civil Procedure, made applicable by Bankruptcy Rule 7054, the Court
24 expressly finds that there is no just reason for delay in the implementation of this Order,
25 and expressly directs entry of judgment as set forth in this Order.
- 26 E. The basis for the relief requested in the Settlement Motion is Bankruptcy Rule 9019.
- 27 F. Notice of the Settlement Motion appropriate and sufficient under applicable law and rules,

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1 and this Court’s oral order shortening time made at the hearing held in this case on January
2 18, 2013, has been given.

3 G. On October 8, 2012, the Debtor filed a voluntary petition for relief under chapter 11 of the
4 Bankruptcy Code (the “Petition Date”).

5 H. Pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code, the Debtor continues to operate
6 its business as debtor in possession.

7 I. On October 16, 2012, the Office of the United States Trustee appointed the Committee
8 pursuant to § 1102(a)(1) of the Bankruptcy Code.

9 J. No trustee or examiner has been appointed in the Debtor’s bankruptcy case.

10 K. On October 10, 2012, the Debtor filed its *Motion For Interim Order (I) Authorizing Debtor*
11 *(A) To Obtain Post-Petition Financing Pursuant To 11 U.S.C. §§ 105, 361, 362, 364(c)(1),*
12 *364(c)(2), 364(c)(3), 364(d)(1), 364(d) And 507 And (B) To Utilize Cash Collateral*
13 *Pursuant To 11 U.S.C. § 363, (II) Granting Adequate Protection To Prepetition Secured*
14 *Lender Pursuant To 11 U.S.C. §§ 361, 362, 363, 364, And 507, (III) Modifying The*
15 *Automatic Stay And (IV) Scheduling Final Hearing (the “DIP Motion”) [Docket No. 32,*
16 *FWP-1].*

17 L. On November 13, 2012, the Court approved the request set forth in the DIP Motion, as
18 modified, by entry of the final financing order (the “Final DIP Order”) [Docket No. 292].
19 Under the Final DIP Order, Lillian Zacky, as Trustee of the Robert D. Zacky and Lillian D.
20 Zacky Trust U/D/T July 26, 1988 (the “Robert and Lillian Trust” or the “Purchaser” and
21 collectively with the Committee and the Trust, the “Settling Parties”) became the DIP
22 Lender to the Debtor.

23 M. The Committee timely filed a notice of appeal of the Final DIP Order, which appeal is
24 currently pending before the Bankruptcy Appellate Panel of the Ninth Circuit as BAP No.
25 EC-12-1617 (the “DIP Appeal”).

26 N. The DIP Motion and the Final DIP Order established a deadline for the Committee to
27 investigate the claims of, and potential claims against, Wells Fargo and the Robert and
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Lillian Trust.

- O. Subsequent to its appointment, the Committee, through its professionals, and in furtherance of its responsibilities under the Final DIP Order to investigate claims against the Robert and Lillian Trust, conducted discovery to analyze the validity of certain liens formerly held by Wells Fargo as they relate to the Original Credit Facility and now controlled by the Robert and Lillian Trust, as well as certain actions undertaken by the Debtor’s insiders. In connection with such discovery, the Committee filed applications seeking orders requiring the Debtor and certain third parties to appear for oral examination and to produce documents under Bankruptcy Rule 2004 [Docket Nos. 269 [LOW-1] & 327 [FRX-4]]. The Court granted the applications [Docket Nos. 290 & 330] (the “2004 Exam Orders”).
- P. Pursuant to the 2004 Exam Orders, the Debtor, the Robert and Lillian Trust (through Lillian Zacky), Bank of America (the Debtor’s prior lender), and Wells Fargo were required to produce, and the Committee reviewed, a substantial volume of documents. Additionally, the Committee conducted oral examinations of Lillian Zacky and the Debtor’s chief financial officer, Kirk VanderGeest, as well as Carlo Serafini of Wells Fargo.
- Q. On November 7, 2012, the Debtor filed its *Motion to Approve Sale Procedures* [Docket No. 240, FWP-12] seeking approval of certain sale procedures for the sale of substantially all of the Debtor’s assets (the “Procedures”). On November 20, 2012, the Court approved the Procedures [Docket No. 323]. Pursuant to the Procedures, bids were due by January 10, 2013, an auction (the “Auction”) was scheduled for January 15, 2013, and a sale hearing was scheduled for January 18, 2013. The Procedures also permitted the Robert and Lillian Trust to credit bid under the provisions of § 363(k) of the Bankruptcy Code.
- R. On December 21, 2012, the Debtor filed its *Motion For Authority To Sell Substantially All of the Debtor’s Assets Free And Clear Of All Liens, Claims, And Encumbrances Pursuant To Section 363 of the Bankruptcy Code* (the “Sale Motion”) [Docket No. 468, FWP-22].

1 Pursuant to the Sale Motion, the Debtor proposed to sell substantially all of its assets (the
2 “Assets”) to a successful bidder identified at the Auction.

3 S. On January 11, 2013,¹ the Committee filed its *Response and Limited Objection to Debtor’s*
4 *Motion for Authority to Sell Substantially All of the Debtor’s Assets Free and Clear of All*
5 *Liens, Claims, and Encumbrances Pursuant to Section 363 of the Bankruptcy Code* (the
6 “Committee Sale Objection”) [Docket No. 648]. The Committee expressed concern that
7 the Robert and Lillian Trust would seek to credit bid its alleged prepetition secured claim
8 for purchase of the Debtor’s assets, to the detriment of the Debtor’s administrative
9 creditors and its general unsecured creditors represented by the Committee. The
10 Committee objected to the ability of the Robert and Lillian Trust to credit bid at the
11 Auction, asserting that the Committee had filed an objection to the Robert and Lillian
12 Trust’s secured claim and that § 363(k) of the Bankruptcy Code precluded such a credit bid
13 because the Robert and Lillian Trust did not have an *allowed* secured claim as required by
14 § 363(k). The Committee requested that the Court, if nevertheless inclined to permit a
15 credit bid from the Robert and Lillian Trust, impose certain conditions on any such credit
16 bid to protect the Committee’s lien challenge rights and to preserve the benefit of those
17 claims for creditors of the estate. The Debtor disputed the Committee’s contentions and
18 specifically asserted that no objection had been filed, and even if an objection had been
19 filed, under section 363(k) of the Bankruptcy Code, an order prior to the auction had to
20 have been obtained to preclude the Robert and Lillian Trust from credit bidding.

21 T. The Committee further objected to the Sale Motion because the Debtor had not provided a
22 mechanism for the payment of administrative claims (including allowed § 503(b)(9)
23 claims) or for a proper wind-down of this bankruptcy case. Moreover, the Committee
24 objected to the payment of the net proceeds of the proposed sale to the Robert and Lillian
25 Trust at closing in light of the Committee’s challenge to the extent and validity of the

26 _____
27 ¹ Through a stipulation between the Committee and the Debtor, the Committee’s objection deadline to the
28 Sale Motion was extended to January 11, 2013 [Docket No. 552].

1 Robert and Lillian Trust's liens and claims.

2 U. At the Auction held on January 15, 2013, the Debtor selected the Robert and Lillian Trust
3 as the high bidder for its assets and Pitman Family Farms ("Pitman") was selected as the
4 next highest bidder.

5 V. The Committee's lien challenges against the Lillian Entities (as defined herein) (the "Lien
6 Challenges") are set forth in the complaint (the "Complaint") that the Committee has
7 sought standing to prosecute against various parties, including the Robert and Lillian Trust.
8 In the Final DIP Order, the Debtor, *inter alia*, waived its right to prosecute certain claims.
9 Paragraph 25 of the Final DIP Order provides that "[e]ach stipulation, acknowledgment
10 and release contained in the Interim Orders or this Final Order, including, but not limited
11 to, in Paragraphs 4, 5 and 13 of this Final Order, shall be binding upon the Debtor and any
12 successor thereto (including any chapter 7 or chapter 11 trustee appointed or elected for the
13 Debtor) under all circumstances." In paragraph 13 of the Final DIP Order, the Debtor
14 released the Robert and Lillian Trust and each of its respective affiliates, agents,
15 representatives, partners, financial advisors, legal advisors, managers, consultants,
16 accountants and attorneys from all lender liability and avoidance claims of every kind, and
17 any challenge to the priority, extent, and validity of the liens held by the Robert and Lillian
18 Trust.

19 W. Pursuant to the Final DIP Order, however, the Committee retained the right to seek
20 standing to file an adversary proceeding or contested matter challenging or objecting to the
21 validity, perfection, enforceability, or priority of the Robert and Lillian Trust's security
22 interests in and liens on prepetition collateral or amount and allowance of the indebtedness
23 under the Original Credit Facility [Final DIP Order at ¶25].

24 X. On January 11, 2013, the Committee timely filed its *Motion for an Order Authorizing the*
25 *Committee To Prosecute Certain Causes of Action on Behalf of the Debtor's Estate* (the
26 "Standing Motion") [Docket No. 638, LWN-1] seeking standing and authority to file the
27 Complaint to prosecute claims seeking to, *inter alia*, subordinate and recharacterize the
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1 indebtedness under the Original Credit Facility and certain other loans purportedly given
2 by the Robert and Lillian Trust and its affiliates to the Debtor prior to the Petition Date,
3 and to recover payments made to certain insiders while the Debtor was allegedly insolvent.
4 The Complaint also seeks damages from certain insiders of the Debtor for breach of
5 fiduciary duty and good faith. A status conference on the Standing Motion is scheduled
6 for February 20, 2013.

7 Y. The Debtor, the Robert and Lillian Trust, and the Committee have engaged in ongoing
8 settlement discussions regarding an overall resolution of the present case since the series of
9 contested DIP Facility hearings. The Settling Parties have throughout the case engaged in
10 substantial arm's length negotiations to provide for payment of administrative and priority
11 claims and a return to general unsecured creditors. As a result of such negotiations, the
12 Settling Parties entered into the settlement, the essential terms of which (i) were embodied
13 in the Term Sheet that was attached to the Notice of Hearing on the Settlement Motion
14 (served on all required parties on January 18, 2013), as amended in the proposed order and
15 the Amendment of Sale Order that were attached as Exhibit 1 to the *Exhibit to Joint*
16 *Motion for Approval of Settlement Among the Official Committee of Unsecured Creditors,*
17 *the Debtor and the Robert and Lillian Zacky Trust Pursuant To Bankruptcy Rule 9019,*
18 filed on February 7, 2013 [Docket No. 993], and (ii) are now set forth in the provisions of
19 this Order (the "Settlement").

20 Z. At a January 18, 2013, hearing (the "January 18 Hearing"), the Debtor read into the record
21 the terms of the proposed sale to the Robert and Lillian Trust and also the terms of the
22 Settlement reached by and among the Debtor, the Committee and the Robert and Lillian
23 Trust. At the January 18 Hearing, a backup bid by Pitman (increased by Pitman after the
24 Auction) was also acknowledged as the backup bid (after consultation with the counsel to
25 the Committee) under the provisions of the Procedures as modified on the record by the
26 Court (the "Pitman Backup Bid"). The Court set a further hearing for January 28, 2013, to
27 consider the Robert and Lillian Trust purchase of the Assets and the Settlement.
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1 AA. Subsequent to the January 18 Hearing, the Debtor, the Committee and the Robert
2 and Lillian Trust engaged in negotiations regarding the final documentation of the
3 proposed purchase and the Settlement. During the afternoon of January 23, 2013, the
4 Debtor was informed that the Robert and Lillian Trust had decided it would not go forward
5 with the purchase of the Assets and would not object to the Debtor proceeding with the
6 Pitman Backup Bid.

7 BB. Consistent with the Procedures, the Debtor accepted the Pitman Backup Bid
8 (subject to approval by this Court), and proceeded with negotiation and documentation of
9 its implementation. In order to memorialize the terms of the Pitman Backup Bid, the
10 Debtor entered into two Asset Purchase Agreements (Lots 1 and 2) with Pitman
11 (collectively, the "Pitman Purchase Agreements"), each dated January 30, 2013, pursuant
12 to which the Debtor agreed to sell the Assets to Pitman (subject to approval by this Court
13 and subject to the Debtor's right to continue to solicit higher or better offers for its assets).
14 The Pitman Purchase Agreements were attached as Exhibit 4 to the January 24 Status
15 Report.

16 CC. A further hearing on the Sale Motion and the Settlement was set for February 6,
17 2013 (the "February 6 Hearing"). It was contemplated that, at the February 6 Hearing, the
18 Debtor would seek the Court's approval of the Sale Motion with the Pitman Purchase
19 Agreements as the high bidder, and approval of the Settlement with cash proceeds from the
20 Pitman transaction replacing the promissory note provisions of the Settlement.

21 DD. On February 5, 2013, the Robert and Lillian Trust informed the Debtor that
22 the Robert and Lillian Trust intended to submit an overbid to the offer set forth in the
23 Pitman Purchase Agreement. The Robert and Lillian Trust acted in reliance, in part, on a
24 provision of the Pitman Purchase Agreements expressly providing for the Debtor's
25 consideration of higher or better offers. The Debtor and the Committee accordingly
26 considered an overbid by the Robert and Lillian Trust received on the evening of February
27 5. Thereafter, the Debtor, the Committee and the Robert and Lillian Trust negotiated to the
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1 time of the February 6 Hearing on the terms of an overbid for the Assets.

2 EE. The negotiations on February 5 and 6 resulted in agreement between the Debtor
3 and the Committee for acceptance of the Robert and Lillian Trust's overbid, the terms of
4 which are embodied in the Settlement APA (as defined below), and related amendments to
5 the Settlement. These amendments were as stated in the Amendment of Settlement Order
6 and are now set forth herein.

7 FF. The Settlement is the result of arm's length bargaining, good faith negotiations, and the
8 independent business judgment of each party. Each Settling Party has been advised by
9 counsel of its own choosing, and understands the terms of the Settlement and their
10 significance for such party.

11 GG. Each of the Settling Parties has the authority to enter into the Settlement, subject
12 only to the approval of this Court as reflected in this Order.

13 Accordingly, based on the foregoing findings and conclusions,

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

- 15 1. On the Effective Date of the Settlement (as hereinafter defined) and as set forth herein,
16 the Committee and the Debtor waive all lien challenge rights and any and all claims
17 (other than claims and obligations arising from this Order or the Settlement APA),
18 including, without limitation, Bankruptcy Code chapter 5 causes of action and state law
19 equivalents, against: the Purchaser (as defined in the Settlement APA), Lillian Zacky,
20 individually, as trustee of the Robert D. Zacky and Lillian D. Zacky Trust U/D/T dated
21 7/26/88 and as trustee of the Lillian D. Zacky Trust U/D/T dated 7/26/88, Scott Zacky,
22 7915 Deep Creek LLC, 20115 Del Oro Road, Apple Valley, LLC, 18606 Lords Road,
23 Helendale, LLC and the Samuel, LLC (collectively, the "Lillian Entities").
- 24 2. On the Effective Date, the Committee shall cause to be dismissed, with prejudice, all
25 pending actions against: the Lillian Entities, including (i) the pending DIP Appeal and
26 (ii) the Lien Challenges against the Lillian Entities.
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- 1 3. The Committee shall withdraw the Committee Sale Objection and support the approval
2 of the entry of a sale order providing for the sale of substantially all of the Debtor's
3 assets free and clear of all liens, claims and encumbrances (the "Sale Transaction") in
4 accordance with the terms set forth below and reflected in the revised agreed Asset
5 Purchase Agreement dated February 6, 2013 by and between the Robert and Lillian
6 Trust and the Debtor (the "Settlement APA") submitted for approval by this Court on
7 February 7, 2013.
- 8 4. The Settlement approved pursuant to this Order shall be effective (the "Effective
9 Date") upon the earlier of: (i) entry of an order by this Court approving the Sale
10 Transaction; or (ii) the withdrawal of the Purchaser from the Sale Transaction prior to
11 the entry of an Order approving the Sale Transaction.
- 12 5. Under the Sale Transaction, but in all respects subject to the actual terms of the
13 Settlement APA:
- 14 a. The Purchaser shall assume the executory contracts and unexpired leases as
15 provided for by the Settlement APA. Purchaser shall be responsible for
16 payment of (i) the estate's obligations for the Assumed Contracts and
17 Potentially Assumed Contracts (as defined in the Settlement APA), and (ii) cure
18 costs on all Assumed Contracts as set forth in the Settlement APA.
- 19 b. The Purchaser shall assume all outstanding tax obligations of the Debtor as of
20 the closing of the Sale Transaction, up to \$500,000.
- 21 c. The Purchaser shall provide offers of employment to all employees of the
22 Debtor on substantially the same terms and shall assume all outstanding
23 employment obligations including, without limitation, vacation pay, holiday
24 and sick-leave time and health and workers' compensation benefits and
25 obligations. The Purchaser shall assume any and all WARN Act claims related
26 to termination of Debtor's employees, if any, resulting from the Sale
27 Transaction.
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- 1 d. The Purchaser shall be responsible for the preparation and filing of the Debtor's
2 2012 tax returns and the returns for any pre-effective date 2013 stub period.
- 3 e. On the closing date under the Settlement APA, the Purchaser shall pay or
4 provide to the estate:
- 5 i. Cash in the amount of \$2.9 million (including \$1.3 million for unbudgeted
6 Committee professional fees and expenses, \$550,000 for Imperial Capital fees
7 and expenses, \$400,000 for Debtor's professional fees and expenses from
8 closing on the Sale Transaction through the effective date of a plan of
9 reorganization or liquidation or appointment of a chapter 7 trustee, \$433,000
10 for Committee professional fees and expenses from closing on the Sale
11 Transaction through the effective date of a plan of reorganization or
12 liquidation or appointment of a chapter 7 trustee, and \$150,000 for post-
13 confirmation liquidating trust or chapter 7 trustee fees and expenses);
- 14 ii. Cash in an amount sufficient to pay any additional unbudgeted fees and
15 expenses (above fees and expenses which are provided for in this Order, the
16 DIP Facility and/or the Settlement APA) of estate professionals incurred on
17 or before the date of closing on the Sale Transaction;
- 18 iii. A secured note in the principal amount of \$6.4 million to fund a Bankruptcy
19 Code § 503(b)(9) escrow settlement fund (the "503(b)(9) Note"); provided,
20 however, that the difference between the finally allowed amount of
21 § 503(b)(9) claims and \$6.4 million (net of fees and expenses directly related
22 to actions disputing the § 503(b)(9) claims, which shall be on a contingency
23 basis and subject to a maximum cap of \$500,000), shall be split 50% to the
24 Debtor's estate and 50% to the Purchaser. The 503(b)(9) Note shall mature 6
25 months following the closing on the Sale Transaction, bear interest at 4% per
26 annum, pay interest quarterly in arrears, be secured by a lien, subject only to
27 liens existing as of the closing, on the assets as set forth on the form of
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503(b)(9) Note, and ancillary security documents, if any, attached to the Settlement APA, and shall include cross default provisions with the Creditor Recovery Note.

- iv. A secured note in the principal amount of \$3.5 million dollars (the “Creditor Recovery Note”), provided, however, that the principal amount of the Creditor Recovery Note shall be increased by the amount of any defense costs incurred by the Debtor’s estate and damages owed by the Debtor’s estate to Pitman as a result of the DIP Lender’s bid to purchase the Debtor’s assets and/or the Debtor’s decision not to proceed with the Pitman Purchase Agreements. The Creditor Recovery Note shall mature two years following the closing, bear interest at 4% per annum, pay interest quarterly in arrears, be secured by a lien subject only to liens existing as of the closing on the assets as set forth on the form of Creditor Recovery Note, and ancillary security documents, if any, attached to the Settlement APA and shall include cross default provisions with the 503(b)(9) Note.
- v. All of the amounts to be paid as decreed above are a carve out from the Robert and Lillian Trust’s collateral for the benefit of the specific uses outlined herein, thereby resolving all of the DIP Lender’s remaining carve out obligations under the Final DIP Order. The DIP Lender shall receive a release of all carve out obligations upon funding or providing all of the foregoing.
- vi. The Purchaser’s alleged claims and liens on any and all assets of the Debtor are hereby subordinated to the allowed amount of administrative and priority claims incurred through the effective date of a plan of reorganization or liquidation or the appointment of a chapter 7 trustee, but no funds shall be paid by the Purchaser at closing on account of this obligation, and Purchaser shall pay such claims, if any, when allowed in the bankruptcy case.

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6. The Purchaser shall assume at the closing on the Sale Transaction in accordance with the Settlement APA all accounts payable and other trade payables incurred by Seller after the Petition Date in the ordinary course of business that remain unpaid as of the closing (the “Post-Petition Payables”); provided, however, the Post-Petition Payables shall in no event include any obligations for any fees, expenses or other amounts owed by Seller to attorneys, consultants, advisors or other “professional persons” (as such term is defined in the Bankruptcy Code) in connection with the Debtor’s bankruptcy case, the Transactions (as such term is defined in the Settlement APA) or the Settlement APA, other than ordinary course attorneys and professionals.
7. On the Effective Date, the Lillian Entities shall be deemed to have waived all claims they may have against the Debtor, and shall not participate in any distributions to creditors of the Debtor’s estate. No entity owned 100% by either Lillian Zacky and/or Scott Zacky shall assert any claims against the Debtor’s estate.
8. The Robert and Lillian Trust shall withdraw all objections to fee applications filed by Committee professionals and waives its right to object to any and all fee applications filed by Committee professionals in the future.
9. The estate’s claims against insiders other than the Lillian Entities or against Richard Zacky, Integrated Grain & Milling, Inc., AB Ag Service Inc., American Huntsman, LLC, Big Feather Ranch, LLC, Lucky Wishbone, LLC, ZF Enterprises LLC, Richard Zacky as the trustee of the Richard N. Zacky Irrevocable Trust dated 11/25/07 (the “Richard Entities”), Sharon Zacky Wilensky and Sharon Zacky Wilensky Irrevocable Trust Dated 11/26/2007 (the “Richard and Sharon Entities”), and claims by the Richard and Sharon Entities shall be addressed by the Debtor’s estate. The Lillian Entities shall not object to the expunging of any such claims. In the event that the Lillian Entities are adjudged liable on any claim for indemnification, contribution or otherwise relating to a cause of action held or

1 asserted by or on behalf of the Debtor against any party, the Debtor and the estate
2 waive any judgment or right of recovery of the Debtor or its estate against any
3 party to the extent necessary to eliminate (up to the value of the Debtor's or
4 estate's claim) any such indemnification, contribution or other claim against any
5 Lillian Entity. The Settling Parties consent to the granting of standing and
6 authority to the Committee to pursue the any and all claims against the Richard
7 Entities on behalf of the Debtor's estate and the Committee is authorized and
8 granted standing to pursue such claims. Notwithstanding any other provisions of
9 this Order, the Committee shall have the primary responsibility for filing any
10 objection to or otherwise contesting the validity of the secured claim of Richard
11 Zacky, individually or as the trustee of Richard N. Zacky Irrevocable Trust dated
12 11/25/07, the fees for which are included under the amounts set forth paragraph
13 5(e) above. The deed of trust (the "Richard Lien") of Richard Zacky, individually,
14 or as trustee of the Richard N. Zacky Irrevocable Trust dated 11/25/07
15 (collectively, "Richard"), shall remain on the real estate located at 16395 19th
16 Avenue, Lemoore, California and the Hanford 57 property, located in Hanford,
17 California (collectively, the "Secured Real Property") and shall remain subject to
18 the automatic stay; provided, however, that the Committee shall have responsibility
19 for the payment or other disposition of that certain secured promissory note in the
20 amount of \$1 Million in favor of Richard (the "Richard Note") and the removal of
21 the Richard Lien from the Secured Real Property. If the Richard Lien is not
22 removed from the Secured Real Property prior to the payment in full of the
23 Creditor Recovery Note, the Richard Lien shall be removed from the Secured Real
24 Property and shall be transferred and become a perfected first priority security
25 interest in the cash paid under the Creditor Recovery Note and deposited in a
26 separate blocked account. The Richard Lien shall remain on the Secured Real
27 Property until the Creditor Recovery Note is paid in full and the Richard Lien is
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1 transferred and becomes a perfected first priority security interest in the cash paid
2 under the Creditor Recovery Note. Notwithstanding any other provisions of the
3 Settlement APA, this Order or any order approving the Sale Transaction, any
4 accounts receivable owed by the Richard Entities to the Debtor's estate are not
5 being sold as part of the Sale Transaction and shall be retained by the Debtor's
6 estate.

7 10. Bankruptcy Code Section 503(b)(9) claims shall be treated as follows:

- 8 a. Non-insider creditors asserting § 503(b)(9) claims may elect to settle their
9 § 503(b)(9) claims as follows: (i) the 503(b)(9) claim shall be allowed and
10 paid in an amount equal to 75% of the value of goods received by the
11 Debtor during the period from September 17, 2012, to October 7, 2012 (the
12 "Period"), and not paid for; (ii) payment of the allowed 503(b)(9) claim
13 shall be made from proceeds of the 503(b)(9) Note as such funds become
14 available to the estate; (iii) the claimant shall waive any lien rights and
15 secured claims; and (iv) the Debtor and the estate shall waive all
16 Bankruptcy Code chapter 5 causes of action against the settling claimant.
17 The Debtor and its estate shall reserve and may only assert defenses related
18 to whether goods were received during the Period and whether invoices
19 issued with respect to such goods were paid. As part of the Western Milling
20 lien settlement described below, Western Milling also agrees to opt into the
21 75% settlement set forth in this paragraph.
- 22 b. Non-insider creditors asserting § 503(b)(9) claims that do not opt to accept
23 the foregoing settlement shall be entitled to litigate to recover the full
24 amount of their asserted § 503(b)(9) claims, and the Debtor and its estate
25 shall retain all defenses thereto. Bankruptcy Code chapter 5 causes of
26 action shall not be waived against non-settling 503(b)(9) claimants.

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11. The Debtor and its bankruptcy estate hereby waive and release all chapter 5 causes of action against non-insiders (and the Lillian Entities), except that the Debtor and its estate or their successors may: (a) assert such chapter 5 causes of action for the purposes of set-off or asserting affirmative defenses; and (b) pursue affirmative recoveries under chapter 5 of the Bankruptcy Code against non-insider creditors who assert 503(b)(9) and do not opt into the settlement provided for in paragraph 10(a) above. Any chapter 5 claims pursued against non-insiders to obtain an affirmative recovery shall only be pursued to the extent that the amount potentially recoverable exceeds \$50,000. The estate shall only be liable for payment of filing fees and expenses incurred in connection with prosecution of chapter 5 causes of action against non-insiders. All attorneys' fees associated with any such claims shall be paid on a contingency fee basis from the proceeds of any such action which is successfully prosecuted. Nothing contained herein shall in any way restrict or limit the rights of the Debtor, its estate or their successors to pursue chapter 5 claims against any insider of the Debtors or any of the Richard Entities; provided, however, that, in the event that the Lillian Entities face any claim for indemnification, contribution or otherwise based on an estate cause of action against any party, the estate waives any recovery on account of such affirmative claims to the extent necessary to eliminate any such indemnification, contribution or other claim against any Lillian Entity.

12. The Purchaser shall provide the estate, any liquidating trust under a confirmed chapter plan and any chapter 7 trustee, if appointed, with reasonable access to books and records and necessary assistance through the closing of such liquidating trust.

13. The Purchaser agrees to cooperate with the Debtor, the Committee or their successors in connection with the pursuit of any avoidance claims or other claims

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of the Debtor excluded from the Sale Transaction pursuant to Section 2.2(k) of the Settlement APA.

14. Western Milling shall waive and release its claim to a lien on certain assets of the Debtor pursuant to a UCC-1 financing statement filed on August 15, 2012, Western Milling and shall receive from the proceeds of the 503(b)(9) Note, the lower of (a) \$400,000, or (b) 75% of the proceeds of the 503(b)(9) Note that are allocated to the estate upon the reduction of the Note.

15. The Settlement is reflected in the provisions of this Order, the Settlement APA, and the documents entered into in connection with this Order and the Settlement APA. No prior discussion or oral agreements shall be deemed to exist between the Settling Parties or to bind the Settling Parties with respect to the subject matter of the Settlement.

16. The Settlement shall bind and inure to the benefit of each of the Settling Parties' respective successors and assigns, including any liquidating trust that becomes the successor to the Debtor under a confirmed chapter 11 plan and any chapter 7 trustee, if appointed.

17. The rights and obligations of the Settling Parties with respect to the Settlement shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of California, and federal bankruptcy law to the extent applicable.

18. Any legal proceeding to enforce the Settlement may be brought in this Bankruptcy Court, according to the motion practice procedures of Local Bankruptcy Rule 9014-1, and waiving the application if any of Bankruptcy Rule 7001. The Settling Parties stipulate to personal jurisdiction and venue in this Bankruptcy Court and waive any contention of forum non conveniens or other basis to the contrary.

19. Except as set forth herein, the Settlement cannot be modified, amended, or changed except in a writing executed by all of the Settling Parties, and approved by order of this Court.

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20. Each of the Settling Parties shall execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts or things reasonably necessary in connection with the performance of their obligations under the Settlement to carry out the express intent of the Settling Parties in entering into the Settlement.

21. Nothing in any other order of this Court or contained in any plan of reorganization or liquidation confirmed in this bankruptcy case, or in any subsequent or converted cases of the Debtor under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with or derogate from the provisions of the Settlement or the terms of this Order.

22. If the Purchaser fails to close the Sale Transaction for any reason whatsoever, all alleged claims and liens of the Purchaser on any and all of the Debtor's assets, including (without limitation) the proceeds of any sale of any of the Debtor's assets, shall be subordinated to all costs of winding up the Debtor's estate, all administrative claims, priority claims, an amount equal to all sums that would have been due on the 503(b)(9) Note and the Creditor Recovery Note, and all other obligations due to the estate from the Purchaser pursuant to this Settlement or the Settlement APA.

23. Notwithstanding any provision set forth herein, the releases provided to the Lillian Entities (with the exception of Lillian Zacky, individually and as Trustee of the Robert and Lillian Trust) and to any other party shall not be effective until such party executes a declaration or certification agreeing to be bound by the terms of the Settlement as set forth herein. Upon the execution of such declaration or certification, such party shall be treated as a Settling Party in accordance with the Settlement and the terms of this Order.

1 Prepared and presented by:

2 **FOX ROTHSCHILD LLP**

3 By: /s/ Michael A. Sweet
4 Michael A. Sweet

5 and

6 **LOWENSTEIN SANDLER LLP**

7 Jeffrey D. Prol. (admitted *pro hac vice*)
8 Wojciech F. Jung (admitted *pro hac vice*)
9 Bruce S. Nathan (admitted *pro hac vice*)

10 *Co-Counsel to the Official Committee of Unsecured Creditors*

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Dated: February 21, 2013



Thomas C. Holman
United States Bankruptcy Judge

EXHIBIT 5

Hank M. Spacone, CPA

700 University Avenue, Suite 100, Sacramento, California 95825

Telephone: (916) 489-6250 / Facsimile: (916) 482-2860

hspacone@thg-sac.com

Resume of Qualifications

Hank Spacone is a licensed and practicing certified public certified public accounting with over 25 years of experience. He has served as a Chapter 11 bankruptcy trustee in both the Northern and Eastern District of California. He has been providing consulting services to corporate and individual clients covering many industries. He has extensive experience in complex corporate reorganization and bankruptcy liquidations. Additional skills include experience in developing financial structuring for public/private partnership projects through private placements and public offerings. Hank Spacone has also served as the chief financial officer of a public traded company.

Education

University of Redlands (B.A.)
Golden Gate University (MBA)

Licenses

Certified Public Accountant
General Building Contractor
Real Estate Broker

Professional Affiliations

American Institute of Certified Public Accountants
California Society of Certified Public Accountants
Nation Association of Bankruptcy Trustees
California Bankruptcy Forum –SVC – Past Board of Directors/Treasurer
California Receivers Forum – SVC

References

Hank Spacone can provide references in several industries upon request.

Summary of Qualifications

I am fully qualified to discharge the duties of a Plan Agent Trustee in all circumstances. A summary of my relevant skill set is below:

- Consultant for many businesses in connection with complex reorganizations;
- Chapter 11 Trustee and Plan Agent for cases in both the Eastern and Northern Districts of California for over 20 years;
- Strong business background dealing with a wide range of significant operational and financial issues,
- Nearly all of my engagements require regular reporting to many parties to include the courts, the Office of the United States Trustee, creditors and creditors' committees, regulatory agencies, taxing authorities, and board of directors. Consistent, accurate, and frequent communications help to prevent surprises and keep small problems from expanding.

In any project, the primary task is to rank the objectives and the measures of success. Many times this includes the following:

- Identifying and prioritizing goals and periodically refining those goals;
- Evaluating periodically whether the goals can be achieved faster or more cost-effectively through other means;
- Laying out and prioritizing the tasks necessary to achieve the goals, and refining those tasks periodically; and
- Develop a timetable and always be working towards closure – without loose ends.

Working with companies in transition is my business. I am often charged with maintaining a business operation while attempting to maximize going concern value. In doing so, I work closely with the senior management, inside and outside counsel, and financial personnel. I have preserved, and in numerous cases, enhanced asset value during my tenure. Examples of engagements that display the skills described above include:

Claims Management

In re John D. and Judith Reynen and Christo and Sarah Bardis. These cases were administratively consolidated. Debtors' principal business was real estate development, through ownership interest held in several corporations and more than 110 special purpose entities. I was appointed as Plan Agent to administer in excess of \$100 million of assets, to include a wide range of real estate holdings, and manage the claims review and objection process for filed and scheduled claims in excess of \$1.2 billion. Evaluation and resolution of litigation and various tax matters required special emphasis, both with a significant impact on the distribution to creditors.

In re Benjamin and Gail Catlin. I was appointed trustee of a trust created through the Plan of Reorganization. The Plan provided for the transfer of commercial and retail real estate with an estimated value in excess of \$80 million into the trust. My administration included the management and liquidation of the properties. This has included negotiating with lenders for extensions and forbearance agreements on loans in excess \$60 million. Scheduled and filed claims in excess of \$130 million.

In re iSyndicate, Inc. Debtor was a leader in syndication services for web sites that posted third-party content such as news, articles, photos, games and comics. The Debtor raised approximately \$55 million in working capital and approximately \$20 million in advertising credits from investors. I was appointed as the Plan Administrator to complete the Debtor's liquidation, manage litigation, manage the claims review and approval process and distribute available funds to creditors. In excess of 2,500 claims were processed.

Crisis Management Experience

In re At Home Corp. I was recruited to become the successor trustee of a litigation trust. The trustee had unexpectedly resigned. The Trust assets included a large number of litigation assets that would be the primary source of future recoveries for beneficiaries. Managing these assets required that I quickly evaluate the litigation and develop a cost benefit analysis of each individual matter. In addition, I had to manage the legal staffing – which involved multiple law firms engaged on different financial terms. Legal fees were the primary drain on the assets under my administration, and could only be justified if their value exceeded their cost. Within a few weeks, I restructured all professional compensation arrangements to align them with the interest of my beneficiaries, turning most into contingency arrangements.

I was responsible to thousands of beneficiaries, and all that entails – data management, process management to address communications, changes of address, distribution of tax reporting materials and many other issues. As the result of many years of personally designing such systems and knowing how to integrate the legal and accounting issues involved, I successfully created a system that was operational within a few weeks.

Finally, at the same time, I had to address the corporate requirements of my position. This included sourcing insurance for myself and my board of directors, complying with tax laws, engaging and terminating employees, directing investment of substantial trust assets, and reconciling trust financial records to begin the project on a clean slate, and maintaining key financial records, all directed at bringing the project to an end on a specified timetable and within a budget.

In re Russ Transmission. Administration was to liquidate industrial facilities worth millions of dollars. I ran the operations of the company for over a year while executing the marketing strategy I designed. This required working directly with management, lenders, outside accountants, various law firms and other professionals. Because the company lacked seasoned financial management, I also assumed those responsibilities while the company operated. All creditors were paid 100% of their claims, plus interest.

Public Relations Experience

In re Solano County Economic Opportunity Counsel (“SCEOC”). In liquidating SCEOC, I was responsible for a large, high profile non-profit corporation in Solano County, California that had run over 20 different programs, including Head Start. The case was closely followed by the media. To control the media coverage, I scheduled quarterly meetings for the benefit of program managers, past employees, and creditors. I made a point of contacting the various reporters and news commentators who had expressed an interest in the case. The media coverage was positive during the administration of the case. Employees and creditors made relatively few calls to ask questions or make complaints, which reduced operating costs and improved staff morale.

Always Look for the Faster, Better, Cheaper Solution

In re Mainland Marketing. I always look ahead for ways to make the job faster and more efficient. In one engagement, I developed a specialized computer program to assist in the management and processing of several thousand beneficiary claims. In addition, to performing most of the accounting work, I engaged off-season accounting staff who were on the payrolls of local accounting firms. Because I was using the firms’ excess capacity, I received a substantial discount on fees. This case was thought to be administratively insolvent. By improving recoveries and minimizing costs, however, creditors received over thirty cents on the dollar.

Public Company Experience

Atlantis Mining & Manufacturing. As Chief Financial Officer of a public company, I gained a great deal experience in working with in-house corporate counsel, financial officers, contract attorneys, outside accounting firms, and other professionals through a wide range of projects. During my tenure, the company developed, mined and processed gold-bearing ore from multiple claims. I was responsible for the general financial affairs of the company, including taking the company through an initial public offering, reporting to the SEC, and overseeing the year end audit process. I also worked closely with underwriters, brokerage firms, and media professionals.

EXHIBIT 6

LIQUIDATING DEBTOR POST-CONFIRMATION BUDGET

| Post Confirmation Expense Category | Projected Amount | Notes |
|--|------------------------|---|
| Plan Administrator Fees | \$60,000 | Subject to Cap on Limitations on Compensation in Plan, projected time period 2 years from Confirmation, and including administration of distributions to 503(b)(9) creditors and general unsecured creditors |
| Plan Administrator/Liquidating Debtor Counsel Fees | \$150,000 | Projected amount to resolve final claim objections filed prior to plan confirmation, assisting with plan compliance and obtaining required approvals under Plan; (excludes any contingency fee arrangements -- including any new claims objections filed after confirmation on contingency fee basis) |
| Projected US Trustee Fees | \$20,000 | Assumes 1 st Distribution to 503(b)(9) Creditors made while case is open, with a \$13,000 quarterly fee due, and three quarters at \$1,950 (i.e. 2d distribution to general unsecured creditors projected to occur after case is closed) |
| Plan Administrator Litigation Professionals | \$150,000 ¹ | Projected Litigation Costs for Plan Administrator Contingency Fee Counsel and hourly rate fees and costs for addressing pending appeals |
| Misc. | \$15,000 ² | Misc. Costs (e.g. bank fees) and line item overage amounts |
| Committee Non-Litigation Hourly Professional Fees | | \$50,000, but under Plan to be paid from proceeds of \$3.5M Creditor or any amounts allocated for Committee Professionals in the DIP Lender Settlement Order, but not fully expended as of the Effective Date |
| Total | \$395,000 | Projected Sources of funds: Carve out for Plan Administrator from Sale Proceeds: \$150,000; Excess funds from \$6.4M 503(b)(9) Note: \$135,000 Additional Projected Cash on hand on Plan Effective Date: \$110,000 |

¹ Plus such additional amounts as were allocated in the DIP Lender Settlement Order for Committee Professionals, but not fully expended as of the Effective Date and not expended for Committee Non-Litigation Hourly Professional Fees.

² Plus such additional amounts as were allocated in the DIP Lender Settlement Order for Professionals other than Committee Professionals, but not fully expended as of the Effective Date.

EXHIBIT 7

1 DONALD W. FITZGERALD, State Bar No. 095348
 2 THOMAS A WILLOUGHBY, State Bar No. 137597
 3 JENNIFER E. NIEMANN, State Bar No. 142151
 4 FELDERSTEIN FITZGERALD
 5 WILLOUGHBY & PASCUZZI LLP
 6 400 Capitol Mall, Suite 1750
 7 Sacramento, CA 95814
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 dfitzgerald@ffwplaw.com
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Attorneys for Zacky Farms, LLC

9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

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| <p>12 In re:</p> <p>13 ZACKY FARMS, LLC, a 14 California limited liability company,</p> <p>15 Debtor-In-Possession.</p> | <p>CASE NO. 12-37961-B-11</p> <p>DCN: FWP-12 and FWP-22</p> <p>Date: February 20, 2013 Time: 2:00 p.m. Courtroom: 32 501 I Street, 6th Floor Sacramento, CA</p> |
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18 **ORDER (A) APPROVING ASSET PURCHASE AGREEMENT AND AUTHORIZING**
 19 **THE SALE OF ASSETS OF THE DEBTOR OUTSIDE THE ORDINARY COURSE OF**
 20 **BUSINESS, (B) AUTHORIZING THE SALE OF ASSETS FREE AND CLEAR OF ALL**
LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS, AND (C) GRANTING
RELATED RELIEF

21 Upon the Motion (docket no. 240) (as supplemented and amended, the “Sale Motion”) of
 22 Zacky Farms, LLC (the “Debtor”) for, among other things, the entry of an order pursuant to §§
 23 105, 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”), and Rules 2002,
 24 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”)
 25 authorizing the Debtor to: (a) enter into an asset purchase agreement with the party submitting the
 26 highest or best bid for the Debtor’s assets in connection with the Debtor’s sale and bidding
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February 20, 2013

CLERK, U. S. BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA
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1 process; (b) sell the Purchased Assets¹ free and clear of all Liens (as defined below) with such
2 sale to be in accordance with the terms and conditions of the Agreement; and (c) granting related
3 relief; and this Court having entered an order on November 20, 2012 (docket no. 323) (the “Bid
4 Procedures Order”) authorizing the Debtor to conduct, and approving the terms and conditions of,
5 an auction as set forth in the Bid Procedures Order (the “Auction”) to consider offers for
6 substantially all of the Debtor’s assets, establishing a date for the Auction, and approving, among
7 other things: (i) certain bidding procedures (the “Bidding Procedures”) to be used in connection
8 with the Auction and (ii) the form and manner of notice of the Auction and Bidding Procedures;
9 and the Court having established the date of the hearing on the Sale Motion (the “Sale Hearing”);
10 and the Auction having been held on January 15, 2013; and at the Auction, the Debtor having
11 determined that the Robert D. Zacky and Lillian D. Zacky Trust U/D/T dated July 26, 1988
12 (together with its successors and assigns, the “Purchaser”) submitted the highest and best bid for
13 the Debtor’s assets; and at the initial hearing on the Sale Motion conducted on January 18, 2013
14 (the “Initial Sale Hearing”), Pitman Family Farms (“Pitman”) having increased its backup bid on
15 the record with the Court (the “Increased Backup Bid”); and the Purchaser having informed the
16 Debtor after the Initial Sale Hearing that it no longer wished to acquire the Debtor’s assets
17 pursuant to the higher and better bid it submitted at the Auction and preferred that the Debtor
18 accept the Increased Backup Bid; and in light of the Purchaser’s unwillingness to go forward with
19 the transaction set forth in the bid submitted by the Purchaser at the Auction, the Debtor having
20 determined that it was in the best interest of the Debtor to accept the Increased Backup Bid
21 submitted by Pitman at the Initial Sale Hearing and to proceed with a sale of substantially all of
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26 ¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Asset
27 Purchase Agreement dated February 6, 2013 (the “Agreement”) by and between the Purchaser and the Debtor, a copy
28 of which was filed with the Court on February 7, 2013 (docket no. 989).

1 the Debtor's assets (including the Purchased Assets) to Pitman; and the Debtor having executed
2 two Asset Purchase Agreements (Lots 1 and 2) with Pitman (collectively, the "Pitman Purchase
3 Agreements"), each dated January 30, 2013, pursuant to which the Debtor agreed to sell
4 substantially all of the Debtor's assets (including the Purchased Assets) to Pitman (subject to the
5 Debtor's right to continue to solicit higher or better offers for its assets (including the Purchased
6 Assets)); and prior to the hearing to approve the Pitman Purchase Agreements conducted on
7 February 6, 2013 (the "Second Sale Hearing"), the Purchaser having submitted an offer for the
8 Purchased Assets reflected in the terms of the Agreement and in the proposed settlement by and
9 among the Debtor, the Committee and the Purchaser (both in its capacity as purchaser and as
10 debtor-in-possession lender to the Debtor) filed with this Court on February 7, 2013 (docket no.
11 993) (the "Settlement"); and the Debtor having determined that the Purchaser's offer reflected in
12 the Agreement and the Settlement was a higher and better offer for the Purchased Assets than the
13 offer set forth in the Pitman Purchase Agreements; and the Debtor having determined that it was
14 in the best interests of the Debtor, its creditors and its estate to accept the higher and better offer
15 made by the Purchaser and reflected in the Agreement and the Settlement and to proceed with a
16 sale of the Purchased Assets to the Purchaser; and the Debtor having executed the Agreement and
17 the Settlement with the Purchaser pursuant to which the Debtor has agreed to sell the Purchased
18 Assets to the Purchaser (subject to approval by this Court and satisfaction of the closing
19 conditions set forth in the Agreement); and the Court having jurisdiction to consider the Sale
20 Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157(b)(2) and 1334; and
21 in consideration of the Sale Motion, the relief requested therein, and the responses thereto being a
22 core proceeding in accordance with 28 U.S.C. § 157(b); and the appearance of all interested
23 parties and all responses and objections to the Sale Motion having been duly noted in the record
24 of the Sale Hearing; and upon the record of the Sale Hearing, the Initial Sale Hearing, the Second
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1 Sale Hearing and all other pleadings and proceedings in these Bankruptcy Cases, including
2 (without limitation) the Sale Motion and the proof of service regarding the Sale Motion (docket
3 no. 246), the Debtor's Supplement and Third Amendment to the Sale Motion (docket no. 987),
4 the Second Supplemental Declaration of Keith F. Cooper in Support of the Debtor's Motion to
5 Sell Substantially all of the Debtor's Assets (the "Supplemental Cooper Declaration") (docket
6 no.988), the Agreement filed as an Exhibit to the Supplemental Cooper Declaration (docket no. -
7 989), the Proof of Service regarding the Supplemental and Second Amendment (docket no. 991)],
8 the Notice of: (1) Amendment to and Continued Hearing on Sale Motion; (2) Continued Hearing
9 on Motion to Sell Free and Clear of Liens and Interests; (3) Amendment to and Continued
10 Hearing on Motions to Assume and Assign Executory Contracts; and (4) Continued Hearing on
11 Settlement Motion (docket no. 1001), and the Proof of Service of such Notice (docket no. 1002) ;
12 and it appearing that the relief requested in the Sale Motion is in the best interests of the Debtor,
13 its estate, its stakeholders and all other parties in interest; and the Court having made its findings
14 of fact and conclusions of law orally on the record at the Sale Hearing; and after due deliberation
15 and sufficient cause appearing therefore;

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18 IT IS HEREBY FOUND, DETERMINED AND CONCLUDED THAT:²

19 A. The findings and conclusions set forth herein constitute the Court's findings of fact
20 and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding
21 pursuant to Bankruptcy Rule 9014.

22 B. To the extent any of the following findings of fact constitute conclusions of law,
23 they are adopted as such. To the extent any of the following conclusions of law constitute
24 findings of fact, they are adopted as such.

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27 ² All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the
28 Sale Motion are incorporated herein.

1 C. The Court has jurisdiction over this matter and over the property of the Debtor's
2 estate, including the Purchased Assets to be sold, transferred, or conveyed pursuant to the
3 Agreement, pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a "core proceeding" pursuant
4 to 28 U.S.C. § 157(b)(2). Venue of this Bankruptcy Case and the Sale Motion in this district is
5 proper pursuant to 28 U.S.C. §§ 1408 and 1409.

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7 D. This Order constitutes a final and appealable order within the meaning of 28
8 U.S.C. § 158(a). To any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the
9 Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court
10 expressly finds that there is no just reason for delay in the implementation of this Order, and
11 expressly directs entry of judgment as set forth herein.

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13 E. The statutory bases for the relief requested in the Sale Motion and for the
14 approvals and authorizations herein are (i) Bankruptcy Code §§ 102, 105, 362, 363 and 365, and
15 (ii) Bankruptcy Rules 2002, 4001, 6004, 6006 and 9014.

16 F. On October 8, 2012 (the "Petition Date"), the Debtor filed a voluntary petition
17 under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtor has continued in
18 possession and management of its business and properties as debtor-in-possession pursuant to
19 Bankruptcy Code §§ 1107(a) and 1108.

20
21 G. As evidenced by the proofs of service filed with the Court (docket nos. 246, 274,
22 277, 377, 381, 407, 442, 471, 499, 875, 991 and 1002), proper, timely, adequate, and sufficient
23 notice of the Sale Motion, the Auction, the Sale Hearing, the Agreement, the sale of the
24 Purchased Assets free and clear of all Liens, and the Transactions has been provided in
25 accordance with Bankruptcy Code §§ 102(1) and 363(b), Bankruptcy Rules 2002, 6004, 6006,
26 9006, 9007, 9008 and 9014, the local rules of the Court, the procedural due process requirements
27 of the United States Constitution, and in compliance with the Bid Procedures Order.
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1 H. Notice and a reasonable opportunity to object and/or be heard regarding the Sale
2 Motion, the Auction, the Sale Hearing, the Agreement, the sale of the Purchased Assets free and
3 clear of all Liens, the Transactions and the entry of this Order have been provided to all interested
4 Persons, including, without limitation, (i) all Persons listed in the Debtor's Master Service List in
5 the Bankruptcy Cases, (ii) all Persons listed in the Debtor's mailing matrix in the Bankruptcy
6 Cases, (iii) all Persons, including Governmental Authorities, known to the Debtor that may have a
7 right to file a fine, penalty or other Lien against the Purchased Assets or the Debtor, (iv) all
8 Persons known to Debtor or appearing of public record to assert any Lien in or upon the
9 Purchased Assets, (v) all governmental taxing authorities that have, or as a result of the sale of the
10 Purchased Assets may have, Claims, contingent or otherwise, against the Debtor, (vi) all Persons
11 that filed requests for notices under Bankruptcy Rule 9010(b) or were entitled to notice under
12 Bankruptcy Rule 2002, (vii) all creditors (whether their Claims are liquidated, contingent, or
13 unmatured) of the Debtor, (viii) all known applicable Governmental Authorities with material
14 responsibility for environmental, pension, securities, agriculture, food and drug, and other
15 regulatory matters, (ix) the Office of the United States Trustee for the Eastern District of
16 California, (x) each known Governmental Authority that has issued or granted a Permit; and (xi)
17 all Persons that heretofore expressed to the Debtor a serious interest in purchasing the Purchased
18 Assets. Other parties interested in bidding on the Purchased Assets were provided, pursuant to
19 the Bid Procedures Order, sufficient information to make an informed judgment on whether to bid
20 on the Purchased Assets.

24 I. The Purchased Assets are property of the Debtor's estate and title thereto is vested
25 in the Debtor's estate.

26 J. The Debtor has demonstrated a sufficient basis and the existence of reasonable and
27 appropriate circumstances requiring it to enter into the Agreement and sell the Purchased Assets
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1 under Bankruptcy Code § 363 and such actions are appropriate exercises of the Debtor's business
2 judgment and in the best interests of the Debtor and its estate.

3 K. The Bidding Procedures set forth in the Bid Procedures Order were non-collusive,
4 substantively and procedurally fair to all parties.

5 L. The Debtor and its professionals have complied, in good faith, in all respects with
6 the Bid Procedures Order. As demonstrated by the declarations filed prior to the Sale Hearing
7 and the testimony and other evidence proffered or adduced at the Sale Hearing, including those
8 regarding the thorough marketing efforts and a competitive sale process conducted in accordance
9 with the Bid Procedures Order, the Debtor (a) afforded interested potential purchasers a full, fair,
10 and reasonable opportunity to qualify as bidders and submit their highest or otherwise best offer
11 to purchase all of the Debtor's assets, (b) provided potential purchasers, upon request, sufficient
12 information to enable them to make an informed judgment on whether to bid on the Purchased
13 Assets, and (c) considered any bids submitted on or before the deadline to submit bids as set forth
14 in the Bidding Procedures.

15 M. The offer of the Purchaser, upon the terms and conditions set forth in the
16 Agreement and the Settlement, including the form and total consideration to be realized by the
17 Debtor pursuant to the Agreement, (i) is the highest and best offer for the Purchased Assets
18 received by the Debtor, (ii) is fair and reasonable, (iii) is in the best interests of the Debtor's
19 estate, (iv) constitutes full and fair consideration and reasonably equivalent value for the
20 Purchased Assets, and (v) will provide a greater recovery for the Debtor's creditors and other
21 interested parties than would be provided by any other available alternative.

22 N. As set forth in the Committee's Reply Memorandum in Support of Joint Motion
23 for Approval of Settlement Among the Official Committee of Unsecured Creditors, the Debtor
24 and the Robert and Lillian Zacky Trust Pursuant to Bankruptcy Rule 9019 (Docket 1065) (the
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1 “Settlement Reply”), the Debtor’s economic situation and the interests of all of the Debtor, the
2 Debtor’s equity holders and the Debtor’s creditors justify a sale of the Debtor’s assets now,
3 before confirmation of a chapter 11 plan. For the reasons set forth in the Settlement Reply, the
4 sale of the Debtor’s assets and entry into the Settlement for which approval is sought under
5 docket number FWP-25 is not a sub rosa plan.

6
7 O. The Purchaser, on account of the secured obligations provided under that certain
8 Senior Secured Super Priority Debtor-in-Possession Loan and Security Agreement between the
9 Purchaser and the Debtor (the “DIP Credit Agreement”), and as approved by the orders entered
10 by this Court approving the DIP Credit Agreement on an interim and final basis, has the right to
11 “credit bid” pursuant to Bankruptcy Code § 363(k) for the Purchased Assets.

12
13 P. The Purchaser is purchasing the Purchased Assets (including the Assumed
14 Contracts) in good faith, is a good faith purchaser within the meaning of Bankruptcy Code §
15 363(m), is an assignee in good faith of the Assumed Contracts, and is, therefore, entitled to the
16 protections of Bankruptcy Code § 363(m) with respect to the Purchased Assets and to the fullest
17 extent permitted under the Bankruptcy Code. The Agreement was negotiated and entered into in
18 good faith, based upon arm’s length bargaining, and without collusion or fraud of any kind.

19 Neither the Debtor nor the Purchaser have engaged in any conduct that would prevent the
20 application of Bankruptcy Code § 363(m) or cause the application of, or implicate, Bankruptcy
21 Code § 363(n) to the Agreement or to the consummation of the Transactions and transfer of the
22 Purchased Assets and Assumed Contracts to the Purchaser. Additionally, the Purchaser has
23 otherwise proceeded in good faith in all respects in connection with this proceeding in that: (i) the
24 Purchaser recognized that the Debtor was free to deal with any other party interested in acquiring
25 the Purchased Assets, (ii) all consideration to be paid by the Purchaser and other agreements or
26 arrangements entered into by the Purchaser in connection with the sale have been disclosed, (iii)
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1 the Purchaser has not violated Bankruptcy Code § 363(n) by any action or inaction, and (iv) the
2 negotiation and execution of the Agreement and any other agreements or instruments related
3 thereto was in good faith.

4 Q. The Debtor has full power and authority to execute the Agreement (and all other
5 documents contemplated thereby) and consummate the Transactions, and the sale of the
6 Purchased Assets has been duly and validly authorized by all necessary actions on the part of the
7 Debtor. No consents or approvals, other than as may be expressly provided for in the Agreement,
8 are required by the Debtor to consummate such Transactions.

9 R. The Debtor has advanced sound business reasons for seeking to enter into the
10 Agreement and to sell and/or assume and sell and assign the Purchased Assets, as more fully set
11 forth in the Sale Motion and as demonstrated at the Sale Hearing, and it is a reasonable exercise
12 of the Debtor's business judgment to sell the Purchased Assets and to consummate the
13 Transactions contemplated by the Agreement. Notwithstanding any requirement for approval or
14 consent by any Person, the transfer of the Purchased Assets to the Purchaser is a legal, valid, and
15 effective transfer of the Purchased Assets.

16 S. The terms and conditions of the Agreement, including the consideration to be
17 realized by the Debtor pursuant to the Agreement, are fair and reasonable, and the Transactions
18 contemplated by the Agreement are in the best interests of the Debtor's estate.

19 T. The Purchased Assets shall be (a) sold free and clear of all liens, deeds of trust,
20 mortgages, encumbrances and security interests that are on, filed against, attached to or otherwise
21 asserted against the Purchased Assets and are identified in paragraph 9 of this Order, and (b) sold
22 free and clear of all liens, deeds of trust, mortgages, encumbrances, and security interests that
23 Purchaser could acquire title to the Purchased Assets free and clear of under applicable law absent
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1 notice to the holder (collectively, the “Liens”), other than the Permitted Liens. Purchaser would
2 not enter into the Agreement to purchase the Purchased Assets otherwise.

3 U. The Liens (other than the Permitted Liens) shall attach to the Creditor Recovery
4 Note (and the proceeds thereof) in the same priority and subject to the same defenses and
5 avoidability, if any, as before the Closing; provided, however, that, any Liens to be released,
6 waived or otherwise removed in accordance with the terms of the Settlement (including, without
7 limitation, all Liens held by the Purchaser arising from or relating to the DIP Credit Agreement)
8 shall not attach to the Creditor Recovery Note.
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10 V. The transfer of the Purchased Assets to the Purchaser will be a legal, valid, and
11 effective transfer of the Purchased Assets and shall vest Purchaser with all right, title, and interest
12 of the Debtor to the Purchased Assets free and clear of any and all Liens (other than the Permitted
13 Liens). Except as specifically provided in the Agreement or the Settlement, the Purchaser shall
14 not assume, take subject to or become liable for any Liens other than the Permitted Liens and
15 Assumed Liabilities.
16

17 W. The transfer of the Purchased Assets to the Purchaser free and clear of all Liens
18 (other than the Permitted Liens), to the extent permitted by law, will not result in any undue
19 burden or prejudice to any holders of any Liens, because all such Liens of any kind or nature
20 whatsoever shall attach to the Creditor Recovery Note (and the proceeds thereof) to be received
21 by the Debtor from the Purchaser at the Closing in the order of their priority, with the same
22 validity, force, and effect which they now have as against the Purchased Assets and subject to any
23 claims and defenses the Debtor or other parties may possess with respect thereto; provided,
24 however, that, any Liens to be released, waived or otherwise removed in accordance with the
25 terms of the Settlement (including, without limitation, all Liens held by the Purchaser arising
26 from or relating to the DIP Credit Agreement) shall not attach to the Creditor Recovery Note. All
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1 persons having Liens against or in the Purchased Assets shall be forever barred, estopped and
2 permanently enjoined from pursuing or asserting such Liens (other than the Assumed Liabilities
3 and Permitted Liens) against the Purchaser, any of its assets, property, successors or assigns, or
4 the Purchased Assets.

5 X. The Debtor may sell the Purchased Assets free and clear of all Liens (other than
6 the Permitted Liens) because, in each case, one or more of the standards set forth in Bankruptcy
7 Code § 363(f) has been satisfied. Those holders of Liens in or with respect to the Purchased
8 Assets who received notice of the Sale Motion who did not object, or who withdrew their
9 objections, to the sale of the Purchased Assets and the Sale Motion are deemed to have consented
10 pursuant to Bankruptcy Code § 363(f)(2). All objections to the Sale Motion have been overruled
11 or resolved. Those holders of Liens in or with respect to the Purchased Assets who did object fall
12 within one or more of the other subsections of Bankruptcy Code § 363(f) and are adequately
13 protected by having their Liens, if any, attach to the Creditor Recovery Note (and the proceeds
14 thereof), with such Liens being subject to treatment as prescribed in the Debtor's chapter 11 plan
15 or by separate order of this Court; provided, however, that, any Liens to be released, waived or
16 otherwise removed in accordance with the terms of the Settlement (including, without limitation,
17 all Liens held by the Purchaser arising from or relating to the DIP Credit Agreement) shall not
18 attach to the Creditor Recovery Note.

19 Y. Not selling the Purchased Assets free and clear of all Liens (other than the
20 Permitted Liens) would adversely impact the Debtor's estate, and the sale of the Purchased Assets
21 other than one free and clear of all Liens (other than the Permitted Liens) would be of
22 substantially less value to the Debtor's estate.

23 Z. The Court will separately enter its Order (the "Assumption Order") on Debtor's
24 Motion for Authority to Assume and Assign Contracts to the Purchaser as the approved assignee
25

1 of the Assumed Contracts.

2 AA. Cause has been shown as to why this Order should not be subject to the stay
3 provided by Bankruptcy Rules 6004(h), 6006(d) and 7062.

4 BB. Time is of the essence in consummating the Transactions. In order to maximize
5 the value of the Purchased Assets and to avoid an event of default under the DIP Credit
6 Agreement, it is essential that the sale of the Purchased Assets occur within the time constraints
7 set forth in the Agreement. Accordingly, there is cause to order that the stay contemplated by
8 Bankruptcy Rules 6004(h), 6006(d) and 7062 not apply to this Order.

9 CC. At and effective as of the Closing, the Purchaser shall assume sole responsibility
10 for paying and satisfying the Assumed Liabilities as provided in the Agreement. For the
11 avoidance of doubt, nothing in this Order (including, without limitation, any provisions in this
12 Order regarding the sale, transfer or conveyance of the Purchased Assets free and clear of Liens)
13 nor in the Agreement shall be construed to mean that the Purchaser is not assuming from the
14 Debtor and thereafter becoming solely responsible for the payment, performance and discharge of
15 the Assumed Liabilities as provided in the Agreement. After the Closing, the Debtor shall have
16 no liability whatsoever with respect to the Assumed Liabilities. The Purchaser shall have no
17 obligations whatsoever with respect to any liabilities of the Debtor other than the Assumed
18 Liabilities.
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22 NOW, THEREFORE, BASED UPON ALL OF THE FOREGOING, IT IS
23 HEREBY ORDERED, ADJUDGED AND DECREED THAT:

24 1. The relief requested in the Sale Motion is granted, and the Agreement and the
25 provisions thereof are approved in their entirety, subject to the terms and conditions contained
26 herein.
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1 2. All objections, responses, reservations of rights, and requests for continuance
2 concerning the Sale Motion are resolved in accordance with the terms of this Order, the order
3 approving the Settlement and as set forth in the record of the Sale Hearing. To the extent any
4 such objection, response, reservation of rights, or request for continuance was not otherwise
5 withdrawn, waived, or settled, it is overruled and denied on the merits.
6

7 3. Notice of the Sale Motion, the Auction, the Sale Hearing, the Agreement, the sale
8 of the Purchased Assets free and clear of all Liens, and the Transactions was fair and equitable
9 under the circumstances and complied in all respects with 11 U.S.C. § 102(1) and Bankruptcy
10 Rules 2002, 6004, and 6006.
11

12 4. The sale of the Purchased Assets, the terms and conditions of the Agreement
13 (including all schedules and exhibits affixed thereto), and the Transactions be, and hereby are,
14 authorized and approved in all respects.

15 5. The sale of the Purchased Assets and the consideration provided by the Purchaser
16 under the Agreement, including, without limitation, the portion of the consideration that consists
17 of a credit bid under Bankruptcy Code § 363(k), are fair and reasonable and shall be deemed for
18 all purposes to constitute a transfer for reasonably equivalent value and fair consideration under
19 the Bankruptcy Code and any other applicable law.
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21 6. The Purchaser is hereby granted and is entitled to all of the protections provided to
22 a good faith purchaser under Bankruptcy Code § 363(m), including, without limitation, with
23 respect to all of the Transactions (part of which includes the transfer of the Assumed Contracts as
24 part of the sale of the Purchased Assets pursuant to Bankruptcy Code § 365 and the Assumption
25 Order).
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1 7. The Debtor shall be, and hereby is, authorized and directed to fully assume,
2 perform under, consummate, and implement the terms of the Agreement together with any and all
3 additional instruments and documents that may be necessary or desirable in connection with
4 implementing and effectuating the terms of the Agreement, this Order, and/or the sale of the
5 Purchased Assets including, without limitation, certificates, deeds, assignments, and other
6 instruments of transfer, and to take all further actions as may reasonably be requested by the
7 Purchaser for the purpose of assigning, transferring, granting, conveying, and conferring to the
8 Purchaser, or reducing to possession, any or all of the Purchased Assets or Assumed Liabilities,
9 as may be necessary or appropriate to the performance of the Debtor's obligations as
10 contemplated by the Agreement, without any further limited liability company action or orders of
11 this Court.
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13 8. The Debtor and each other Person or entity having duties or responsibilities under
14 the Agreement, any agreements or instruments related thereto or this Order, and its respective
15 directors, officers, employees, members, agents, representatives, and attorneys, are authorized and
16 empowered, subject to the terms and conditions contained in the Agreement and this Order, to
17 carry out all of the provisions of the Agreement and any related agreements or instruments; to
18 issue, execute, deliver, file, and record, as appropriate, the documents evidencing and
19 consummating the Agreement and any related agreements or instruments; to take any and all
20 actions contemplated by the Agreement, any related agreements or instruments, or this Order; and
21 to issue, execute, deliver, file, and record, as appropriate, such other contracts, instruments,
22 guaranties, intercreditor agreements, releases, indentures, mortgages, quitclaim deeds, deeds, bills
23 of sale, assignments, leases, or other agreements or documents and to perform such other acts and
24 execute and deliver such other documents, as are consistent with, and necessary, desirable or
25 appropriate to implement, effectuate, and consummate, the Agreement, any related agreements or
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1 instruments, this Order and the Transactions, all without further application to, or order of, the
2 Court or further action by its respective directors, officers, employees, members, managers,
3 agents, representatives, and attorneys, and with like effect as if such actions had been taken by
4 unanimous action of the respective directors, officers, employees, members, agents,
5 representatives, and attorneys of such entities. Specifically, Keith Cooper, sole manager and
6 Chief Restructuring Officer of the Debtor, and Sean Harding, Senior Vice President of
7 Restructuring of the Debtor, are hereby each granted all corporate and organizational authority to
8 enter into or otherwise execute on behalf of the Debtor any and all documents, agreements and/or
9 instruments that they deem necessary or desirable in connection with the consummation of the
10 Transactions. The Debtor is further authorized and empowered to cause to be filed with the
11 secretary of state of any state or other applicable officials of any applicable Governmental
12 Authority any and all certificates, agreements, or amendments necessary or appropriate to
13 effectuate the Transactions and this Order, and all such other actions, filings, or recordings as
14 may be required under appropriate provisions of the applicable laws of all applicable
15 Governmental Authorities or as any of the officers of the Debtor may determine are necessary or
16 appropriate. The execution of any such document or the taking of any such action shall be, and
17 hereby is, deemed conclusive evidence of the authority of such person to so act. Without limiting
18 the generality of the foregoing, this Order shall constitute all approvals and consents, if any,
19 required by the limited liability company laws of the State of California and all other applicable
20 business, corporation, trust, and other laws of the applicable Governmental Authorities with
21 respect to the implementation and consummation of the Agreement, any related agreements or
22 instruments, this Order, and the Transactions.

26 9. Pursuant to Bankruptcy Code §§ 363(f) and 105(a), to the fullest extent permitted
27 by law, effective as of the Closing, the sale of the Purchased Assets by the Debtor to the
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1 Purchaser shall constitute a legal, valid, and effective transfer of the Purchased Assets
2 notwithstanding any requirement for approval or consent by any Person and shall vest the
3 Purchaser with all right, title, and interest of the Debtor in and to the Purchased Assets, free and
4 clear of the following liens, deeds, mortgages, encumbrances and security interests:

- 5
- 6 a. All liens of Dreisbach Enterprises (“Driesbach”), including, without
7 limitation, that certain warehouse lien encumbering goods stored by the
8 Debtor at Dreisbach’s warehouse;
- 9 b. All liens of Lillian D. Zacky Trust dated July 26, 1988 (the “Lillian Zacky
10 Trust”), including, without limitation, those liens asserted by the Lillian
11 Zacky Trust on 2222 & 2240 S. East Ave., Fresno, CA 93721 and 1111
12 Navy Dr., Stockton, CA 95206 pursuant to certain Deeds of Trust dated
13 September 7, 2012 and recorded September 11, 2012 as Instrument No.
14 2012-0129194, and dated September 28, 2012 and recorded October 2,
15 2012 as Instrument No. 2012-127834, respectively, and any amendments,
16 continuations or other documents related thereto;
- 17 c. All liens of the Purchaser, as successor in interest to Wells Fargo Bank,
18 N.A., including, without limitation, those certain Deeds of Trust dated
19 October 13, 2009 and any amendments, continuations or other documents
20 related thereto and any liens that are evidenced or perfected by the UCC
21 Financing Statement filed with the California Secretary of State as filing
22 number 09-7214548474 dated November 17, 2009 and any amendments,
23 continuations or other documents related thereto;
- 24 d. All liens of the Purchaser arising out of or related to the DIP Credit
25 Agreement approved by Final Order dated November 13, 2012 (docket no.
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- 292) and any and all amendments, modifications and extensions thereof;
- e. All liens of Western Milling, LLC (which liens shall be released in accordance with the terms of the Settlement), including, without limitation, any poultry supply lien evidenced by the UCC Financing Statement filed with the California Secretary of State as filing number 12-7325193760 dated August 15, 2012 and any amendments, continuations or other documents related thereto;
 - f. All liens of Office Max North America, including, without limitation, any liens asserted in its proof of claim number 48 filed in this bankruptcy case on November 1, 2012;
 - g. All liens of Dave Dodge Service, Inc., including, without limitation, any liens asserted in its proof of claim number 248 filed in this bankruptcy case on December 13, 2012;
 - h. All liens of B&B Quality Food Providers, including, without limitation, any liens asserted in its proof of claim number 363 filed in this bankruptcy case on January 22, 2013;
 - i. All liens of Wei Chan DDS, including, without limitation, any liens asserted in its proof of claim number 118 filed in this bankruptcy case on November 26, 2012;
 - j. The lien of Idaho Avenue Land Company on the North Half of the Northeast Quarter of Section 24, Township 19 South, Range 21 East in Hanford, CA (APN: 028-030-032) pursuant to that certain Deed of Trust recorded March 28, 2006, as Instrument No. 0608952, and any amendments, continuations or other documents related thereto;

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- k. The lien of USA Petroleum Corporation asserted on the North Half of the Northeast Quarter of Section 24, Township 19 South, Range 21 East in Hanford, CA (APN: 028-030-032) pursuant to that certain Deed of Trust recorded March 28, 2006, as Instrument No. 0608953 and any amendments, continuations or other documents related thereto; and
- l. The lien of GFC LLC asserted on North Half of the Northeast Quarter of Section 24, Township 19 South, Range 21 East in Hanford, CA (APN: 028-030-032) pursuant to that certain Deed of Trust recorded March 28, 2006, as Instrument No. 0608954 and any amendments, continuations or other documents related thereto.

10. The deed of trust (the "Richard Lien") of Richard Zacky, individually, or as trustee of the Richard N. Zacky Irrevocable Trust dated 11/25/07 (collectively, "Richard"), shall remain on the real estate located at 16395 19th Avenue, Lemoore, California and the Hanford 57 property, located in Hanford, California (collectively, the "Secured Real Property") and shall remain subject to the automatic stay; provided, however, that the Committee shall have responsibility for the payment or other disposition of that certain secured promissory note in the amount of \$1 Million in favor of Richard (the "Richard Note") and the removal of the Richard Lien from the Secured Real Property. If the Richard Lien is not removed from the Secured Real Property prior to the payment in full of the Creditor Recovery Note, the Richard Lien shall be removed from the Secured Real Property and shall be transferred and become a perfected first priority security interest in the cash paid under the Creditor Recovery Note and deposited in a separate blocked account. The Richard Lien shall remain on the Secured Real Property until the Creditor Recovery Note is paid in full and the Richard Lien is transferred and becomes a perfected first priority security interest in the cash paid under the Creditor Recovery Note.

1 11. To the fullest extent permitted by law, effective as of the Closing, the assumption
2 of the Assumed Liabilities by the Purchaser shall constitute a legal, valid and effective delegation
3 and assignment of all Assumed Liabilities to the Purchaser and shall divest the Debtor of all
4 liability with respect to any Assumed Liabilities.

5 12. The sale of the Purchased Assets is not subject to avoidance pursuant to
6 Bankruptcy Code § 363(n).
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8 13. At the Closing, the Debtor shall be, and hereby is, authorized, empowered, and
9 directed, pursuant to Bankruptcy Code §§ 105, 363(b), 363(f), 363(k) and 365, and pursuant to
10 the Assumption Order, to sell the Purchased Assets and to assume and assign the Assumed
11 Contracts to the Purchaser. The sale of the Purchased Assets shall vest the Purchaser with all
12 right, title and interest of the Debtor to the Purchased Assets free and clear of any and all Liens
13 (other than the Permitted Liens), to the fullest extent permitted by law, with all such Liens to
14 attach only to the Creditor Recovery Note with the same priority, validity, force, and effect, if
15 any, as they now have in or against the Purchased Assets, subject to all claims and defenses the
16 Debtor may possess with respect thereto. Following the Closing Date, no holder of any Liens in
17 the Purchased Assets (other than the Permitted Liens and Assumed Liabilities) shall interfere with
18 the Purchaser's use and enjoyment of the Purchased Assets based on or related to such Liens, or
19 any actions that the Debtor may take in the Bankruptcy Cases.
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21 14. The provisions of this Order authorizing the sale of the Purchased Assets free and
22 clear of Liens (other than the Permitted Liens) shall be self-executing, and neither the Debtor nor
23 the Purchaser shall be required to execute or file releases, termination statements, assignments,
24 consents, or other instruments in order to effectuate, consummate, and implement the provisions
25 of this Order. However, the Debtor and the Purchaser, and each of their respective officers,
26 employees, and agents are hereby authorized and empowered to take all actions and execute and
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1 deliver any and all documents and instruments that either the Debtor or the Purchaser deem
2 necessary, desirable or appropriate to implement and effectuate the terms of the Agreement and
3 this Order.

4 15. Notwithstanding other provisions of this Order, the warehouse lien of Dreisbach
5 shall to the extent disputed attach to the proceeds of the sale, with undisputed amounts to be
6 satisfied by application by Dreisbach of a cash deposit posted by the Debtor (and held by
7 Driesbach) in the approximate amount of \$168,176, to the outstanding secured indebtedness due
8 Driesbach secured by the warehouse lien, with any portion of the deposit that may remain after
9 such application to be remitted promptly to the Debtor. To the extent that the cash deposit is
10 insufficient to cover the undisputed amount secured by the warehouse lien, the Debtor shall pay
11 such difference from the debtor-in-possession facility in the ordinary course of business and/or
12 from the proceeds of the sale on Closing. Any liens securing disputed amounts shall attach to the
13 proceeds of the sale to be resolved by separate motion or adversary proceeding.

14 16. On or before the Closing Date, the Debtor's creditors are authorized and directed
15 to execute such documents and take all other actions as may be necessary to release any Liens
16 (other than the Permitted Liens) of any kind against the Purchased Assets, as such Liens may
17 have been recorded or may otherwise exist, and deliver such executed documents to the Debtor's
18 counsel to be held in escrow. If any Person that has filed financing statements or other
19 documents or agreements evidencing any Liens in or against the Purchased Assets (other than the
20 Permitted Liens) shall not have delivered to the Debtor's counsel prior to the Closing after request
21 therefor, in proper form for filing and executed by the appropriate parties, termination statements,
22 instruments of satisfaction, or releases of all such Liens that the Person has with respect to the
23 Purchased Assets, the Debtor is hereby authorized to execute and file such statements,
24 instruments, releases, and other documents on behalf of the Person with respect to such Purchased
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1 Assets at Closing, and the Purchaser is hereby authorized to execute and file such statements,
2 instruments, releases, and other documents on behalf of the Person with respect to such Purchased
3 Assets after the Closing. In addition, after Closing, the Purchaser and the Debtor are authorized
4 to file a copy of this Order in the appropriate real estate records, the secretary of state records and
5 any other filing location selected by the Purchaser or the Debtor and, once filed, this Order shall
6 constitute conclusive evidence of the release of all Liens (other than Permitted Liens) from the
7 Purchased Assets.
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9 17. To the greatest extent available under applicable law, (a) the Purchaser shall be
10 authorized, as of the Closing Date, to operate under any license, permit, approval, certificate of
11 occupancy, authorization, operating permit, registration, plan and the like of any Governmental
12 Authority relating to the Purchased Assets (collectively, the “Permits”), (b) all such Permits are
13 deemed to have been, and hereby are, deemed to be transferred to the Purchaser as of the Closing
14 Date, and (c) each Governmental Authority that has issued or granted a Permit and who did not
15 object to the sale of the Purchased Assets shall be deemed to have consented to the transfer of
16 such Permit to the Purchaser as of the Closing Date.
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18 18. All of the Debtor’s interests in the Purchased Assets to be acquired by the
19 Purchaser under the Agreement shall be, as of the Closing Date and upon the occurrence of the
20 Closing, transferred to and vested in the Purchaser. Upon the occurrence of the Closing, this
21 Order shall be considered and shall constitute for any and all purposes a full and complete general
22 assignment, conveyance, and transfer of the Purchased Assets acquired by the Purchaser under
23 the Agreement and/or a bill of sale, deeds, or assignment transferring good and marketable,
24 indefeasible title and interest in the Purchased Assets to the Purchaser.
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26 19. On and after the Closing Date, each of the Debtor’s creditors is authorized and
27 directed to execute such documents and take all other actions as may be necessary to release their
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1 respective Liens (other than the Permitted Liens) against the Purchased Assets, if any, as may
2 have been recorded or may otherwise exist.

3 20. All Persons presently or on or after the Closing Date in possession of some or all
4 of the Purchased Assets are directed to surrender possession of the Purchased Assets to the
5 Purchaser on the Closing Date or at such time thereafter as the Purchaser may request.

6 21. The Purchaser has not assumed and is not otherwise obligated for any of the
7 Debtor's liabilities or for any Claims against the Debtor or the Purchased Assets other than the
8 Assumed Liabilities as set forth in the Agreement, and the Purchaser has not purchased any of the
9 Excluded Assets as set forth in the Agreement. Consequently, all Persons, Governmental Units
10 (as defined in Bankruptcy Code §§ 101(27) and 101(41)), and holders of Liens (other than the
11 Permitted Liens) or Claims (other than Claims included in the Assumed Liabilities) based upon or
12 arising out of liabilities retained by the Debtor are hereby enjoined from taking any action against
13 the Purchaser or the Purchased Assets to recover any Liens or Claims on account of any liabilities
14 of the Debtor other than Assumed Liabilities pursuant to the Agreement. All Persons holding or
15 asserting any Liens or Claims on, against or relating to the Excluded Assets are hereby enjoined
16 from asserting or prosecuting such Liens or Claims or any cause of action against the Purchaser
17 or the Purchased Assets for any liability associated with the Excluded Assets.

18 22. Except to the extent expressly included in the Assumed Liabilities or otherwise
19 provided in the Agreement, pursuant to Bankruptcy Code §§ 105 and 363, all Persons including,
20 but not limited to, the Debtor, the Committee, all debt holders, equity security holders, the
21 Debtor's employees or former employees, Governmental Authorities, lenders, parties to or
22 beneficiaries under any benefit plan, trade and other creditors asserting or holding a Lien of any
23 kind or nature whatsoever against, in, or with respect to any of the Debtor or the Purchased Assets
24 (other than the Permitted Liens), arising under or out of, in connection with, or in any way
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1 relating to the Debtor, the Purchased Assets, the operation of the Debtor's business prior to the
2 Closing Date, or the transfer of the Purchased Assets to the Purchaser, shall to the full extent
3 provided by law be forever barred, estopped, and permanently enjoined from asserting,
4 prosecuting, or otherwise pursuing such Lien, including assertion of any right of setoff or
5 subrogation, and enforcement, attachment, or collection of any judgment, award, decree, or order,
6 against the Purchaser or any affiliate, successor or assign thereof and each of their respective
7 current and former members, officers, directors, attorneys, employees, partners, affiliates,
8 financial advisors, and representatives (each of the foregoing in its individual capacity), or the
9 Purchased Assets.
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11 23. Subject to the terms of the Agreement, the Agreement and any related agreements
12 and/or instruments may be waived, modified, amended, or supplemented by agreements of the
13 Debtor and the Purchaser, without further action or order of the Court; provided, however, that
14 any such waiver, modification, amendment, or supplement is not materially adverse to the Debtor
15 or its estate.
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17 24. All rights of Imperial Capital for payment for its services as the Debtor's
18 investment banker in connection with the Transactions as provided for in the Engagement Letter
19 approved by Court Order entered November 11, 2012 (docket no. 311) shall attach to the cash
20 sale proceeds allocated to the payment of Imperial Capital under the Settlement.
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22 25. The failure specifically to include any particular provisions of the Agreement or
23 any related agreements or instruments in this Order shall not diminish or impair the effectiveness
24 of such provisions, it being the intent of the Court, the Debtor, and the Purchaser that the
25 Agreement and any related agreements and instruments are authorized and approved in their
26 entirety with such amendments thereto as may be made by the parties in accordance with this
27 Order prior to Closing.
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1 26. No bulk sale law or any similar law of any state or other jurisdiction shall apply in
2 any way to the sale and the Transactions contemplated by the Agreement.

3 27. Nothing in this Order shall alter or amend the Agreement and the obligations of
4 the Debtor and the Purchaser thereunder.

5 28. This Order and the Agreement shall be binding upon and govern the acts of all
6 Persons including, without limitation, the Debtor, the Debtor's estate, the Purchaser, and each of
7 their respective directors, officers, employees, members, managers, agents, successors, and
8 permitted assigns, including, without limitation, any Chapter 11 trustee hereinafter appointed for
9 the Debtor's estate, any trustee appointed in a Chapter 7 case if these Bankruptcy Cases are
10 converted from Chapter 11, any Chapter 11 plan agent or trustee, liquidating agent or trustee, or
11 any other agent or trustee charged with administering any assets of the Debtor or its estate, all
12 creditors of either Debtor (whether known or unknown), all equity holders of the Debtor, holders
13 of Liens in or with respect to the Purchased Assets, filing agents, filing officers, title agents,
14 recording agencies, secretaries of state, and all other Persons who may be required by operation
15 of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release
16 any documents or instruments, or who may be required to report or insure any title in or to the
17 Purchased Assets.

18 29. Nothing in any order of this Court or contained in any plan of reorganization or
19 liquidation confirmed in these Bankruptcy Cases, or in any subsequent or converted cases of the
20 Debtor under chapter 7 or chapter 11 of the Bankruptcy Code, shall conflict with the terms of this
21 Order.

22 30. The stays imposed by Bankruptcy Rules 6004(h), 6006(d), and 7062 are hereby
23 waived, and this Order shall be effective and enforceable immediately upon entry and its
24 provisions shall be self-executing. In the absence of any Person obtaining a stay pending appeal,
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1 the Debtor and the Purchaser are free to close under the Agreement at any time, subject to the
2 terms of the Agreement. In the absence of any Person obtaining a stay pending appeal, if the
3 Debtor and the Purchaser close under the Agreement, the Purchaser shall be deemed to be acting
4 in “good faith” and shall be entitled to the protections of Bankruptcy Code § 363(m) as to all
5 aspects of the Transactions if this Order or any authorization contained herein is reversed or
6 modified on appeal.
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8 31. The automatic stay provisions of Bankruptcy Code § 362 are vacated and modified
9 to the extent necessary to implement the terms and conditions of the Agreement and the
10 provisions of this Order, and the stay imposed by Bankruptcy Rule 4001(a)(3) is hereby waived
11 with respect thereto.

12 32. Purchaser acknowledges that it takes the Intellectual Property Rights subject to any
13 restriction or limitation on their use that may result from that certain Trademark License
14 Agreement dated October 5, 2001 between Foster Poultry Farms d/b/a Foster Farms and certain
15 of its affiliates on the one hand, and Debtor and certain of its affiliates on the other. Purchaser
16 agrees to be bound by the Trademark License Agreement as successor to, and as though it were,
17 the “Licensors” as defined in the Trademark License Agreement, to the extent the Trademark
18 License Agreement applies to the Intellectual Property Rights.
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20 33. To extent consistent with *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988) (adopting
21 *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3rd Cir. 1984) test for pre-confirmation “related to”
22 jurisdiction) and *In re Pegasus Gold Corp.*, 394 F.3d 1189, 1194 (9th Cir. 2005) (adopting the *In*
23 *re Resorts Int’l, Inc.*, 372 F.3d 154, 166-67 (3d Cir. 2004) test for post-confirmation “related to
24 jurisdiction), this Court shall retain jurisdiction to enforce the terms and provisions of this Order,
25 the Bid Procedures Order, and the Agreement (including, without limitation, all documents and
26 instruments executed in connection with the Closing) in all respects and to decide any disputes
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1 concerning this Order, the Agreement, or the rights and duties of the parties hereunder or
2 thereunder or any issues relating to the Agreement and this Order including, but not limited to,
3 the interpretation of the terms, conditions and provisions hereof and thereof, the status, nature and
4 extent of the Purchased Assets and any Assumed Contracts, and all issues and disputes arising in
5 connection with the relief authorized herein, inclusive of those concerning the transfer of the
6 Purchased Assets free and clear of all Liens (except Permitted Liens). Without limiting the
7 generality of the foregoing, to the extent that, notwithstanding the free and clear transfer
8 provisions set forth in this Order, any Purchased Asset is transferred to the Purchaser subject to
9 Liens that Debtor is obligated to sell free and clear of pursuant to the Agreement, the Court shall
10 retain jurisdiction over such Purchased Asset after Closing to provide such relief.
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12 34. Notwithstanding any other provisions of this Order, the Agreement or any order
13 approving the Settlement, any accounts receivable owed by the Richard Entities (as defined in the
14 Settlement) to the Debtor's estate are not being sold as part of the Transactions and shall be
15 retained by the Debtor's estate.
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17 35. The Lot 2 Pitman Purchase Agreement (which relates to the sale of the breeder
18 ranches) is hereby approved by this Court as the Next Highest Bid (as defined in the Bid
19 Procedures Order). In the event that the Purchaser fails to close the Transactions set forth in the
20 Agreement, without further Order from this Court, the Debtor is hereby authorized to
21 consummate the transactions contemplated by the Lot 2 Pitman Purchase Agreement and to sell
22 and assign the applicable Purchased Assets to Pitman (and/or its permitted successors or assigns)
23 in accordance with the Lot 2 Pitman Purchase Agreement (the "Alternative Pitman Sale"). With
24 respect to the Alternative Pitman Sale, such sale, including the transfer of any Purchased Assets
25 to Pitman (and/or its permitted successors and assigns), shall be conducted pursuant to and in
26 accordance with this Order and Pitman (and/or its permitted successors and assigns) and the
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1 Debtor shall receive the benefit of all rights and protections granted to Purchaser and the Debtor
2 in this Order (as if Pitman has been substituted for the Purchaser for all applicable purposes
3 hereunder), including, without limitation, the transfer of such Purchased Assets free and clear of
4 the Liens (except Permitted Liens).

5
6 Prepared and presented by:

7
8 FELDERSTEIN FITZGERALD
9 WILLOUGHBY & PASCUZZI LLP

10 By: /s/ Donald W. Fitzgerald
11 Donald W. Fitzgerald

12 AND

13 KING & SPALDING LLP

14 Paul K. Ferdinands
15 W. Austin Jowers

16 COUNSEL FOR THE DEBTOR

17 APPROVED BY:

18 THE LOBEL FIRM, LLP

LOWENSTEIN SANDLER LLP

19 By: /s/ William N. Lobel
20 William N. Lobel
21 Attorneys for the Robert D. Zacky and Lillian
22 D. Zacky Trust U/D/T July 26, 1988

By: /s/ Jeffrey D. Prol
Jeffrey D. Prol
Co-Counsel to the Official Committee of
Unsecured Creditors

23 Dated: February 21, 2013

24
25
26 
27 Thomas C. Holman
28 United States Bankruptcy Judge