IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re FULCRUM BIOENERGY, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 24-12008 (TMH) (Jointly Administered) **Re: D.I. 455, 456, 458, 487, 522, 523, 548**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER CONFIRMING THE DEBTORS' SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION

Upon consideration of the Debtors' *Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 548-1], dated April 9, 2025, attached hereto as **Exhibit A** (together with all exhibits thereto, and as may be amended, modified, or supplemented, the "Plan") proposed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and this Court having approved the *Amended Disclosure Statement for Joint Chapter 11 Plan of Liquidation* [D.I. 455-1] (the "Disclosure Statement"), by order dated March 7, 2025 [D.I. 458] (the "Solicitation Procedures Order"); and the Debtors having filed the *Plan Supplement* on March 24, 2025 [D.I. 487], as may be amended, modified, or supplemented, the ("Plan Supplement"); and upon the *Notice of the Revised Exhibit to Plan Supplement* [D.I. 523]; and upon the affidavit of service filed reflecting compliance with the notice and solicitation requirements of the Solicitation Procedures Order [D.I. 510] (collectively, the "Notice Affidavit"); and upon the *Notice of (I) Approval of Disclosure Statement, (II) Deadline for Casting Votes to Accept or Reject the Plan, and (III) The Hearing to Consider Confirmation of the Plan* [D.I. 477] (the "Hearing Notice"); and

[1] The debtors and debtors in possession in these Chapter 11 Cases, along with each debtor's federal tax identification numbers are: Fulcrum BioEnergy, Inc. (3733); Fulcrum Sierra BioFuels, LLC (1833); Fulcrum Sierra Finance Company, LLC (4287); and Fulcrum Sierra Holdings, LLC (8498). The Debtors' service address is: Fulcrum BioEnergy Inc., P.O. Box 220 Pleasanton, CA 94566.

upon the *Declaration of James Lee of Kurtzman Carson Consultants, LLC dba Verita Global Regarding the Solicitation of Votes and Tabulation of Ballots Cast on the Amended Joint Chapter 11 Plan of Liquidation* [D.I. 524], filed with this Court on April 9, 2025 (the "Voting Declaration"); and upon the *Declaration of Mark Smith in Support of Confirmation of the Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 525] (the "Smith Declaration"), filed with this Court on April 9, 2025; and upon the *Memorandum of Law in Support of Confirmation of the Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 527], filed with this Court on April 9, 2025 (the "Confirmation Memorandum"); and any objections to the Plan having been resolved and/or overruled by this Court pursuant to this Confirmation Order; and a hearing to consider confirmation of the Plan having been held on April 14, 2024 (the "Confirmation Hearing"); and upon the evidence adduced and proffered and the arguments of counsel made at the Confirmation Hearing; and this Court having reviewed all documents in connection with Confirmation and having heard all parties desiring to be heard; and upon the record of these Chapter 11 Cases; and after due deliberation and consideration of all of the foregoing; and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED THAT:

A. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth on the record at the Confirmation Hearing, constitute this Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, made applicable to these proceedings pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. **Capitalized Terms.** Capitalized terms used but not defined herein shall have the respective meanings attributed to such terms in the Plan, the Disclosure Statement, and the Plan Supplement, as applicable.

C. **Jurisdiction and Venue.** This Court has jurisdiction over these Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and this Court may enter a final order consistent with Article III of the United States Constitution, and the Debtors consent to entry of this Confirmation Order under the Local Rules and Article III of the United States Constitution. Venue of these proceedings and these Chapter 11 Cases is proper in this district and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. **Chapter 11 Petitions.** On September 9, 2024 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to manage their assets as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b). On September 19, 2024, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed the Official Committee of Unsecured Creditors [D.I. 74] (the "Committee"). No party has requested the appointment of a trustee or examiner in these Chapter 11 Cases.

E. **Judicial Notice.** This Court takes judicial notice of the docket in these Chapter 11 Cases maintained by the Clerk of this Court and/or its duly appointed agent, including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence

and arguments made, proffered or adduced at the hearings held before this Court during these Chapter 11 Cases, including, without limitation, the Confirmation Hearing.

F. **Plan Supplement.** Prior to the Confirmation Hearing, the Debtors filed the Plan Supplement. The Plan Supplement complies with the terms of the Plan, and the filing and notice of the Plan Supplement was appropriate, timely, and adequate, and complied with the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order, and no other or further notice is or shall be required. All parties had an opportunity to appear and be heard in connection with the Plan Supplement. The Debtors and/or the Liquidation Trustee, as applicable, are authorized to modify the Plan Supplement documents in accordance with their respective terms following entry of this Confirmation Order in a manner consistent with this Confirmation Order and/or the Plan.

G. **Mailing of Solicitation and Confirmation Materials.** As is evidenced by the Voting Declaration and the Notice Affidavit, the transmittal and service of the Plan, the Disclosure Statement, the Ballots, the Confirmation Hearing Notice, and the Notice of Non-Voting Status were adequate and sufficient under the circumstances, and all parties required to be given notice of the Plan and the Confirmation Hearing (including the deadline for filing and serving objections to Confirmation of the Plan) have been given due, proper, timely, and adequate notice thereof and an opportunity to appear and be heard in accordance with the Solicitation Procedures Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, and applicable non-bankruptcy law. No other or further notice of the Plan and the Confirmation Hearing is required.

H. **Voting.** The procedures by which the Ballots for acceptance or rejection of the Plan were distributed and tabulated under the circumstances of these Chapter 11 Cases were fair,

properly conducted, and complied with the Bankruptcy Code and the Bankruptcy Rules, applicable non-bankruptcy law and the Solicitation Procedures Order.

I. **Bankruptcy Rule 3016.** The Plan and Disclosure Statement, and the filing of each, comply with Bankruptcy Rule 3016.

J. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. In addition to Administrative Expense Claims, Fee Claims, Priority Tax Claims, and U.S. Trustee Fees, which need not be classified, the Plan designates five Classes of Claims and Interests. The Claims or Interests placed in each Class are substantially similar to other Claims or Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between holders of Claims and Interests. Thus, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

K. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Sections 3 and 4 of the Plan specify that Class 1 (Other Priority Claims) is Unimpaired under the Plan. Thus, section 1123(a)(2) of the Bankruptcy Code is satisfied.

L. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Sections 3 and 4 of the Plan designate Class 2A-C (Fulcrum Prepetition Loan Secured Claims, Holdings Prepetition Bond Secured Claims, and BioFuels Prepetition Bond Secured Claims), Class 3A-C (Fulcrum Deficiency Claims, Holdings Deficiency Claims, and BioFuels Deficiency Claims), Class 4A-C (Fulcrum Undersecured and General Unsecured Claims, Holdings Undersecured and General Unsecured Claims, and BioFuels Undersecured and General Unsecured

Claims), and Class 5 (Interests) as Impaired and specify the treatment of Claims and Interests in such Classes. Thus, section 1123(a)(3) of the Bankruptcy Code is satisfied.

M. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Debtors for each Claim or Interest in each respective Class unless the holder of a particular Claim or Interest has agreed to a less favorable treatment of such Claim or Interest. Thus, section 1123(a)(4) of the Bankruptcy Code is satisfied.

N. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** The Plan, including the provisions governing the Liquidation Trust, provides adequate and proper means for the Plan's implementation. Thus, section 1123(a)(5) of the Bankruptcy Code is satisfied.

O. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Plan does not provide for the issuance of non-voting securities, all Interests in the Debtors shall be cancelled, and the Debtors' corporate entities shall be wound down. Therefore, section 1123(a)(6) of the Bankruptcy Code is satisfied.

P. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Section 6.3 of the Plan provides that the Liquidation Trust shall be administered by the Liquidation Trustee in accordance with the Plan and the Liquidation Trust Agreement. The Liquidation Trustee, selected by the Committee in consultation with the Debtors, the BioFuels Trustee and the Prepetition Agent, will serve as a fiduciary of each of the Wind-Down Estates as of the Effective Date. The Liquidation Trustee shall oversee the Liquidation Trust and/or the administration of the Plan, as applicable, and the wind-down of the Debtors' Estates. The Liquidation Trustee shall be vested with the power to act for the Debtors in the same capacity as applicable to a board of directors and officers, subject to the provisions in the Plan and the Liquidation Trust Agreement (and all articles of incorporation or amendments, by-laws, governing documents, and related documents of the

Debtors, as applicable, are deemed amended pursuant to the Plan to permit and authorize the same). From and after the Effective Date, the Liquidation Trustee shall be the sole representative of and shall act for the Debtors and their Estates.

Q. **Plan Provisions are Appropriate (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtors and their Estates, and consistent with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

R. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(1), (b)(2)).** The Debtors have exercised reasonable business judgment in determining to either assume, assume and assign, or reject each of the Debtors' remaining Executory Contracts and Unexpired Leases as provided for in the Plan and this Confirmation Order, and any such determinations under the circumstances are justified and appropriate.

S. **Reserved.**

T. **Releases, Exculpations, and Injunctions (11 U.S.C. § 1123(b)(3)(B))**. Under the facts and circumstances of these Chapter 11 Cases, the releases, exculpations, and injunctions provided for in Section 12 of the Plan are, subject to the terms and limitations set forth in the Plan: (i) within the jurisdiction of this Court under 28 U.S.C. **§** 1334, (ii) an appropriate exercise of the Debtors' business judgment, (iii) integral elements of the transactions incorporated into the Plan and inextricably bound with the other provisions of the Plan, (iv) in exchange for good and valuable consideration provided by the Released Parties, (v) in the best interests of the Debtors, the Estates, and all holders of Claims and Interests that are Releasing Parties, (vi) fair, equitable, and reasonable, (vii) given and made after due notice and an opportunity to object, opt-out, and be heard with respect thereto, (viii) consistent with sections 105, 524, 1123, 1129, and 1141 and other applicable provisions of the Bankruptcy Code and other applicable law, and (ix) a bar to any of

the Releasing Parties asserting any released claim against any of the Released Parties as and to the extent provided for in the Plan and this Confirmation Order.

U. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1123(b)(5)).** In accordance with section 1123(b)(5) of the Bankruptcy Code, Section 4 of the Plan modifies or leaves unaffected, as the case may be, the rights of holders of Claims and Interests in each Class.

V. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1123(b)(6)).** In accordance with section 1123(b)(6) of the Bankruptcy Code, the Plan includes various additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code.

W. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

X. **Debtors' Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).** Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtors have complied with the applicable provisions of the Bankruptcy Code, including, without limitation, sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplement, and all other matters considered by this Court in connection with these Chapter 11 Cases.

Y. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtors have proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, this Court has examined the totality of the circumstances surrounding the filing of these Chapter 11 Cases, the Plan itself, and the process leading to its

formulation. The Plan is the result of extensive arm's length negotiations among the Debtors, the Committee, and other key stakeholders. The Plan promotes the objectives and purposes of the Bankruptcy Code.

Z. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).** The procedures set forth in the Plan for this Court's approval of the fees, costs, and expenses to be paid in connection with these Chapter 11 Cases, or in connection with the Plan and incident to these Chapter 11 Cases, satisfy the objectives of, and are in compliance with, section 1129(a)(4) of the Bankruptcy Code.

AA. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5))**. In accordance with the Plan, the Debtors' corporate entities will be wound down and, pursuant to Section 6.6 of the Plan, upon the occurrence of the Effective Date, each of the Debtors' officers, directors, and managers shall be deemed to be terminated (except to the extent retained by the Liquidation Trust, subject to a separate agreement with the Liquidation Trust). The identity of the Liquidation Trustee has been disclosed as part of the Plan Supplement and is consistent with the interests of holders of Claims and Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

BB. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The "best interests" test is satisfied as to all Impaired Classes under the Plan, as each holder of a Claim or Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date, that is not less than the amount that such holder would so receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

CC. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Class 1 (Other Priority Claims) is left unimpaired under the Plan. Classes 2A (Fulcrum Prepetition Loan Secured Claims),

2B (Holdings Prepetition Bond Secured Claims), 2C (BioFuels Prepetition Bond Secured Claims), 3A (Fulcrum Deficiency Claims), 3B (Holdings Deficiency Claims), 3C (BioFuels Deficiency Claims), 4A (Fulcrum Undersecured and General Unsecured Claims) have voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to that Classes. Class 5 (Interests) is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not and cannot be satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

DD. **Treatment of Claims Entitled to Priority (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Expense Claims, Fee Claims, Priority Tax Claims, and U.S. Trustee Fees pursuant to Section 2 of the Plan satisfies section 1129(a)(9) of the Bankruptcy Code.

EE. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** As evidenced by the Voting Report, without including any acceptance of the Plan by any insider (as defined in the Bankruptcy Code), holders of Claims in Classes 2A (Fulcrum Prepetition Loan Secured Claims), 2B (Holdings Prepetition Bond Secured Claims), 2C (BioFuels Prepetition Bond Secured Claims), 3A (Fulcrum Deficiency Claims), 3B (Holdings Deficiency Claims), 3C (BioFuels Deficiency Claims), 4A (Fulcrum Undersecured and General Unsecured Claims) voted to accept the Plan at each Debtor entity in accordance with section 1126(c) of the Bankruptcy Code. As such, there is at least one Impaired Class of Claims that has accepted the Plan and, therefore, section 1129(a)(10) of the Bankruptcy Code has been satisfied.

FF. **Feasibility (11 U.S.C. § 1129(a)(11)).** The evidence supporting the Plan proffered or adduced by the Debtors at, or prior to, or in declarations filed in connection with the

Confirmation Hearing establish that the Debtors have the wherewithal to make all payments and otherwise comply with their financial commitments under the Plan.

GG. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to the Plan, thereby satisfying section 1129(a)(12) of the Bankruptcy Code.

HH. **Miscellaneous Provisions (11 U.S.C. §§ 1129 (a)(6), 1129(a)(13)–(16)).** Sections 1129(a)(6), (a)(13)–(16) of the Bankruptcy Code are inapplicable to Confirmation, as the Debtors (i) will not have any businesses involving the establishment of rates (section 1126(a)(6)), (ii) are not obligated to pay retiree benefits (as defined in section 1114(a) of the Bankruptcy Code) (section 1129(a)(13)), (iii) have no domestic support obligations (section 1129(a)(14)), (iv) are not individuals (section 1129(a)(15)), and (v) are not nonprofit corporations (section 1129(a)(16)).

II. No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)). The classification and treatment of Interests in Class 5, which is deemed to have rejected the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code. There is no Class of Claims or Interests junior to the holders of Interests in Class 5 that will receive or retain property under the Plan on account of their Claims or Interests. Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that is deemed to have rejected the Plan. Thus, the Plan satisfies section 1129(b) of the Bankruptcy Code.

JJ. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan currently proposed in these Chapter 11 Cases, and section 1129(c) of the Bankruptcy Code is therefore satisfied.

KK. **Principal Purpose (11 U.S.C. § 1129(d)).** The principal purpose of the Plan is neither the avoidance of taxes, nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to Confirmation on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

LL. **Liquidation Trust.** Entry into the Liquidation Trust Agreement is in the best interests of the Debtors and the Debtors' Estates and creditors. The establishment of the Liquidation Trust, the selection of the Liquidation Trustee, the form of the Liquidation Trust Agreement (as may be modified or amended from time to time), is appropriate and in the best interest of the Debtors' creditors. The Liquidation Trust Agreement shall, upon the Effective Date, be valid, binding, and enforceable in accordance with its terms.

MM. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for Confirmation set forth in the Bankruptcy Code and should be confirmed.

NN. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtors and their officers, directors, advisors, professionals, and agents, and the Committee and its professionals and members, in each case, have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code, and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the injunction and exculpation provisions set forth in Section 12 of the Plan and in this Confirmation Order.

OO. **Retention of Jurisdiction.** This Court may properly retain jurisdiction over the matters set forth in Section 13 of the Plan and/or section 1142 of the Bankruptcy Code.

Based upon the foregoing findings, and upon the record made before this Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby ORDERED, ADJUDGED AND DECREED THAT:

Confirmation of the Plan

1. The Plan, as and to the extent modified by this Confirmation Order, is approved and confirmed pursuant to section 1129 of the Bankruptcy Code. All objections to Confirmation and the Plan not otherwise withdrawn, resolved, or otherwise disposed of are overruled and denied on the merits.

2. The terms of the Plan are incorporated by reference into (except to the extent modified by this Confirmation Order), and are an integral part of, this Confirmation Order. Each provision of the Plan, to the extent modified by this Confirmation Order, is authorized and approved and shall have the same validity, binding effect, and enforceability as every other provision of the Plan. The failure specifically to describe, include, or refer to any particular article, section, or provision of the Plan, Plan Supplement, or any related document in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, and the Plan, the Plan Supplement, and all related documents are approved and confirmed in their entirety as if set forth verbatim in this Confirmation Order.

Conditions Precedent

3. The Effective Date shall not occur unless the conditions precedent set forth in Section 11.1 of the Plan have been satisfied or waived in accordance with Section 11.2 of the Plan:

(a) the Bankruptcy Court shall have entered the Confirmation Order, and the Confirmation Order shall not be stayed;

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

(c) all funding, actions, documents and agreements necessary to implement and consummate the Plan and the transactions and other matters contemplated thereby, shall have been effected or executed;

(d) the Liquidation Trust shall be established and validly existing and the Liquidation Trust Agreement shall have been executed;

(e) all professional fees and expenses that, as of the Effective Date, were due and payable under an order of the Bankruptcy Court shall have been paid in full, other than any Fee Claims subject to approval by the Bankruptcy Court;

(f) the Debtors shall have funded the Professional Fees Account in accordance with Section 2.3 of the Plan;

(g) the Debtors shall have sufficient Cash on hand to pay in full, or reserve for, the projected Allowed Administrative Expense Claims, Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and U.S. Trustee Fees otherwise due or payable on the Effective Date;

(h) no Governmental Unit or federal or state court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any law or order (whether temporary, preliminary or permanent), in any case which is in effect and which prevents or prohibits consummation of the Plan or any of the other transactions contemplated hereby and no Governmental Unit shall have instituted any action or proceeding (which remains pending at what would otherwise be the Effective Date) seeking to enjoin, restrain or otherwise prohibit consummation of the transactions contemplated by the Plan;

(i) all authorizations, consents, regulatory approvals, rulings or documents that are necessary to implement and effectuate the Plan as of the Effective Date shall have been received, waived or otherwise resolved; and

(j) all documents and agreements necessary to implement the Plan, including those set forth in the Plan Supplement, shall have (i) been tendered for delivery and (ii) been effected or executed by all Entities party thereto, and all conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

Classification and Treatment

4. The Plan's classification scheme is approved. The classifications set forth on the Ballots (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan,

(b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for distribution purposes, (c) may not be relied upon by any holder as representing the actual classification of such Claim under the Plan for distribution purposes, and (d) shall not be binding on the Debtors and/or the Liquidation Trust, as applicable, except for Plan voting purposes.

Authorization to Implement the Plan

5. The Debtors and/or the Liquidation Trust, as applicable, are authorized to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate the Plan and to execute, enter into, or otherwise make effective all agreements, documents, instruments, notices and certificates in connection therewith, prior to, on, and after the Effective Date, all without further action under applicable law, regulation, order, or direction by the pre-Effective Date officers or directors of the Debtors.

6. The approvals and authorizations specifically set forth in this Confirmation Order shall not limit the authority of the Liquidation Trust or the Debtors, or any of their respective representatives or agents, to take any and all actions necessary or appropriate to implement, effectuate, and consummate any and all documents or transactions contemplated by the Plan, the Plan Supplement, including the Liquidation Trust Agreement, or this Confirmation Order.

Enforceability of the Plan

7. Pursuant to sections 1123(a), 1141(a) and 1142 of the Bankruptcy Code, the Plan and all related documents, including, but not limited to, the Liquidation Trust Agreement, shall be valid, binding and enforceable.

8. On the Effective Date, the Debtors shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Liquidation Trust all of their rights, title, and interest in and to all of the Liquidation Trust Assets free and clear of all liens, claims, and encumbrances, except

to the extent otherwise provided in the Plan or this Confirmation Order, in accordance with section 1141 of the Bankruptcy Code. Such transfer shall be exempt from any stamp, real estate transfer, other transfer, mortgage reporting, sales, use, or other similar tax.

The Liquidation Trust

9. On the Effective Date, the Liquidation Trust, in accordance with the terms of the Liquidation Trust Agreement and the Plan, shall be deemed established for the benefit of the Liquidation Trust Beneficiaries. Pursuant to the Plan and the Liquidation Trust Agreement, all of the Liquidation Trust Assets shall be deemed to have been vested in the Liquidation Trust on the Effective Date. The Liquidation Trustee may use, acquire and dispose of property, including the Liquidation Trust Assets, in accordance with the terms of this Confirmation Order, the Liquidation Trust Agreement and the Plan, and shall have the exclusive right, authority, and standing to initiate, file, prosecute, abandon, compromise, settle, withdraw, litigate to judgment or release any Claims and Causes of Action that are Liquidation Trust Assets or to take, or to refrain from taking, any other action which the Liquidation Trustee deems necessary or desirable in conjunction with the wind-down of the Debtors and their affiliates, in each case without supervision of, or approval by, the Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by the Plan, the Liquidation Trust Agreement or this Confirmation Order. Wilmington Savings Fund Society, FSB is hereby appointed as the Liquidation Trustee and Delaware Trustee effective as of the Effective Date. The Liquidation Trustee shall be the representative of the Estate of each Debtor as that term is used in Section 1123(b)(3)(B) of the Bankruptcy Code with respect to the rights, powers, authority, and responsibilities specified in the Plan, this Confirmation Order and the Liquidation Trust Agreement. Except as provided in the Plan, the Liquidation Trust Agreement or this Confirmation Order, the Liquidation Trust shall be the Debtors' successor in interest with respect to the

Liquidation Trust Assets and all actions, claims, rights, or interests constituting Liquidation Trust Assets are preserved and retained and may be enforced by the Liquidation Trust and Liquidation Trustee, as applicable, as the representative of the Debtors' Estates pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code.

10. The formation, rights, powers, duties, structure, obligations and other matters pertaining to the Liquidation Trust shall be governed by the Liquidation Trust Agreement, the Plan and this Confirmation Order. The terms of the Liquidation Trust Agreement and selection of Wilmington Savings Fund Society, FSB as the Liquidation Trustee and Delaware Trustee are consistent with the Plan and Confirmation Order, and are fair, reasonable and in the best interest of the Debtors and their Estates as well as creditors, equity securityholders and other parties in interest. The Liquidation Trust Agreement is approved, subject to any amendments permitted under the Plan, Liquidation Trust Agreement, and this Confirmation Order in accordance with their respective terms. Pursuant to the Plan, the Court shall retain jurisdiction over the Liquidation Trust.

11. The Liquidation Trust shall consist of the Liquidation Trust Assets. Except as otherwise provided in this Plan or the Confirmation Order, on the Effective Date, the Debtors shall be deemed to have transferred all of the Liquidation Trust Assets held by the Debtors on the Effective Date to the Liquidation Trust, and all Liquidation Trust Assets shall vest in the Liquidation Trust on the Effective Date, to be administered by the Liquidation Trustee, in accordance with the Plan and the Liquidation Trust Agreement, free and clear of all Liens, Claims, encumbrances and other Interests. Thereupon, the Debtors shall have no interest in the Liquidation Trust Assets.

12. The Initial Distribution shall be made on the date selected by the Liquidation Trust on which the Liquidation Trustee, will make the Initial Distribution through the Disbursing Agent.

13. From and after the Effective Date, Liquidation Trust Expenses shall be paid from the Liquidation Trust Assets in the ordinary course of business, in accordance with the Plan and the Liquidation Trust Agreement. Without any further notice to any party or action, order or approval of the Bankruptcy Court, the Liquidation Trustee, on behalf of the Liquidation Trust, may employ professionals and pay in the ordinary course of business the reasonable fees of any employed professional (including professionals previously employed by the Debtors or the Committee) for services rendered or expenses incurred on and after the Effective Date that, in the discretion of the Liquidation Trustee, are necessary to assist the Liquidation Trustee in the performance of the Liquidation Trustee's duties under the Plan and the Liquidation Trust Agreement, subject to any limitations and procedures established by the Liquidation Trust Agreement.

Executory Contracts and Unexpired Leases

14. On the Effective Date, except as otherwise provided in the Plan, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned (including any Executory Contract or Unexpired Lease assumed and assigned in connection with a Sale Transaction) shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (i) as of the Effective Date is subject to a pending motion to assume such Unexpired Lease or Executory Contract or (ii) is a D&O Policy or an insurance policy.

15. Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan must be filed with Bankruptcy Court and served on the Liquidation Trust no later than

thirty (30) days after the notice of occurrence of the Effective Date. The notice of occurrence of the Effective Date shall include the date by which Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases must be filed.

16. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time, pursuant to Section 9.2 of the Plan, will be forever barred from assertion, and shall not be enforceable against the Debtors, the Liquidation Trust, the Liquidation Trustee, the Debtors' Estates, or the property for any of the foregoing, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

Administrative Expense Claims

17. Except as otherwise set forth in Section 2.2 of the Plan, requests for payment of Administrative Expense Claims must be filed with the Court and served on the Debtors, the Liquidation Trust, the Claims Agent, and the United States Trustee, so as to be received by the Administrative Expense Claims Bar Date. Failure to file and serve an Administrative Expense Claim timely and properly shall result in the Administrative Expense Claim being forever barred and released.

Governmental Bar Date

18. The Governmental Bar Date was March 10, 2025, at 5:00 p.m. (prevailing Eastern Time). Any Governmental Unit that did not timely assert a Claim against any Debtor or file and serve a Proof of Claim or application for allowance of such Claim (as applicable) with the Court by the Governmental Bar Date shall result in such Claim being forever barred.

Professional Fees Account and Fee Claims

19. On the Effective Date, the Debtors or the Liquidation Trust, as appropriate, shall fund the Professional Fees Account in accordance with Section 2.3 of the Plan. Fee Claims shall be paid in Cash from funds held in the Professional Fees Account when such Fee Claims are Allowed by a Final Order of the Bankruptcy Court. Neither the Debtors' nor the Liquidation Trust's obligations to pay Fee Claims shall be limited nor be deemed limited to funds held in the Professional Fees Account.

20. No later than five (5) days before the anticipated Effective Date, professionals shall provide a good faith estimate of their Fee Claims projected to be outstanding as of the Effective Date and shall deliver such estimate to the Debtors. With respect to Fee Claims, professionals shall use their best efforts to allocate fees and expenses incurred after December 1, 2024 between Fulcrum and Biofuels. Such estimate and/or allocation shall not be considered an admission or limitation with respect to the fees and expenses of such professionals and such professionals are not bound to any extent by the fee estimates and/or allocations between Fulcrum and BioFuels. If a professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such professional. The total amount so estimated shall be utilized by the Debtors and/or Liquidation Trust to determine the amount to be funded to the Professional Fees Account. The Debtors or the Liquidation Trust shall use cash on hand to increase the amount of the Professional Fees Account to the extent fee applications are filed after the Effective Date in excess of the amount held in the Professional Fees Account based on such estimates.

21. All entities seeking an award by the Bankruptcy Court of Fee Claims (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is forty-five (45) days after the Effective Date, and (ii) shall be paid in full from the Professional Fees Account in such amounts as are allowed

by the Bankruptcy Court (A) in accordance with an order entered by the Bankruptcy Court approving the final compensation of professionals, (B) upon the later of the Effective Date and the date upon which the order relating to any such Allowed Fee Claim is entered or (C) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim and the Debtors or the Liquidation Trust, as applicable. Objections to such Fee Claims, if any, must be filed and served no later than twenty (20) calendar days after the filing of such fee application or such other date as established by the Bankruptcy Court.

22. The Liquidation Trust is authorized to pay compensation for services rendered or reimbursement of expenses incurred by any Professional after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval in accordance with the Liquidation Trust Agreement. When all Allowed Fee Claims have been paid in full, any remaining amount in the Professional Fees Account shall promptly be released from such escrow and revert to, and ownership thereof shall vest in, the Liquidation Trust without any further action or order of the Bankruptcy Court.

23. Until payment in full of all Allowed Fee Claims, funds held in the Professional Fees Account shall not be considered Liquidation Trust Assets or otherwise property of the Liquidation Trust, the Debtors, or their Estates. The Professional Fees Account shall be treated as a trust account for the benefit of holders of Fee Claims and for no other parties until all Allowed Fee Claims have been paid in full in Cash. No other Liens, claims, or interests shall encumber the Professional Fees Account or Cash held in the Professional Fees Account in any way.

Release, Injunction, Exculpation and Related Provisions

24. The release, injunction, exculpation, and related provisions set forth in Section 12 of the Plan are hereby approved and authorized in their entirety, and such provisions are effective and binding on all Entities as and to the extent provided for therein or this Confirmation Order.

25. Nothing in this Confirmation Order, the Plan, or Plan Documents discharges, releases, precludes, exculpates or enjoins any liability to a Governmental Unit of a non-debtor. Nothing in this Confirmation Order, the Plan, or Plan Documents shall affect any recoupment right of any Governmental Unit.

Payment of Statutory Fees

26. All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code, together with the statutory rate of interest set forth in section 3717 of Title 31 of the U.S. Code to the extent applicable ("Quarterly Fees") prior to the Effective Date shall be paid by the Debtors on the Effective Date. After the Effective Date, the Debtors and the Liquidation Trust shall be jointly and severally liable to pay any and all Quarterly Fees when due and payable. The Debtors shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR. After the Effective Date, the Liquidation Trust shall file with the Bankruptcy Court separate UST Form 11-PCR reports when they become due. Each and every one of the Debtors and the Liquidation Trust shall remain obligated to pay Quarterly Fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's case being closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code. The U.S. Trustee shall not be required to file any Administrative Expense Claim in the case, and shall not be treated as providing any release under the Plan.

27. The provisions of Section 14.3 of the Plan and this paragraph control and govern any provisions of the Plan to the contrary.

Asset Sales

28. Notwithstanding anything to the contrary in this Confirmation Order, the Plan, the Plan Supplement, or the Liquidation Trust Agreement, nothing in this Confirmation Order, the Plan, the Plan Supplement, or the Liquidation Trust Agreement shall affect, prejudice, limit,

modify, release, alter, enjoin, or otherwise preclude (i) the provisions of the Agent Sale Order, Biorefinery Sale Order, Catalyst Sale Order, Feedstock Sale Order, or any other Final Order of the Bankruptcy Court approving a Sale Transaction (collectively, the "Sale Orders"), or (ii) the Debtors', their Estates', the Committee's, or respective purchaser's rights, privileges, benefits, obligations, demands, defenses and claims under and in accordance with the respective asset purchase agreement, transaction documents, Sale Orders, or the like. The Sale Orders and transaction documents shall remain in full force and effect and shall not be affected, limited, modified, released, altered, enjoined or changed by this Confirmation Order, the Plan, the Plan Supplement, or the Liquidation Trust Agreement.

Dissolution of the Committee

29. On the Effective Date, as set forth in Section 6.14 of the Plan, the Committee shall dissolve, and the members thereof and the professionals retained by the Committee thereof shall be released and discharged from all rights and duties arising from, or related to, these Chapter 11 Cases; *provided*, however, that following the Effective Date, the Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (a) applications, and any relief related thereto, for compensation and requests for allowance of fees and/or expenses under sections 330, 331 and 503(b) of the Bankruptcy Code including Fee Claims and any Committee member reimbursement requests, (b) to enforce the releases and exculpations under Section 12 of the Plan of the Committee, the Committee's members (solely in their capacity as such), and the Committee's Related Parties, and (c) any appeals of the Confirmation Order, the Sale Order, or any other appeal to which the Committee is or was a party in interest.

Binding Effect on all Parties

30. Subject to the occurrence of the Effective Date, and except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, the provisions of the Plan shall bind any holder of

a Claim against, or Interest in, the Debtors, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan. Further subject to the occurrence the Effective Date, this Confirmation Order shall be binding on and inure to the benefit of the Debtors, Liquidation, Trust, Liquidating Trustee, Released Parties, Exculpated Parties, and their respective successors and assigned; *provided*, however, Confirmation of the Plan does not provide the Debtors with a discharge under section 1141 of the Bankruptcy Code because the Plan is a liquidating chapter 11 plan.

31. All Plan documents and appendices to the Plan are hereby approved and shall be given full force and effect and shall bind all parties referred to therein as of the Effective Date, whether or not such agreements are actually issued, delivered, or recorded on the Effective Date or thereafter and whether or not a party has actually executed such agreement.

32. Effective as of and subject to the occurrence of the Effective Date and subject to the terms of the Plan and this Confirmation Order, all prior orders entered in these Chapter 11 Cases, all documents and agreements executed by the Debtors as authorized and directed thereunder, and all motions or requests for relief by the Debtors pending before the Court as of the Effective Date that ultimately are granted shall be binding upon and shall inure to the benefit of the Debtors, the Liquidation Trust, Liquidation Trustee, and their respective successors and assigns.

Modifications

33. The Plan may be amended, modified or supplemented by the Debtors, with the consent of the Committee or as ordered by the Bankruptcy Court prior to the Effective Date, in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law

without additional disclosure pursuant to section 1125 of the Bankruptcy Code. In addition, after the Confirmation Date but before substantial consummation of the Plan, the Debtors may, after consultation with the Committee, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

34. Before the Effective Date, to the extent provided in section 1127 of the Bankruptcy Code, the Debtors, in consultation with the Committee, may make appropriate technical adjustments and modifications to the Plan and any of the documents prepared in connection herewith without further order or approval of the Court.

Matters Related to the Abengoa Entities

35. Notwithstanding anything in the Plan, the Plan Supplement (including, without limitation, the Liquidation Trust Agreement), this Confirmation Order, including section 12.7 of the Plan, or any filings, documents, or agreements relating to any of the foregoing (collectively, the "Plan Documents") to the contrary:

i. all claims, rights, actions, or causes of action of any of the Debtors (including, without limitation, the Abengoa Claims and any other claim, right, action, or cause of action that will vest in the Liquidation Trust upon the Effective Date) that they, any of them, or any of their successors and assigns (including, without limitation, the Liquidation Trust) may assert against either (or both) of Abeinsa Abener Teyma General Partnership ("AATGP") or Abengoa, S.A. ("Abengoa" and collectively with AATGP, the "Abengoa Entities") shall be subject to and without prejudice to all rights, remedies, and defenses that may be asserted by the Abengoa Entities (or either of them), including, without limitation, any setoff or recoupment defenses (collectively, the "Abengoa Defenses"); *provided* that the Debtors, their bankruptcy estates, and all of their respective successors and assigns reserve the right to contest the Abengoa Entities' claims and alleged rights of setoff and recoupment. Any transfer or vesting of any such claims, rights, actions, or causes of action held by any of the Debtors against any of the Abengoa Entities to any person or entity (including to or with the Liquidation Trust) pursuant to the Plan Documents or otherwise, shall be subject to, and shall not be free and clear of, the Abengoa Defenses (including any right of setoff or recoupment). The Abengoa Entities shall retain and be

able to assert the Abengoa Defenses, including any right of setoff or recoupment, notwithstanding the failure of the Plan to classify or treat any such claims subject to an asserted right of setoff as secured claims under the Bankruptcy Code;

ii. nothing in the Plan Documents shall release, waive, discharge, or in any way adversely affect any claims of either of the Abengoa Entities against any of the Debtors or the Liquidation Trust including, without limitation, any claims that may be subject to a right of setoff or recoupment;

iii. nothing in the Plan Documents (including, without limitation, any injunction provision or any provision addressing claim disputes and/or claim allowance procedures), shall in any way limit any rights of the Abengoa Entities to demand, request, or assert (whether by objection, motion, request, adversary proceeding, or otherwise) that their claims against the Debtors (or any of them) and the counterclaims of the Debtors (or any of them) against the Abengoa Entities should be adjudicated in the pending arbitration before the International Court of Arbitration of the International Chamber of Commerce (the "ICC Arbitration") and not in another forum (including the Bankruptcy Court);

iv. the Debtors, their bankruptcy estates, and all of their respective successors and assigns hereby agree and acknowledge that all proofs of claim filed by AATGP or Abengoa (specifically, Proofs of Claim Nos. 111, 112, 117, and 118 (collectively, the "Abengoa Proofs of Claim")) were timely filed prior to the applicable proof of claim bar date (the "Bar Date") and shall not be subject to any objection by the Debtors, the Liquidating Trust, or any other party-in-interest in the Debtors' bankruptcy cases, that the Abengoa Proofs of Claim were not timely filed by the Bar Date;

v. neither of the Abengoa Entities have voted on the Plan and, therefore, the Abengoa Entities are neither Releasing Parties nor Released Parties under the Plan; and

vi. Solely for purposes of Section 7.3 of the Liquidation Trust Agreement regarding establishment of the Disputed Claim Reserve (and, for the avoidance of doubt, not for purposes of allowance of any claim asserted by either or both of the Abengoa Entities against the Debtors or the Liquidation Trust), the Disputed Claim Reserve shall reserve for the Abengoa Entities' pro rata share of any distributions utilizing the face amount of the Abengoa Entities' timely filed Proofs of Claim in (i) Class 4A against Fulcrum in the amount of $106,332,179.00 and (ii) Class 4C against BioFuels in the amount of $106,332,179.00.

Notice of Entry of Confirmation Order and Effective Date

36. Pursuant to Bankruptcy Rules 2002 and 3020(c), the Debtors are hereby authorized to serve a notice of entry of this Confirmation Order and the occurrence of the Effective Date on or within two (2) business days of the Effective Date on all holders of Claims against or Interests in the Debtors and all other persons on whom the Confirmation Hearing Notice was served. The Notice of Effective Date shall constitute good and sufficient notice of the entry of this Confirmation Order and of the relief granted herein, including, without limitation, any bar dates and deadlines established under the Plan and this Confirmation Order, and no other or further notice of the entry of this Confirmation Order, the occurrence of the Effective Date, and any such bar dates and deadlines need be given.

37. The Notice of Effective Date Notice be in substantially the form annexed hereto as **Exhibit B** and is hereby approved.

Retention of Jurisdiction

38. On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of Executory Contracts or Unexpired Leases and the allowance, classification, priority, compromise, estimation or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, or other litigated matter pending on or commenced after the Confirmation Date, including any such motions, adversary proceeding, application, contested matter or other litigated matter brought by the Liquidation Trust;

(c) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of or objection to any Claim;

(e) to enter, implement or enforce such orders as may be appropriate in the vent this Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

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

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including this Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred before the Effective Date;

(i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, this Confirmation Order, the Sale Order, the Liquidation Trust Agreement, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following Consummation;

(k) to hear any disputes arising out of, and to enforce, any order approving alternative dispute resolution procedures to resolve personal injury, employment litigation and similar Claims pursuant to section 105(a) of the Bankruptcy Code;

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

(m) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(n) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(o) to hear, determine and resolve any cases, matters, controversies, suits, disputes or Causes of Action in connection with or in any way related to the Chapter 11 Cases, including with respect to the releases, exculpation and injunction provisions contained in Section 12 of the Plan and this Confirmation Order;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter one or more final decrees closing the Chapter 11 Cases; (r) to interpret and enforce this Confirmation Order and all other orders previously entered by the Bankruptcy Court in these Chapter 11 Cases;

(s) to recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

(t) to hear and determine any rights, Claims or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory; and

(u) any other matters that may arise in connection with or relate to the Plan, the Plan Supplement, the Disclosure Statement, this Confirmation Order, a Sale Order or any contract, instrument, release, indenture, or other agreement or document created in connection therewith.

Rules Governing Conflicts Between Documents

39. In the event that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement, the Plan Supplement, the Liquidation Trust Agreement or any order in these Chapter 11 Cases, or any other agreement to be executed by any Person pursuant to the Plan, the provisions of the Plan shall control and take precedence; *provided*, *however*, that this Confirmation Order shall control and take precedence in the event of any inconsistency between this Confirmation Order, any provision of the Plan, and any of the foregoing documents.

Section 1146 Exemption

40. To the maximum extent provided by section 1146 of the Bankruptcy Code pursuant to a confirmed plan, under the Plan, (i) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in the Debtors; or (ii) the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan,

shall not be taxed under any law imposing a stamp tax or similar tax. To the extent that the Debtors or Liquidation Trust elects to sell any property after the Confirmation Date, such sales of property will be exempt from any transfer taxes in accordance with section 1146(a) of the Bankruptcy Code. All subsequent issuances, transfers or exchanges of securities, or the making or delivery of any instrument of transfer by the Debtors or Liquidation Trust in the Chapter 11 Cases shall be deemed to be or have been done in furtherance of the Plan.

Headings

41. Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

No Stay of Confirmation Order

42. Notwithstanding Bankruptcy Rules 3020(e) and 6004(h) and any other Bankruptcy Rule to the contrary, to the extent applicable, there is no reason for delay in the implementation of this Confirmation Order and, thus, this Confirmation Order shall be effective and enforceable immediately upon entry.

Thomas M. Horan

Dated: April 14th, 2025
Wilmington, Delaware

THOMAS M. HORAN
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Confirmed Plan

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re **FULCRUM BIOENERGY, INC.**, *et al.*,[1] Debtors.	Chapter 11 Case No. 24-12008 (TMH) (Jointly Administered)

SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Robert J. Dehney, Sr. (No. 3578)
Curtis S. Miller (No. 4583)
Clint M. Carlisle (No. 7313)
Avery Jue Meng (No. 7238)
1201 Market Street, 16th Floor
Wilmington, Delaware 19801
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
Email: rdehney@morrisnichols.com
cmiller@morrisnichols.com
ccarlisle@morrisnichols.com
ameng@morrisnichols.com

Counsel to the Debtors and Debtors in Possession

Dated: April 9, 2025
Wilmington, Delaware

[1] The debtors and debtors in possession in these chapter 11 cases, along with each debtor's federal tax identification numbers are: Fulcrum BioEnergy, Inc. (3733); Fulcrum Sierra BioFuels, LLC (1833); Fulcrum Sierra Finance Company, LLC (4287); and Fulcrum Sierra Holdings, LLC (8498). The Debtors' service address is: Fulcrum BioEnergy Inc., P.O. Box 220 Pleasanton, CA 94566.

TABLE OF CONTENTS

SECTION 1. DEFINITIONS AND INTERPRETATION. 1

A. Definitions....1
B. Interpretation; Application of Definitions and Rules of Construction....15
C. Controlling Document. 15

SECTION 2. ADMINISTRATIVE EXPENSE, FEE CLAIMS, PRIORITY TAX CLAIMS, AND U.S. TRUSTEE FEES. 16

2.1 Administrative Expense Claims....16
2.2 Time for Filing Administrative Expense Claims. 16
2.3 Fee Claims. 17
2.4 Priority Tax Claims. 18

SECTION 3. CLASSIFICATION OF CLAIMS AND INTERESTS. 18

3.1 Classification in General. 18
3.2 Formation of Debtor Groups for Convenience Only. 18
3.3 Summary of Classification. 19
3.4 Special Provision Governing Unimpaired Claims. 20

SECTION 4. TREATMENT OF CLAIMS AND INTERESTS. 20

4.1 Other Priority Claims (Class 1)....20
4.2 Fulcrum Prepetition Loan Secured Claims (Class 2A). 20
4.3 Holdings Prepetition Bond Secured Claims (Class 2B). 21
4.4 BioFuels Prepetition Bond Secured Claims (Class 2C). 21
4.5 Fulcrum Deficiency Claims (Class 3A). 22
4.6 Holdings Deficiency Claims (Class 3B). 22
4.7 BioFuels Deficiency Claims (Class 3C). 22
4.8 Fulcrum Undersecured and General Unsecured Claims (Class 4A). 23
4.9 Holdings Undersecured and General Unsecured Claims (Class 4B). 23
4.10 BioFuels Undersecured and General Unsecured Claims (Class 4C). 23
4.11 Interests (Class 5). 24

SECTION 5. ACCEPTANCE OR REJECTION OF THE PLAN. 24

5.1 Class Acceptance Requirement. 24
5.2 Tabulation of Votes on a Non-Consolidated Basis. 24
5.3 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or "Cramdown". 24
5.4 Elimination of Vacant Classes. 24
5.5 Voting Classes; Deemed Acceptance by Non-Voting Classes. 25

SECTION 6. MEANS FOR IMPLEMENTATION. 25

6.1 Joint Chapter 11 Plan. 25
6.2 Plan Funding. 25
6.3 Liquidation Trust. 25
6.4 Elimination of Duplicate Claims 29
6.5 Corporate Action. 29
6.6 Directors, Officers, Managers, Members and Authorized Persons of the Debtors. 30
6.7 D&O Policy. 30
6.8 Indemnification of Directors, Officers and Employees. 30
6.9 Withholding and Reporting Requirements. 31
6.10 Exemption From Certain Transfer Taxes. 31
6.11 Effectuating Documents; Further Transactions. 32
6.12 Preservation of Rights of Action 32
6.13 Closing of the Chapter 11 Cases. 32
6.14 Dissolution of the Committee. 33

SECTION 7. DISTRIBUTIONS. 33

7.1 Distribution Record Date. 33
7.2 Date of Distributions. 33
7.3 Delivery of Distributions. 33
7.4 Manner of Payment Under Plan. 33
7.5 Minimum Cash Distributions. 34
7.6 Setoffs. 34
7.7 Allocation of Distributions Between Principal and Interest. 34
7.8 No Postpetition Interest on Claims. 34
7.9 No Distribution in Excess of Amount of Allowed Claim. 34

SECTION 8. PROCEDURES FOR DISPUTED CLAIMS. 35

8.1 Objections to Claims. 35
8.2 Allowance of Claims. 35
8.3 Estimation of Claims. 35
8.4 No Distributions Pending Allowance. 35
8.5 Resolution of Claims. 35
8.6 Amendments to Claims and Late Filed Claims. 36
8.7 Insured Claims. 36

SECTION 9. EXECUTORY CONTRACTS AND UNEXPIRED LEASES. 36

9.1 Rejection of Executory Contracts and Unexpired Leases. 36
9.2 Claims Based on Rejection of Executory Contracts and Unexpired Leases. 36

SECTION 10. CONDITIONS PRECEDENT TO CONFIRMATION 37

10.1 Conditions Precent to Confirmation 37

SECTION 11. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE. 37

11.1 Conditions Precedent to the Effective Date. 37
11.2 Waiver of Conditions Precedent. 38
11.3 Substantial Consummation. 38
11.4 Notice of Effective Date. 38
11.5 Effect of Vacatur of Confirmation Order. 38

SECTION 12. SETTLEMENT, RELEASES, INJUNCTIONS, AND RELATED PROVISIONS. 39

12.1 Release of Liens. 39
12.2 Binding Effect. 39
12.3 Term of Injunctions or Stays. 39
12.4 Releases by the Debtors. 39
12.5 Releases By Holders of Claims and Interests. 40
12.6 Exculpation. 41
12.7 Injunction. 41

SECTION 13. RETENTION OF JURISDICTION. 42

SECTION 14. MISCELLANEOUS PROVISIONS. 44

14.1 No Revesting of Assets. 44
14.2 Subordinated Claims. 44
14.3 Payment of Statutory Fees. 45
14.4 Amendments. 45
14.5 Revocation or Withdrawal of the Plan. 45
14.6 Severability of Plan Provisions Upon Confirmation. 46
14.7 Governing Law. 46
14.8 Time. 46
14.9 Additional Documents. 46
14.10 Immediate Binding Effect. 46
14.11 Successor and Assigns. 47
14.12 Entire Agreement. 47
14.13 Notices. 47

Each of the Debtors proposes the following joint chapter 11 plan of liquidation pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Section 1.A.

SECTION 1. DEFINITIONS AND INTERPRETATION.

A. Definitions.

1.1. ***503(b)(9) Claims*** means Claims that have been timely and properly filed prior to the Bar Date and that are granted administrative expense priority treatment pursuant to section 503(b)(9) of the Bankruptcy Code.

1.2. ***Abengoa Claims*** shall mean the claims, rights, actions or causes of action held by any of the Debtors against Abeinsa Abener Teyma General Partnership or Abengoa, S.A., including but not limited to those relating to or involved in the prepetition state court litigation and subsequent arbitration for administration by the International Chamber of Commerce or International Court.

1.3. ***Administrative Expense Claim*** means any Claim for costs and expenses of administration during the Chapter 11 Cases pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b), 507(a)(2) or 507(b) of the Bankruptcy Code, including, (i) Fee Claims and (ii) U.S. Trustee Fees which is filed on or before the Administrative Expense Claims Bar Date.

1.4. ***Administrative Expense Claims Bar Date*** means except for Fee Claims, the date that is thirty (30) days following service of notice of the occurrence of the Effective Date. With respect to Fee Claims, Administrative Expense Claims Bar Date means the date that is forty-five (45) days following service of the occurrence of the Effective Date.

1.5. ***Affiliate*** has the meaning set forth in section 101(2) of the Bankruptcy Code.

1.6. ***Agent Sale Order*** means the *Order (I) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [D.I. 394].

1.7. ***Allowed*** means, with reference to any Claim or Interest, a Claim or Interest or any portion thereof (i) arising on or before the Effective Date as to which a Proof of Claim or Interest has been filed and (A) no objection to allowance or priority, and no request for estimation or other challenge, including, without limitation, pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (B) any objection has been determined in favor of the holder of the Claim or Interest by a Final Order; (ii) that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors or the Liquidation Trustee, as applicable; (iii) as to which the liability of the Debtors and the amount thereof are determined by a Final Order of a court of competent jurisdiction; (iv) that is listed in the Schedules as liquidated, non-contingent, and undisputed, and is not superseded by a Proof of Claim; or (v) expressly allowed hereunder; provided, notwithstanding the foregoing, the Debtors and the Liquidation Trustee shall

retain all claims and defenses with respect to Allowed Claims that are Unimpaired pursuant to the Plan; provided, further, that any Claim or Interest (i) paid or required to be paid by a purchaser pursuant to a Bankruptcy Court-approved purchase agreement or Sale Order or (ii) listed in the Schedules that has been paid by the Debtors (w) after the Petition Date pursuant to an order of the Bankruptcy Court, (x) before the Petition Date and was inadvertently listed in the Schedules, or (y) paid by the Debtors or a Bankruptcy Court-approved purchaser pursuant to a Bankruptcy Court-approved purchase agreement or Sale Order during the course of these Chapter 11 Cases as an assumed liability, shall not be considered an Allowed Claim. ***Asset Sale*** means a sale, conveyance, transfer, or other disposition to, or any exchange of property with, any Person, in one transaction or a series of transactions, of all or any part of the Debtors' or any of their respective Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired.

1.8. ***Avoidance Action*** means any and all actual or potential claims and causes of action arising under and/or assertable by the Debtors under chapter 5 of the Bankruptcy Code (including, but not limited to, sections 502(d), 510, 542 through 551, 553, and 724(a) of the Bankruptcy Code), including any claim or cause of action to avoid a transfer of property or an obligation incurred by the Debtors, equitable subordination or recovery actions or proceedings, or under similar or related state or federal statutes and common law of the United States or similar applicable foreign laws or regulations, including fraudulent transfer laws.

1.9. ***Ballot*** means the form distributed to each holder of an Impaired Claim that is entitled to vote to accept or reject this Plan.

1.10. ***Bankruptcy Code*** means title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as amended from time to time, as applicable to the Chapter 11 Cases.

1.11. ***Bankruptcy Court*** means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made under section 157 of title 28 of the United States Code, the unit of such District Court having jurisdiction over the Chapter 11 Cases under section 151 of title 28 of the United States Code.

1.12. ***Bankruptcy Rules*** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Chapter 11 Cases, and any local rules of the Bankruptcy Court.

1.13. ***Bar Date*** means the General Bar Date or the dates fixed by order(s) of the Bankruptcy Court (including this Plan or the Confirmation Order), including the Governmental Bar Date, by which any Persons asserting a Claim against any Debtor must have filed a Proof of Claim or application for allowance of such Claim (as applicable) with the Bankruptcy Court against any such Debtor or be forever barred from asserting such Claim.

1.14. ***BioFuels*** means Fulcrum Sierra BioFuels, LLC.

1.15. ***BioFuels Bond Indenture*** means that certain Trust Indenture, dated as of October 1, 2017 (as amended, restated, amended and restated, supplemented, or otherwise

modified from time to time, by and between the Bond Issuer and the BioFuels Trustee, as trustee for the BioFuels Bonds.

1.16. ***BioFuels Bondholders*** means the holders of BioFuels Bonds.

1.17. ***BioFuels Bonds*** means the bonds issued under the BioFuels Bond Indenture.

1.18. ***BioFuels Bonds Collateral Agency Agreement*** means that certain Second Amended and Restated Collateral Agency and Account Agreement, dated as of March 1, 2018 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, by and among BioFuels and the BioFuels Collateral Agent.

1.19. ***BioFuels Collateral Agent*** means UMB Bank.

1.20. ***BioFuels Deficiency Claim*** means claims arising from unsatisfied amounts of BioFuels Prepetition Bond Secured Claim as of the Petition Date, plus interest, fees, expenses, and other amounts arising under the BioFuels Bond Indenture.

1.21. ***BioFuels Guaranty Claims*** mean those guaranty Claims asserted by the Prepetition Biofuels Bonds Secured Parties on account of the guarantees provided by Fulcrum in connection with the Biofuels Bonds in an amount not less than $124,710,200.16 on account of the aggregate outstanding principal amount arising under the BioFuels Bond Indenture as of the Petition Date, plus interest, fees, expenses, and other amounts arising under the BioFuels Bond Indenture.

1.22. ***BioFuels Mechanics Lien Claims*** means Claims held by holders of mechanics liens against BioFuels.

1.23. ***BioFuels Prepetition Bond Secured Claim*** means the Claim held by the Prepetition Biofuels Bonds Secured Parties under the BioFuels Bond Indenture.

1.24. ***BioFuels Term Loan Agreement*** means that certain senior unsecured term loan agreement (as amended, restated, supplemented or otherwise modified in accordance with the terms thereof, including by those amendments dated October 25, 2023, November 17, 2023, December 8, 2023, December 22, 2023, January 19, 2024, February 8, 2024, March 5, 2024, March 25, 2024 and April 5, 2024) by and between BioFuels and the Prepetition Agent, as administrative agent for the lenders thereunder

1.25. ***BioFuels Trustee*** means UMB Bank.

1.26. ***BioFuels Undersecured and General Unsecured Claims*** means (i) the BioFuels Mechanics Lien Claims, (ii) the Claims held by the Prepetition Loan Unsecured Parties under the BioFuels Term Loan Agreement, numbered on the Debtors' claim register as claim number 47, and (iii) General Unsecured Claims at BioFuels.

1.27. ***Biorefinery Sale Order*** means the *Order (I) Approving the Sale of the Debtors' Biorefinery Assts Free and Clear of Claims, Liens, and Encumbrances, (II)*

Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases, and (iii) Granting Related Relief [D.I. 264].

1.28. ***Bonds Trustee*** means the BioFuels Trustee and the Holdings Trustee.

1.29. ***Business Day*** means any day, other than a Saturday, Sunday, "legal holiday" (as defined in Bankruptcy Rule 9006(a)) or court holiday of the Bankruptcy Court.

1.30. ***Cash*** means legal tender of the United States of America and equivalents thereof.

1.31. ***Catalyst Sale*** means the private sale of the FT CANs to Johnson Matthey PLC as approved by a Sale Order entered by the Bankruptcy Court on January 15, 2025 [D.I. 385].

1.32. ***Causes of Action*** means, without limitation, any and all actions, proceedings, agreements, causes of action, controversies, demands, rights, Liens, indemnities, guaranties, accounts, defenses, offsets, powers, privileges, licenses, liabilities, obligations, rights, suits, damages, judgments, Claims, any right of setoff, counterclaim, or recoupment, any claim for breach of contract or for breach of duties imposed by law or in equity, any claim or defense including fraud, and any demands whatsoever owned by the Debtors, whether known or unknown, reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, disputed or undisputed, secured or unsecured, whether assertable directly, indirectly, derivatively or in any representative or other capacity, existing or hereafter arising, in contract or in tort, in law or in equity, or otherwise pursuant to any other theory of law, based in whole or in part upon any act, failure to act, error, omission, transaction, occurrence or other event arising or occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

1.33. ***Chapter 11 Cases*** means the jointly administered cases of the Debtors under chapter 11 of the Bankruptcy Code styled *In re Fulcrum BioEnergy, Inc., et al.*, Case No. 24-12008 (TMH).

1.34. ***Claim*** means any "claim" (as defined in section 101(5) of the Bankruptcy Code) against the Debtors, including, without limitation, any Claim arising after the Petition Date.

1.35. ***Claims Agent*** means Kurtzman Carson Consultants, LLC dba Verita Global, or any other entity approved by the Bankruptcy Court to act as the Debtors' claims and noticing agent pursuant to 28 U.S.C. § 156(c).

1.36. ***Claims Objection Bar Date*** means the date that is 180 days after the Effective Date, subject to extension by the Bankruptcy Court.

1.37. ***Class*** means any group of Claims or Interests classified pursuant to Section 3 of the Plan.

1.38. ***Committee*** means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in these Chapter 11 Cases.

1.39. ***Bond Issuer*** means the Director of the State of Nevada Department of Business and Industry.

1.40. ***Confirmation*** means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

1.41. ***Confirmation Date*** means the date on which the Bankruptcy Court enters the Confirmation Order.

1.42. ***Confirmation Hearing*** means the hearing held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

1.43. ***Confirmation Order*** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.44. ***Consenting Bondholders*** means the BioFuels Bondholders and Holdings Bondholders that are party to that certain Sale and Plan Agreement Term Sheet, dated January 3, 2025 [D.I. 366].

1.45. ***Consummation*** means the occurrence of the Effective Date of the Plan.

1.46. ***Deficiency Claim*** means the Fulcrum Deficiency Claims, Holdings Deficiency Claims, and BioFuels Deficiency Claims.

1.47. ***D&O Policy*** means any insurance policy for, among others, directors, members, trustees, and officers liability (or any equivalents) and liabilities relating thereto, in each case, maintained by the Debtors and/or the Debtors' Estates, and all agreements, documents or instruments relating thereto, including any runoff policies or tail coverage.

1.48. ***Debtors*** means Fulcrum BioEnergy, Inc., Fulcrum Sierra Holdings, LLC, Fulcrum Sierra Finance Company, LLC, and Fulcrum Sierra BioFuels, LLC.

1.49. ***Disallowed*** means a Claim against a Debtor, or any portion thereof, (i) that has been disallowed by a Final Order of the Bankruptcy Court, a settlement, or the Plan, (ii) that is listed in the Schedules at zero or as contingent, disputed, or unliquidated and as to which a Bar Date has been established but no Proof of Claim has been filed or if filed (a) has been objected to on the basis of timeliness or (b) has not been deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or applicable law, or (iii) that is not listed in the Debtors' Schedules and as to which a Bar Date has been established but no Proof of Claim has been filed or if filed (a) has been objected to on the basis of timeliness or (b) has not been deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or under applicable law.

1.50. ***Disbursing Agent*** means an entity selected to make Distributions at the direction of the Liquidation Trustee, which may include, but is not limited to, the Claims Agent, the Liquidation Trustee, the Debtors, the Bonds Trustee, or the Wind-Down Estates; provided, however, that with respect to the (a) BioFuels Bonds, the Disbursing Agent shall consult with the BioFuels Trustee with respect to distributions to the BioFuels Bondholders on account of any of the BioFuels Deficiency Claims, BioFuels Guaranty Claims, and/or the BioFuels Prepetition Bond Secured Claims to be made in accordance with the Plan and Liquidation Trust; and the (b) Holdings Bonds, the Disbursing Agent shall consult with the Holdings Trustee with respect to distributions to the Holdings Bondholders on account of the any of the Holdings Deficiency Claims, Holdings Guaranty Claims, and/or the Holdings Prepetition Bond Secured Claims in accordance with the Plan and Liquidation Trust.

1.51. ***Disclosure Statement*** means the disclosure statement relating to this Plan, as such disclosure statement may be amended, modified, or supplemented from time to time (including, without limitation, all exhibits and schedules thereto).

1.52. ***Disputed*** means, with respect to a Claim, a Claim against a Debtor (i) to the extent such Claim, or a portion thereof, is neither Allowed nor Disallowed, or (ii) held by a Person or Entity against whom or which any of the Debtors, the Liquidation Trust or the Liquidation Trustee has commenced a proceeding, including an objection to such Claim.

1.53. ***Disputed Claims Reserve*** means Liquidation Trust Assets allocable to Disputed Claims.

1.54. ***Distribution*** means payment or distribution of consideration to holders of Allowed Claims pursuant to this Plan in respect of the holder's Allowed Claim.

1.55. ***Distribution Date*** means a date or dates, including the Initial Distribution Date, as determined by the Debtors or the Liquidation Trustee, as applicable, in accordance with the terms of the Plan, on which the Debtors or the Liquidation Trustee makes a Distribution to holders of Allowed Claims.

1.56. ***Distribution Record Date*** means the Effective Date of the Plan.

1.57. ***DTC*** means the Depository Trust Company.

1.58. ***Effective Date*** means the date on which all conditions to the effectiveness of the Plan set forth in Section 11 hereof have been satisfied or waived in accordance with the terms of the Plan. A notice of the Effective Date shall be filed by the Debtors with the Bankruptcy Court within one business day after its occurrence.

1.59. ***Entity*** has the meaning set forth in section 101(15) of the Bankruptcy Code.

1.60. ***Estate*** or ***Estates*** means individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

1.61. ***Exculpated Parties*** means collectively, and in each case solely in their capacity as such: (i) the Debtors; (ii) the Debtors' directors and officers that have served postpetition;[2] (iii) the Committee and each of its members; and (iv) solely to the extent they are or are acting as agents for Estate fiduciaries at any time between the Petition Date and the Effective Date, the successors and assigns, subsidiaries, members, employees, partners, officers, directors, agents, attorneys, advisors, accountants, financial advisors, investment bankers, consultants, and other professionals of or for any of the Persons identified in (i) through (iii) above on or after the Petition Date solely in their capacity as such**;** *provided*, *however*, that attorneys, and/or other professionals to individual members of the Committee are not Exculpated Parties.

1.62. ***Executory Contract*** means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

1.63. ***Fee Claim*** means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Effective Date (including any the fees associated with the preparation, filing and prosecution of a final fee application) by professional persons retained by the Debtors and the Committee pursuant to sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code, provided that Professionals shall use their best efforts to allocate fees and expenses incurred after December 1, 2024 and included as part of the Fee Claim, between Fulcrum and Biofuels.

1.64. ***Feedstock Sale Order*** means Order (I) Approving the Sale of the Debtors' Feedstock Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief [D.I. 265].

1.65. ***Final Order*** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument or rehearing shall have expired; provided, however, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code or under Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 has been or may be filed with respect to such order or judgment.

[2] For the avoidance of doubt, none of the Debtors' former directors and officers shall be an Exculpated Party.

1.66. ***FT Catalyst*** means the proprietary catalyst required to effect the Fischer-Tropsch Reaction to be supplied by JM Davy in compliance with Article 6 of the Catalyst Agreement.

1.67. ***FT CANs*** means a catalyst carrier device substantially as described in the Catalyst Agreement and any of the JM Davy patents together with future variants thereof and improvements and developments thereto designed to be inserted into a single or multi-tubular reactor and designed to hold FT Catalyst.

1.68. ***Fulcrum*** means Fulcrum BioEnergy, Inc.

1.69. ***Fulcrum Deficiency Claims*** means Claims arising from unsatisfied amounts of the Fulcrum Prepetition Loan Secured Claim as of the Petition Date, plus interest, fees, expenses, and other amounts arising under the Prepetition Loan Documents.

1.70. ***Fulcrum Prepetition Loan Secured Claims*** means Claims held by the Prepetition Loan Secured Parties under the Prepetition Term Loan Credit Agreement, numbered on the Debtors' claim register as claim number 46.

1.71. ***Fulcrum Secured Convertible Promissory Noteholders*** means Crestline Praeter, L.P. – Fulcrum, BP Technology Ventures Limited, and Cathay Pacific Airways Limited.

1.72. ***Fulcrum Secured Convertible Promissory Notes*** means those certain secured convertible promissory notes issued to the Fulcrum Secured Convertible Promissory Noteholders pursuant to that certain Securities Purchase Agreement, dated as of November 13, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) in the principal amount of $23,500,000.

1.73. ***Fulcrum Senior Secured Term Loan Facility*** means the term loan facility in an initial aggregate principal amount of $84,500,000, which was subsequently increased on September 29, 2023 and May 20, 2024 by amendments thereto to a total aggregate principal amount of $94,140,475 provided for under the Prepetition Term Loan Credit Agreement.

1.74. ***Fulcrum Undersecured and General Unsecured Claims*** means (i) the Fulcrum Undersecured Convertible Notes Claims, (ii) the BioFuels Guaranty Claims, (iii) the Holdings Guaranty Claims, and (iv) General Unsecured Claims at Fulcrum.

1.75. ***Fulcrum Undersecured Convertible Notes Claims*** means Claims held by the Fulcrum Secured Convertible Promissory Noteholders.

1.76. ***General Bar Date*** means January 23, 2025, and the date by which any general unsecured creditor asserting a Claim against any Debtor must have filed a Proof of Claim with the Bankruptcy Court against any such Debtor or be forever barred from asserting such Claim.

1.77. ***Governmental Bar Date*** means March 10, 2025, and the date by which any Governmental Units asserting a Claim against any Debtor must have filed a Proof of

Claim or application for allowance of such Claim (as applicable) with the Bankruptcy Court against any such Debtor or be forever barred from asserting such Claim.

1.78. ***General Unsecured Claim*** means any unsecured nonpriority Claim against the Debtors. General Unsecured Claims shall not include Claims that are not Allowed or are released, whether by operation of law or pursuant to order of the Bankruptcy Court, written release or settlement, the provisions of the Plan or otherwise.

1.79. ***Governmental Unit*** has the meaning set forth in section 101(27) of the Bankruptcy Code.

1.80. ***Holdings*** means Fulcrum Sierra Holdings, LLC.

1.81. ***Holdings Bond Indenture*** means that certain Trust Indenture, dated as of September 1, 2018 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time by and between the Bond Issuer and the Holdings Trustee, as trustee for Holdings Bonds.

1.82. ***Holdings Bondholders*** means the holders of the Holdings Bonds

1.83. ***Holdings Bonds*** means the bonds issued pursuant to the Holdings Bond Indenture.

1.84. ***Holdings Bonds Collateral Agency Agreement*** means that certain Second Amended and Restated Collateral Agency and Account Agreement, dated as of December 1, 2020 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, by and among Holdings and the Holdings Collateral Agent.

1.85. ***Holdings Collateral Agent*** means UMB Bank.

1.86. ***Holdings Deficiency Claim*** means claims arising from unsatisfied amounts of Holdings Prepetition Bond Secured Claim as of the Petition Date, plus interest, fees, expenses, and other amounts arising under the Holdings Bond Indenture.

1.87. ***Holdings Guaranty Claims*** means those guaranty claims asserted by the Prepetition Biofuels Bonds Secured Parties on account of the guarantees provided by Fulcrum in connection with the Holdings Bonds in an amount not less than $113,955,467.80 on account of the aggregate outstanding principal amount arising under the Holdings Bond Indenture as of the Petition Date, plus interest, fees, expenses, and other amounts arising under the Holdings Bond Indenture.

1.88. ***Holdings Prepetition Bond Secured Claim*** means the Claim held by the Prepetition Holdings Bonds Secured Parties under the Holdings Bond Indenture.

1.89. ***Holdings Trustee*** means UMB Bank.

1.90. ***Holdings Undersecured and General Unsecured Claims*** means General Unsecured Claims at Holdings.

1.91. ***Impaired*** means, with respect to a Claim, Interest or Class of Claims or Interests, "impaired" within the meaning of section 1124 of the Bankruptcy Code.

1.92. ***Initial Distribution*** means the first Distribution that either the Debtors or the Liquidation Trustee, as applicable, makes to holders of Allowed Claims.

1.93. ***Initial Distribution Date*** means the date selected by the Liquidation Trustee on which the Liquidation Trustee, will make the Initial Distribution through the Disbursing Agent.

1.94. ***Insured Claim*** means any Claim or portion of a Claim that is, or may be, insured under any of the Debtors' insurance policies.

1.95. ***Intercompany Claim*** means a Claim by a Debtor against another Debtor or its direct or indirect subsidiary or affiliate.

1.96. ***Interest*** means any equity security (as defined in section 101(16) of the Bankruptcy Code) of a Debtor, including all shares, common stock, preferred stock, or other instrument evidencing any fixed or contingent ownership interest in any Debtor, whether or not transferable, and any option, warrant, or other right, contractual or otherwise, to acquire any such interest in the Debtors, whether fully vested or vesting in the future, including, without limitation, equity or equity-based incentives, grants, or other instruments issued, granted or promised to be granted to current or former employees, directors, officers, or contractors of the Debtors.

1.97. ***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.98. ***Liquidation Trust*** means that certain trust established pursuant to Section 6.3 hereof and the Liquidation Trust Agreement to, among other things, hold and, as applicable, monetize the Liquidation Trust Assets (including though the assertion of Causes of Action), make Distributions to holders of Allowed Claims pursuant to this Plan and wind-down the Debtors' estates after the Effective Date.

1.99. ***Liquidation Trust Account*** means one or more trust accounts established and maintained in one or more federally insured domestic banks in the name of the Liquidation Trust.

1.100. ***Liquidation Trust Agreement*** means the trust agreement governing the Liquidation Trust, which shall be in form and substance reasonably acceptable to the Debtors, the Committee and the Liquidation Trustee, and shall be filed with the Plan Supplement.

1.101. ***Liquidation Trust Assets*** means (i) all remaining assets of each of the Debtors that have not been sold or abandoned prior to the Effective Date following payment of (or establishment of appropriate reserves for) all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Fee Claims, Allowed Other Priority Claims, and U.S. Trustee Fees, (ii) all assets recovered by the Liquidation Trustee on behalf of the Liquidation Trust on or after the Effective Date through enforcement, resolution, settlement, collection, return, or otherwise, (iii) all Causes of Action, other than those expressly waived and/or released pursuant to this Plan

or sold in connection with a Sale Transaction, including (w) any remaining Avoidance Actions; (x) Causes of Action against any former officers, directors, or management; (y) Causes of Action against current or former insurers of the Debtors or any insurance policies of the Debtors (or rights to proceeds thereunder; (z) the Abengoa Claims; the TRI Claims, and commercial tort claims; (iv) any proceeds of (i) through (iii), plus any additional proceeds resulting from the Liquidation Trustee's investment of the Liquidation Trust Assets on or after the Effective Date. For the avoidance of doubt, Liquidation Trust Assets exclude those assets that were sold pursuant to any Sale Order.

1.102. ***Liquidation Trust Beneficiaries*** shall mean collectively the holders of Allowed Claims under the Plan against the Debtors, or any successors to such Holders, or their interests in the Liquidation Trust, whether such Claims are Allowed before or after the Effective Date.

1.103. ***Liquidation Trust Expenses*** means any and all reasonable fees, costs and expenses incurred by the Liquidation Trust or the Liquidation Trustee (or any professional or other Person retained by the Liquidation Trustee) on or after the Effective Date in connection with any of their duties under the Plan and the Liquidation Trust Agreement, including any administrative fees, attorneys' fees and expenses, insurance fees, taxes and escrow expenses.

1.104. ***Liquidation Trustee*** means such Person designated pursuant to the Liquidation Trust Agreement and who is to be identified in the Plan Supplement; provided that the initial Liquidation Trustee shall be selected by the Committee in consultation with the Debtors, the BioFuels Trustee and the Prepetition Agent.

1.105. ***Other Priority Claim*** means any Claim against any of the Debtors entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code, other than an Administrative Expense Claim, a Fee Claim or a Priority Tax Claim.

1.106. ***Person*** means an individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, estate, unincorporated organization, Governmental Unit or other entity.

1.107. ***Petition Date*** means September 9, 2024.

1.108. ***Plan*** means this joint chapter 11 plan, including the exhibits hereto, as the same may be amended or modified from time to time in accordance with Section 14.4 herein.

1.109. ***Plan Supplement*** means the compilation of documents and forms of documents, schedules and exhibits to be filed no later than seven (7) calendar days prior to the Voting Deadline, as may be supplemented, which shall contain draft forms, signed copies or summaries of material terms, as the case may be, of (i) the Liquidation Trust Agreement; (ii) the identity of the Liquidation Trustee; and (iii) any other document necessary or appropriate to implement the Plan, as each document may be amended or supplemented from time to time in accordance with its terms.

1.110. ***Prepetition Agent*** means PCL Administration LLC.

1.111. ***Prepetition Biofuels Bonds Secured Parties*** means the BioFuels Trustee and the BioFuels Collateral Agent.

1.112. ***Prepetition BioFuels Lenders*** means the lenders under the BioFuels Term Loan Agreement.

1.113. ***Prepetition Bonds Secured Parties*** means the Prepetition Biofuels Bonds Secured Parties and the Prepetition Holdings Bonds Secured Parties.

1.114. ***Prepetition Fulcrum Lenders*** means the lenders under the Prepetition Term Loan Credit Agreement.

1.115. ***Prepetition Holdings Bonds Secured Parties*** means the Holdings Trustee and the Holdings Collateral Agent.

1.116. ***Prepetition Loan Documents*** means the Prepetition Term Loan Credit Agreement, the other "Loan Documents" (as defined in the Prepetition Term Loan Credit Agreement).

1.117. ***Prepetition Loan Secured Parties*** means the Prepetition Agent and the Prepetition Fulcrum Lenders.

1.118. ***Prepetition Term Loan Credit Agreement*** means that certain Credit Agreement, dated June 23, 2023 (as amended, restated, supplemented, or otherwise modified from time to time, including by that certain First Amendment to Credit Agreement and Waiver dated September 29, 2023 and that certain Assignment and Assumption Agreement and Second Amendment to Credit Agreement dated May 20, 2024, by and between Fulcrum as borrower, certain of Fulcrum's subsidiaries as guarantors, and the Prepetition Agent as administrative and collateral agent for the Prepetition Fulcrum Lenders.

1.119. ***Prepetition Loan Unsecured Parties*** means the Prepetition Agent and the Prepetition BioFuels Lenders

1.120. ***Priority Tax Claim*** means any secured or unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.121. ***Pro Rata Share*** means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims within such Class or within Classes of the same priority of the same Debtor.

1.122. ***Professional*** means a Person retained in the Chapter 11 Cases pursuant to and in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered and expenses incurred pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code.

1.123. ***Professional Fees Account*** shall mean a segregated account funded by the Debtors in accordance with section 2.3 of the Plan for the purpose of payment of Allowed Fee Claims.

1.124. ***Proof of Claim*** means a proof of Claim filed against any of the Debtors in the Chapter 11 Cases.

1.125. ***Related Parties*** has the meaning set forth in the definition of "Released Parties."

1.126. ***Released and Exculpated Claims*** has the meaning set forth in section 12.7(b) of the Plan.

1.127. ***Released Party or Released Parties*** means collectively and in each case, solely in their respective capacities as such: (i) the Debtors; (ii) the Debtors' directors and officers that have served in such capacity postpetition, as set forth in **Exhibit A**; (iii) the Holdings Trustee, Holdings Collateral Agent, BioFuels Trustee and BioFuels Collateral Agent, (iv) the Prepetition Agent and each Prepetition Fulcrum Lenders, (v) the Consenting Bondholders, (vi) the Committee and each of its members, (vii) the Agent and lenders under the BioFuels Unsecured Term Loan Facility; (viii) the Wind-Down Estates; and (ix) with respect to any Person or Entity in the foregoing clauses (i) through (viii), current and former affiliates' directors, managers, officers, shareholders, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, predecessors, participants, successors, assigns (whether by operation of law or otherwise), subsidiaries, current, former, and future associated entities, managed or advised entities, accounts or funds, partners, limited partners, general partners, principals, members, management companies, fund advisors, managers, fiduciaries, trustees, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, other representatives, and other professionals, representatives, advisors, predecessors, successors, and assigns, each solely in their capacities as such (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of a Person), and the respective heirs, executors, estates, servants, and nominees of the foregoing (collectively, the "Related Parties"); *provided* that if any of the foregoing parties object to the releases in Section 12.5 of this Plan, or holders of Secured Claims in Classes 2A-2C, Deficiency Claims in Classes 3A-3C, and Undersecured and General Unsecured Claims in Classes 4A-4C vote in favor of the Plan and opt out of the voluntary release contained in Section 12.5 of the Plan, abstain from voting, or vote to reject the Plan, such parties will no longer be considered a Released Party; *provided* further that none of the former directors, managers or officers of the Debtors' or the Debtors' affiliates shall be a Released Party.[3]

1.128. ***Releasing Parties*** means collectively, and in each case, solely in their respective capacities as such: (i) the Released Parties and (ii) all holders of Secured Claims in Classes 2A-2C, Deficiency Claims in Classes 3A-3C, and Undersecured and General Unsecured Claims in Classes 4A-4C, who vote to accept the Plan and do not opt out of the voluntary release

[3] For the avoidance of doubt, none of the current officers and directors need to vote in favor of the plan or return a ballot to be a Released Party.

contained in Section 12.5 of the Plan by checking the "opt out" box on the ballot and returning it in accordance with the instructions set forth thereon; *provided*, however, that a Related Party to a Released Party is only a Releasing Party to the extent such Entity is legally entitled to bind such Related Party to the releases contained in the Plan under applicable non-bankruptcy law.

1.129. ***Remaining Catalyst Proceeds*** means the proceeds, if any, from the Catalyst Sale remaining after the administration of Fulcrum's chapter 11 case.

1.130. ***Sale Order*** means one or more orders of the Bankruptcy Court approving any Sale Transaction.

1.131. ***Sale Transaction*** means one or more Asset Sales, as approved by the Bankruptcy Court pursuant to a Sale Order.

1.132. ***Schedules*** means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtors under section 521 of the Bankruptcy Code, Bankruptcy Rule 1007, and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been or may be supplemented or amended from time to time.

1.133. ***Secured Claim*** means a Claim to the extent, under applicable non-bankruptcy law, that it is (i) secured by property of the Estate, the amount of which is equal to or less than the value of such property (A) as agreed to by the holder of such Claim and the Debtors, upon notice or opportunity to object, or (B) as determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (ii) secured by the amount of any rights of setoff of the holder thereof under section 553 of the Bankruptcy Code.

1.134. ***Secured Creditor*** means (i) the Prepetition Loan Secured Parties, (ii) the Prepetition Holdings Bonds Secured Parties, and (iii) the Prepetition BioFuels Bonds Secured Parties.

1.135. ***Subordinated Claim*** means any Claim, whether or not the subject of an existing lawsuit: (a) arising from rescission of a purchase or sale of any debt or equity securities of any Debtor or an affiliate of any Debtor; (b) for damages arising from the purchase or sale of any such security; (c) for violations of the securities laws, misrepresentations, or any similar Claims, including, to the extent related to the foregoing or otherwise subject to subordination under section 510(b) of the Bankruptcy Code, any attorneys' fees, other charges, or costs incurred on account of the foregoing Claims; (d) reimbursement, contribution, or indemnification on account of any such Claim; (e) subject to a subordination agreement; or (f) subject to subordination under section 510 or any other provision of the Bankruptcy Code.

1.136. ***Tax Code*** means the Internal Revenue Code of 1986, as amended from time to time.

1.137. ***TRI Claims*** means any claims held by the Debtors as of the Effective Date against Thermochem Recovery International, Inc. ("TRI"), including any claim relating to defective or improperly manufactured equipment.

1.138. ***U.S. Trustee*** means the United States Trustee for Region 3.

1.139. ***U.S. Trustee Fees*** means fees arising under 28 U.S.C. § 1930(a)(6), and accrued interest thereon arising under 31 U.S.C. § 3717.

1.140. ***Unexpired Lease*** means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

1.141. ***Unimpaired*** means, with respect to a Claim, Interest or Class of Claims or Interests, not "impaired" within the meaning of section 1123(a)(4) and 1124 of the Bankruptcy Code.

1.142. ***Wind-Down Estates*** means the Estates of the Debtors after the Effective Date.

B. Interpretation; Application of Definitions and Rules of Construction.

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived or modified from time to time. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (i) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (ii) unless otherwise specified, all references herein to "Sections" are references to Sections hereof or hereto; (iii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (iv) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

C. Controlling Document.

In the event of an inconsistency between the Plan and any other document, the terms of the Confirmation Order shall control (unless expressly stated otherwise herein or in such other document). The provisions of the Plan and the Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided that, if there is determined to be any inconsistency between any Plan provision and any provision of the Confirmation Order or the Liquidation Trust Agreement that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order or the Liquidation Trust Agreement, as applicable, shall govern and any such provision of the Confirmation Order or the Liquidation Trust Agreement, as applicable, shall be deemed a modification of the Plan and shall control and take precedence.

SECTION 2. ADMINISTRATIVE EXPENSE, FEE CLAIMS, PRIORITY TAX CLAIMS, AND U.S. TRUSTEE FEES.

2.1 *Administrative Expense Claims.*

Except to the extent that a holder of an Allowed Administrative Expense Claim and the Debtors or the Liquidation Trustee, as applicable, agree to different treatment, the Debtors or the Liquidation Trustee, as applicable, shall pay to each holder of an Allowed Administrative Expense Claim, other than Fee Claims, Cash in an amount equal to such Claim on or at the first Business Day after, or as soon thereafter as is reasonably practicable, the later of (i) the Effective Date and (ii) the date such Administrative Expense Claim is Allowed.

Holders of Administrative Expense Claims, other than Fee Claims, that were required to file and serve a request for payment of such Administrative Expense Claims and that did not file and serve such a request by the Administrative Expense Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtors or their property, or the Liquidation Trust or the Liquidation Trust Assets. The Debtors or the Liquidation Trustee, as applicable, may file and serve objections to Administrative Expense Claims on or before the Claims Objection Bar Date.

2.2 *Time for Filing Administrative Expense Claims.*

Each holder of an Administrative Expense Claim, other than:

(i) a Fee Claim;

(ii) an Administrative Expense Claim that has been allowed on or before the Effective Date;

(iii) a 503(b)(9) Claim;

(iv) an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date but before the Effective Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court;

(v) an Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date but before the Effective Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, accrued benefits, or reimbursement of business expenses; or

(vi) U.S. Trustee Fees,

must file with the Bankruptcy Court and serve on the Debtors, the Liquidation Trust, the Claims Agent, and the United States Trustee, **proof of such Administrative Expense Claim so as to be received by 5:00 p.m. prevailing Eastern time on the Administrative Expense Claims Bar Date**. Proof of an Administrative Expense Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Administrative Expenses Claim; (ii) the

name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND RELEASED.**

2.3 *Fee Claims.*

(a) *Professional Fees Account.* On the Effective Date, the Debtors or the Liquidation Trustee, as appropriate, shall fund the Professional Fees Account. Fee Claims shall be paid in Cash from funds held in the Professional Fees Account when such Fee Claims are Allowed by a Final Order of the Bankruptcy Court. Neither the Debtors' nor the Liquidation Trust's obligations to pay Fee Claims shall be limited nor be deemed limited to funds held in the Professional Fees Account.

(b) *Estimation of Fee Claims*. No later than five (5) days before the anticipated Effective Date, Professionals shall provide a good faith estimate of their Fee Claims projected to be outstanding as of the Effective Date and shall deliver such estimate to the Debtors. With respect to Fee Claims, Professionals shall use their best efforts to allocate fees and expenses incurred after December 1, 2024 between Fulcrum and Biofuels. Such estimate shall not be considered an admission or limitation with respect to the fees and expenses of such Professional and such Professionals are not bound to any extent by the fee estimates. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional. The total amount so estimated shall be utilized by the Debtors to determine the amount to be funded to the Professional Fees Account. The Debtors or the Liquidation Trustee shall use Cash on hand to increase the amount of the Professional Fees Account to the extent fee applications are filed after the Effective Date in excess of the amount held in the Professional Fees Account based on such estimates.

(c) *Payment of Fee Claims.* All entities seeking an award by the Bankruptcy Court of Fee Claims (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is forty-five (45) days after the Effective Date, and (ii) shall be paid in full from the Professional Fees Account in such amounts as are Allowed by the Bankruptcy Court (A) in accordance with an order entered by the Bankruptcy Court approving the interim compensation of Professionals, (B) upon the later of the Effective Date and the date upon which the order relating to any such Allowed Fee Claim is entered or (C) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim and the Debtors or the Liquidation Trustee, as applicable. Objections to such Fee Claims, if any, must be filed and served no later than twenty (20) calendar days after the filing of such fee application or such other date as established by the Bankruptcy Court.

The Liquidation Trustee is authorized to pay compensation for services rendered or reimbursement of expenses incurred by any Professional after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval in accordance with the Liquidation Trust Agreement. When all Allowed Fee Claims have been paid in full, any remaining amount in the Professional Fees Account shall promptly be released from such escrow and revert

to, and ownership thereof shall vest in, the Liquidation Trust without any further action or order of the Bankruptcy Court.

(d) *Professional Fees Account Not Property of the Liquidation Trust*. Until payment in full of all Allowed Fee Claims, funds held in the Professional Fees Account shall not be considered Liquidation Trust Assets or otherwise property of the Liquidation Trust, the Debtors, or their Estates. The Professional Fees Account shall be treated as a trust account for the benefit of holders of Fee Claims and for no other parties until all Allowed Fee Claims have been paid in full in Cash. No other Liens, claims, or interests shall encumber the Professional Fees Account or Cash held in the Professional Fees Account in any way.

2.4 *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, at the sole option of the Debtors or the Liquidation Trustee, as applicable, (i) Cash in an amount equal to such Allowed Priority Tax Claim on the later of (a) forty five (45) calendar days after the Effective Date (or as soon as reasonably practicable thereafter), (b) the first Business Day after the date that is thirty (30) days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and (c) the date such Allowed Priority Tax Claim is due and payable in the ordinary course, or as soon thereafter as is reasonably practicable, or (ii) equal annual Cash payments in an aggregate amount equal to the amount of such Allowed Priority Tax Claim, together with interest at the applicable rate under section 511 of the Bankruptcy Code, over a period not exceeding five (5) years from and after the Petition Date. The holders of Allowed Priority Tax Claims shall retain their tax liens on their collateral to the same validity, extent and priority as existed on the Petition Date until all validly determined taxes and related interest, penalties, and fees (if any) have been paid in full. To the extent a holder of an Allowed Priority Tax Claim is not paid in the ordinary course of business, payment of the Allowed Priority Tax Claim shall include interest through the date of payment at the applicable state statutory rate, as set forth in sections 506(b), 511, and 1129 of the Bankruptcy Code.

SECTION 3. CLASSIFICATION OF CLAIMS AND INTERESTS.

3.1 *Classification in General.*

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; provided that a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

3.2 *Formation of Debtor Groups for Convenience Only.*

This Plan (including, but not limited to, Section 2 and Section 3 of the Plan) groups the Debtors together solely for the purpose of describing treatment under this Plan, confirmation of this Plan, and Distributions to be made in respect of Claims against and Interests in the Debtors under this Plan. Except as provided in Section 6 of the Plan, such groupings shall not affect each

Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or substantive consolidation of any legal entities, or cause the transfer of any assets.

3.3 *Summary of Classification.*

The Plan constitutes a separate chapter 11 plan for each Debtor. The Plan is not premised upon, and will not cause, the substantive consolidation of any of the Debtors. For brevity and convenience, the classification and treatment of Claims and Equity Interests have been arranged into one chart. Such classification shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, or cause the consolidation of assets that vest in the Liquidation Trust. A Holder of an Allowed Claim against more than one Debtor on a theory of joint and several liability shall only be entitled to a single recovery in distribution.

The table below designates the Classes of Claims against and Interests in each of the Debtors and specifies which of those Classes are (i) Impaired or Unimpaired by the Plan, (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code and (iii) deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in this Section 3. All of the potential Classes for the Debtors are set forth herein.

Only holders of Claims in Classes 2A-2C; 3A-3C; and 4A-4C are Impaired and entitled to vote on the Plan. The Estates will not be substantively consolidated.

Class	Designation	Treatment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (Presumed to accept)
2A	Fulcrum Prepetition Loan Secured Claims	Impaired	Yes
2B	Holdings Prepetition Bond Secured Claims	Impaired	Yes
2C	BioFuels Prepetition Bond Secured Claims	Impaired	Yes
3A	Fulcrum Deficiency Claims	Impaired	Yes
3B	Holdings Deficiency Claims	Impaired	Yes
3C	BioFuels Deficiency Claims	Impaired	Yes
4A	Fulcrum Undersecured and General Unsecured Claims	Impaired	Yes

Class	Designation	Treatment	Entitled to Vote
4B	Holdings Undersecured and General Unsecured Claims	Impaired	Yes
4C	BioFuels Undersecured and General Unsecured Claims	Impaired	Yes
5	Interests	Impaired	No (Deemed to reject)

3.4 *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors or the Liquidation Trustee, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

SECTION 4. TREATMENT OF CLAIMS AND INTERESTS.

4.1 ***Other Priority Claims (Class 1).***

(a) *Classification*: Class 1 consists of Allowed Other Priority Claims against the Debtors.

(b) *Treatment*: Except to the extent that a holder of an Allowed Other Priority Claim against any of the Debtors has agreed to less favorable treatment of such Claim, each such holder shall receive, in full and final satisfaction of such Claim, Cash in an amount equal to such Claim, payable on the later of (i) forty five (45) calendar days after the Effective Date (or as soon as reasonably practicable thereafter) and (ii) the first Business Day after thirty (30) days from the date on which such Other Priority Claim becomes an Allowed Priority Claim, or as soon as reasonably practical thereafter.

(c) *Voting*: Class 1 is Unimpaired, and the holders of Other Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Priority Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Other Priority Claims.

4.2 ***Fulcrum Prepetition Loan Secured Claims (Class 2A).***

(a) *Classification*: Class 2A consists of Fulcrum Prepetition Loan Secured Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed Fulcrum Prepetition Loan Secured Claim has agreed to less favorable treatment of such Claim, on the Effective Date, each such holder shall receive:

- the proceeds of any collateral securing the Prepetition Secured Party Claims; provided that the Remaining Catalyst Proceeds shall be deemed applied to the Fulcrum Prepetition Loan Secured Claim in partial satisfaction of the obligations under the

Prepetition Fulcrum Credit Agreement and then made available for distribution by the Fulcrum Estate to creditors in Class 4A;

- the return (to the extent agreed by the Prepetition Agent) or abandonment of the collateral securing such holder's claim;
- the applicable net proceeds from the Liquidation Trust with respect to the Prepetition Agent's collateral transferred to the Liquidation Trust; and/or
- such other treatment as may otherwise be agreed to by such holder and the Liquidation Trustee.

Notwithstanding the foregoing, holders of the Fulcrum Prepetition Loan Secured Claim agree that the first additional $1.1 million of available recovery to which the holders of the Fulcrum Prepetition Loan Secured Claim would otherwise be entitled in satisfaction of the Fulcrum Prepetition Loan Secured Claim shall be deemed applied to the Fulcrum Prepetition Loan Secured Claim in partial satisfaction thereof and then made available for distribution to creditors in Class 4A pursuant to the terms of the Plan.

For the avoidance of doubt, the Claim numbered on the Debtors' claim register as claim number 46 is an Allowed class 2A claim, as set forth in the Agent Sale Order.

(c) *Voting*: Class 2A is Impaired, and the holders of Fulcrum Prepetition Loan Secured Claims are entitled to vote to accept or reject the Plan.

4.3 ***Holdings Prepetition Bond Secured Claims (Class 2B).***

(a) *Classification*: Class 2B consists of the Holdings Prepetition Bond Secured Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed Holdings Prepetition Bond Secured Claim has agreed to less favorable treatment of such Claim, each such holder shall receive delivery of the collateral securing such Allowed Holdings Prepetition Bond Secured Claim, which was not otherwise released in accordance with any court order or sale process.

For the avoidance of doubt, the Holdings Prepetition Bond Secured Claims are Allowed.

(c) *Voting*: Class 2B is Impaired, and the holders of Holdings Prepetition Bond Secured Claims are entitled to vote to accept or reject the Plan.

4.4 ***BioFuels Prepetition Bond Secured Claims (Class 2C).***

(a) *Classification*: Class 2C consists of the BioFuels Prepetition Bond Secured Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed BioFuels Prepetition Bond Secured Claim has agreed to less favorable treatment of such Claim, each such

holder shall receive delivery of the collateral securing such Allowed BioFuels Prepetition Bond Secured Claim, which was not otherwise released in accordance with any court order or sale process.

(c) *Voting*: Class 2C is Impaired, and the holders of BioFuels Prepetition Bond Secured Claims are entitled to vote to accept or reject the Plan.

For the avoidance of doubt, the BioFuels Prepetition Bond Secured Claims are Allowed.

4.5 ***Fulcrum Deficiency Claims (Class 3A).***

(a) *Classification*: Class 3A consists of Fulcrum Deficiency Claims.

(b) *Treatment*: Holders of Fulcrum Deficiency Claims agree that they will not recover from (a) the Remaining Catalyst Proceeds or (b) the first additional $1.1 million of available recovery to which the holders of the Fulcrum Prepetition Loan Secured Claim would otherwise be entitled in satisfaction of the Fulcrum Deficiency Claim.

Thereafter, except to the extent that a holder of an Allowed Fulcrum Deficiency Claim has agreed to less favorable treatment of such Claim, each such holder shall receive in full satisfaction, settlement, and release of, and in exchange for such Allowed Fulcrum Deficiency Claim the Pro Rata Share of the Cash, if any, to be distributed from the Fulcrum Liquidation Trust Account. The Fulcrum Deficiency Claims shall be treated Pro Rata with the Claims in Class 4A.

(c) *Voting*: Class 3A is Impaired, and the holders of Fulcrum Deficiency Claims are entitled to vote to accept or reject the Plan.

4.6 ***Holdings Deficiency Claims (Class 3B).***

(a) *Classification*: Class 3B consists of Holdings Deficiency Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed Holdings Deficiency Claim has agreed to less favorable treatment of such Claim, each such holder shall receive in full satisfaction, settlement, and release of, and in exchange for such Allowed Holdings Deficiency Claim the Pro Rata Share of the Cash, if any, to be distributed from the Holdings Liquidation Trust Account. The Holdings Deficiency Claims shall be treated Pro Rata with the Claims in Class 4B.

(c) *Voting*: Class 3B is Impaired, and the holders of Holdings Deficiency Claims are entitled to vote to accept or reject the Plan.

4.7 ***BioFuels Deficiency Claims (Class 3C).***

(a) *Classification*: Class 3C consists of BioFuels Deficiency Claims.

(b) *Treatment*: As provided for in section 5.25(b) of the Amended Final DIP Order [D.I. 177], the holders of BioFuels Deficiency Claims have agreed to waive any distribution on account of their BioFuels Deficiency Claims.

(c) *Voting*: Class 3C is Impaired, and the holders of BioFuels Deficiency Claims are entitled to vote to accept or reject the Plan.

4.8 ***Fulcrum Undersecured and General Unsecured Claims (Class 4A).***

(a) *Classification*: Class 4A consists of Fulcrum Undersecured and General Unsecured Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed Fulcrum Undersecured and General Unsecured Claim has agreed to less favorable treatment of such Claim, each such holder shall receive in full satisfaction of, and in exchange for such Allowed Fulcrum Undersecured and General Unsecured Claim the Pro Rata Share of the Cash, if any, to be distributed from the Fulcrum Liquidation Trust Account. The Fulcrum Undersecured and General Unsecured Claim shall be treated Pro Rata with the Claims in Class 3A.

(c) *Voting*: Class 4A is Impaired, and the holders of Fulcrum Undersecured and General Unsecured Claims are entitled to vote to accept or reject the Plan.

4.9 ***Holdings Undersecured and General Unsecured Claims (Class 4B).***

(a) *Classification*: Class 4B consists of Holdings Undersecured and General Unsecured Claims.

(b) *Treatment*: Except to the extent that a holder of an Allowed Holdings Undersecured and General Unsecured Claim has agreed to less favorable treatment of such Claim, each such holder shall receive in full satisfaction of, and in exchange for such Allowed Holdings Undersecured and General Unsecured Claim the Pro Rata Share of the Cash, if any, to be distributed from the Holdings Liquidation Trust Account. The Holdings Undersecured and General Unsecured Claim shall be treated Pro Rata with the Claims in Class 3B.

(c) *Voting*: Class 4B is Impaired, and the holders of Holdings Undersecured and General Unsecured Claims are entitled to vote to accept or reject the Plan.

4.10 ***BioFuels Undersecured and General Unsecured Claims (Class 4C).***

(a) *Classification*: Class 4C consists of Undersecured and General Unsecured Claims against BioFuels.

(b) *Treatment*: Except to the extent that a holder of Allowed BioFuels Undersecured and General Unsecured has agreed to less favorable treatment of such Claim, each such holder shall receive in full satisfaction of, and in exchange for such Allowed BioFuels Undersecured and General Unsecured Claim the Pro Rata Share of the Cash, if any, to be distributed from the BioFuels Liquidation Trust Account.

For the avoidance of doubt, the Claim numbered on the Debtors' claim register as claim number 47 is an Allowed class 4C claim, as set forth in Agent Sale Order.

(c) *Voting*: Class 4C is Impaired, and the holders of BioFuels Undersecured and General Unsecured Claims are entitled to vote to accept or reject the Plan.

4.11 ***Interests (Class 5).***

(a) *Classification*: Class 5 consists of Interests in the Debtors.

(b) *Treatment*: Interests shall be extinguished, cancelled and released on the Effective Date. Holders of Interests shall not receive or retain any distribution under the Plan on account of such Interests.

(c) *Voting*: Class 5 is Impaired, and the holders of Interests are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, the holders of Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Interests.

SECTION 5. ACCEPTANCE OR REJECTION OF THE PLAN.

5.1 *Class Acceptance Requirement.*

A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in dollar amount of the Allowed Claims in such Class and more than one-half (1/2) in number of holders of such Claims, in each case, that have voted on the Plan.

5.2 *Tabulation of Votes on a Non-Consolidated Basis.*

All votes on the Plan shall be tabulated on a non-consolidated basis by Debtor and by Class for the purpose of determining whether the Plan satisfies sections 1129(a)(8) and/or 1129(a)(10).

5.3 *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or "Cramdown".*

Because certain classes are deemed to have rejected the Plan, the Debtors will request confirmation of the Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code with respect to such Classes. Subject to Sections 13.5 and 13.6 of this Plan, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

5.4 *Elimination of Vacant Classes.*

Any Class of Claims or Interests that, as of the commencement of the Confirmation Hearing, does not have at least one holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan

for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class

5.5 *Voting Classes; Deemed Acceptance by Non-Voting Classes.*

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Interests in such Class.

SECTION 6. MEANS FOR IMPLEMENTATION.

6.1 *Joint Chapter 11 Plan.*

The Plan is a joint chapter 11 plan for each of the Debtors, with the Plan for each Debtor being non-severable and mutually dependent on the Plan for each other Debtor. The Plan does not seek substantive consolidation of the Debtors.

6.2 *Plan Funding.*

Distributions under the Plan shall be funded from Cash on hand by each Debtor on a non-consolidated basis.

6.3 *Liquidation Trust.*

(a) *Execution of the Liquidation Trust Agreement*. On or before the Effective Date, the Liquidation Trust Agreement shall be executed, and all other necessary steps shall be taken to establish the Liquidation Trust to hold the Liquidation Trust Assets, which shall be for the benefit of the Liquidation Trust Beneficiaries. This Section 6.3 sets forth certain of the rights, duties, and obligations of the Liquidation Trustee. In the event of any conflict between the terms of this Section 6.3 and the terms of the Liquidation Trust Agreement, unless otherwise specified in the Plan, the terms of the Liquidation Trust Agreement shall govern.

(b) *Purpose of the Liquidation Trust*. The Liquidation Trust shall be established in accordance with the Liquidation Trust Agreement to administer post-Effective Date responsibilities of the Debtors and Wind-Down Estates under the Plan, including, but not limited to, (i) being vested with, and liquidating, the Liquidation Trust Assets, (ii) making Distributions to holders of Allowed Claims in accordance with the terms of this Plan and the Liquidation Trust Agreement, (iii) resolving all Disputed Claims and effectuating the Claims reconciliation process pursuant to the procedures prescribed in this Plan, (iv) prosecuting, settling, and resolving Causes of Action that are Liquidation Trust Assets, (v) recovering, through enforcement, resolution, settlement, collection, or otherwise, assets on behalf of the Liquidation Trust (which assets shall become part of the Liquidation Trust Assets), (vi) winding down the affairs of the Debtors and their subsidiaries, if and to the extent necessary, including taking any steps to dissolve, liquidate, bankrupt or take other similar action with respect to each Debtor and their subsidiaries, including by terminating the corporate or organizational existence of each such Debtor and subsidiary, and (vii) performing all actions and executing all agreements, instruments and other documents necessary to effectuate the purpose of the Liquidation Trust.

(c) *Liquidation Trust Assets*. The Liquidation Trust shall consist of the Liquidation Trust Assets. Except as otherwise provided in this Plan or the Confirmation Order, on the Effective Date, the Debtors shall be deemed to have transferred all of the Liquidation Trust Assets held by the Debtors to the Liquidation Trust, and all Liquidation Trust Assets shall vest in the Liquidation Trust on the Effective Date, to be administered by the Liquidation Trustee, in accordance with this Plan and the Liquidation Trust Agreement, free and clear of all Liens, Claims, encumbrances and other Interests. For the avoidance of doubt, the Plan does not provide for the substantive consolidation of the Debtors' estates and assets from each Debtor's estate that vest in the Liquidation Trust will not be consolidated. The Liquidation Trustee shall separately account for and administer Trust assets and claims with respect to each Debtor's estate. Prior to the Effective Date, the Debtors and following the Effective Date, the Liquidation Trustee may take all actions as may be necessary or appropriate to effectuate the Plan that are consistent with and pursuant to the terms and conditions of the Plan and the Liquidation Trust Agreement.

(d) *Liquidation Trustee*. The initial Liquidation Trustee shall be selected by the Committee in consultation with the Debtors, the BioFuels Trustee and the Prepetition Agent. The Liquidation Trustee may be replaced in accordance with the Liquidation Trust Agreement. The Liquidation Trustee shall have no duties until the occurrence of the Effective Date, and on and after the Effective Date shall be the sole fiduciary of each of the Wind-Down Estates. The powers, rights and responsibilities of the Liquidation Trustee shall be as specified in the Liquidation Trust Agreement and Plan and shall include the authority and responsibility to fulfill the items identified in this Section 6.3 of the Plan. Other rights and duties of the Liquidation Trustee and the Liquidation Trust Beneficiaries shall be as set forth in the Liquidation Trust Agreement. Pursuant to section 1123 of the Bankruptcy Code, the Liquidation Trustee shall be deemed to be the representative of the Debtors' Estates for all purposes under the Plan.

(e) *Functions of the Liquidation Trustee*. On and after the Effective Date, and subject to the Liquidation Trust Agreement, the Liquidation Trustee shall carry out the functions set forth in this Section 6.3 and may take such actions without further approval by the Bankruptcy Court, in accordance with the Liquidation Trust Agreement. Such functions may include any and all powers and authority to:

(i) take all steps and execute all instruments and documents necessary to make Distributions to holders of Allowed Claims and to perform the duties assigned to the Liquidation Trustee under the Plan or the Liquidation Trust Agreement;

(ii) comply with and effectuate the Plan and the obligations hereunder;

(iii) employ, retain or replace professionals to represent him or her with respect to his or her responsibilities pursuant to the Liquidation Trust Agreement;

(iv) wind up the affairs of the Debtors and their subsidiaries, if and to the extent necessary, including taking any steps to dissolve, liquidate, bankrupt, or take other similar action with respect to each Debtor and subsidiary, including by terminating the corporate or organizational existence of each such Debtor or subsidiary;

(v) take any actions necessary to (A) resolve all matters related to the Liquidation Trust Assets and (B) vest such assets in the Liquidation Trust;

(vi) establish and maintain one or more Cash reserves in his or her reasonable discretion to ensure sufficient funding to pay all current and future Liquidation Trust Expenses;

(vii) make Distributions of the Cash in the Liquidation Trust and any proceeds thereof, in excess of any amounts necessary to pay Liquidation Trust Expenses, in accordance with the terms of this Plan;

(viii) prepare and file appropriate tax returns and other reports on behalf of the Debtors and pay taxes or other obligations owed by the Debtors (including, without limitation, any Allowed Administrative Expense Claims, Allowed Priority Tax Claims asserted by taxing authorities, and Fee Claims);

(ix) file, prosecute, settle or dispose of any and all objections to asserted Claims;

(x) file, prosecute, settle or dispose of any and all Causes of Action;

(xi) establish and maintain the Disputed Claims Reserve;

(xii) enter into and consummate any transactions for the purpose of dissolving the Debtors and their subsidiaries;

(xiii) take such actions as are necessary or appropriate to close any of the Debtors' Chapter 11 Cases;

(xiv) maintain the books and records and accounts of the Debtors;

(xv) publish quarterly reports on aggregate receipts and disbursements;

(xvi) take any other actions not inconsistent with the provisions hereof and the Liquidation Trust Agreement that the Liquidation Trustee deems reasonably necessary or desirable in connection with the foregoing functions.

(f) *Fees and Expenses of the Liquidation Trust*. From and after the Effective Date, Liquidation Trust Expenses shall be paid from the Liquidation Trust Assets in the ordinary course of business, in accordance with the Plan and the Liquidation Trust Agreement. Without any further notice to any party or action, order or approval of the Bankruptcy Court, the Liquidation Trustee, on behalf of the Liquidation Trust, may employ professionals and pay in the ordinary course of business the reasonable fees of any employed professional (including professionals previously employed by the Debtors or the Committee) for services rendered or expenses incurred on and after the Effective Date that, in the discretion of the Liquidation Trustee, are necessary to assist the Liquidation Trustee in the performance of the Liquidation Trustee's

duties under the Plan and the Liquidation Trust Agreement, subject to any limitations and procedures established by the Liquidation Trust Agreement.

(g) *Distributions by the Bonds Trustee.* In the event that a Distribution is to be made on account of one or more of the BioFuels Deficiency Claims, BioFuels Guaranty Claims, the BioFuels Prepetition Bond Secured Claims, Holdings Deficiency Claims, Holdings Guaranty Claims, and/or the Holdings Prepetition Bond Secured Claims, then the Liquidation Trustee may request that the Bond Trustee, in its capacity as Disbursing Agent, make such Distributions through the facilities of DTC in accordance with DTC's customary practices. In any such instance, the Liquidation Trustee shall deliver such Distributions to the Bonds Trustee in a form that is eligible to be distributed through the facilities of DTC.

(h) *Reimbursement of Fees and Expenses to the Bonds Trustee*. The Liquidation Trust shall reimburse the Bonds Trustee, acting in its capacity as Disbursing Agent, for its reasonable and documented fees and expenses (including the reasonable and documented fees and expenses of the Bonds Trustee's counsel and agents) incurred after the Effective Date solely in connection with making Distributions to BioFuels Bondholders and/or Holdings Bondholders pursuant to the BioFuels Bond Indenture or Holdings Bond Indenture. Such fees and expenses of the Bonds Trustee shall be expenses of the Liquidation Trust and shall be paid in Cash out of the Liquidation Trust Assets attributable to each Debtor without prior approval of the Bankruptcy Court as soon as reasonably practicable upon presentation of a summary invoice. This payment shall be in addition to all other fees and expenses the Bonds Trustee is entitled to receive under the Plan, the Confirmation Order, the Liquidation Trust, the BioFuels Bond Indenture, the Holdings Bond Indenture, or otherwise. The Bond Trustee shall not bear any responsibility or liability for any Distributions made under or pursuant to the Plan or Liquidation Trust.

(i) *Liquidation Trust's Obligation to Provide Periodic Reporting*. The Liquidation Trustee will provide or publish quarterly reports on aggregate receipts and disbursements from the Liquidation Trust.

(j) *Creation and Maintenance of Trust Accounts*. On or prior to the Effective Date, or as soon as reasonably practicable, appropriate trust accounts will be established and maintained in one or more federally insured domestic banks in the name of the Liquidation Trust. Cash deposited in the trust accounts will be invested, held and used solely as provided in the Liquidation Trust Agreement. The Liquidation Trustee is authorized to establish additional trust accounts after the Effective Date, consistent with the terms of the Liquidation Trust Agreement, as applicable. After the funding of the trust accounts on the Effective Date, or as soon as reasonably practicable, the trust accounts will be funded, as applicable, by Cash proceeds obtained through litigation, settlement, disposition or other monetization of the Liquidation Trust Assets. Upon obtaining an order of the Bankruptcy Court authorizing a final Distribution or closure of all of the Debtors' Chapter 11 Cases, any funds remaining in the trust accounts shall be distributed in accordance with this Plan and the Liquidation Trust Agreement, and the trust accounts may be closed.

(k) *Indemnification of Liquidation Trustee*. The Liquidation Trustee and its agents and professionals shall not be liable for actions taken or omitted in their respective capacities as, or on behalf of, the Liquidation Trustee or the Liquidation Trust, except those acts

arising out of its or their gross negligence, actual fraud or willful misconduct, each as determined by a Final Order from a court of competent jurisdiction. The Liquidation Trustee (and its agents and professionals) shall be entitled to indemnification and reimbursement for fees and expenses incurred in defending any and all of its or their actions or inactions in its or their capacity as, or on behalf of, the Liquidation Trustee or the Liquidation Trust, except for any actions or inactions involving gross negligence, actual fraud or willful misconduct, each as determined by a Final Order from a court of competent jurisdiction. Any indemnification claim of the Liquidation Trustee and the other parties entitled to indemnification under the Liquidation Trust Agreement shall be satisfied from the Liquidation Trust Assets, as provided in the Liquidation Trust Agreement. The Liquidation Trustee shall be entitled to rely, in good faith, on the advice of its professionals.

(l) *Insurance*. The Liquidation Trustee shall be authorized, but not required, to obtain any reasonably necessary insurance coverage, at the Liquidation Trust's sole expense, for itself and its respective agents, including coverage with respect to the liabilities, duties and obligations of the Liquidation Trustee, which insurance coverage may, at the sole option of the Liquidation Trustee, be extended for a reasonable period after the termination of the Liquidation Trust Agreement.

(m) *Records*. On the Effective Date, all records of the Debtors shall vest in and become property of the Liquidation Trust and shall be Liquidation Trust Assets. Further, the Liquidation Trustee shall be provided with originals or copies of or access to all documents and business records of the Debtors necessary for the Liquidation Trustee to fulfill his or her duties as set forth in the Liquidation Trust Agreement, including, but not limited to, the disposition of Liquidation Trust Assets and objections to Disputed Claims.

6.4 *Elimination of Duplicate Claims*

Any duplicate Claim or Interest or any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged on the claims register by the Debtors or the Liquidation Trustee, as applicable, (i) upon stipulation between the parties in interest without a Claim objection having to be filed and without any further notice or action, order, or approval of the Bankruptcy Court, or (ii) a notice of satisfaction filed on the docket and served on the applicable claimant, provided, that such modification shall become effective only after fourteen days' notice to parties in interest and an opportunity to object.

6.5 *Corporate Action.*

Upon the Effective Date, all actions contemplated by the Plan (including any action to be undertaken by the Liquidation Trustee or the Debtors) shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by holders of Claims or Interests, the Debtors' Estates, the Liquidation Trustee or any other Entity or Person. All matters provided for in the Plan involving the corporate structure of the Debtors (including the filing of a certificate of cancellation for Finance), and any corporate action required by the Debtors or the Liquidation Trustee in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtors, the Debtors' Estates, or the Liquidation Trustee. Following the Effective Date, the Liquidation

Trustee shall be deemed to be the representative of the Debtors and the Debtors' Estates for all purposes under section 1123 of the Bankruptcy Code.

6.6 *Directors, Officers, Managers, Members and Authorized Persons of the Debtors.*

On the Effective Date, each of the Debtors' directors and officers shall be discharged from their duties and terminated automatically without the need for any corporate action or approval and without the need for any corporate filings, and, unless subject to a separate agreement with the Liquidation Trustee, shall have no continuing obligations to the Debtors following the occurrence of the Effective Date.

6.7 *D&O Policy.*

As of the Effective Date, the Debtors shall be deemed to have assumed all of the D&O Policies pursuant to sections 105(a) and 365(a) of the Bankruptcy Code, and coverage for defense and indemnity under any of the D&O Policies shall remain in full force and effect subject to the terms and conditions of the D&O Policies and the D&O Policies shall become Liquidation Trust Assets. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption of each D&O Policy. Notwithstanding anything to the contrary contained in the Plan, and except as otherwise may be provided in an order of the Bankruptcy Court, confirmation of the Plan shall not impair or otherwise modify any obligations assumed by the foregoing assumption of the D&O Policies, and each such obligation will be deemed and treated as an executory contract that has been assumed by the Debtors under the Plan as to which no proof of Claim need be filed. For the avoidance of doubt, the D&O Policies provide coverage for those insureds currently covered by such policies for the remaining term of such policies and runoff or tail coverage after the Effective Date to the fullest extent permitted by such policies. On and after the Effective Date, the Debtors, the Wind-Down Estates, or the Liquidation Trustee shall not terminate or otherwise reduce the coverage under any of the D&O Policies in effect or purchased as of the Petition Date, and all directors and officers of the Debtors at any time shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such directors and/or officers remain in such positions after the Effective Date. For the avoidance of doubt, nothing herein shall be construed as the Debtors assuming any obligation with respect to any self-insured retention for which the applicable insurer has the ability to assert a prepetition Claim against the applicable Debtor in accordance with the order setting the Bar Date or other order of the Bankruptcy Court.

6.8 *Indemnification of Directors, Officers and Employees.*

For purposes of the Plan, the obligation of the Debtors to indemnify and reimburse any Person serving at any time on or after the Petition Date for actions taken on or after the Petition Date, as one of their directors, officers or employees by reason of such Person's service in such capacity, to the extent provided in such Debtor's constituent documents, a written agreement with the Debtor(s), in accordance with any applicable law, or any combination of the foregoing, shall survive confirmation of the Plan and the Effective Date.

6.9 *Withholding and Reporting Requirements.*

(a) *Withholding Rights*. In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, provincial or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Person that receives a distribution pursuant to the Plan shall be liable for any taxes imposed by any Governmental Unit, including, without limitation, income, withholding, and other taxes, on account of such distribution. Any party issuing any instrument or making any distribution pursuant to the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms*. Any party entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the Debtors or Liquidation Trustee, as applicable or such other Person designated by the Debtors or the Liquidation Trustee (which entity shall subsequently deliver to the Debtors or the Liquidation Trustee any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Person) Form W-8 or any other form or document as reasonably requested by the Debtors or Liquidation Trustee or such other Person designated by either of them to eliminate or reduce any tax (including withholding tax), unless the Debtors or Liquidation Trustee or such other Person designated by them determines it is not required to eliminate or reduce any tax (including withholding tax). If such request is made by the Debtors or Liquidation Trustee or such other Person designated by the Debtors or the Liquidation Trustee and the holder fails to comply before the date that is 150 days after the request is made, the amount of such distribution shall irrevocably revert to the Liquidation Trust, and any Claim in respect of such Distribution shall be forever barred from assertion against any Debtor and its respective property.

6.10 *Exemption From Certain Transfer Taxes.*

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

6.11 *Effectuating Documents; Further Transactions.*

On and after the Effective Date, the Liquidation Trustee and the Debtors are authorized to and may issue, execute, deliver, file or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

6.12 *Preservation of Rights of Action.*

Other than Causes of Action against an Entity that are expressly waived, relinquished, exculpated, released, sold pursuant to the Agent Sale Order, compromised, or settled in the Plan or by a Bankruptcy Court order entered prior to the Effective Date, the Debtors reserve any and all Causes of Action, and on the Effective Date, such causes of Action shall vest in the Liquidation Trust, free and clear of all Claims, Liens, encumbrances and other interests, and shall become Liquidation Trust Assets. On and after the Effective Date, the Liquidation Trustee shall have sole and exclusive discretion to pursue and dispose of any such Causes of Action that are or become Liquidation Trust Assets. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors, and on and after the Effective Date, the Liquidation Trustee, will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation. Prior to the Effective Date, the Debtors (and on and after the Effective Date, the Liquidation Trustee) shall retain and shall have, including through its authorized agents or representatives, the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

For the avoidance of doubt, any claims sold pursuant to the Agent Sale Order are not property of the Debtors' estate and therefore not preserved pursuant to this section.

6.13 *Closing of the Chapter 11 Cases.*

On or after the Effective Date, the Liquidation Trustee shall be authorized to file a motion requesting entry of one or more orders of this Court closing any of the remaining Chapter 11 Cases. Such motion may be heard by the Court on twenty-one days' notice to the U.S. Trustee and all other parties entitled to notice under Local Rule 2002-1(b). Each Wind-Down Estate shall be entitled to appoint the Liquidation Trustee to prosecute claims and defenses and through the Disbursing Agent, make distributions, and attend to other wind down affairs on behalf of each of the other prior Debtors as if such Wind-Down Estates continued to exist solely for that purpose. The Liquidation Trustee shall, promptly after the full administration of the Chapter 11 Cases, file with this Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court. Upon the filing of such a motion, the Liquidation Trustee shall file a final report with respect to all of the Chapter 11 Cases pursuant to Local Rule 3022-1(c).

6.14 *Dissolution of the Committee.*

On the Effective Date, the Committee shall dissolve, and the members thereof and the professionals retained by the Committee thereof shall be released and discharged from all rights and duties arising from, or related to, these Chapter 11 Cases; *provided*, however, that following the Effective Date, the Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (a) applications, and any relief related thereto, for compensation and requests for allowance of fees and/or expenses under sections 330, 331 and 503(b) of the Bankruptcy Code including Fee Claims and any Committee member reimbursement requests, (b) to enforce the releases and exculpations under Section 12 of the Plan of the Committee, the Committee's members (solely in their capacity as such), and the Committee's Related Parties, and (c) any appeals of the Confirmation Order, the Sale Order, or any other appeal to which the Committee is or was a party in interest.

SECTION 7. DISTRIBUTIONS.

7.1 *Distribution Record Date.*

The Debtors and the Liquidation Trustee shall have no obligation to recognize any transfer of the Claims or Interests (i) occurring on or after the Effective Date, or (ii) that does not comply with the Bankruptcy Code or Bankruptcy Rules, including Bankruptcy Rule 3001(e).

7.2 *Date of Distributions.*

Except as otherwise provided herein, the Liquidation Trustee shall direct the Initial Distribution to holders of Allowed Claims no later than the Initial Distribution Date. After the Initial Distribution Date, the Liquidation Trustee shall, from time to time, determine the subsequent Distribution Dates.

7.3 *Delivery of Distributions.*

The Disbursing Agent shall make all distributions, allocations, and/or issuances required under the Plan. In the event that any Distribution to any holder is returned as undeliverable, no Distribution to such holder shall be made unless and until the Liquidation Trustee has determined the then current address of such holder, at which time such Distribution shall be made to such holder without interest; provided, however, such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date such Distribution was made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidation Trust automatically and without need for a further order by the Bankruptcy Court for Distribution in accordance with the Plan and the Claim of any such holder to such property or interest in property shall be released, settled, compromised, and forever barred.

7.4 *Manner of Payment Under Plan.*

At the option of the Debtors, the Liquidation Trustee or the Disbursing Agent, as applicable, any Cash payment to be made hereunder may be made by a check or wire transfer from

the Disbursing Agent. Any wire transfer fees incurred in connection with the transmission of a wire transfer shall be deducted from the amount of the Distribution a holder of an Allowed Claim would otherwise receive. The Debtors, the Liquidation Trustee, or the Disbursing Agent, as applicable, will, to the extent practicable, make aggregate Distributions on account of all the Allowed Claims held by a particular holder.

7.5 *Minimum Cash Distributions.*

No intermediate Distribution shall be required to be made to any holder of an Allowed Claim on any Distribution Date of Cash less than $100; provided, however, that if any Distribution is not made pursuant to this Section 7.5, such Distribution shall be added to any subsequent Distribution to be made on behalf of the holder's Allowed Claim. The Liquidation Trustee through the Disbursing Agent shall not be required to make any final Distributions of Cash less than $50 to any holder of an Allowed Claim.

7.6 *Setoffs.*

The Debtors or the Liquidation Trustee may, but shall not be required to, set off against any Claim, any Claims of any nature whatsoever that the Debtors or the Liquidation Trustee have against the holder of such Claim; provided that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Liquidation Trustee of any such Claim the Debtors or the Liquidation Trustee may have against the holder of such Claim.

7.7 *Allocation of Distributions Between Principal and Interest.*

Except as otherwise provided in this Plan, to the extent that any Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for U.S. federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

7.8 *No Postpetition Interest on Claims.*

Except as otherwise provided in the Plan, the Confirmation Order, or another order of the Bankruptcy Court, or required by the Bankruptcy Code, postpetition interest shall not accrue or be paid on any Claims and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date.

7.9 *No Distribution in Excess of Amount of Allowed Claim.*

Notwithstanding anything to the contrary in the Plan, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Distribution in excess of the Allowed amount of such Claim.

SECTION 8. PROCEDURES FOR DISPUTED CLAIMS.

8.1 *Objections to Claims.*

As of the Effective Date, objections to, and requests for estimation of Claims against the Debtors may be interposed and prosecuted by the Liquidation Trustee. Such objections and requests for estimation shall be served and filed on or before the Claims Objection Bar Date.

8.2 *Allowance of Claims.*

After the Effective Date, the Liquidation Trust shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim against a Debtor, except with respect to any Claim expressly Allowed under this Plan. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Cases prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is expressly Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including, without limitation, the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

8.3 *Estimation of Claims.*

The Debtors or the Liquidation Trustee, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim, pursuant to section 502(c) of the Bankruptcy Code regardless of whether any party in interest previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or the maximum limit of such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Liquidation Trustee may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

8.4 *No Distributions Pending Allowance.*

No payment or Distribution provided under the Plan shall be made on account of a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim.

8.5 *Resolution of Claims.*

Except as otherwise provided herein (including the release provisions hereof) or in the Confirmation Order, or in any contract, instrument, release, or other agreement or document entered into in connection with this Plan, in accordance with section 1123(b) of the Bankruptcy Code, on and after the Effective Date, the Liquidation Trustee may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Claims, Disputed Claims, rights, Causes of Action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Liquidation Trust may hold against any Person, and any contract, instrument, release, indenture,

or other agreement entered into in connection herewith. From and after the Effective Date, the Liquidation Trustee may settle or compromise any Disputed Claim without approval of the Bankruptcy Court; provided that in its discretion, the Liquidation Trustee may seek court approval of a settlement of a Disputed Claim; provided that any settlement of a Disputed Claim that results in an Allowed Claim in excess of $2,000,000 must be made after notice and an opportunity for parties-in-interest to object.

8.6 *Amendments to Claims and Late Filed Claims.*

Following the Effective Date, except as otherwise provided in this Plan (including with respect to the filing of Claims by Governmental Units by the Governmental Bar Date), the Confirmation Order, or the Liquidation Trust Agreement, if a Proof of Claim is filed, amended or supplemental after the applicable Bar Dates, the Liquidation Trustee shall provide the claimant with a notice advising the claimant that (i) that its Claim is barred for having been filed, amended or supplemented late and (ii) that the claimant will need to file a motion with the Bankruptcy Court seeking authorization that its Claim was timely filed, amended, or supplemented.

8.7 *Insured Claims.*

If any portion of an Allowed Claim is an Insured Claim, no distributions under the Plan shall be made on account of such Allowed Claim until the holder of such Allowed Claim has exhausted all remedies with respect to any applicable insurance policies. To the extent that the Debtors' insurers agree to satisfy a Claim in whole or in part, then immediately upon such agreement, the portion of such Claim so satisfied may be expunged (i) without an objection to such Claim having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court and (ii) with a notice of satisfaction filed on the docket and served on the applicable claimant or interest holder.

SECTION 9. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

9.1 *Rejection of Executory Contracts and Unexpired Leases.*

On the Effective Date, except as otherwise provided in the Plan, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned (including any Executory Contract or Unexpired Lease assumed and assigned in connection with a Sale Transaction) shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (i) as of the Effective Date is subject to a pending motion to assume such Unexpired Lease or Executory Contract or (ii) is a D&O Policy or an insurance policy.

9.2 *Claims Based on Rejection of Executory Contracts and Unexpired Leases.*

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan must be filed with Bankruptcy Court and served on the Liquidation Trustee no later than thirty (30) days after the notice of occurrence of the Effective Date. The notice of occurrence of the Effective Date shall include the date by which Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases must be filed.

Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be forever barred from assertion, and shall not be enforceable against the Debtors, the Liquidation Trust, the Liquidation Trustee, the Debtors' Estates, or the property for any of the foregoing, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

SECTION 10. CONDITIONS PRECEDENT TO CONFIRMATION

10.1 *Conditions Precent to Confirmation*

Confirmation of the Plan shall not occur, and the Confirmation Order shall not be entered, until each of the following conditions precedent have been satisfied or waived:

(a) An order, finding that the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code, shall have been entered; and

(b) The Confirmation Order shall be in a form and substance reasonably satisfactory to the Debtors, the Committee, the BioFuels Trustee and the Prepetition Agent.

SECTION 11. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE.

11.1 *Conditions Precedent to the Effective Date.*

The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

(a) the Bankruptcy Court shall have entered the Confirmation Order, and the Confirmation Order shall not be stayed;

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

(c) all funding, actions, documents and agreements necessary to implement and consummate the Plan and the transactions and other matters contemplated thereby, shall have been effected or executed;

(d) the Liquidation Trust shall be established and validly existing and the Liquidation Trust Agreement shall have been executed;

(e) all professional fees and expenses that, as of the Effective Date, were due and payable under an order of the Bankruptcy Court shall have been paid in full, other than any Fee Claims subject to approval by the Bankruptcy Court;

(f) the Debtors shall have funded the Professional Fees Account in accordance with Section 2.3 herein;

(g) the Debtors shall have sufficient Cash on hand to pay in full, or reserve for, the projected Allowed Administrative Expense Claims, Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and U.S. Trustee Fees otherwise due or payable on the Effective Date;

(h) no Governmental Unit or federal or state court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any law or order (whether temporary, preliminary or permanent), in any case which is in effect and which prevents or prohibits consummation of the Plan or any of the other transactions contemplated hereby and no Governmental Unit shall have instituted any action or proceeding (which remains pending at what would otherwise be the Effective Date) seeking to enjoin, restrain or otherwise prohibit consummation of the transactions contemplated by the Plan;

(i) all authorizations, consents, regulatory approvals, rulings or documents that are necessary to implement and effectuate the Plan as of the Effective Date shall have been received, waived or otherwise resolved; and

(j) all documents and agreements necessary to implement the Plan, including those set forth in the Plan Supplement, shall have (i) been tendered for delivery and (ii) been effected or executed by all Entities party thereto, and all conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

11.2 *Waiver of Conditions Precedent.*

Each of the conditions precedent in Section 11.1 other than the condition set forth in Section 11.1(a) may be waived in writing by the Debtors with the prior consent of the Committee or as otherwise ordered by the Bankruptcy Court. Any such waivers may be effected at any time, without notice, without leave or order of the Bankruptcy Court and without any formal action.

11.3 *Substantial Consummation.*

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

11.4 *Notice of Effective Date.*

Within one (1) business day of the Effective Date, the Debtors shall file a notice stating that the Effective Date has occurred.

11.5 *Effect of Vacatur of Confirmation Order.*

If the Confirmation Order is vacated, (i) no distributions under the Plan shall be made, (ii) the Debtors and all holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred, and (iii) all the Debtors' obligations with respect to the Claims and the Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release

of any Claims by or against the Debtors or any other entity or to prejudice in any manner the rights of the Debtors or any other entity in any further proceedings involving the Debtors or otherwise.

SECTION 12. SETTLEMENT, RELEASES, INJUNCTIONS, AND RELATED PROVISIONS.

12.1 *Release of Liens.*

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all property of the Estates shall revert to the Debtors and vest in the Liquidation Trust free and clear of any liens, security interests, or other interests.

12.2 *Binding Effect.*

Confirmation of the Plan does not provide the Debtors with a discharge under section 1141 of the Bankruptcy Code because the Plan is a liquidating chapter 11 plan. Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Effective Date, the provisions of the Plan shall bind any holder of a Claim against, or Interest in, the Debtors, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

12.3 *Term of Injunctions or Stays.*

Unless otherwise provided herein, all injunctions or stays arising under or entered during the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

12.4 *Releases by the Debtors.*

As of the Effective Date, except (i) for the rights that remain in effect from and after the Effective Date to enforce the Plan, the Confirmation Order, the Liquidation Trust Agreement, or any Sale Transaction; and (ii) as otherwise provided in the Plan or in the Confirmation Order, for good and valuable consideration, including their cooperation and contributions to the Chapter 11 Cases, the Released Parties will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released, to the maximum extent permitted by law, by the Debtors and the Estates (including the Wind-Down Estates), in each case, on behalf of themselves and their respective successors (including the Liquidation Trust), assigns, and representatives, and any and all other persons that may purport to assert any Cause of Action derivatively, by, through or on behalf of the foregoing Persons and Entities, from any and all Claims and Causes of Action, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise that the Debtors or the Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on or

relating to, in whole or in part, the Debtors, the Chapter 11 Cases, the pre- and post-petition marketing and sale process, any Sale Transaction, the purchase, sale, or rescission of the purchase or sale of any securities issued by the Debtors, the ownership of any securities issued by the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the administration or implementation of the Plan, including the issuance or distribution of the Liquidation Trust Assets pursuant to the Plan, the creation of the Liquidation Trust, the business or contractual arrangements between any Debtor and any Released Party, the Disclosure Statement, the Plan (including the Plan Supplement), or the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date related or relating to the foregoing; provided that nothing in this Section 12.4 of the Plan shall act as a release of a direct claim any holder of a Claim or Interest or other Entity may have against any Released Party or a release of any claim or Cause of Action specifically preserved herein.

Notwithstanding anything to the contrary to the foregoing, the release set forth above does not release (i) any post-Effective Date obligations of any Person under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or a Sale Transaction. Moreover, the foregoing release shall have no effect on the liability of, or any Causes of Action against, any Entity that results from any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, criminal acts, or gross negligence.

12.5 *Releases By Holders of Claims and Interests.*

As of the Effective Date, except (i) for the right to enforce the Plan, the Confirmation Order, and any Sale Transactions, and (ii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released by the Releasing Parties in each case, from any and all Claims and Causes of Action, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, in law or equity, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that such entity would have been legally entitled to assert in their own right (whether individually, derivatively, or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on or relating to, or in any manner arising prior to the Effective Date, from, in whole or in part, the Debtors, the Chapter 11 Cases, the pre- and post-petition marketing and sale process, a Sale Transaction, the purchase, sale, or rescission of the purchase or sale of any securities issued by the Debtors, the ownership of any securities issued by the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the administration or implementation of the Plan, including the issuance or distribution of the Liquidation Trust Assets pursuant to the Plan, the creation of the Liquidation Trust, the business or contractual arrangements between any Debtor and any Released Party, the Disclosure Statement, the

Plan (including the Plan Supplement), or the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date related or relating to the foregoing.

Notwithstanding anything to the contrary, the release set forth above does not release any post-Effective Date obligations of any Person under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. Moreover, the foregoing release shall have no effect on the liability of, or any causes of action against, any Entity that results from any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, criminal acts, or gross negligence.

12.6 *Exculpation.*

To the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each of the Exculpated Parties are hereby exculpated from, any Claim, obligation, suit, judgment, damage, demand, debt, right, causes of action, remedy, loss, and liability for any Claim arising on or after the Petition Date through the Effective Date in connection with, related to, or arising out of the filing or administration of the Chapter 11 Cases, the postpetition marketing and sale process, the postpetition purchase, sale, or rescission of the purchase or sale of any security or asset of the Debtors; the negotiation and pursuit of the Disclosure Statement, any Sale Transactions, the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding or consummation of the Plan; the occurrence of the Effective Date; the property to be distributed under the Plan (including Liquidation Trust Assets); the creation and administration of the Liquidation Trust; or the transactions in furtherance of any of the foregoing; except for actual fraud, gross negligence, criminal acts or willful misconduct, as determined by a Final Order. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth herein does not release any post-Effective Date obligation or liability of any Entity or Person under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

12.7 *Injunction.*

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

other activity that occurred before the Effective Date except as expressly provided in the Plan, Liquidation Trust, or the Confirmation Order.

Except as otherwise expressly provided for in the Plan, the Confirmation Order, including paragraph [7] for matters related to the Abengoa Entities, or in obligations issued pursuant to the Plan, all Persons and Entities are permanently enjoined, on and after the Effective Date through and until the date upon which all remaining property of the Debtors' Estates vested in the Liquidation Trust has been liquidated and distributed to creditors or otherwise in accordance with the terms of the Plan by the Liquidation Trust and the Plan has been fully administered, subject to further extension or reduction by motion on notice, with all parties' rights with respect to such extension or reduction reserved, on account of any Claim, from:

> **(1) commencing or continuing in any manner any action or other proceeding of any kind against any of the Estates, the Liquidation Trust, their successors and assigns, and any of their assets and properties;**
>
> **(2) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any Estate, the Liquidation Trust, their successors and assigns, and any of their assets and properties;**
>
> **(3) creating, perfecting or enforcing any encumbrance of any kind against any Estate, the Liquidation Trust, their successors and assigns, and any of their assets and properties;**
>
> **(4) asserting any right of setoff or subrogation of any kind against any obligation due from any Estate, the Liquidation Trust or their successors and assigns, or against any of their assets and properties, except to the extent a right to setoff or subrogation is asserted with respect to a timely filed proof of Claim or motion filed with the Bankruptcy Court; or**
>
> **(5) commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim released under Section 12 of the Plan.**

The benefit of the injunctions in this Section 12.7 shall extend to any successors of the Debtors, the Liquidation Trust, the Liquidation Trustee, and their respective property and interests in property, including the Liquidation Trust Assets.

SECTION 13. RETENTION OF JURISDICTION.

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of Executory Contracts or Unexpired Leases and the allowance, classification, priority, compromise, estimation or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, or other litigated matter pending on or commenced after the Confirmation Date, including any such motions, adversary proceeding, application, contested matter or other litigated matter brought by the Liquidation Trust;

(c) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of or objection to any Claim;

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

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

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred before the Effective Date;

(i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, the Sale Order, the Liquidation Trust Agreement, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following Consummation;

(k) to hear any disputes arising out of, and to enforce, any order approving alternative dispute resolution procedures to resolve personal injury, employment litigation and similar Claims pursuant to section 105(a) of the Bankruptcy Code;

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

(m) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(n) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(o) to hear, determine and resolve any cases, matters, controversies, suits, disputes or Causes of Action in connection with or in any way related to the Chapter 11 Cases, including with respect to the releases, exculpation and injunction provisions contained in Section 12 of the Plan and the Confirmation Order;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter one or more final decrees closing the Chapter 11 Cases;

(r) to interpret and enforce the Confirmation Order and all other orders previously entered by the Bankruptcy Court in these Chapter 11 Cases;

(s) to recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

(t) to hear and determine any rights, Claims or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory; and

(u) any other matters that may arise in connection with or relate to the Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, a Sale Order or any contract, instrument, release, indenture, or other agreement or document created in connection therewith.

SECTION 14. MISCELLANEOUS PROVISIONS.

14.1 *No Revesting of Assets.*

To the extent not otherwise distributed in accordance with this Plan, the property of the Debtors' Estates shall not revest in the Debtors on or after the Effective Date but shall instead vest in the Liquidation Trust, to be administered by the Liquidation Trustee in accordance with this Plan and the Liquidation Trust Agreement.

14.2 *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective Distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors reserve the right for the Liquidation Trustee to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

14.3 *Payment of Statutory Fees.*

All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code, together with the statutory rate of interest set forth in section 3717 of Title 31 of the U.S. Code to the extent applicable ("Quarterly Fees") prior to the Effective Date shall be paid by the Debtors on the Effective Date. After the Effective Date, the Debtors, and the Liquidation Trust shall be jointly and severally liable to pay any and all Quarterly Fees when due and payable. The Debtors shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR. After the Effective Date, the Liquidation Trustee and each of the Debtors shall file with the Bankruptcy Court separate UST Form 11-PCR reports when they become due. Each and every one of the Debtors, and the Liquidation Trust shall remain obligated to pay Quarterly Fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's case being closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code. The U.S. Trustee shall not be required to file any Administrative Expense Claim in the case, and shall not be treated as providing any release under the Plan.

14.4 *Amendments.*

(a) *Plan Modifications*. Prior to the Effective Date, the Plan may be amended, modified or supplemented by the Debtors, with the consent of the Committee or as ordered by the Bankruptcy Court, in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code. In addition, after the Confirmation Date but before substantial consummation of the Plan, the Debtors may, after consultation with the Committee, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

(b) O*ther Amendments*. Before the Effective Date, to the extent provided in section 1127 of the Bankruptcy Code, the Debtors, with the consent of the Committee or court order, may make appropriate technical adjustments and modifications to the Plan and any of the documents prepared in connection herewith.

14.5 *Revocation or Withdrawal of the Plan.*

The Debtors reserve the right, in consultation with the Committee, to revoke or withdraw the Plan for one or all Debtors prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (ii) nothing contained in the Plan shall: (A) constitute a waiver or release of any Claims or Interests; (B) prejudice in any manner the rights of the Debtors, the Debtors' Estates, or any other Entity; or (C) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors, the Debtors' Estates, or any other Entity.

14.6 *Severability of Plan Provisions Upon Confirmation.*

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, in consultation with the Committee, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (i) valid and enforceable pursuant to its terms; (ii) integral to the Plan and may not be deleted or modified without the consent of the Debtors or the Liquidation Trustee (as the case may be); and (iii) nonseverable and mutually dependent.

14.7 *Governing Law.*

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto provides otherwise, the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

14.8 *Time.*

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

14.9 *Additional Documents.*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, the Liquidation Trustee, and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

14.10 *Immediate Binding Effect.*

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the holders of Claims and Interests, the Releasing Parties, the Released Parties, the Exculpated Parties, and each of their respective successors and assigns, including, without limitation, the Liquidation Trustee.

14.11 *Successor and Assigns.*

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or permitted assign, if any, of each Entity.

14.12 *Entire Agreement.*

On the Effective Date, the Plan and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

14.13 *Notices.*

All notices, requests and demands to or upon the Debtors or the Liquidation Trustee, as applicable, to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(a) if to the Debtors:

Fulcrum BioEnergy, Inc.
P.O. Box 220
Pleasanton, CA 94566
Attention: Mark J. Smith
Richard D. Barraza
Email: msmith@fulcrum-bioenergy.com
rbarraza@fulcrum-bioenergy.com

-and-

Morris Nichols Arsht & Tunnell LLP
1201 North Market Street
Wilmington, Delaware 19899-1347
Attention: Robert J. Dehney
Curtis S. Miller
Clint M. Carlisle
Email: rdehney@morrisnichols.com
cmiller@morrisnichols.com
ccarlisle@morrisnichols.com

(a) If to the Committee:

Eversheds Sutherland (US) LLP
1114 Avenue of the Americas, 40th Floor
New York, NY 10036
Attention: Todd C. Meyers

Jennifer B. Kimble
Email: toddmeyers@eversheds-sutherland.com
jenniferkimble@eversheds-sutherland.com

-and-

Morris James LLP
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801-1494
Attention: Jeffrey R. Waxman
Email: jwaxman@morrisjames.com

(b) if to the Liquidation Trust, to the parties designated for notice and in the manner set forth in the Liquidation Trust Agreement.

After the Effective Date, any party must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Liquidation Trust is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to (i) those Entities who have filed such renewed requests and (ii) those Entities whose rights are affected by such documents and/or the relief requested therein.

Dated: April 9, 2025

Respectfully submitted,

By: */s/ Mark J. Smith*
Name: Mark J. Smith
Title: Chief Restructuring Officer

EXHIBIT A

Debtors' Directors and Officers that Have Served Postpetition

1. Carin Marcy Barth
2. Andrew C. Kidd
3. Mark J. Smith
4. Richard D. Barraza

Exhibit B

Notice of Effective Date

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
FULCRUM BIOENERGY, INC., *et al.*,[1]	Case No. 24-12008 (TMH)
	(Jointly Administered)
Debtors.	**Re: D.I. ___**

NOTICE OF (I) ENTRY OF ORDER CONFIRMING DEBTORS' SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION AND (II) OCCURRENCE OF EFFECTIVE DATE

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS DEADLINES TO ASSERT (I) ADMINISTRATIVE EXPENSE CLAIMS THAT AROSE ON OR AFTER SEPTEMBER 9 , 2024, THROUGH AND INCLUDING THE EFFECTIVE DATE, (II) FEE CLAIMS, AND (III) CLAIMS FOR DAMAGES BASED ON REJECTION OF CONTRACTS OR LEASES BY THE PLAN. THIS NOTICE ALSO CONTAINS ADDITIONAL INFORMATION THAT MAY AFFECT YOUR RIGHTS.

PLEASE TAKE NOTICE THAT:

1. **Entry of Confirmation Order**. On [●], 2025 (the "Confirmation Date"), the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Chapter 11 Plan of Liquidation* (D.I. ●) (the "Confirmation Order"), thereby confirming the Debtors' *Second Amended Joint Chapter 11 Plan of Liquidation*, dated April 9, 2025 (D.I. 548-1) (together with the Plan Supplement, the "Plan").[2]

2. **Effective Date**. Each of the conditions precedent to the effectiveness of the Plan has occurred or been waived in accordance with Sections 11.1 and 11.2 of the Plan, and the Plan became effective and was substantially consummated on [●], 2025 (the "Effective Date"). The Plan and its provisions are binding on the Debtors, any holder of a Claim or Interest, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan, and whether or not such holder voted to accept the Plan.

---

[1] The debtors and debtors in possession in these chapter 11 cases, along with each debtor's federal tax identification numbers are: Fulcrum BioEnergy, Inc. (3733); Fulcrum Sierra BioFuels, LLC (1833); Fulcrum Sierra Finance Company, LLC (4287); and Fulcrum Sierra Holdings, LLC (8498). The Debtors' service address is: Fulcrum BioEnergy Inc., P.O. Box 220 Pleasanton, CA 94566.

[2] Capitalized terms used but not defined herein are defined in the Plan or the Confirmation Order, as applicable.

3. **Bar Date for Administrative Expense Claims**. In accordance with Section 2.2 of the Plan and paragraph 17 of the Confirmation Order, any and all requests for allowance and/or payment of Administrative Expense Claims incurred on or after September 9, 2024, through and including the Effective Date, shall be filed with the Bankruptcy Court and served on the Liquidation Trustee and Delaware Trustee, Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Liquidation Trustee of the Fulcrum Liquidation Trust, Attn: Patick Healy, 500 Delaware Avenue, Wilmington, Delaware 19801, and counsel to the Liquidation Trustee and Delaware Trustee, (a) Eversheds Sutherland (US) LLP, The Grace Building, 40th Floor, 1114 Avenue of the Americas, New York, New York 10036, Attn: Jennifer Kimble, jenniferkimble@eversheds-sutherland.com and Sameer M. Alifarag, sameeralifarag@eversheds-sutherland.com, Evershed Sutherland (US) LLP, 999 Peachtree Street NW, Suite 2300, Atlanta, Georgia 30309, Attn: Todd C. Meyers, toddmeyers@eversheds-sutherland.com, and (b) Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801, Attn: Jeffrey R. Waxman, jwaxman@morrisjames.com; Eric J. Monzo, emonzo@morrisjames.com; and Christopher M. Donnelly, cdonnelly@morrisjames.com, so as to be actually received on or before **[●], 2025, at 5:00 p.m. (prevailing Eastern Time)** (the "Administrative Expense Claims Bar Date"). Any such request must include, at a minimum, (i) the name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim.

UNLESS OTHERWISE ORDERED BY THE BANKRUPTCY COURT, ANY REQUEST FOR ALLOWANCE AND/OR PAYMENT OF AN ADMINISTRATIVE EXPENSE CLAIM ARISING ON OR AFTER SEPTEMBER 9, 2025, THROUGH AND INCLUDING THE EFFECTIVE DATE, THAT IS NOT PROPERLY FILED AND SERVED BY THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE IS TIME BARRED, SHALL NOT APPEAR ON THE REGISTER OF CLAIMS MAINTAINED BY THE CLAIMS AGENT AND SHALL BE FOREVER BARRED FROM RECEIVING A DISTRIBUTION FROM THE LIQUIDATION TRUST, THE DEBTORS, OR THEIR ESTATES.

4. **Bar Date for Fee Claims**. In accordance with Section 2.3 of the Plan and paragraph 19 of the Confirmation Order, all final requests for payment of Fee Claims pursuant to sections 327, 328, 329, 330, 331, 503(b) and 1103 of the Bankruptcy Code for services rendered prior to the Effective Date (each a "Final Fee Application") shall be filed no later than **[●], 2025 (prevailing Eastern Time)** and simultaneously noticed and served in accordance with the Bankruptcy Court's *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* (D.I. 70).

5. **Procedures Relating to Assumption and Rejection of Executory Contracts and Unexpired Leases**. Pursuant to Section 9.1 of the Plan and paragraph 14 of the Confirmation Order, except as otherwise provided in the Plan, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned (including any Executory Contract or Unexpired Lease assumed and assigned in connection with a Sale Transaction) shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (i) as of the Effective Date is subject to a pending motion

to assume such Unexpired Lease or Executory Contract or (ii) is a D&O Policy or an insurance policy.

6. **Bar Date for Rejection Claims**. Unless otherwise provided by a Court order, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be a) filed with the Claims Agent (i) electronically at https://www.veritaglobal.net/fulcrum using the interface available after clicking the link entitled "Submit Electronic Proof of Claim (ePOC)," or (ii) by hardcopy (x) via first class mail an original, signed copy of the proof of claim must be sent to Fulcrum BioEnergy, Inc., c/o Kurtzman Carson Consultants, LLC dba Verita Global, 222 N. Pacific Highway, Suite 300, El Segundo, CA 90245, or (y) via hand delivery or overnight mail, an original, signed copy of the proof of claim must be sent to Fulcrum BioEnergy, Inc., c/o Kurtzman Carson Consultants, LLC dba Verita Global, 222 N. Pacific Highway, Suite 300, El Segundo, CA 90245; and (b) served on the Liquidation Trustee on or before **[●], 2025 at 5:00 p.m. (prevailing Eastern Time)**. **Any Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases that are not filed within such time shall be forever disallowed and barred.**

7. **Copies of the Confirmation Order and the Plan**. Copies of the Confirmation Order and the Plan are available for review (i) without charge at the Claims Agent's website, https://www.veritaglobal.net/fulcrum or by email at FulcrumInfo@veritaglobal.com; and (ii) on the Court's electronic docket of these chapter 11 cases at the address http://ecf.deb.uscourts.gov.

[Signatures to follow]

Dated: [●], 2025
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/

Robert J. Dehney, Sr. (No. 3578)
Curtis S. Miller (No. 4583)
Clint M. Carlisle (No. 7313)
Avery Jue Meng (No. 7238)
1201 N. Market Street, 16th Floor
Wilmington, Delaware 19801
Telephone: (302) 658-9200
Email: rdehney@morrisnichols.com
cmiller@morrisnichols.com
ccarlisle@morrisnichols.com
ameng@morrisnichols.com

Counsel to the Debtors and Debtors in Possession