

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

In re:

PIPELINE FOODS, LLC, *et al.*,¹

Debtors.

) **Chapter 11**
)
) **Case No. 21-11002 (KBO)**
)
) **Jointly Administered**
)
) **Hearing Date: To be determined**
) **Objection Deadline: To be determined**

DEBTORS' MOTION FOR ENTRY OF (A) AN ORDER (I) APPROVING BIDDING PROCEDURES FOR THE SALE OF DEBTORS' ATLANTIC, IOWA REAL PROPERTY AND FACILITY, (II) APPROVING OVERBID PROTECTION, (III) APPROVING FORM AND MANNER AND NOTICE OF THE SALE, (IV) SCHEDULING A HEARING TO CONSIDER APPROVAL OF THE SALE, AND (V) GRANTING RELATED RELIEF; AND (B) AN ORDER (I) APPROVING THE SALE OF THE ATLANTIC, IOWA REAL PROPERTY AND FACILITY, (II) AUTHORIZING THE SALE FREE AND CLEAR OF ALL ENCUMBRANCES, (III) AUTHORIZING AND APPROVING PAYMENT TO FARM CREDIT LEASING CORPORATION, AND (IV) GRANTING RELATED RELIEF

Pipeline Foods, LLC (“**Pipeline Foods**”) and its affiliated debtors and debtors in possession (collectively, the “**Debtors**”), hereby submit this motion (the “**Motion**”), pursuant to sections 105, 363, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (the “**Bankruptcy Code**”), for the entry of:

- (A) an order, substantially in the form attached hereto as **Exhibit A** (the “**Bidding Procedures Order**”), (i) approving proposed bidding procedures in the form attached to the Bidding Procedures Order as **Exhibit 1** (collectively, the “**Bidding Procedures**”) for the sale (the “**Sale**”) of certain real property (the “**Atlantic Real Property**”) in Atlantic, Iowa (Cass County) and a grain storage and handling facility (the “**Atlantic Facility**”) located thereon, as identified and defined in further detail in the Stalking Horse Agreement (defined below), a copy of which is attached hereto as **Exhibit B**; (ii) approving overbid protection pursuant to the terms of the Stalking Horse Agreement; (iii) approving the form and manner of

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Pipeline Foods, LLC (5070); Pipeline Holdings, LLC (5754); Pipeline Foods Real Estate Holding Company, LLC (7057); Pipeline Foods, ULC (3762); Pipeline Foods Southern Cone S.R.L. (5978); and Pipeline Foods II, LLC (9653). The Debtors' mailing address is 6499 University Avenue NE, Suite 200, Fridley, MN 55432.

notice of the Sale; (iv) scheduling a hearing (the “**Sale Hearing**”) to consider approval of the Sale; and (v) granting related relief; and

- (B) an order (the “**Sale Order**”)² (i) authorizing and approving the Sale of the Atlantic Real Property and the Atlantic Facility, pursuant to the Stalking Horse Agreement or other applicable purchase agreement, free and clear of all liens, claims, encumbrances, and other interests (collectively, the “**Encumbrances**”), other than those Encumbrances permitted by the Stalking Horse Agreement or other applicable purchase agreement; (ii) authorizing and approving the payment by Pipeline Foods to Farm Credit Leasing Services Corporation (“**Farm Credit Leasing**”) from the Sale proceeds to pay off the amount due to Farm Credit Leasing under a lease of the Atlantic Facility, which lease obligation is secured by a mortgage on the Atlantic Real Property; and (iv) granting related relief.

In support of this Motion, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. Prior to the Petition Date, the Debtors retained Ocean Park Securities, LLC (“**Ocean Park**”), effective June 1, 2021, as an investment banker to assist in the marketing and sale of the Debtors’ business or assets. Ocean Park’s retention as the Debtors’ investment banker was approved by this Court, effective as of the Petition Date. Upon the commencement of these chapter 11 cases, the Debtors hoped to find a purchaser for the Debtors’ business on a going concern basis. Despite the best efforts of the Debtors and Ocean Park, the Debtors were unable to find such a buyer. Accordingly, the Debtors began to focus on recovering value for the benefit of their estates and creditors by liquidating their collateral for maximum value, with the goal of funding a confirmable chapter 11 plan.

2. In furtherance of this objective, the Debtors and their professionals have determined that a sale of the Atlantic Real Property and the Atlantic Facility through the sale process proposed herein will obtain the highest and best price for such assets, for the benefit of creditors and parties in interest.

² The form of Sale Order will be filed with the Court on or before the Sale Objection Deadline.

JURISDICTION AND VENUE

3. This Court has jurisdiction to consider this matter 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. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and legal predicates for the relief sought herein are sections 105 and 363 of the Bankruptcy Code, Rules 2002, 6004, and 9007 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Local Rules 2002-1 and 6004-1.

BACKGROUND

5. On July 8, 2021 and July 12, 2021 (together, the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases. On July 22, 2021, the Office of the United States Trustee appointed a committee of unsecured creditors (the “**Committee**”).

6. A detailed description of the Debtors’ businesses, capital structure, and the reasons for commencing the chapter 11 cases are set forth in the *Omnibus Declaration of*

Winston Mar in Support of Debtors' Initial Emergency First Day Motions and Related Relief
[Docket No. 6].

A. The Atlantic Real Property and Atlantic Grain Facility

7. As noted above, Pipeline Foods owns the Atlantic Real Property, which is located in Cass County, Iowa with a common address of 54464 Olive Street, Atlantic, Iowa. Pipeline Foods purchased the Atlantic Real Property and Atlantic Facility from Archer–Daniels–Midland Company d/b/a ADM Grain Company (“**ADM**”) on September 13, 2018.

8. Farm Credit Leasing is the owner of the Atlantic Facility, which is located on the Atlantic Real Property. Pipeline Foods leases the Atlantic Facility from Farm Credit Leasing under a Master Lease Agreement, dated as of September 14, 2018, and Supplement No. 1 for Contract No. 001-0097268-000, dated as of September 14, 2018 (collectively, the “**Lease**”). The initial term of the Lease expires September 13, 2025. The monthly payment under the Lease is \$51,187.89. The Lease states that the parties intend it to be a true lease. The Lease, however, has a “hell or high water” provision for the obligation to pay rent. Farm Credit Leasing also filed a UCC financing statement on September 17, 2018 to perfect its security interest in the Debtors’ lease obligations, which identifies Farm Credit Leasing as a “Lessor.”

9. Pipeline Foods granted a mortgage (the “**Mortgage**”) to Farm Credit Leasing on the Atlantic Real Property, dated as of September 14, 2018, to secure its obligations to Farm Credit Leasing under the Lease. The Mortgage was recorded on September 24, 2018 with the Cass County, Iowa Recorder as Doc. No. 115095. In addition, the obligations of Pipeline Foods under the Lease are guaranteed by Pipeline Holdings, LLC.

10. Under the Lease, subject to certain conditions, Pipeline Foods may elect to purchase the Atlantic Facility. Farm Credit Leasing has advised Pipeline Foods that Pipeline

Foods may purchase the Atlantic Facility upon payment of all amounts due under the Lease, and will waive all other conditions under the Lease. As of August 31, 2021, the payoff amount was estimated to be \$3,409,246.81.

B. The Debtors' Marketing Efforts and Entry into Stalking Horse Agreement

11. Upon its engagement, Ocean Park identified fifty-three (53) potential interested parties, both strategic and financial. Ocean Park prepared and sent an executive summary/teaser to these parties. Ocean Park also assembled an on-line data room with detailed diligence information. Of the parties contacted, thirty-two (32) parties signed a non-disclosure agreement to gain access to the data room and diligence information. After a five week marketing and diligence period, Ocean Park asked all interested parties to submit indications of interest by July 2, 2021. As of July 2, 2021, Ocean Park had received multiple indications of interest for the Atlantic Real Property and Atlantic Facility. Subsequent to the Petition Date, additional parties inquired about the Debtors' assets for sale. Ocean Park contacted these additional parties to elicit interest levels and provide data room access and diligence information. On or about August 1, 2021, Ocean Park shifted the sale process to a "facilities-only" process. Ocean Park asked all remaining interested parties to submit revised indications of interest by August 10, 2021. As of August 10, 2021, Ocean Park had received three (3) indications of interest for the Atlantic Real Property and Atlantic Facility. On August 30, 2021, Ocean Park contacted these three parties and requested "best and final" offers, with a minimum bid of \$3,800,000. On or about September 2, 2021, Ocean Park received "best and final" offers from these three parties. Based on the offers received, the Debtors believed that a section 363 sale process, with a stalking horse agreement and competitive bidding, would be in the best interest of the Debtors' estates.

12. Following negotiations, on September 28, 2021 the Debtors entered into an Asset Purchase Agreement (the “**Stalking Horse Agreement**”) with The Scoular Company (“**Scoular**” or the “**Stalking Horse Purchaser**”). A copy of the Stalking Horse Agreement is attached hereto as **Exhibit B**.

13. As summarized in further detail below, pursuant to the Stalking Horse Agreement, Scoular has agreed to: (a) purchase the Atlantic Real Property and the Atlantic Facility for a cash payment of \$4,350,000, and (b) serve as a “stalking horse” bidder, subject to overbid protection and other bidding procedures.

14. A summary of the material terms of the Stalking Horse Agreement are as follows:

MATERIALS TERMS OF THE STALKING HORSE AGREEMENT	
Parties	Seller: Pipeline Foods Purchaser: The Scoular Company
Purchased Assets	Atlantic Real Property and Atlantic Facility
Purchase Price	\$4,350,000
Good Faith Deposit	\$435,000
Other Terms and Conditions	Pipeline Foods shall complete a buy-out of the Lease with Farm Credit Leasing as part of closing
Bid Protection	\$50,000 Overbid
Closing	First Business day following date on which Sale Order becomes a final order (or earlier if mutually agreed)

BIDDING PROCEDURES

15. The Debtors desire to solicit competing bids for the Atlantic Real Property and Atlantic Facility in accordance with the Bidding Procedures. The Bidding Procedures, which are

attached to the Bidding Procedures Order as **Exhibit 1**, describe, among other things, the manner in which bids become “qualified,” the coordination of diligence efforts among the bidders and the Debtors, the receipt and negotiation of bids received, the conduct of an auction (an “**Auction**”), the selection and approval of the Successful Bidder, and the selection of the Back-Up Bidder. The Bidding Procedures reflect the Debtors’ objective of conducting the Auction in a controlled but fair and open manner, while ensuring that the highest and best bid is obtained for the Atlantic Real Property and Atlantic Facility.

16. Certain of the key terms of the proposed Bidding Procedures are set forth below:³

- **Qualification as Bidder.** Any person or entity that wishes to participate in the bidding process for the Atlantic Real Property and Atlantic Facility (each, a “**Potential Bidder**”) must first become a “**Qualifying Bidder.**” Except for the Stalking Horse Purchaser, parties may be qualified as a Qualifying Bidder up to the Bid Deadline (**i.e., October 21, 2021 at 4:00 p.m. (ET)**), but parties interested in submitting a bid for the Atlantic Real Property and Atlantic Facility are encouraged to qualify as soon as possible because the Bidding Procedures do not permit any due diligence or financing conditions in Qualifying Bids. Section 2 of the Bidding Procedures identifies the requirements to be deemed a Qualifying Bidder, which include, among other things, (1) entry into a confidentiality agreement in form and substance reasonably satisfactory to the Debtors, and (2) the provision of sufficient information, as determined by the Debtors, to allow the Debtors, after consultation with the Consultation Parties,⁴ to determine that the interested party has, or can obtain, the financial wherewithal and any required internal corporate, legal or other authorizations to close a sale transaction. Each Potential Bidder shall comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder, as applicable, to consummate its contemplated transaction.

³ The following is a summary of the Bidding Procedures. It is qualified in its entirety by the actual terms and conditions of the Bidding Procedures as provided for in the Bidding Procedures Order, and parties are encouraged to read the Bidding Procedures and Bidding Procedures Order in their entirety. To the extent that there is any conflict between any summary contained herein and the actual terms and conditions of the Bidding Procedures as provided for in the Bidding Procedures Order, the actual terms and conditions of the Bidding Procedures as provided for in the Bidding Procedures Order shall control. Capitalized terms used but not defined in this summary of the Bidding Procedures shall have the meanings ascribed to such terms in the Bidding Procedures.

⁴ The term “**Consultation Parties**” shall mean: (i) counsel to the Committee; and (ii) counsel to Coöperatieve Rabobank U.A., New York Branch as administrative agent, issuer, and lender (“**Rabobank**”).

- **Qualifying Bid.** Other than the Stalking Horse Purchaser, to be deemed a “**Qualifying Bid**,” a bid must be received from a Qualifying Bidder on or before the Bid Deadline and satisfy each of the requirements set forth in Section 5 of the Bidding Procedures (each, a “**Bid Requirement**”). These requirements include, but are not limited to, the requirements that the bids:
 - a. be in writing;
 - b. fully disclose the identity of the Qualifying Bidder and whether such party is an insider (as defined in section 101 of the Bankruptcy Code) of any Debtor, and provide the contact information of the specific person whom the Debtors or their advisors should contact in the event that the Debtors wish to discuss the bid submitted by the Qualifying Bidder;
 - c. set forth the purchase price to be paid by such Qualifying Bidder, including what amount is being paid as cash and what amount constitutes a credit bid, and identify the liabilities proposed to be paid or assumed by such Qualifying Bidder;
 - d. state that such Qualifying Bidder offers to purchase the Atlantic Real Property and Atlantic Facility upon substantially the same terms as, or terms more favorable to the Debtors and their estates than, the terms set forth in the Stalking Horse Agreement;
 - e. be accompanied by a clean and marked modified Purchase Agreement that reflects any variations from the Stalking Horse Agreement;
 - f. state that such Qualifying Bidder’s offer is formal, binding and unconditional and is irrevocable until the conclusion of the Sale Hearing unless such party is the Successful Bidder or Back-Up Bidder (both as defined below), in which case such offer is formal, binding and unconditional and is irrevocable until two (2) business days after the closing of the Sale;
 - g. state that such Qualifying Bidder is financially capable of consummating the transactions contemplated by the Purchase Agreement and provide written evidence in support thereof;
 - h. contain such financial and other information to allow the Debtors to make a reasonable determination as to the Qualifying Bidder’s financial and other capabilities to close the transactions contemplated by its proposed Purchase Agreement;
 - i. a commitment to close the transactions contemplated by the Purchase Agreement promptly upon entry of the order approving the sale;
 - j. not request or entitle such Qualifying Bidder to any break-up fee, termination fee, expense reimbursement or similar type of fee or payment;

k. provide for the consideration for the Atlantic Real Property and Atlantic Facility to be cash in an amount not less than \$4,400,000;

l. not contain any contingencies of any kind, including, without limitation, contingencies related to financing, due diligence, or third party regulatory or internal approval;

m. contain written evidence satisfactory to the Debtors, in consultation with the Consultation Parties, that the Qualifying Bidder has a commitment for financing or other evidence of the ability to close the transactions contemplated by the Purchase Agreement;

n. contain a written acknowledgement and representation that the Qualifying Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Atlantic Real Property and Atlantic Facility, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and other information in making its Qualifying Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Atlantic Real Property and Atlantic Facility, or the completeness of any documents or other information provided in connection with the Bidding Procedures and the Sale, and (iv) has not entered into any agreement with any other potential bidder concerning the Auction or the Sale or discloses any agreement with any other potential bidder concerning the Auction or Sale;

o. provides for the Qualifying Bidder to serve as a backup bidder (the “**Back-Up Bidder**”) if the Qualifying Bidder’s bid is the next highest and best bid (the “**Back-Up Bid**”) after the Successful Bid (as defined below), in accordance with the terms of the Purchase Agreement;

p. includes written evidence of authorization and approval from the Qualifying Bidder’s board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Purchase Agreement;

q. provides a good faith cash deposit (the “**Deposit**”) in an amount equal to ten percent (10%) of the total consideration provided under the proposed Purchase Agreement; and

r. provides for liquidated damages in the event of the Qualifying Bidder’s breach of, or failure to perform under, the Purchase Agreement equal to the amount of the Deposit.

- **Bid Deadline.** A Qualifying Bidder, other than the Stalking Horse Purchaser, that desires to make a bid shall deliver a written and electronic copy of its bid in both PDF and MS-WORD format to the Debtors so as to be received on or before **October 21, 2021 at 4:00 p.m. (ET)** (the “**Bid Deadline**”); provided that the Debtors may extend the Bid Deadline without further order of the

Court, subject to providing notice to the Consultation Parties. **Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction.**

- **Auction.** In the event that the Debtors timely receive one or more Qualifying Bids, the Debtors shall conduct an Auction. The Auction shall be held on **October 22, 2021 at 10:00 a.m. (ET)** via Zoom or other similar means.
- **Sale Hearing.** The Successful Bid (which, if no Auction is held, may be the Stalking Horse Agreement) and any Back-Up Bid will be subject to approval by the Court. Subject to Court approval, the Sale Hearing to approve the Successful Bid and any Back-Up Bid shall take place on **October 28, 2021 at a time convenient to the Court.** The Sale Hearing may be adjourned by the Debtors from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or by filing a notice on the docket of the Debtors' chapter 11 cases.

**NOTICE PROCEDURES FOR THE SALE,
BIDDING PROCEDURES, AUCTION, AND SALE HEARING**

17. The Debtors also request approval of the sale notice (the “Sale Notice”), substantially in the form attached to the Bidding Procedures Order as **Exhibit 2.** On or before the date that is two (2) business days following the entry of the Bidding Procedures Order, the Debtors will serve the Sale Notice by first class mail on: (1) the Office of the United States Trustee for the District of Delaware; (2) counsel to the Committee; (3) counsel to Rabobank; (4) counsel for Compeer; (5) counsel to Farm Credit Leasing Services Corporation; (6) the Stalking Horse Purchaser; (7) United States Attorney for the District of Delaware; (8) the United States Attorney for District of Minnesota; (9) the Minnesota Department of Agriculture; (10) the Internal Revenue Service; (11) the Office of the Attorney General for Minnesota, North Dakota and Iowa; (12) all parties known by the Debtors to assert a lien on the Atlantic Real Property and Atlantic Facility; (13) all persons known to have expressed an interest in acquiring the Atlantic Real Property and Atlantic Facility or making an equity or other investment in the Debtors within the six months prior to the Petition Date to date; (14) all taxing authorities having

jurisdiction over the Atlantic Real Property and Atlantic Facility, including the Internal Revenue Service; (15) the United States Environmental Protection Agency; (16) the Iowa Department of Environmental Protection; and (17) all other parties that had filed a notice of appearance and demand for service of papers in these chapter 11 cases as of the date of service (collectively, the **“Transaction Notice Parties”**). In addition, the Debtors will serve the Sale Notice on all of the Debtors’ known creditors and equity holders (for whom identifying information and addresses are available to the Debtors).

18. The Debtors will also post the Sale Notice and the Bidding Procedures Order on the website of the Debtors’ claims and noticing agent, Bankruptcy Management Solutions, Inc. d/b/a Stretto, at <https://cases.stretto.com/PipelineFoods>.

RELIEF REQUESTED

19. By this Motion, the Debtors seek the entry of: (a) the Bidding Procedures Order (i) authorizing and approving the Bidding Procedures for the Sale of the Atlantic Real Property and Atlantic Facility, (ii) approving the overbid protection, (iii) approving the form and manner of notice of the Sale, (iv) scheduling a date for the Sale Hearing, and (v) granting related relief; and (b) a Sale Order (i) authorizing and approving the Sale, free and clear of all Encumbrances, (ii) authorizing and approving payment to Farm Credit Leasing to buy out the Lease, and (iii) granting related relief.

20. The Bidding Procedures Order, if approved, will establish the following timeline, which the Debtors believe is necessary to achieve a value-maximizing transaction:

Milestones	Proposed Dates⁵
Bidding Procedures Hearing	On or before October 5, 2021 at a time convenient to the Court.
Deadline to Serve Sale Notice	Two (2) business days following entry of the Bidding Procedures Order
Sale Objection Deadline (including objections to a sale to the Stalking Horse Purchaser)	October 21, 2021 at 4:00 p.m. (ET)
Bid Deadline	October 21, 2021 at 4:00 p.m. (ET)
Auction	October 22, 2021 at 10:00 a.m. (ET)
Deadline to File and Serve Notice of Successful Bidder and Amount of Successful Bid	No later than 1 day following the conclusion of the Auction.
Deadline for Auction Objections / Sale to Successful Bidder (other than Stalking Horse Purchaser)	October 26, 2021 at 12:00 p.m. (ET)
Sale Hearing	October 28, 2021 at time convenient for the Court
Outside Closing Date	November 1, 2021

21. The Debtors respectfully submit that this proposed timeline is reasonable and necessary under the circumstances of these cases. Such timeline will allow parties in interest sufficient time to formulate bids while also permitting the Debtors to act quickly in pursuing a transaction that will maximize value.

⁵ All hearing dates proposed herein are subject to the Court's availability and approval.

BASIS FOR RELIEF

A. Sufficient Business Justification Exists for Consummation of the Sale under Bankruptcy Code Sections 105(a) and 363(b)

22. Pursuant to section 105(a) of the Bankruptcy Code, a “[c]ourt may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 363(b) of the Bankruptcy Code further provides that a debtor, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b). Although section 363(b) does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, courts have required that such use, sale or lease be based upon the sound business judgment of the debtor. *See, e.g., Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (internal citation omitted); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070–71 (2d Cir. 1983); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147–48 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test of *In re Lionel Corp.*); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 175–76 (D. Del. 1991) (holding that the Third Circuit adopted the “sound business judgment” test in *Abbotts Dairies*); *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (same).

23. The demonstration of a valid business justification by the debtor leads to a strong presumption “that in making [the] business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)).

24. In the present case, the Debtors' decision to market and sell the Atlantic Real Property and Atlantic Facility through a section 363 sale represents a reasonable exercise of their business judgment and, accordingly, the Sale should be approved under sections 105(a) and 363(b) of the Bankruptcy Code. As discussed above, the Debtors' business is no longer operating as a going concern. Therefore, the Debtors are attempting to sell the Atlantic Real Property and Atlantic Facility to obtain the highest and best value for creditors and parties in interest.

25. The auction and sale process contemplated by the Bidding Procedures will ensure that the Debtors' estates receive the highest and best value available for the Atlantic Real Property and Atlantic Facility. Furthermore, compliance with the Bidding Procedures will ensure the fairness and reasonableness of the consideration to be paid by any Successful Bidder, and establish that the Debtors and the Successful Bidder have proceeded in good faith.

26. Additionally, the Debtors believe that the notice procedures described above are reasonable and adequate under the circumstances. Bankruptcy Rules 2002(a) and (c) require the Debtors to notify creditors of the Sale, the terms and conditions of the Sale, the time and place of the Auction, and the deadline for filing any objections. The Debtors believe that the proposed notice procedures fully comply with Bankruptcy Rule 2002 and are reasonably calculated to provide timely and adequate notice of the Sale, Bidding Procedures, Auction, and Sale Hearing to the Debtors' creditors and all other parties in interest that are entitled to notice, as well as those parties that have expressed a *bona fide* interest in acquiring the Atlantic Real Property and Atlantic Facility.

B. The Sale of the Atlantic Real Property and Atlantic Facility Free and Clear of All Encumbrances is Authorized under Bankruptcy Code Section 363(f)

27. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests and encumbrances if:

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

11 U.S.C. § 363(f). This provision is supplemented by section 105(a) of the Bankruptcy Code, which, as noted above, provides that “[t]he court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

28. Because section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the sale of the Atlantic Real Property and Atlantic Facility “free and clear” of liens and interests. *See Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that because section 363(f) is written in the disjunctive, a court may approve a sale free and clear if any one subsection is met); *see also Mich. Emp’t Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (same); *In re Bygaph, Inc.*, 56 B.R. 596, 606 n.8 (Bankr. S.D.N.Y. 1986) (same). Furthermore, a debtor possesses broad authority to sell assets free and clear of liens. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 289 (3d Cir. 2003).

29. The Debtors submit that, in the interest of attracting the best offers, it is appropriate to sell the Atlantic Real Property and Atlantic Facility free and clear of any and all Encumbrances (except as otherwise expressly set forth in the Stalking Horse Agreement or such

other Purchase Agreement with a Successful Bidder, as applicable) in accordance with section 363(f) of the Bankruptcy Code, because one or more of the tests of section 363(f) are, or will be, satisfied with respect to any Sale. Farm Credit Leasing holds a mortgage lien on the Atlantic Real Property but has advised the Debtors that it consents to the Sale free and clear of its lien, provided that the debt securing the lien is paid in full at closing. The Debtors will thus use a portion of the Sale proceeds to pay off the Farm Credit Leasing lien at the closing of the Sale. The Debtors are unaware of any other Encumbrances on the Atlantic Real Property or the Atlantic Facility.

30. In the event of any objection to the Debtors' requested section 363(f) finding, the Debtors reserve the right to demonstrate that the other provisions of section 363(f) have been satisfied.

C. The Sale Should be Subject to the Protections of Section 363(m)

31. Section 363(m) of the Bankruptcy Code provides, in part, that the reversal or modification on appeal of an authorization of a sale pursuant to section 363(b) or section 363(c) of the Bankruptcy Code does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal. *See* 11 U.S.C. § 363(m). In approving the Sale free and clear of Encumbrances, the Debtors request that the Court find and hold that the sale of the Atlantic Real Property and Atlantic Facility in accordance with the Bidding Procedures is entitled to the protections afforded by section 363(m) of the Bankruptcy Code. Such relief is appropriate because selection of the Successful Bidder will be the result of a competitive bidding process and arm's-length, good-faith negotiations, and parties in interest will have the opportunity to review and object to a proposed transaction. *See Esposito v. Title Ins. Co. of Pa. (In re Fernwood Mkts.)*, 73 B.R. 616,

620 (Bankr. E.D. Pa. 1987) (good faith purchasers are protected under section 363(m) where notice is provided to lienholders).

D. The Court Should Approve the Bidding Procedures

32. The key objective in any sale of property of a debtor's estate is to maximize the value received by the estate. *See In re Mushroom Transp. Co.*, 382 F.3d 325, 339 (3d Cir. 2004) (finding that debtor "had a fiduciary duty to protect and maximize the estate's assets"); *Official Comm. of Unsecured Creditors of Cybergenics, Corp v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003) (same). Procedures used to enhance competitive bidding support this objective and, therefore, are appropriate in the context of bankruptcy sales. *See In re O'Brien Envtl. Energy, Inc.*, 181 F.3d 527, 537 (3d Cir. 1999); *see also Integrated Res. Inc.*, 147 B.R. at 659 (stating that bidding procedures "encourage bidding and . . . maximize the value of the debtor's assets").

33. The Debtors have designed the Bidding Procedures to promote an expeditious, competitive and fair bidding process that maximizes value for the Debtors' estates and creditors. The Bidding Procedures will allow the Debtors to conduct the Auction in a controlled, fair and open fashion that will encourage participation by financially capable bidders, thereby increasing the likelihood that the Debtors will receive the highest and best possible consideration for the Atlantic Real Property and Atlantic Facility. Furthermore, the Bidding Procedures provide an appropriate framework for the Debtors to review, analyze and compare any bids received in order to determine which bids are in the best interests of the Debtors' estates and their creditors. The Debtors submit that this timetable is fair and reasonable in light of the Debtors' current circumstances.

34. The Debtors further submit that the forgoing procedures are fair and transparent and will derive the highest and best bids for the Atlantic Real Property and Atlantic Facility.

Therefore, the Debtors request that the Court approve the Bidding Procedures, including the dates established thereby for the Auction and the Sale Hearing.

E. The Court Should Approve the Overbid Protection in the Stalking Horse Agreement

35. The Debtors believe that the Stalking Horse Agreement will set a floor for the value of the Atlantic Real Property and Atlantic Facility and may attract other potential buyers to bid for the Atlantic Real Property and Atlantic Facility, thereby maximizing the realizable value of the asset for the benefit of the Debtors' estates, their creditors, and all other parties in interest.

36. The only bid protection sought in the Stalking Horse Agreement is overbid protection of \$50,000; i.e. the purchase price of any competing bid must be at least \$4,400,000. The Debtors submit that the \$50,000 overbid protection is a reasonable request. Unlike many other stalking horse agreements in section 363 sales, there is no request for a breakup fee or expense reimbursement.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h) AND 6006(d)

37. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). Furthermore, Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6006(d).

38. As set forth throughout this Motion, any delay in the Debtors' ability to consummate the Sale would be detrimental to the Debtors, their creditors and estates, and would not only impair the Debtors' ability to take advantage of the substantial cost-savings that can be achieved by an expeditious closing of the Sale.

39. For this reason and those set forth above, the Debtors submit that ample cause exists to justify a waiver of the fourteen day stay imposed by Bankruptcy Rule 6004(h) and 6006(d), to the extent applicable.

NOTICE

40. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Committee; (iii) counsel to Rabobank; (iv) counsel to Compeer; (v) the Stalking Horse Purchaser; (vi) the United States Attorney for the District of Delaware; (vii) the United States Attorney for the District of Minnesota; (viii) the Minnesota Department of Agriculture; (ix) the Internal Revenue Service; (x) the Office of the Attorney General for Minnesota, North Dakota and Iowa; (xi) all applicable federal, state and local taxing and regulatory authorities having jurisdiction over the Atlantic Real Property and Atlantic Facility; (xii) all parties known by the Debtors to assert a lien on any of the Atlantic Real Property and Atlantic Facility; (xiii) counsel to Farm Credit Leasing Services Corporation; (xiv) all persons known to have expressed an interest in acquiring the Atlantic Real Property and Atlantic Facility or making an equity or other investment in the Debtors since Ocean Park's engagement by the Debtors; (xv) ADM or its counsel; and (xvi) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

41. The Debtors have not previously sought the relief requested herein from this or any other Court.

CONCLUSION

WHEREFORE, the Debtors request entry of the Bidding Procedures Order and, after further notice and hearing, the entry of the Sale Order, and such other and further relief as is just and proper.

Dated: September 28, 2021

SAUL EWING ARNSTEIN & LEHR LLP

By: /s/ Monique B. DiSabatino

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Counsel for Debtors and Debtors in Possession

EXHIBIT A

Bidding Procedures Order

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

In re:

PIPELINE FOODS, LLC, *et al.*,¹

Debtors.

)
) **Chapter 11**
)
) **Case No. 21-11002 (KBO)**
)
) **Jointly Administered**
)
) **Related to Docket No. __**
)

**ORDER (I) (I) APPROVING BIDDING PROCEDURES FOR THE SALE OF DEBTORS’
ATLANTIC, IOWA REAL PROPERTY AND FACILITY, (II) APPROVING OVERBID
PROTECTION, (III) APPROVING FORM AND MANNER AND NOTICE OF THE
SALE, (IV) SCHEDULING A HEARING TO CONSIDER APPROVAL OF THE SALE,
AND (V) GRANTING RELATED RELIEF; AND (B) AN ORDER (I) APPROVING THE
SALE OF THE ATLANTIC, IOWA REAL PROPERTY AND FACILITY, (II)
AUTHORIZING THE SALE FREE AND CLEAR OF ALL ENCUMBRANCES, (III)
AUTHORIZING AND APPROVING PAYMENT TO FARM CREDIT LEASING
CORPORATION, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of Pipeline Foods, LLC (“**Pipeline Foods**”) and its affiliated debtors and debtors in possession (together, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) for the entry of an order (i) approving proposed bidding procedures (the “**Bidding Procedures**”) for the sale (the “**Sale**”) of certain real property in Atlantic, Iowa (Cass County) located at 54464 Olive Street, Atlantic, Iowa 50022 (the “**Atlantic Real Property**”) and a grain storage facility located thereon (the “**Atlantic Facility**”), as identified and defined in the Stalking Horse Agreement, (ii) approving overbid protection, (iii) approving the form and manner of notice of the Sale, (iv) scheduling a hearing (the “**Sale**

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Pipeline Foods, LLC (5070); Pipeline Holdings, LLC (5754); Pipeline Foods Real Estate Holding Company, LLC (7057); Pipeline Foods, ULC (3762); Pipeline Foods Southern Cone S.R.L. (5978); and Pipeline Foods II, LLC (9653). The Debtors’ mailing address is 6499 University Avenue NE, Suite 200, Fridley, MN 55432.

² Capitalized terms used but not defined herein shall have the meanings given in the Motion or the Bidding Procedures (as defined below), as applicable.

Hearing”) for the approval of the Sale, and (v) granting related relief; and due and proper notice of the Motion having been given as provided in the Motion; and it appearing that no other or further notice need be provided; and the Bidding Procedures Hearing (as defined below) having been held; and all of the proceedings had before the Court; and the Court having reviewed the Motion; and the Court having found and determined that the relief sought in the Motion and set forth herein is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:³

A. This Court has jurisdiction to consider the Motion in accordance with 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.

B. Venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

C. The statutory and legal predicates for the relief requested in the Motion and provided for herein are sections 105(a), 363, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (the “**Bankruptcy Code**”), Rules 2002, 6004, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”).

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

D. Good and sufficient notice of the relief granted by this Order has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief granted by this Order has been afforded to those parties entitled to notice pursuant to Bankruptcy Rule 2002 and all other interested parties.

E. The Sale Notice (as defined below) is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of this Order, the Bidding Procedures, the Auction, the Sale, and the Sale Hearing, and any and all objection deadlines related thereto, and no other or further notice is required of the foregoing.

F. The Bidding Procedures are fair, reasonable and appropriate and are designed to maximize recoveries with respect to the Sale.

H. Entry of this Order is in the best interests of the Debtors, their estates and creditors and all other interested parties.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Those portions of the Motion seeking approval of (a) the Bidding Procedures, (b) the date, time and place of the Auction and Sale Hearing, and (c) the noticing and objection procedures related to each of the foregoing, including, without limitation, the Sale Notice, substantially in the form attached hereto as **Exhibit 2** (the “**Sale Notice**”), are hereby GRANTED as provided herein.

2. Any objections to the relief granted by this Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled and denied on the merits with prejudice.

I. Approval of Bidding Procedures; Auction

3. The Bidding Procedures are hereby approved. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall

not diminish or otherwise impair the effectiveness of such procedures, it being this Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors are hereby authorized to conduct the Auction of the Atlantic Real Property and Atlantic Facility pursuant to the terms of the Bidding Procedures and this Order. The Bidding Procedures shall govern the actions of the Potential Bidders and the Qualifying Bidders (each as defined in the Bidding Procedures), as well as the conduct of the Auction.

4. Notwithstanding any limitations provided for in any due diligence information, including, without limitation, any non-disclosure, confidentiality or similar provisions, the Debtors and their estates shall be authorized to provide due diligence information to Potential Bidders or Qualifying Bidders, provided that such Potential Bidders or Qualifying Bidders have delivered an executed confidentiality agreement in form and substance acceptable to the Debtors. The Debtors and their estates are not responsible for, and shall have no liability with respect to, any information obtained by, or provided to, any Potential Bidders or Qualifying Bidders in connection with the Bidding Procedures and the Sale, provided that the information was provided in accordance with this Order and except as otherwise provided for in a Purchase Agreement that is authorized and approved by the Court.

5. For the avoidance of doubt, and notwithstanding anything to the contrary in the Motion, this Order or the Bidding Procedures, the requirement that a party execute a confidentiality agreement to obtain access to the data room and other due diligence information shall not restrict, prohibit or alter the right that any party has under any applicable agreement, including loan agreements, to receive, or the Debtors' obligation to provide, any information, which rights and obligations are intended to remain unchanged by this Order and the Bidding Procedures.

6. A Qualifying Bidder (other than the Stalking Horse Purchaser) that desires to make a bid shall deliver a written and electronic copy of its bid in both PDF and MS-WORD format to the Debtors, with a copy to the Consultation Parties (as defined below) so as to be received on or before **October 21, 2021 at 4:00 p.m. (ET)** (the “**Bid Deadline**”); provided that the Debtors may extend the Bid Deadline without further order of the Court, after consulting with the applicable Consultation Parties. Any party that does not submit a bid by the Bid Deadline will not be allowed to: (a) submit any offer after the Bid Deadline or (b) participate as a bidder in the Auction. The term “**Consultation Parties**” as used in the Bidding Procedures and this Order shall mean: (i) counsel to the Committee; and (ii) counsel to Rabobank.

7. All Qualifying Bidders submitting a Qualifying Bid are deemed to have submitted to the exclusive jurisdiction of this Court with respect to all matters related to the Auction and the terms and conditions of the sale or transfer of the Atlantic Real Property and Atlantic Facility identified under the Purchase Agreement.

8. In the event that the Debtors timely receive two or more Qualifying Bids for the Atlantic Real Property and Atlantic Facility, the Debtors shall conduct an Auction. If no Qualifying Bid other than the Stalking Horse Agreement is submitted for the Atlantic Real Property and Atlantic Facility on or before the Bid Deadline, the Debtors shall cancel the Auction and, instead, shall request at the Sale Hearing that this Court approve the Stalking Horse Agreement.

9. The Auction shall be held, beginning at **10:00 a.m. (prevailing Eastern Time), on October 22, 2021**. Each Auction Bidder (as defined in the Bidding Procedures) shall confirm in writing that: (a) it has not engaged in any collusion with respect to the submission of any bid, the bidding, or the Auction and (b) its Qualifying Bid is a good faith *bona fide* offer that it

intends to consummate if selected as a Successful Bidder. All proceedings at the Auction shall be transcribed.

10. The Debtors, in consultation with the Consultation Parties, shall assess each bid to determine whether it is the highest and best bid for the Atlantic Real Property and Atlantic Facility, considering, among other things: (a) the transaction structure and execution risk, including conditions to, timing of and certainty of closing, termination provisions, availability of financing and financial wherewithal to meet all commitments, and required governmental or other approval; (b) variations between competing bids and any incremental execution risk that the Debtors reasonably determine, in consultation with the Consultation Parties, exist as a result of those variations; (c) the time needed to close a Sale or other transaction compared with other Qualifying Bids and the cost to the Debtors and their estates of any incremental delay; (d) the total consideration to be received by the Debtors and their estates; (e) the net benefit to the Debtors' estates; and (f) any other factors the Debtors may reasonably deem relevant, all in consultation with the Consultation Parties.

11. The Debtors shall have the right as they may reasonably determine to be in the best interests of their estates to carry out the Bidding Procedures, including, without limitation, to: (a) determine which bidders are Qualifying Bidders, (b) determine which bids are Qualifying Bids, (c) determine which Qualifying Bid is a Baseline Bid (as defined in the Bidding Procedures) in consultation with the Consultation Parties, (d) subject to the terms of the Bidding Procedures, determine which bids are the Successful Bid and Back-Up Bid, each as it relates to the Auction, (e) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates, (f) adjourn or cancel an Auction and/or the Sale

Hearing in open court without further notice or as provided in this Order and in the Bidding Procedures, (g) modify the Bidding Procedures consistent with their fiduciary duties and the Bankruptcy Code and (h) withdraw the Motion with respect to entry of the Sale Order for the Atlantic Real Property and Atlantic Facility at any time with or without prejudice, all in consultation with the Consultation Parties.

II. Sale Hearing and Objections to the Sale

12. The Sale Hearing shall be held in this Court on **October 11, 2021 at 1:00 p.m. (ET)**, unless otherwise determined by this Court. The Debtors may adjourn or reschedule the Sale Hearing without notice or with limited and shortened notice to parties, including by: (a) an announcement of such adjournment at the Sale Hearing or at the Auction or (b) the filing of a notice of adjournment with the Court prior to the commencement of the Sale Hearing.

13. Any objections to the Sale or the relief requested in connection with the Sale, including objections to the sale to the Stalking Horse Purchaser (a “**Sale Objection**”), must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) set forth the specific basis for the Sale Objection; (d) be filed with the Clerk of this Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, together with proof of service, **on or before 4:00 p.m. (ET) on October 21, 2021** (the “**Sale Objection Deadline**”); and (e) be served, so as to be actually received on or before the Sale Objection Deadline, upon the counsel to the Debtors and the Consultation Parties; provided that solely with respect to an objection to the conduct of the Auction, the designation of any Successful Bidder or Bid or Back-Up Bidder or Bid, the terms (including price) of such bids, and the Debtors’ inability to satisfy the conditions of section 363(f) of the Bankruptcy Code with respect to a Successful Bid (or than a Stalking Horse Bid) or Back-Up Bid (an “**Auction Objection**”), the deadline to file an objection shall be **12:00 p.m. (ET) on October 26, 2021** (the “**Auction Objection Deadline**”).

14. Failure to file a Sale Objection on or before the Sale Objection Deadline and failure to file an Auction Objection on or before the Auction Objection Deadline shall, for purposes of section 363(f) of the Bankruptcy Code, constitute “consent” to the entry of the Sale Order and consummation of the Sale and all transactions related thereto.

15. The Debtors shall have until commencement of the Sale Hearing to file and serve a reply to any objection filed in connection with the Sale, including any Sale Objection or Auction Objection.

III. Form and Manner of Notice of Sale Hearing

16. The Sale Notice, the Notice of Successful Bidder, the Bidding Procedures and the objection periods associated with any of the foregoing are reasonably calculated to provide sufficient and effective notice to any affected party and to afford the affected party the opportunity to exercise any rights affected by the Motion as it relates to the Bidding Procedures, the Auction, the Sale and the Sale Hearing, and such notices and objection periods are hereby approved.

17. Within two (2) business days following the entry of the Bidding Procedures Order, the Debtors will serve the Sale Notice by first class mail on: (1) the Office of the United States Trustee for the District of Delaware; (2) counsel to the Committee; (3) counsel to Rabobank; (4) counsel for Compeer; (5) counsel to Farm Credit Leasing Services Corporation; (6) the Stalking Horse Purchaser; (7) United States Attorney for the District of Delaware; (8) the United States Attorney for District of Minnesota; (9) the Minnesota Department of Agriculture; (10) the Internal Revenue Service; (11) the Office of the Attorney General for Minnesota, North Dakota and Iowa; (12) all parties known by the Debtors to assert a lien on the Atlantic Real Property and Atlantic Facility; (13) all persons known to have expressed an interest in acquiring the Atlantic Real Property and Atlantic Facility or making an equity or other investment in the

Debtors since Ocean Park's engagement by the Debtors; (14) all taxing authorities having jurisdiction over the Atlantic Real Property and Atlantic Facility, including the Internal Revenue Service; (15) the United States Environmental Protection Agency; (16) the Iowa Department of Environmental Protection; and (17) all other parties that had filed a notice of appearance and demand for service of papers in these chapter 11 cases as of the date of service (collectively, the **"Transaction Notice Parties"**). In addition, the Debtors will serve the Sale Notice on all of the Debtors' known creditors and equity holders (for whom identifying information and addresses are available to the Debtors).

18. The Debtors shall also post the Sale Notice and the Bidding Procedures Order on the website of the Debtors' claims and noticing agent, Bankruptcy Management Solutions, Inc. d/b/a Stretto, at <https://cases.stretto.com/PipelineFoods/>.

IV. Miscellaneous

19. The Debtors are authorized to conduct the Sale without the necessity of complying with any state or local bulk transfer laws or requirements.

20. In the event that there is a conflict between this Order or the Bidding Procedures, on the one hand, and the Motion, a Purchase Agreement, or the Stalking Horse Agreement, on the other hand, this Order and the Bidding Procedures shall control and govern, and this Order shall control in the event of any conflict with the Bidding Procedures.

21. Prior to mailing the Sale Notice, the Debtors may fill in, or cause to be filled in, any missing dates and other information, correct any typographical errors, conform the provisions thereof to the provisions of this Order, and make such other, non-material changes as the Debtors deems necessary or appropriate.

22. All persons or entities that participate in the bidding process shall be deemed to have knowingly and voluntarily: (a) consented to the entry of a final order by this Court in

connection with the Motion or this Order (including any disputes relating to the bidding process, the Auction and/or any Sale) to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution and (b) waived any right to a jury trial in connection with any disputes relating to the any of the foregoing matters.

23. This Order shall be effective immediately upon entry, and any stay of orders provided for in Bankruptcy Rule 6004(h) or any other provision of the Bankruptcy Code, the Bankruptcy Rules or the Local Rules is expressly waived. The Debtors are not subject to any stay in the implementation, enforcement or realization of the relief granted in this Order, and may, in their sole discretion and without further delay, take any action and perform any act authorized or approved under this Order.

24. The requirements set forth in Local Rules 6004-1, 9006-1 and 9013-1 are hereby satisfied or waived.

25. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation or interpretation of the Order.

26. For informational purposes only, a chart setting forth key dates related to this Order is attached hereto as **Exhibit 3**.

Exhibit 1

Bidding Procedures

BIDDING PROCEDURES

On July 8, 2021 and July 12, 2021 (the “**Petition Date**”), Pipeline Foods, LLC (“**Pipeline Foods**”) and its affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On [____], 2021, the United States Bankruptcy Court for the District of Delaware (the “**Court**”) entered an order [**Docket No.** ____] (the “**Bidding Procedures Order**”), which, among other things, authorized the Debtors to solicit bids in accordance with the procedures set forth herein (collectively, the “**Bidding Procedures**”), which are to be employed by the Debtors in connection with the proposed sale (the “**Sale**”) of the Atlantic Real Property and Atlantic Facility (as defined herein) by Pipeline Foods (the “**Seller**”), free and clear of all liens, claims, encumbrances and other interests (collectively, the “**Encumbrances**”), other than those Encumbrances permitted by a Purchase Agreement (as defined below), on an AS-IS, WHERE-IS with ALL FAULTS basis. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order.

The Debtors have entered into an agreement (the “**Stalking Horse Agreement**”) with The Scoular Company (the “**Stalking Horse Purchaser**”) for the sale of the Atlantic Real Property and Atlantic Facility (as defined herein). In accordance with the Stalking Horse Agreement, the Debtors will solicit competing bids in accordance with the Bidding Procedures Order through the Bid Deadline (as defined below).

ANY PARTY INTERESTED IN BIDDING ON THE ATLANTIC REAL PROPERTY AND ATLANTIC FACILITY SHOULD CONTACT:

Ocean Park Securities, LLC (the “Investment Banker”)
Attn: Frank Kim (Phone – Office (310) 670-7911;
Email: fkim@oceanpk.com

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Summary of Important Dates

Milestones	Proposed Dates¹
Bidding Procedures Hearing	On or before October 5, 2021 at a time convenient to the Court.
Deadline to Serve Sale Notice	Two (2) business days following entry of the Bidding Procedures Order
Sale Objection Deadline (including objections to a sale to the Stalking Horse Purchaser)	October 21, 2021 at 4:00 p.m. (ET)
Bid Deadline	October 21, 2021 at 4:00 p.m. (ET)
Auction	October 22, 2021 at 10:00 a.m. (ET)
Deadline to File and Serve Notice of Successful Bidder and Amount of Successful Bid	No later than 1 day following the conclusion of the Auction.
Deadline for Auction Objections / Sale to Successful Bidder (other than Stalking Horse Purchaser)	October 26, 2021 at 12:00 p.m. (ET)
Sale Hearing	October 28, 2021 at time convenient for the Court
Outside Closing Date	November 1, 2021

1. **Asset to be Sold**

The Debtors shall offer for sale certain real property in Cass County, Iowa with a common address of 54464 Olive Street, Atlantic, Iowa 50022 (the “**Atlantic Real Property**”) and the grain storage and handling facility located thereon (the “**Atlantic Facility**”).

2. **Participation Requirements**

Any person or entity that wishes to conduct due diligence and gain access to the Debtors’ confidential electronic data room concerning the Atlantic Real Property and Atlantic Facility (the “**Data Room**” and such person or entity, a “**Potential Bidder**”) must submit to the Debtors and their advisors an executed confidentiality agreement in form and substance reasonably satisfactory to the Debtors, which by its terms will inure to the benefit of the Successful Bidders,

¹ All hearing dates proposed herein are subject to the Court’s availability and approval.

to the extent of confidential information relating to the Atlantic Real Property and Atlantic Facility acquired by such party.

Any Potential Bidder that wishes to participate in the bidding process for the Atlantic Real Property and Atlantic Facility must first become a “**Qualifying Bidder**.” Except for the Stalking Horse Purchaser, parties may be qualified as a Qualifying Bidder up to the Bid Deadline (*i.e.*, **October 21, 2021 at 4:00 p.m. (ET)**), but **parties interested in submitting a bid for the Atlantic Real Property and Atlantic Facility are encouraged to qualify as soon as possible because the Bidding Procedures do not permit any due diligence or financing conditions in Qualifying Bids**. To become a Qualifying Bidder, Potential Bidders must submit sufficient information, as determined by the Debtors, to allow the Debtors, after consultation with the Consultation Parties, to determine that the interested party has, or can obtain, the financial wherewithal and any required internal corporate, legal or other authorizations to close a sale transaction, including, but not limited to, current audited financial statements of the interested party (or such other form of financial disclosure acceptable to the Debtors in their discretion).

Each Potential Bidder shall comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder to consummate its contemplated transaction.

Notwithstanding anything to the contrary herein, and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse Purchaser shall be considered a Qualifying Bidder and the Stalking Horse Agreement shall be a Qualifying Bid (as defined below).

To the extent that a bid is proposed by a group or committee to which Bankruptcy Rule 2019 applies, such parties must promptly file the statement required by such rule as a condition to becoming a Qualifying Bidder.

3. Bankruptcy Court Jurisdiction

In conjunction with any actions or proceedings arising from or relating to the Bidding Procedures, the Sale, the Auction (as defined below), the acts or omissions of the Debtors, the Investment Banker, and their respective representatives and/or the construction and enforcement of the contemplated transaction documents of such parties, any Potential Bidders and Qualifying Bidders shall: (a) be deemed to have waived any right to a jury trial and consented and submitted to the exclusive jurisdiction of the Court, (b) bring any such action or proceeding in the Court, and (c) be deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

4. Due Diligence

Subject to the execution of a confidentiality agreement by a Potential Bidder or Qualifying Bidder, the Debtors will provide any Potential Bidder or Qualifying Bidder with reasonable access to the Data Room and any other additional information that the Debtors

believe to be reasonable and appropriate under the circumstances. All additional due diligence requests shall be directed to the Investment Banker at the contact information provided above.

All due diligence materials provided to Potential Bidders and Qualifying Bidders shall be subject to the limitations on use and disclosure included in any confidentiality agreement entered into pursuant to the Bidding Procedures.

Notwithstanding any limitations provided for in any due diligence materials in the Debtors' possession, including, without limitation, any non-disclosure, confidentiality or similar provisions, the Debtors and their estates shall be authorized to provide due diligence information to Potential Bidders that have executed a confidentiality agreement.

5. **Bid Requirements**

To be deemed a "**Qualifying Bid**," a bid must be received from a Qualifying Bidder on or before the Bid Deadline and must satisfy each of the following requirements (each, a "**Bid Requirement**"):

- a. be in writing;
- b. fully disclose the identity of the Qualifying Bidder and whether such party is an insider (as defined in section 101 of the Bankruptcy Code) of any Debtor, and provide the contact information of the specific person(s) whom the Debtors or their advisors should contact in the event that the Debtors wish to discuss the bid submitted by the Qualifying Bidder;
- c. set forth the purchase price to be paid by such Qualifying Bidder, including what amount is being paid as cash and what amount constitutes a credit bid, and identify the liabilities proposed to be paid or assumed by such Qualifying Bidder;
- d. state that such Qualifying Bidder offers to purchase the Atlantic Real Property and Atlantic Facility upon substantially the same terms as, or terms more favorable to the Debtors and their estates than, the terms set forth in the Stalking Horse Agreement;
- e. be accompanied by a clean and marked modified Purchase Agreement that reflects any variations from the Stalking Horse Agreement;²
- f. state that such Qualifying Bidder's offer is formal, binding and unconditional and is irrevocable until the conclusion of the Sale Hearing unless such party is the Successful Bidder or Back-Up Bidder (both as defined below), in which case such offer is formal, binding and unconditional and is irrevocable until two (2) business days after the closing of the Sale;

² The Stalking Horse Agreement, which shall be used by bidders in submitting Qualifying Bids (as defined herein), is attached to the Motion as **Exhibit B**.

g. state that such Qualifying Bidder is financially capable of consummating the transactions contemplated by the Purchase Agreement and provide written evidence in support thereof;

h. contain such financial and other information to allow the Debtors to make a reasonable determination as to the Qualifying Bidder's financial and other capabilities to close the transactions contemplated by its proposed Purchase Agreement;

i. a commitment to close the transactions contemplated by the Purchase Agreement promptly upon entry of the order approving the sale;

j. not request or entitle such Qualifying Bidder to any break-up fee, termination fee, expense reimbursement or similar type of fee or payment;

k. provide for a purchase price to be paid in cash at closing in an amount not less than \$4,400,000;

l. not contain any contingencies of any kind, including, without limitation, contingencies related to financing, due diligence, or third party regulatory or internal approval;

m. contain written evidence satisfactory to the Debtors, in consultation with the Consultation Parties, that the Qualifying Bidder has a commitment for financing or other evidence of the ability to close the transactions contemplated by the Purchase Agreement;

n. contain a written acknowledgement and representation that the Qualifying Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Atlantic Real Property and Atlantic Facility, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and other information in making its Qualifying Bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Atlantic Real Property and Atlantic Facility, or the completeness of any documents or other information provided in connection with the Bidding Procedures and the Sale, and (iv) has not entered into any agreement with any other potential bidder concerning the Auction or the Sale or discloses any agreement with any other potential bidder concerning the Auction or Sale;

o. provides for the Qualifying Bidder to serve as a backup bidder (the **"Back-Up Bidder"**) if the Qualifying Bidder's bid is the next highest and best bid (the **"Back-Up Bid"**) after the Successful Bid (as defined below), in accordance with the terms of the Purchase Agreement;

p. includes written evidence of authorization and approval from the Qualifying Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Purchase Agreement;

q. provides a good faith cash deposit (the “**Deposit**”) in an amount equal to ten percent (10%) of the total consideration provided under the proposed Purchase Agreement; and

r. provides for liquidated damages in the event of the Qualifying Bidder’s breach of, or failure to perform under, the Purchase Agreement equal to the amount of the Deposit.

A bid from a Qualifying Bidder satisfying all of the above requirements, as determined by the Debtors, in consultation with the Consultation Parties, shall constitute a Qualifying Bid. The Debtors both reserve the right and are authorized to work with any Qualifying Bidder in advance of the Auction to cure any deficiencies in a bid that is not initially deemed a Qualifying Bid.

Each Qualifying Bidder submitting a bid shall be deemed to: (a) acknowledge and represent that it is bound by all of the terms and conditions of the Bidding Procedures; and (b) have waived the right to pursue a substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of its bid, the Bidding Procedures, and the Sale.

6. Bid Deadline

A Qualifying Bidder, other than the Stalking Horse Purchaser, that desires to make a bid shall deliver a written and electronic copy of its bid in both PDF and MS-WORD format to the Debtors, with a copy to the Consultation Parties, so as to be received on or before **October 21, 2021 at 4:00 p.m. (ET)** (the “**Bid Deadline**”); provided that the Debtors may extend the Bid Deadline without further order of the Court, after consulting with the applicable Consultation Parties. All parties wishing to submit a Qualifying Bid shall submit the bid materials required by Section 5 (including the **executed** Purchase Agreement and a certified check or wire transfer for the Deposit amount) to the Investment Banker at the contact information provided above with a copy to counsel to the Debtors, Saul Ewing Arnstein & Lehr LLP, 161 North Clark Street, Suite 4200, Chicago, Illinois 60601, Attn: Michael Gesas, Esq. (Michael.gesas@saul.com) and David A. Golin, Esq. (david.golin@saul.com).

Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction. Consistent with the terms of any confidentiality agreements executed by them, all Potential Bidders and Qualifying Bidders shall maintain as confidential, up until the Auction, the fact that they have submitted a bid and the terms and conditions of such bid.

7. Evaluation of Qualifying Bids

The Debtors, in consultation with the Consultation Parties, shall make a determination regarding whether a timely submitted bid from a Qualifying Bidder is a Qualifying Bid, and shall notify all Qualifying Bidders whether their bids have been determined to be a Qualifying Bid by no later than one (1) day prior to the Auction (as defined below). In the event that a bid is determined not to be a Qualifying Bid, the Qualifying Bidder shall be notified by the Debtors

and shall have the ability to modify its bid up to the Auction in order to become a Qualifying Bid; provided that any Qualifying Bid may be improved at the Auction as set forth herein.

Prior to the commencement of the Auction, the Debtors shall determine, in consultation with the Consultation Parties, which of the Qualifying Bids, at such time, is the highest and best bid for purposes of constituting the opening bid of the Auction (the “**Baseline Bid**”), and shall promptly notify all Qualifying Bidders with Qualifying Bids of the Baseline Bid.

8. No Qualifying Bid Other Than the Stalking Horse Agreement

If no Qualifying Bid other than the stalking Horse Agreement is submitted on or before the Bid Deadline, the Debtors shall not hold an Auction and shall request at the Sale Hearing (as defined in the Bidding Procedures Order) that the Court approve the Sale to the Stalking Horse Purchaser in accordance with the Stalking Horse Agreement.

9. Auction

In the event that the Debtors timely receive more than one Qualifying Bid, the Debtors shall conduct an auction (the “**Auction**”). Following the Auction, the Debtors will determine, in consultation with the Consultation Parties, which Qualifying Bid is the highest and best bid for the Atlantic Real Property and Atlantic Facility, which will be determined by considering, among other things, the following non-binding and non-exclusive factors: (a) the transaction structure and execution risk, including conditions to, timing of and certainty of closing, termination provisions, availability of financing and financial wherewithal to meet all commitments, and required governmental or other approval; (b) variations between competing bids and any incremental execution risk that the Debtors reasonably determine, in consultation with the Consultation Parties, exists as a result of such variations; (c) the time needed to close a Sale or other transaction compared with other Qualifying Bids and the cost to the Debtors and their estates of any incremental delay; (d) the total consideration to be received by the Debtors and their estates; (e) the net benefit to the Debtors’ estates; and (f) any other factors the Debtors may reasonably deem relevant.

The Auction shall be governed by the following procedures:

(a) If two or more Qualifying Bids are received for the Atlantic Real Property and Atlantic Facility, an auction will be held on **October 22, 2021 at 10:00 a.m. (ET)** via Zoom or other similar means;

(b) only Qualifying Bidders with Qualifying Bids (together, the “**Auction Bidders**”) shall be entitled to make any subsequent bids at the Auction;

(c) only the Debtors, the Auction Bidders, the Consultation Parties, and all creditors of the Debtors, together with the professional advisors to each of the foregoing parties, may attend the Auction. **Parties who intend to attend the Auction must provide counsel for the Debtors with at least one (1) business days’ written notice of their intent to attend the Auction so that the Debtors can make appropriate arrangements;**

(d) the Debtors and their professional advisors shall direct and preside over the Auction, which shall be transcribed;

(e) the Auction Bidders shall confirm that they have not engaged in any collusion with respect to the Bidding Procedures, the Auction, or the Sale;

(f) bidding on the Atlantic Real Property and Atlantic Facility shall commence at the amount of the Baseline Bid, and the Auction Bidders may submit successive bids in increments of at least \$50,000, provided that: (i) each such successive bid must be a Qualifying Bid; and (ii) the Debtors shall retain the right to modify the bid increment requirements at the Auction, in consultation with the Consultation Parties;

(g) the Auction may include individual negotiations with any of the Auction Bidders, but all bids shall be made on the record and in the presence of all of the Auction Bidders;

(h) all material terms of the bid that is deemed to be the highest and best bid for each round of bidding shall be fully disclosed to the Auction Bidders, and the Debtors shall use reasonable efforts to clarify any and all questions that the Auction Bidders may have regarding the Debtors' announcement of the then-current highest and best bid;

(i) the Debtors and their professional advisors, in consultation with the Consultation Parties, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (*e.g.*, the amount of time allotted to make subsequent bids) for conducting the Auction, provided that such rules are (i) not inconsistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, or any applicable order of the Court entered in connection with these chapter 11 cases, including, without limitation, the Bidding Procedures Order, and (ii) disclosed to the Auction Bidders;

(j) the Auction Bidders shall have the right to make additional modifications to their Purchase Agreement in conjunction with each Qualifying Bid submitted in each round of bidding during the Auction, provided that (i) any such modifications on an aggregate basis and viewed in whole, shall not, in the Debtors' discretion, in consultation with the Consultation Parties, be less favorable to the Debtors and their estates than the terms of any Qualifying Bid that was announced as the then-current highest and best bid for the Atlantic Real Property and Atlantic Facility, and (ii) each Qualifying Bid (unless superseded by a subsequent Qualifying Bid at the Auction) shall constitute an irrevocable offer and shall be binding on the Auction Bidder submitting such bid until the conclusion of the Sale Hearing, unless such bid is selected as a Successful Bid or Back-Up Bid, which shall remain binding as provided for herein;

(k) the Debtors shall have the right to request any additional financial information that will allow the Debtors to make a reasonable determination, in consultation with the Consultation Parties, as to an Auction Bidder's financial and other capabilities to consummate the transactions contemplated by the Purchase Agreement, as

may be amended during the Auction, and any further information that the Debtors may believe is reasonably necessary to clarify and evaluate any bid made by an Auction Bidder during the Auction;

(l) upon the conclusion of the Auction, the Debtors shall determine, in consultation with the Consultation Parties, subject to Court approval, the offer or offers for the Atlantic Real Property and Atlantic Facility that is the highest and best from among the Qualifying Bids submitted at the Auction (each a “**Successful Bid**”). The bidder submitting a Successful Bid shall be the “**Successful Bidder**” for the Atlantic Real Property and Atlantic Facility and shall have such rights and responsibilities of the purchaser as set forth in the Purchase Agreement. The Debtors shall designate a “**Back-Up Bid**” in the event that the Successful Bidder does not close a Sale or the Court does not approve the Successful Bid. Subject to Section 6 of the Bidding Procedures, within one business day after the conclusion of the Auction, the Successful Bidder and any Back-Up Bidder shall deliver an additional Deposit payment so that each such bidder’s total Deposit amount is equal to ten percent (10%) of the cash amount of the Successful Bid or Back-Up Bid, as applicable; and

(m) immediately after the conclusion of the Auction and without undue delay, each of the Successful Bidder and Back-Up Bidder shall complete and execute all agreements, contracts, instruments and other documents evidencing and containing the terms and conditions upon which the Successful Bid or Back-Up Bid was made.

EACH OF THE SUCCESSFUL BID AND ANY BACK-UP BID SHALL CONSTITUTE AN IRREVOCABLE OFFER AND BE BINDING ON THE APPLICABLE SUCCESSFUL BIDDER AND BACK-UP BIDDER, RESPECTIVELY, FROM THE TIME THE BID IS SUBMITTED UNTIL THE TIME PERIOD SPECIFIED IN THESE BIDDING PROCEDURES. EACH QUALIFYING BID THAT IS NOT A SUCCESSFUL BID OR BACK-UP BID SHALL BE IRREVOCABLE UNTIL THE CONCLUSION OF THE SALE HEARING, AT WHICH POINT THEY SHALL BE DEEMED WITHDRAWN AND TERMINATED.

10. Sale Hearing

The Successful Bid (which, if no Auction is held, may be the Staking Horse Agreement) and any Back-Up Bid will be subject to approval by the Court. The Sale Hearing to approve the Successful Bid and any Back-Up Bid shall take place on **October 1, 2021 at 11:00 a.m. (ET)**. The Sale Hearing may be adjourned by the Debtors from time to time without further notice to creditors or other parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing or by filing a notice on the docket of the Debtors’ chapter 11 cases.

11. Backup Bidder

Notwithstanding any of the foregoing, in the event that the Successful Bidder fails to close the applicable Sale promptly after the Court enters an order approving the Successful Bid (or such date as may be extended by the Debtors in consultation with the Consultation Parties), (i) the Back-Up Bid for that Sale will be deemed to be the Successful Bid, (ii) the Back-Up Bidder will be deemed to be the Successful Bidder, and (iii) the Debtors will be authorized, but not directed, to immediately close the Sale to the Back-Up Bidder subject to the terms of the Back-Up Bid without the need for further order of the Court and without the need for further notice to any interested parties.

12. Return of Deposits

All Deposits shall be returned to each bidder not selected by the Debtors as either the Successful Bidder or Back-Up Bidder for any Sale no later than three (3) business days following the conclusion of the Sale Hearing. The deposit of a Back-Up Bidder shall be returned within three (3) business days of the closing of the applicable Sale to the Successful Bidder; the deposit of the Successful Bidder or, if the Sale is closed with the Back-Up Bidder, the deposit of the Back-Up Bidder, shall be applied to the purchase price for the Sale. If the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) fails to consummate the Sale because of a breach or failure to perform on the part of such bidder, then the Debtors and their estates shall be entitled to retain the Deposit of the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder, then the Back-Up Bidder) as liquidated damages resulting to the Debtors and their estates for such breach or failure to perform.

13. Consultation Parties

The term “**Consultation Parties**” as used in these Bidding Procedures shall mean: (i) counsel to the Official Committee of Unsecured Creditors (the “**Committee**”); and (ii) counsel to Coöperatieve Rabobank U.A., New York Branch as administrative agent, issuer, and lender (“**Rabobank**”).

For the avoidance of doubt, any consultation rights provided to the Consultation Parties by these Bidding Procedures shall not limit the Debtors’ discretion in any way and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

In the event that any Consultation Party, any member of an official committee or an affiliate of any of the foregoing participates as a potential purchaser in the sales process, any obligation of the Debtors to consult with the bidding party established under these Bidding Procedures will be waived, discharged and released without further action, until such party advises the Debtors that they are irrevocably withdrawing as a potential purchaser in the sale process, at which time such party’s consultation rights will be reinstated; provided that the bidding party will have the same rights as any other Qualifying Bidder set forth above.

If a member of the Committee submits a Qualifying Bid, the Committee will continue to have consultation rights as set forth in these Bidding Procedures; provided that the Committee shall exclude such member from any discussions or deliberations regarding the sale of the

Atlantic Real Property and Atlantic Facility and shall not provide any information regarding the sale of the Atlantic Real Property and Atlantic Facility to such member.

14. Reservation of Rights

Notwithstanding any of the foregoing, the Debtors and their estates reserve the right to, after consultation with the Consultation Parties, modify these Bidding Procedures at or prior to the Auction, including, without limitation, to extend the deadlines set forth herein, modify bidding increments, waive terms and conditions set forth herein with respect to any or all potential bidders (including, without limitation, the Bid Requirements), impose additional terms and conditions with respect to any or all Potential Bidders, adjourn or cancel the Auction at or prior to the Auction, and adjourn or cancel the Sale Hearing.

Additionally, the Debtors, in consultation with the Consultation Parties, have the right to terminate the sale and auction process with respect to the Atlantic Real Property and Atlantic Facility at any time.

15. Buyer's Brokers/Indemnity

Each Potential Bidder or Qualifying Bidder warrants and represents that it is a principal acting on its own behalf, and not as a broker, finder, or agent acting on another's behalf. Each Potential Bidder or Qualifying Bidder understands that the Debtors and the Investment Banker and their respective representatives have not agreed to pay any brokerage commissions, finder's fee or other compensation in connection with a Potential Bidder's or Qualifying Bidder's possible purchase. In addition, each Potential Bidder or Qualifying Bidder hereby agrees to indemnify, defend and hold the Debtors, the Investment Banker, and their respective representatives harmless from and against any and all claims, damages, losses and liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any such claims made by third-party brokers on account of or related to such Potential Bidder or Qualifying Bidder.

16. Disclaimer

By submitting a bid, each Potential Bidder and Qualifying Bidder agrees to and acknowledges the following terms and conditions with respect to any information received from the Debtors related to the Atlantic Real Property and Atlantic Facility ("**Information**"):

(a) The Atlantic Real Property and Atlantic Facility is being offered AS-IS, WHERE-IS, with ALL FAULTS, in accordance with the terms of the Purchase Agreement.

(b) The Information has been prepared:

- i. for informational purposes only;
- ii. from materials supplied by the Debtors and other sources commonly accepted as reliable sources for such type of Information; and

iii. to assist Potential Bidders and Qualifying Bidders in making their own evaluation of the offering and does not purport to be all-inclusive or to contain all of the information that interested parties may desire. The Debtors, the Investment Banker and their respective officers, directors, employees, affiliates, agents, advisors and representatives (such parties, collectively, “**Representatives**”) have not assumed responsibility for independent verification of any of the information contained herein and have not in fact in any way audited such Information. In all cases, Potential Bidders and Qualifying Bidders should conduct their own investigation and analysis of the offering, conduct site inspections, and scrutinize the Information. Potential Bidders and Qualifying Bidders should engage legal counsel, accountants, engineers, and/or such other professional advisors as Potential Bidders and Qualifying Bidders deem appropriate for evaluating the Atlantic Real Property and Atlantic Facility.

(c) None of Potential Bidders, Qualifying Bidders or their respective Representatives are entitled to rely on the accuracy or completeness of the Information except as provided for in a Purchase Agreement that is authorized and approved by the Court.

(d) Although the Debtors and Investment Banker have endeavored for the Information to contain data that they believe to be relevant for the purpose of any Potential Bidder’s or Qualifying Bidder’s investigation, except as expressly set forth in a Purchase Agreement accepted by the Debtors and approved by the Court, none of the Debtors, the Investment Banker or any of their respective Representatives:

i. have made or make and expressly disclaim making any written or oral statements, representations, warranties, promises or guarantees, whether express or implied or by operation of law or otherwise, with respect to the Atlantic Real Property and Atlantic Facility or with respect to the accuracy, reliability or completeness of the Information;

ii. to the fullest extent permitted by law, shall have any liability whatsoever to Potential Bidders, Qualifying Bidders or their Representatives on any basis (including, without limitation, in contract, tort, under federal, foreign or state securities laws or otherwise) as a result of, relating or pertaining to, or resulting or arising from (i) any Potential Bidder’s, any Qualifying Bidder’s, or any of their Representative’s reliance on the Information, (ii) Potential Bidder’s, Qualifying Bidder’s, or their Representatives’ use or non-use of the Information, or (iii) any alleged acts or omissions of Debtors, Investment Banker or any of their respective Representatives, or any errors or omissions in the Information;

iii. shall have any liability or responsibility for any decisions made by any Potential Bidder, Qualifying Bidder or any of their Representatives in reliance on any Information;

iv. will be under any obligation or duty (express or implied) to make available any Information to any Potential Bidders, any Qualifying Bidders, or any of their Representatives; and

v. will be under any duty or obligation (express or implied) to update, supplement, revise or correct any Information disclosed under these Bidding Procedures, regardless of the circumstances.

(e) No contract or agreement providing for any transaction shall be deemed to exist between a Potential Bidder or Qualifying Bidder and the Seller unless and until a Qualifying Bidder and the Seller execute and deliver a Purchase Agreement that is authorized and approved by the Court, and Potential Bidders and Qualifying Bidders hereby waive, in advance, any claims (including, without limitation, breach of contract) in connection with any transaction unless and until a Potential Bidder or Qualifying Bidder and the Seller shall have executed and delivered a Purchase Agreement, which has been authorized and approved by the Court. The Debtors reserve the right, in their discretion, to reject any and all proposals made by any Potential Bidder or Qualifying Bidder with regard to a transaction, and to terminate discussions and negotiations with a Potential Bidder or Qualifying Bidder at any time. Subject to the terms of these Bidding Procedures, the Debtors shall be free to establish and change any process or procedure with respect to a transaction as the Debtors in their sole discretion shall determine (including, without limitation, negotiating with any other interested party and entering into a final definitive agreement relating to a transaction with any other party without prior notice to any Potential Bidder, Qualifying Bidder or any other person).

(f) Each Debtor, the Investment Banker and the Debtors' other advisors, individually and collectively, have not made any representations or warranties except as expressly set forth in any Purchase Agreement executed by the Seller, which has been authorized and approved by the Court. Potential Bidders and Qualifying Bidders may rely only on the representations and warranties expressly set forth in a Purchase Agreement executed by the Seller that has been authorized and approved by the Court.

Exhibit 2

Sale Notice

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

In re:

PIPELINE FOODS, LLC, *et al.*,¹

Debtors.

)
) **Chapter 11**
)
) **Case No. 21-11002 (KBO)**
)
) **Jointly Administered**
)
) **Related to Docket No. ____**
)

NOTICE OF SALE OF ASSET

Pipeline Foods, LLC (“**Pipeline Foods**”) and certain of its affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), are seeking to sell their real property located at 54464 Olive Street, Atlantic, Iowa 50022 and the grain storage and handling facility located thereon (together, the “**Atlantic Real Property and Atlantic Facility**”) through a sale under section 363 of the Bankruptcy Code.

By order, dated ____ [**Docket No. ____**] (the “**Bidding Procedures Order**”), the Bankruptcy Court approved certain “**Bidding Procedures**” that govern the sale of the Atlantic Real Property and Atlantic Facility to the highest and best bidder. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order. **The Court has also approved the Debtors’ designation of The Scoular Company as stalking horse purchaser (the “Stalking Horse Purchaser”) pursuant to a Purchase Agreement between Pipeline Foods and the Stalking Horse Purchaser (the “Stalking Horse Agreement”).**

The Debtors have requested that the Bankruptcy Court enter an order (the “**Sale Order**”), providing, among other things, for the sale of the Atlantic Real Property and Atlantic Facility free and clear of all liens, claims, encumbrances and other interests, to the extent permissible by law, to the Stalking Horse Purchaser or other Successful Bidder.

Copies of the Bidding Procedures Order, the Bidding Procedures, and other related pleadings are available at the website for the Debtors’ claims and noticing agent, Bankruptcy Management Solutions, Inc. d/b/a Stretto, at <https://cases.stretto.com/PipelineFoods/>.

Any interested bidder should contact the Debtors’ investment banker, Ocean Park Securities, LLC, c/o Attn: Frank Kim, Office (310) 670-7911, Email fkim@oceanpk.com.

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Pipeline Foods, LLC (5070); Pipeline Holdings, LLC (5754); Pipeline Foods Real Estate Holding Company, LLC (7057); Pipeline Foods, ULC (3762); Pipeline Foods Southern Cone S.R.L. (5978); and Pipeline Foods II, LLC (9653). The Debtors’ mailing address is 6499 University Avenue NE, Suite 200, Fridley, MN 55432.

PLEASE TAKE NOTE OF THE FOLLOWING INFORMATION AND IMPORTANT DEADLINES:

- The deadline to file an objection with the Bankruptcy Court to the proposed sale of the Atlantic Real Property and Atlantic Facility (the “**Sale Objection Deadline**”) is **October 21, 2021 at 4:00 p.m. (ET)**; provided that, solely with respect to an objection to the conduct of the Auction, the designation of any Successful Bidder or Bid or Back-Up Bidder or Bid, the terms (including price) of such bids, or the Debtors’ inability to satisfy the conditions of section 363(f) of the Bankruptcy Code with respect to a Successful Bid or Back-Up Bid, the deadline to file an objection **shall be 12:00 p.m. (ET) on October 26, 2021**.
- Objections must be filed and served in accordance with the Bidding Procedures Order. In connection with the proposed sale process, interested bidders may be subject to an expedited discovery process.
- Except with respect to the Stalking Horse Purchaser, the deadline to be qualified as a Qualifying Bidder and to submit a Qualifying Bid is **October 21, 2021 at 4:00 p.m. (ET)**. All Qualifying Bids must be accompanied by a deposit in an amount equal to ten percent (10%) of the total consideration provided under the proposed Purchase Agreement; provided however, that the Debtors may alter the Deposit requirement for the Stalking Horse Purchaser.
- If two or more Qualifying Bids are received for the Atlantic Real Property and Atlantic Facility, an auction will be held on **October 22, 2021 at 10:00 a.m. (ET)** via Zoom or other similar means.
- The Bankruptcy Court will conduct a hearing (the “**Sale Hearing**”) to consider the proposed Sale on: **October 11, 2021 at 11:00 a.m. (ET)**.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION BY THE APPLICABLE OBJECTION DEADLINE SHALL BE DEEMED CONSENT TO, AND A BAR TO THE ASSERTION BY SUCH PERSON OR ENTITY OF ANY OBJECTION TO, THE MOTION, THE SALE ORDER, THE PROPOSED TRANSACTION, AND PIPELINE FOODS’ CONSUMMATION AND PERFORMANCE OF THE PURCHASE AGREEMENT (INCLUDING, WITHOUT LIMITATION, PIPELINE FOODS’ TRANSFER OF THE ATLANTIC REAL PROPERTY AND ATLANTIC FACILITY, FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS).

Dated: September 28, 2021

SAUL EWING ARNSTEIN & LEHR LLP

By: /s/

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Monique B. DiSabatino (DE Bar No. 6027)
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-and-

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Counsel for Debtors and Debtors in Possession

Exhibit 3¹

Key Auction and Sale-Related Dates (subject to the Court's availability)

¹ This chart is provided for informational purposes only. In the event of any conflict between this chart and this Order, the terms of the Order shall control.

Milestones	Proposed Dates¹
Bidding Procedures Hearing	On or before October 5, 2021 at a time convenient to the Court.
Deadline to Serve Sale Notice	Two (2) business days following entry of the Bidding Procedures Order
Sale Objection Deadline (including objections to a sale to the Stalking Horse Purchaser)	October 21, 2021 at 4:00 p.m. (ET)
Bid Deadline	October 21, 2021 at 4:00 p.m. (ET)
Auction	October 22, 2021 at 10:00 a.m. (ET)
Deadline to File and Serve Notice of Successful Bidder and Amount of Successful Bid	No later than 1 day following the conclusion of the Auction.
Deadline for Auction Objections / Sale to Successful Bidder (other than Stalking Horse Purchaser)	October 26, 2021 at 12:00 p.m. (ET)
Sale Hearing	October 28, 2021 at time convenient for the Court
Outside Closing Date	November 1, 2021

¹ All hearing dates proposed herein are subject to the Court's availability and approval.

EXHIBIT B

Stalking Horse Agreement

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “**Agreement**”) among Pipeline Foods, LLC, a Delaware limited liability company (the “**Seller**”) and The Scoular Company, a Nebraska corporation (“**Buyer**”) dated as of September 28, 2021. Buyer and Seller are referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

- A. Seller owns certain real property (and all improvements, certain fixtures, and infrastructure located thereon) located at 54464 Olive Street, Atlantic, Iowa (the “**Real Property**”), as legally described on *Schedule 1.1*, attached to this Agreement.
- B. Seller holds certain equipment, machinery, tools, certain fixtures, and other items and materials, as set forth on *Schedule 1.1* attached to this Agreement (the “**Grain Storage Assets**”), subject to a Master Lease Agreement with Farm Credit Leasing Services Corporation, which will be satisfied before Closing.
- C. Seller owns a Chevrolet Pickup, as described on *Schedule 1.1* attached to this Agreement (the “**Owned Vehicle**”). The Real Property, the Grain Storage Assets, and the Owned Vehicle are collectively referred to herein as the “**Acquired Assets**”.
- C. On July 8, 2021, Seller filed a voluntary petition for relief under chapter 11 of title 11, United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”).
- D. Seller desires to sell, transfer and otherwise convey to Buyer, and Buyer desires to purchase and assume from Seller, the Acquired Assets on the terms and subject to the conditions of this Agreement.

AGREEMENT

In consideration of the above recitals and the promises set forth in this Agreement, the Parties agree as follows.

1. Basic Transaction.

- 1.1 **Purchase and Sale of Assets.** On the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller, and Seller agrees to sell, transfer, convey and deliver to Buyer, all right, title and interest in, to and under the Acquired Assets, free and clear of all security interests, liens, claims, charges, restrictions and encumbrances of any nature, in exchange for the Purchase Price (as defined in Section 1.3 below).
- 1.2 **Excluded Assets.** Buyer will not purchase, and Seller will not sell, any assets that are not Acquired Assets (collectively, the “**Excluded Assets**”).

- 1.3 **Purchase Price.** The aggregate purchase price for the Acquired Assets shall be \$4,350,000 (the “**Purchase Price**”).
- 1.4 **Payment of Purchase Price.** At the Closing, Buyer will pay the Purchase Price by wire transfer or delivery of other immediately available funds.
- 1.5 **The Closing.** The closing of the transactions contemplated by this Agreement (the “**Closing**”) will take place remotely on the first business day following the date on which the Sale Order (as defined in Section 9.4(a) below) becomes a final order, or on such earlier date as the Parties shall mutually agree, and will be effective as of 11:59 p.m. on such date (the “**Closing Date**”).
- 1.6 **Farm Credit Lease.** As part of the Closing, Buyer will complete its buyout of that certain Master Lease Agreement dated September 14, 2018, currently in place between Seller, as lessee, and Farm Credit Leasing Services Corporation (“**Farm Credit**”), as lessor (the “**Farm Credit Lease**”).
- 1.7 **Buyer’s Deliveries at the Closing.** Buyer will make the following deliveries at the Closing:
 - (a) executed and acknowledged (if appropriate) certificates, instruments and documents that Seller and its counsel may reasonably request;
 - (b) executed closing statement;
 - (c) the Purchase Price; and
 - (d) all other deliveries required pursuant to Section 7.2.
- 1.8 **Seller’s Deliveries at the Closing.** Seller will make the following deliveries at the Closing:
 - (a) Possession of the Acquired Assets;
 - (b) executed Special Warranty Deed conveying title to the Real Property;
 - (c) executed closing statement;
 - (d) executed and acknowledged (if appropriate) certificates, instruments and documents that Buyer and its counsel may reasonably request;
 - (e) executed Bill of Sale for the Grain Storage Assets, in the form attached as **Exhibit A** to this Agreement;
 - (f) executed bill of sale for the Grain Storage Assets and payoff letter from Farm Credit;

(g) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement; and

(h) all other deliveries required pursuant to Section 7.1.

1.9 **Retained Liabilities.** From and after the Closing Date, Seller shall continue to assume all risks with respect to the Excluded Assets and any and all indebtedness, obligations or liabilities to the extent arising out of Seller's use and/or possession of the Acquired Assets and Excluded Assets during its ownership of the Acquired Assets and Excluded Assets.

1.10 **As-Is.** EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, BUYER IS PURCHASING THE ACQUIRED ASSETS ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE REAL PROPERTY, AND, IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM SELLER AS TO ANY MATTERS CONCERNING THE REAL PROPERTY, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND ALSO INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL CONDITION OF THE ACQUIRED ASSETS; ZONING STATUS; TAX CONSEQUENCES OF THIS TRANSACTION; UTILITIES; OPERATING HISTORY OR PROJECTIONS OR VALUATION; COMPLIANCE BY THE ACQUIRED ASSETS WITH ENVIRONMENTAL LAWS (DEFINED BELOW) OR OTHER LAWS, STATUTES, ORDINANCES, DECREES, REGULATIONS AND OTHER REQUIREMENTS APPLICABLE TO THE ACQUIRED ASSETS; THE PRESENCE OF ANY HAZARDOUS SUBSTANCES (DEFINED BELOW), IN, ON, UNDER, OR IN PROXIMITY TO THE ACQUIRED ASSETS; THE CONDITION OR EXISTENCE OF ANY OF THE ABOVE GROUND OR UNDERGROUND STRUCTURES OR IMPROVEMENTS, INCLUDING TANKS AND TRANSFORMERS IN, ON OR UNDER THE REAL PROPERTY; AND THE EASEMENTS, PERMITS, ORDERS, LICENSEES, OR OTHER AGREEMENTS, AFFECTING THE REAL PROPERTY (COLLECTIVELY, ALL ITEMS DESCRIBED ABOVE, THE "CONDITION"). EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, BUYER ASSUMES THE RISK THAT THE CONDITION OR OTHER ADVERSE MATTERS MAY AFFECT THE ACQUIRED ASSETS THAT WERE NOT REVEALED BY BUYER'S INSPECTION AND HEREBY WAIVES, RELEASES AND DISCHARGES FOREVER SELLER AND SELLER'S PARENT COMPANY, AFFILIATES, SUBSIDIARIES AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "RELEASED PARTIES") FROM ANY AND ALL PRESENT OR FUTURE CLAIMS OR DEMANDS, AND ANY AND ALL DAMAGES, LOSSES, INJURIES, LIABILITIES, CAUSES OF ACTION

(INCLUDING, WITHOUT LIMITATION, CAUSES OF ACTION IN TORT) COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, FINES, PENALTIES AND JUDGMENTS AND ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, WHICH BUYER OR ANY THIRD PARTY, INCLUDING GOVERNMENT AGENCIES, MAY ASSERT OR ALLEGE AGAINST THE RELEASED PARTIES ARISING FROM OR IN ANY WAY RELATED TO THE CONDITION OF THE ACQUIRED ASSETS. THE RIGHTS OF SELLER UNDER THIS SECTION SHALL BE IN ADDITION TO AND NOT IN LIEU OF ANY OTHER RIGHTS OR REMEDIES TO WHICH IT MAY BE ENTITLED UNDER THIS DOCUMENT OR OTHERWISE.

The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including, without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes, without limitation, petroleum oil and any of its fractions. The provisions of this Section 1.10 shall survive Closing and for the removal of all doubt, any claim against the Seller is intended to be limited to the extent allowed under any and all Environmental Law.

2. **Sale of Real Property.** With regard to the sale of the Real Property, the following shall apply:

- 2.1 Sale. In accordance with the terms of this Agreement, Seller shall sell and convey to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title and interest in and to the Real Property.
- 2.2 Earnest Deposit. Buyer shall, within five (5) business days of executing this Agreement, deposit with First American Title Insurance Company ("Closing Agent") the sum of Four Hundred Thirty-Five Thousand and No/100 Dollars (\$435,000.00) (the "**Earnest Deposit**"). The Earnest Deposit shall be credited towards the Purchase Price at Closing.
- 2.3 Apportionments. In addition to the Purchase Price, the following items shall be prorated between Seller and Buyer as of the date of Closing:
 - (a) **Taxes.** All real estate taxes, installments of special assessments, personal property taxes on personal property that remains on the real estate, sewer rents and taxes, water rates and charges, or any other governmental tax or charge levied or assessed against the Property (collectively "**Taxes**") shall be apportioned between Seller and Buyer based on a 365-day year, with the Closing Date accruing to Buyer. Seller shall pay in full all special assessments, if any, which are due and payable prior to the Closing Date.

- (b) Utilities. Utilities, including water, sewer, electric, and gas, shall be placed in Buyer's name as of the Closing. Seller shall pay all such utility bills for the period up to and including the Closing, and Buyer shall pay all such utility bills thereafter.
- (c) Miscellaneous. Seller and Buyer shall prorate such other items that are normally prorated in transactions of this nature.
- (d) Adjustments. If the computation of apportionments shows that a net amount is owed by Seller to Buyer after all payments to third parties have been made, such amount shall be credited against the balance of the Purchase Price payable by Buyer at the Closing. If such computation shows that a net amount is owed by Buyer to Seller after all payments to third parties have been made, then such amount shall be paid to Seller by Buyer on the Closing Date in cash or by irrevocable wire transfer of immediately available funds.

2.4 Title Conditions. Seller shall convey good, valid and marketable title to the Real Property at the Closing by Special Warranty Deed, free from all liens, encumbrances, special taxes levied or assessed, and restrictions whatsoever and in accordance with Iowa Land and Title Standards; subject, however, only to those exceptions of record which do not materially affect the Real Property, those exceptions which are otherwise acceptable to Buyer and existing liens for any real property taxes payable after the Closing Date.

2.5 Casualty; Eminent Domain. If prior to the Closing Date all or any part of the Real Property is destroyed by casualty or taken, or threatened to be taken, by eminent domain, Seller shall give Buyer prompt written notice thereof, and thereafter, either party may, by written notice to the other, elect to cancel this Agreement. In the event that either party shall elect to cancel this Agreement, Seller shall refund all money paid, if any, by Buyer and both parties shall be relieved of and from any further liability hereunder. In the event neither party elects to cancel, this Agreement shall remain in full force and effect and Seller shall assign to Buyer on the Closing Date all of its rights in and to any insurance proceeds payable as a result of damage to the Real Property or awards that may be made for taking of any portion of the Real Property. In the event of a casualty, Seller shall take commercially reasonable steps to stabilize the Real Property and shall be entitled to retain the reasonable and documented cost of such stabilization, to the extent that such stabilization costs exceed Seller's insurance deductible.

2.6 Intentionally Deleted.

2.7 Expenses. The expenses of the sale of Real Property shall be paid, or credit given in lieu thereof, as follows:

- (a) Buyer shall pay the costs associated with continuation of the abstract, and for its attorney's abstract opinion and any of the fees, costs or premiums of

any title insurance commitment, policy(ies) or endorsement(s) Buyer may obtain.

- (b) Seller shall pay any transfer taxes and for any documentary or revenue stamps required to be affixed to the Deed. Buyer shall pay for the recording of the deed of conveyance.
- (c) Each party shall bear their own attorneys' fees.
- (d) Buyer and Seller shall split evenly the costs of closing and the Closing Agent.

2.8 Document Delivery. At Closing, Seller will endeavor to deliver true, correct and complete copies of all of the Documents (as hereinafter defined) to Buyer. The "**Documents**" shall include all of the following documents, relating to the Real Property and/or the Grain Storage Assets that, to the knowledge of Seller exist, if any: (i) all results of soil tests, percolation tests, structural engineering tests, masonry tests, water, oil, gas, mineral, asbestos, radon, formaldehyde, PCB or other environmental tests, environmental site assessments, inspection reports, market studies and core samples, if any, which are either in the possession or control of Seller; (ii) all blue prints, engineering schematics or plans, surveys, plats or other depictions and improvements and copies of all wetland analyses, planning studies, aerial photographs, topographical maps or studies, engineering studies and plans and mylars that are in Seller's possession or control, expressly including all available engineering plans and schematics and Seller's written "standard operating procedures" and related manuals (if any); (iii) all contracts, agreements or other instruments (the "**Contracts**"), including, without limitation, all licenses, permits and warranties and guaranties benefiting Seller, expressly including any contracts relating to the usage or ownership of the rail road tracks upon the or adjacent to the Real Property; (iv) all governmental notices and other correspondence and permits, variances and other agreements with any governmental agency, including, but not limited to availability of utilities; (v) all maintenance records, maintenance agreements, logs and other documentation; and (vi) such other documents as Buyer may reasonably request.

3. **Representations and Warranties of Seller**. Seller represents and warrants to Buyer that the statements contained in this Section 3 are correct and complete as of the date of this Agreement and will be correct and complete as of the Closing Date, except as set forth in the attached disclosure schedule accompanying this Agreement (the "**Seller's Disclosure Schedule**"). Seller's Disclosure Schedule will be arranged in paragraphs corresponding to the sections contained in this Section 3.

3.1 **Organization, Qualification and Power**. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware. Seller is duly authorized to conduct business and is in good standing under the laws of the State of Iowa. Seller has full power and authority and authorization, corporate or otherwise, to enter into and perform its obligations under

this Agreement, subject to Bankruptcy Court approval, as set forth in Section 9 below. This Agreement has been duly executed and delivered by Seller and is a valid and binding obligation of Seller enforceable in accordance with its terms, subject to Bankruptcy Court approval, as set forth in Section 9 below.

- 3.2 **Noncontravention.** Neither the execution and the delivery of this Agreement or the ancillary documents to which Seller is a party, nor the consummation of the contemplated transactions will (a) violate any law, order or regulation to which any of Seller is subject; or (b) violate any provision of the articles, bylaws or other governing documents of Seller.
- 3.3 **Broker Fees.** Except for payments to Ocean Park Securities, LLC, which Seller has agreed to pay pursuant to a separate agreement, Seller has no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Buyer could become liable or obligated.
- 3.4 **Title to Assets.** At Closing, Seller shall have good and marketable title to the Acquired Assets free and clear of all monetary encumbrances. Seller and Buyer acknowledge that: (a) Seller currently leases the Grain Storage Assets from Farm Credit Leasing and that the obligations of Seller under the lease are secured by a mortgage on the Real Property; and (b) at Closing, Seller shall use a portion of the Purchase Price to pay off all obligations owed to Farm Credit Leasing to obtain title to the Grain Storage Assets.
- 3.5 **Condemnation; Transfers.** Seller has not received written notice of, and is not aware of, any pending or threatened condemnation or transfer in lieu affecting any of the Real Property. Seller has not entered into any currently effective contracts for the sale of the any of the Acquired Assets other than this Agreement.
- 3.6 **Use of Acquired Assets.** None of the Acquired Assets are subject to any use restrictions, exceptions, reservations or limitations which interfere with or impair the present use of the Acquired Assets as a grain handling and storage facility.
- 3.7 **Commodities.** As of the date of this Agreement, no commodities are stored or otherwise situated at the Real Property, except: (a) certain commodities owned by Seller, and (b) certain commodities owned by Archer-Daniel-Midland Company d/b/a ADM Grain Company (“ADM”), pursuant to a Soybean Storage and Handling Agreement between Seller and ADM dated September 14, 2018 and amended on October 7, 2019 (the “ADM Agreement”). On September 22, 2021, Seller filed a motion for an Order from the Bankruptcy Court to reject the ADM Agreement. As of the Closing Date, no commodities will be stored or otherwise situated at the Real Property, except certain commodities owned by ADM. All of the ADM commodities shall be removed from the Real Property no later than thirty (30) days after the Closing Date.

- 3.8 **Sufficiency of Acquired Assets.** The buildings, structures, furniture, fixtures, machinery, equipment, and other items of tangible personal property included in the Acquired Assets are adequate for the uses to which they are currently being put.
4. **Representations and Warranties of Buyer.** Buyer represents and warrants to Seller that the statements contained in this Section 4 are correct and complete as of the date of this Agreement and will be correct and complete as of the Closing Date, except as set forth in the disclosure schedule of Buyer accompanying this Agreement (the “**Buyer’s Disclosure Schedule**”).
- 4.1 **Organization, Qualification and Power.** Buyer is a corporation, duly formed, validly existing and in good standing under the laws of the State of Nebraska. Seller is duly authorized to conduct business and is in good standing under the laws of the State of Iowa. Seller has full power and authority and authorization, corporate or otherwise, to enter into and perform its obligations under this Agreement. This Agreement has been duly executed and delivered by Buyer and is a valid and binding obligation of Buyer enforceable in accordance with its terms.
- 4.2 **Noncontravention.** Neither the execution and the delivery of this Agreement or the ancillary documents to which Buyer is a party, nor the consummation of the contemplated transactions will (a) violate any law, order or regulation to which Buyer is subject; or (b) violate any provision of the articles, bylaws or other governing documents of Buyer.
- 4.3 **Broker Fees.** Buyer does not have any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated.
5. **Pre-Closing Covenants.** The Parties agree as follows with respect to the period between the execution of this Agreement and the Closing.
- 5.1 **General.** Each of the Parties will use its reasonable best efforts to take all action and to do all things necessary, proper or advisable in order to consummate and make effective the transactions contemplated by this Agreement.
- 5.2 **Notices and Consents.** Each of the Parties will give any notices to, make any filings with and use its reasonable best efforts to obtain any authorizations, consents and approvals of any governmental authority necessary in connection with the transactions contemplated by this Agreement.
- 5.3 **Preservation and Operation of Business.** Seller will maintain the Acquired Assets in their present condition.
6. **Post-Closing Covenants.**
- 6.1 **Further Assurances.** In case within thirty (30) days after the Closing any further action is reasonably necessary or desirable with respect to any non-monetary actions reasonably necessary to carry out the purposes of this Agreement and its

contemplated transactions, each of the Parties will take such further action (including the execution and delivery of further instruments and documents) as any other Party reasonably may request, all at the sole cost and expense of the requesting Party.

- 6.2 **Employees.** Buyer will be entitled to extend offers to hire any of Seller's employees who are located on site at the Real Property it so elects. However, this Agreement will not be deemed to be a guarantee of continued employment for any employee. Unless otherwise agreed to by Buyer and Seller, Buyer will not assume any liabilities of Seller with respect to any employees, including but not limited to liabilities for accrued but unpaid salaries, wages, severance, bonuses or other benefits, or any accrued and unused vacation or sick pay.

7. **Closing.**

- 7.1 **Conditions to Obligation of Buyer.** The obligation of Buyer to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

- (a) The representations and warranties set forth in Section 3 will be true and correct in all material respects at and as of the Closing Date (except that those representations and warranties qualified by the terms "material," "material adverse change," or language of similar effect will be true and correct in all respects);
- (b) Seller will have performed and complied with all of Seller's covenants in all material respects through the Closing; and
- (c) Seller will have delivered such other documents and instruments as are reasonably necessary or appropriate to effect the consummation of the contemplated transactions or that may be required under any laws or any agreements to which Seller is a party.

- 7.2 **Conditions to Obligation of Seller.** The obligation of Seller to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

- (a) The representations and warranties set forth in Section 4 above will be true and correct in all material respects at and as of the Closing Date (except that those representations and warranties qualified by the terms "material," "material adverse change," or language of similar effect will be true and correct in all respects);
- (b) Buyer will have performed and complied with all of Buyer's covenants in all material respects through the Closing; and
- (c) Buyer will have delivered other documents and instruments as are reasonably necessary or appropriate to effect the consummation of the

contemplated transactions or that may be required under any laws or any agreements to which Buyer is a party.

8. Termination.

8.1 Termination of Agreement. The Parties may terminate this Agreement as provided below:

- (a) Buyer and Seller may terminate this Agreement by mutual written consent at any time prior to the Closing, in which event the Earnest Deposit shall be immediately refunded to Buyer in full;
- (b) Seller may terminate this Agreement by giving written notice to Buyer at any time prior to the Closing in the event (i) Buyer has breached any representation, warranty or covenant contained in this Agreement in any material respect, (ii) Seller has notified Buyer of the breach and (iii) the breach has continued without cure or written waiver of the breach by Seller for a period of 15 days after the notice of breach, in which event the Earnest Deposit shall be not refunded to Buyer and Closing Agent shall release the Earnest Deposit to Seller in full;
- (c) Buyer may terminate this Agreement by giving written notice to Seller at any time prior to the Closing in the event (i) Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, (ii) Buyer has notified Seller of the breach and (iii) the breach has continued without cure or written waiver of the breach by Buyer for a period of 15 days after the notice of breach, in which event the Earnest Deposit shall be immediately refunded to Buyer in full;
- (d) The Parties agree that this Agreement shall be automatically terminated, without the need for either Party to take any further action, in the event the bankruptcy court disapproves of this Agreement and holds this Agreement to be null and void, in which event the Earnest Deposit shall be immediately refunded to Buyer in full; and
- (e) The Parties agree that this Agreement shall be automatically terminated, without the need for either Party to take any further action, in the event Buyer's bid is not the final, accepted bid in the bankruptcy court proceedings, in which event the Earnest Deposit shall be immediately refunded to Buyer in full.

8.2 Effect of Termination. If this Agreement is terminated pursuant to Section 8.1 all rights and obligations of the Parties under this Agreement will terminate without any liability of any Party to any other Party, except for the Earnest Deposit as set forth in Section 8.1(b), and except and for any liability of any Party then in breach).

- 8.3 **Termination for Bankruptcy Procedures.** In any event, any termination of this Agreement shall be subject to bankruptcy court procedures as set forth in Section 9 of this Agreement.

9. **Bankruptcy Court Procedures.**

- 9.1 Bankruptcy Court Approval. In addition to any other conditions to the closing of the transactions contemplated by this Agreement and further in addition to any right to terminate this Agreement, the transactions contemplated by this Agreement and the Buyer's obligation to consummate such transactions are subject to the Bankruptcy Court entering the Sale Procedures Order (as defined in Section 9.4(a) below) and the Sale Order (as defined in Section 9.4(a) below), each within the time frames set forth in Section 9.4(b) below. Buyer in its sole discretion may waive, in writing, any of the foregoing conditions to closing and consummation of the transactions contemplated by this Agreement.
- 9.2 Certain Bankruptcy Undertakings. Each of Seller and Buyer agrees to use commercially reasonable efforts to take such further acts and to execute, deliver, and file with the Bankruptcy Court, as applicable, such additional agreements, instruments and pleadings as reasonably may be required to obtain Bankruptcy Court approval of this Agreement, the transactions contemplated by this Agreement, and any other agreement contemplated hereby. Neither Seller nor Buyer will file any pleading or take any other action in the Bankruptcy Court with respect to this Agreement or the consummation of the transactions contemplated by this Agreement that is inconsistent with performing under and carrying out the provisions of this Agreement in accordance with its terms; provided, however, that Seller shall be entitled to receive and evaluate Competing Bids (as defined in Section 9.4(d) of this Agreement) and pursue an Alternative Transaction as contemplated by and in accordance with the Sale Procedures (as defined in Section 9.4(a) below).
- 9.3 Bid Protection. The purchase price in any Competing Bid (as defined in Section 9.4(c) below) must be not less \$4,400,000. If this Agreement is terminated pursuant to the provisions of Section 9.4(d) hereof and/or any sale or other transaction with respect to the Acquired Assets is pursued by the Seller in accordance with the Sale Procedures Order and the Sale Procedures (an "**Alternative Transaction**") which does not involve Buyer as a Back-up Bidder (as defined in Section 9.4(c) below), Buyer shall be entitled to the immediate return of the Earnest Deposit in full.
- 9.4 **Sale Procedures.**
- (a) Unless otherwise agreed by the Parties in writing, by no later than September 28, 2021, Seller shall file with the Bankruptcy Court a motion (the "**Sale Motion**") requesting entry: (i) first, of an order (the "**Sale Procedures Order**") approving the bidding, auction and related procedures governing the sale process involving the Acquired Assets attached hereto as *Schedule 9.4* (the "**Sale Procedures**"); and (ii) an order approving a sale of

the Acquired Assets to Buyer pursuant to the terms and conditions of this Agreement (the “**Sale Order**”).

- (b) Unless otherwise agreed by the Parties in writing, the Sale Procedures Order shall be entered by the Bankruptcy Court on or before October 5, 2021. Unless otherwise agreed by the Parties in writing, the Sale Order shall be entered by the Bankruptcy Court on or before October 28, 2021.
- (c) This Agreement and the transactions contemplated hereby are subject to the Sale Procedures and Seller’s right to consider higher or better competing bids with respect to the Acquired Assets (each a “**Competing Bid**”). If an Auction is conducted, and Buyer is not the prevailing party at the conclusion of such Auction (such prevailing party, the “**Prevailing Bidder**”), Buyer, if it has submitted the next highest and best bid shall serve as a back-up bidder (the “**Back-up Bidder**”) and Buyer’s bid to consummate the transactions contemplated by this Agreement and on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) shall remain open and irrevocable until the earlier of (i) 5:00 p.m. (prevailing Central time) on November 1, 2021, or (ii) the date of closing of a Competing Bid with the Prevailing Bidder.
- (d) Each of Seller and Buyer shall have the right to terminate this Agreement in the event that Seller decides to pursue an Alternative Transaction with respect to which Buyer is not the Back-up Bidder.
- (e) Seller shall promptly serve true and correct copies of the Sale Motion and all related pleadings in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Bankruptcy Court’s Local Rules, the Sale Procedures Order, and any other applicable order of the Bankruptcy Court.
- (f) Buyer’s obligation to close the transaction contemplated by this Agreement is conditioned and otherwise contingent upon: (i) Seller having performed and complied in all material respects with all agreements, covenants and obligations contained in this Agreement that are required to be performed or complied with by it at or prior to the Closing; (ii) the entry of the Sale Order in form and substance satisfactory to Buyer in its sole discretion; and (iii) the Sale Order not being stayed, modified or amended as of the Closing Date. The Sale Order shall, among other things, (i) approve, pursuant to Sections 105 and 363 of the Bankruptcy Code, (A) the execution, delivery and performance by Seller of this Agreement, (B) the sale of the Acquired Assets to Buyer on the terms set forth herein and free and clear of all liens, charges, claims and encumbrance, and (C) the performance by Seller of its obligations under this Agreement; (ii) find that the consideration provided for the Acquired Assets is fair and reasonable, is the highest and best offer for the Acquired Assets and constitutes reasonably equivalent value; (iii) find that the sale price for the Acquired Assets was not controlled by any

agreement among potential bidders; (iv) find that Buyer is a “good faith” Buyer within the meaning of Section 363(m) of the Bankruptcy Code; (v) find that Buyer is not, and shall not be deemed to be, the alter ego or successor-in-interest to the Seller; and (vi) grant Buyer the protections of Section 363(m) of the Bankruptcy Code.

- (g) Buyer shall promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of demonstrating that Buyer is a “good faith” Buyer under Section 363(m) of the Bankruptcy Code. In the event that the Bankruptcy Court’s approval of the Sale Order shall be appealed, Seller shall use reasonable efforts to defend such appeal.

10. **Miscellaneous.**

- 10.1 **No Third-Party Beneficiaries.** The Parties do not confer any rights or remedies upon any person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- 10.2 **Entire Agreement.** This Agreement, together with all related exhibits and schedules, any other documents incorporated herein by reference, and any and all other documents, instruments or other agreements executed in connection with this Agreement or otherwise executed in connection with or arising out of the transactions contemplated by this Agreement, constitutes the sole and entire agreement and understanding of the Parties with respect to the subject matter hereof and thereof, and replaces and supersedes any and all prior oral and written understandings, agreements, representations, warranties and discussions with respect to such subject matter.
- 10.3 **Successors and Assigns.** No Party may assign, transfer, or delegate any or all of its rights, interests, or obligations under this Agreement, voluntarily or involuntarily, including without limitation by a change in the majority ownership or control of one of the Parties, merger (whether or not such Party is the surviving entity), operation of law or any other manner, without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. Any purported assignment in violation of this Section 10.3 will be null and void; provided, however, that either Party may assign or otherwise transfer any or all of its rights and interests hereunder to one or more affiliates, wholly-owned subsidiaries, successors by consolidation, merger, or operation of law, purchasers of all or substantially all of the Party’s assets/business, or lenders of the Party as collateral. No assignment will relieve the assigning Party of any of its obligations hereunder. In the event any assignment is made, this Agreement will be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

10.4 **Counterparts; Electronic Transmission.** This Agreement may be executed in counterparts, each of which will be deemed an original copy of this Agreement but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail attachment, or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

10.5 **Notice.** All notices, requests, consents, claims, demands, waivers and other communications under this Agreement must be in writing and will be deemed effectively given (a) on the date delivered by hand, or sent by e-mail (with evidence of successful transmittal) if delivered/sent during normal business hours of the recipient, and on the next business day if delivered/sent after normal business hours of the recipient; (b) on the second business day after delivery to a nationally recognized overnight courier; or (c) on the third business day after the date mailed by certified or registered mail, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as such Party has specified in a notice given in accordance with this Section 10.5):

If to Buyer:

The Scoular Company
Attention: Joe Thompson
250 Marquette Avenue
Suite 1050
Minneapolis, MN 55401
Email: JThompson@scoular.com

with a copy to:

Robinson & Cole LLP
Attention: Jamie Edmonson
1201 North Market Street
Suite 1406
Wilmington, DE 19801
Email: jedmonson@rc.com

If to Seller:

Pipeline Foods, LLC
Attention: Anthony Sepich
6499 University Ave NE
Suite 200
Minneapolis, MN 55432
E-mail: asepich@pipelinefoods.com

with a copies to:

Saul Ewing Arnstein & Lehr LLP
161 North Clark Street
Suite 4200
Chicago, IL 60601
Attention: Michael L. Gesas
E-mail: Michael.Gesas@saul.com

Saul Ewing Arnstein & Lehr LLP
33 South Sixth Street
Suite 4750
Minneapolis, MN 55402
Attention: Kermit Nash
E-mail: Kermit.Nash@saul.com

Saul Ewing Arnstein & Lehr LLP
33 South Sixth Street
Suite 4750
Minneapolis, MN 55402
Attention: Wade Adamson
E-mail: Wade.Adamson@saul.com

- 10.6 **Governing Law.** This Agreement and all matters arising out of or relating to this Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Delaware without giving effect to any choice or conflict of law doctrine that otherwise might be applicable.
- 10.7 **Amendment.** This Agreement may be amended, modified or supplemented only by an agreement in writing executed by all of the Parties to this Agreement.
- 10.8 **Waiver.** A Party's failure to exercise or delay in exercising any right, power or privilege under this Agreement will not operate as a waiver; nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.
- 10.9 **Severability.** If any term or provision of this Agreement is found to be invalid, illegal, or unenforceable under applicable law, such provision will be ineffective only to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or any other term or provision of this Agreement. To the extent legally permissible, any such illegal, invalid, or unenforceable provision will be replaced by a valid provision that will implement the commercial purpose of the Agreement.
- 10.10 **Expenses.** Buyer and Seller, respectively, shall each pay all costs and expenses (including attorneys' fees and expenses) incurred by such party in connection with this Agreement and each other agreement, document and instrument contemplated by this Agreement and the transactions contemplated hereby, whether or not the Closing will have occurred, except as otherwise specifically set forth in this Agreement.
- 10.11 **Public Announcements/Press Releases.** Unless otherwise required by applicable law, no Party shall make any public announcements or issue any press release in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other Party (which consent shall not be unreasonably conditioned, withheld, or delayed),

and the Parties shall cooperate as to the timing and contents of any such announcement.

- 10.12 **Headings, Gender, Etc.** The headings in this Agreement are for convenience only and will not in any way affect the meaning or interpretation of this Agreement. Except where the context requires otherwise, the use of terminology of any of the masculine, feminine or neuter genders will include all such genders, and the use of the singular number will include the plural and vice versa.
- 10.13 **Interpretation/Construction.** This Agreement shall be construed as having been drafted by both Parties. The schedules and exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

[THE REMAINDER OF THIS PAGE IS BLANK. SIGNATURE PAGE FOLLOWS.]

The Parties have executed this Agreement as of the date first above written.

SELLER:

PIPELINE FOODS, LLC

A handwritten signature in black ink, appearing to read "Anthony J. Sepich", is written over a horizontal line.

By: Anthony J. Sepich

It: Chief Executive Officer

BUYER:

THE SCOULAR COMPANY

By _____
Its _____

The Parties have executed this Agreement as of the date first above written.

SELLER:

PIPELINE FOODS, LLC

By _____
Its _____

BUYER:

THE SCOULAR COMPANY



By Bill J. Hehn
Its SVP, Business Development

EXHIBIT A

BILL OF SALE

See attached.

BILL OF SALE

WHEREAS, Pipeline Foods, LLC, a Delaware limited liability company ("**Seller**"), is a party to that certain Asset Purchase Agreement dated September ____, 2021 (the "**Asset Purchase Agreement**") entered into by and between Seller and The Scoular Company, a Nebraska corporation ("**Buyer**"), pursuant to which Seller has agreed to assign, transfer and convey to Buyer the Grain Storage Assets as defined in the Asset Purchase Agreement.

KNOW ALL THESE MEN BY THESE PRESENTS, that Seller, in consideration of the payment of the Purchase Price as set forth in the Asset Purchase Agreement, hereby sell, assign, transfer, convey and deliver over unto Buyer all of Seller's right, title and interest in, to and under any and all of the Grain Storage Assets and the Owned Vehicle as those terms are defined in the Asset Purchase Agreement, to have and to hold the same, unto Buyer, its successors and assigns, forever.

This Bill of Sale includes and is subject to all other covenants, representations and warranties of Seller and all other provisions set forth in the Asset Purchase Agreement, and Seller makes all but no further covenants, representations and warranties other than those set forth in the Asset Purchase Agreement. The Asset Purchase Agreement is hereby incorporated in its entirety herein by reference.

Notwithstanding anything herein to the contrary, Seller is not selling, assigning, transferring, conveying or delivering to Buyer any of the Excluded Assets as that term is defined in the Asset Purchase Agreement.

All terms and conditions of this Bill of Sale shall be binding upon Seller and its successors and assigns.

IN WITNESS WHEREOF, Seller has caused this instrument to be duly executed on September ____, 2021.

SELLER:

Pipeline Foods, LLC,
a Delaware limited liability company

By: _____
Its: _____

SCHEDULE 1.1

DESCRIPTION OF ACQUIRED ASSETS

Legal Description of Real Property:

Parcel 1: Parcel E of the W 1/2 of Section 28-77-36 West of the 5th P.M., Cass County, Iowa, as shown in Plat of Survey recorded May 9, 2008, in Book 4, Page 918.

Parcel 2: Parcel C in the West 1/2 of Section 28, Township 77 North, Range 36 West of the Fifth Principal Meridian, Cass County, Iowa, as shown in the Plat of Survey recorded June 2, 1998, in Book 4, Page 264.

Parcel 3: Easement for side track purposes as contained in the Easement and Track Agreement dated July 21, 1998, recorded September 1, 1998, in Book 432, Page 551, as amended by Amended and Restated Easement and Track Agreement, dated September 13, 2018, recorded September 24, 2018 as Document No. 115098.

Parcel 4: Easements for ingress, egress, and sign purposes as contained in Cross Easement Agreement, dated September 13, 2018, recorded September 24, 2018 as Document No. 115097.

Parcel 5: Easement for access purposes as contained in Amended and Restated Access Easement Agreement, dated September 13, 2018, recorded September 25, 2018, as Document No. 115105.

Description of Grain Storage Assets:

One (1) Used Grain Facility consisting of 913,000 bushels of upright grain storage, 994,000 bushels of upright steel storage, together with all fixtures, attachments, components, and accessories, including, but not limited to, the following:

- Office – 30' x 60'
- Truck Scale – 11' x 70'
- West Concrete Storage Bins #1 - #8
- East Concrete Storage Bins #9 - #10
- Grain Bin #11
- 2 – High Roller Fill Conveyors
- Zimmerman Tower Grain Dryer
- 5,000 bushel/hour Wet Grain Leg – 100'
- 5,000 bushel/hour Dry Grain Leg – 130'
- Truck receiving – 1- 10,000 bph grain leg and receiving pit
- Truck receiving – 1- 20,000 bph grain leg and receiving pit
- Dust System
- 3,500 bushel Friesen screenings bin
- Shipping – 25,000 bph grain leg

- 25,000 bu/hr GSI grain cleaner and magnet for Rail Loadout. Along with Garner Scale and sampler for certified weights and grades
- 10,000 bu/hr scalper grain receiving
- Hazardous Monitoring systems for most legs and conveyors
- Rail fall protection system
- PLC system for control of most the facility equipment
- GMO, Moisture & Test Weight analytical equipment
- 1 lot of office furniture
- 1 lot of misc. spare parts, tools and radios
- Extron system for large bins and pile temperature monitoring and fan control
- (1) set of 3 high roller belt conveyors for reclaim from bins 9-11 to rail loading leg
- Electric rail car gate opener

Owned Vehicle:

- (1) Chevy Pickup