IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
SOUTHERN FOODS GROUP, LLC, *et al.*,	)	Case No. 19-36313
Debtors.[1]	)	(Jointly Administered)

DECLARATION OF GARY RAHLFS IN SUPPORT OF DEBTORS' CHAPTER 11 PROCEEDINGS AND FIRST DAY PLEADINGS

GARY RAHLFS declares and says:

1. I have been Senior Vice President & Chief Financial Officer of each of the above-captioned debtors (collectively, the "**Debtors**" or "**Dean Foods**")) since September 24, 2019, at first in an interim capacity and permanently as of October 23, 2019. I have also served as Senior Vice President, Finance & Strategy since May 2019, a position I still hold. From March 2018 to May 2019, I served as the Chief Financial Officer/Vice Chancellor for Finance at the University of North Texas. From 1994 until April 2017, I was employed at PepsiCo, Inc., where I held

[1] The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: Southern Foods Group, LLC (1364); Dean Foods Company (9681); Alta-Dena Certified Dairy, LLC (1347); Berkeley Farms, LLC (8965); Cascade Equity Realty, LLC (3940); Country Fresh, LLC (6303); Dairy Information Systems Holdings, LLC (9144); Dairy Information Systems, LLC (0009); Dean Dairy Holdings, LLC (9188); Dean East II, LLC (9192); Dean East, LLC (8751); Dean Foods North Central, LLC (7858); Dean Foods of Wisconsin, LLC (2504); Dean Holding Company (8390); Dean Intellectual Property Services II, Inc. (3512); Dean International Holding Company (9785); Dean Management, LLC (7782); Dean Puerto Rico Holdings, LLC (6832); Dean Services, LLC (2168); Dean Transportation, Inc. (8896); Dean West II, LLC (9190); Dean West, LLC (8753); DFC Aviation Services, LLC (1600); DFC Energy Partners, LLC (3889); DFC Ventures, LLC (4213); DGI Ventures, Inc. (6766); DIPS Limited Partner II (7167); Franklin Holdings, Inc. (8114); Fresh Dairy Delivery, LLC (2314); Friendly's Ice Cream Holdings Corp. (7609); Friendly's Manufacturing and Retail, LLC (9828); Garelick Farms, LLC (3221); Mayfield Dairy Farms, LLC (3008); Midwest Ice Cream Company, LLC (0130); Model Dairy, LLC (7981); Reiter Dairy, LLC (3675); Sampson Ventures, LLC (7714); Shenandoah's Pride, LLC (2858); Steve's Ice Cream, LLC (6807); Suiza Dairy Group, LLC (2039); Tuscan/Lehigh Dairies, Inc. (6774); Uncle Matt's Organic, Inc. (0079); and Verifine Dairy Products of Sheboygan, LLC (7200). The debtors' mailing address is 2711 North Haskell Avenue, Suite 3400, Dallas, TX 75204.

several positions, including Vice President Finance, Global Groups for PepsiCo, Chief Financial Officer – PepsiCo Foods Canada, and Vice President Sales Finance – Frito-Lay US-South Division. I hold BBA and MBA degrees from West Texas A&M University and The University of Texas at Austin, respectively. I am familiar with Dean Foods' day-to-day operations, businesses and financial affairs.

2. Except as otherwise indicated, the facts set forth in this declaration (the "**Declaration**") are based upon my personal knowledge, my review of the relevant documents, information provided to me by employees working under my supervision, or my opinion based upon experience, knowledge, and information concerning the operations of the Debtors and of the dairy industry as a whole. If called upon to testify, I would testify competently to the facts set forth in this Declaration. Unless otherwise indicated, the financial information contained herein is unaudited and provided on a consolidated basis.

COMMENCEMENT OF BANKRUPTCY PROCEEDINGS

3. On November 12, 2019, (the "**Petition Date**"), Southern Foods Group, LLC, Dean Foods Company, and certain of their affiliates each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors intend to continue in the possession of their respective properties and the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. The Debtors commenced the Chapter 11 Cases to preserve and maximize their enterprise value for the benefit of their stakeholders in the face of significant industry headwinds and an impending liquidity crisis. A multi-year trend of shrinking margins and increasing competition was exacerbated by (i) loss of significant volume from major customers, and (ii) a

series of well-intentioned cost-savings and strategic initiatives throughout 2018 and 2019 that fell short of the anticipated benefits and drove increased customer loss and margin compression.

5. By early October 2019, the Debtors saw a sharp decline in preliminary third quarter 2019 results and realized they faced a financial outlook that was deteriorating significantly more rapidly than prior forecasts, and with the assistance of their various advisors, determined that it would be necessary to seek Chapter 11 relief to manage liquidity and prevent potentially ruinous customer flight. The Debtors rapidly engaged their advisors in the exploration of options for debtor-in-possession ("**DIP**") financing, and a strategic transaction with their long-time commercial partner and largest single raw milk vendor, Dairy Farmers of America ("**DFA**").

6. As a result of these efforts, the Debtors have initiated these proceedings with a proposed DIP facility from certain of its prepetition secured lenders and having engaged in advanced discussions with DFA about its potential role as a stalking horse bidder for the purchase of substantially all of the Debtors' assets pursuant to section 363 of the Bankruptcy Code. The Debtors intend to continue and expand the 363 sale marketing process they began prior to the Petition Date, while simultaneously leveraging the run-way provided by the proposed DIP facility to explore all alternative options for a stand-alone restructuring.

7. Section I of this Declaration describes the Debtors' businesses; Section II describes the circumstances giving rise to the need for chapter 11 relief and the Debtors' various prepetition restructuring initiatives; Section III summarizes the Debtors preparations for filing and the marketing and financing efforts which culminated in the proposed DIP facility and entailed several rounds of negotiations with DFA; and Section IV sets forth the relevant facts in support of the First Day Motions.

I.

THE DEBTORS' BUSINESSES

A. Operations

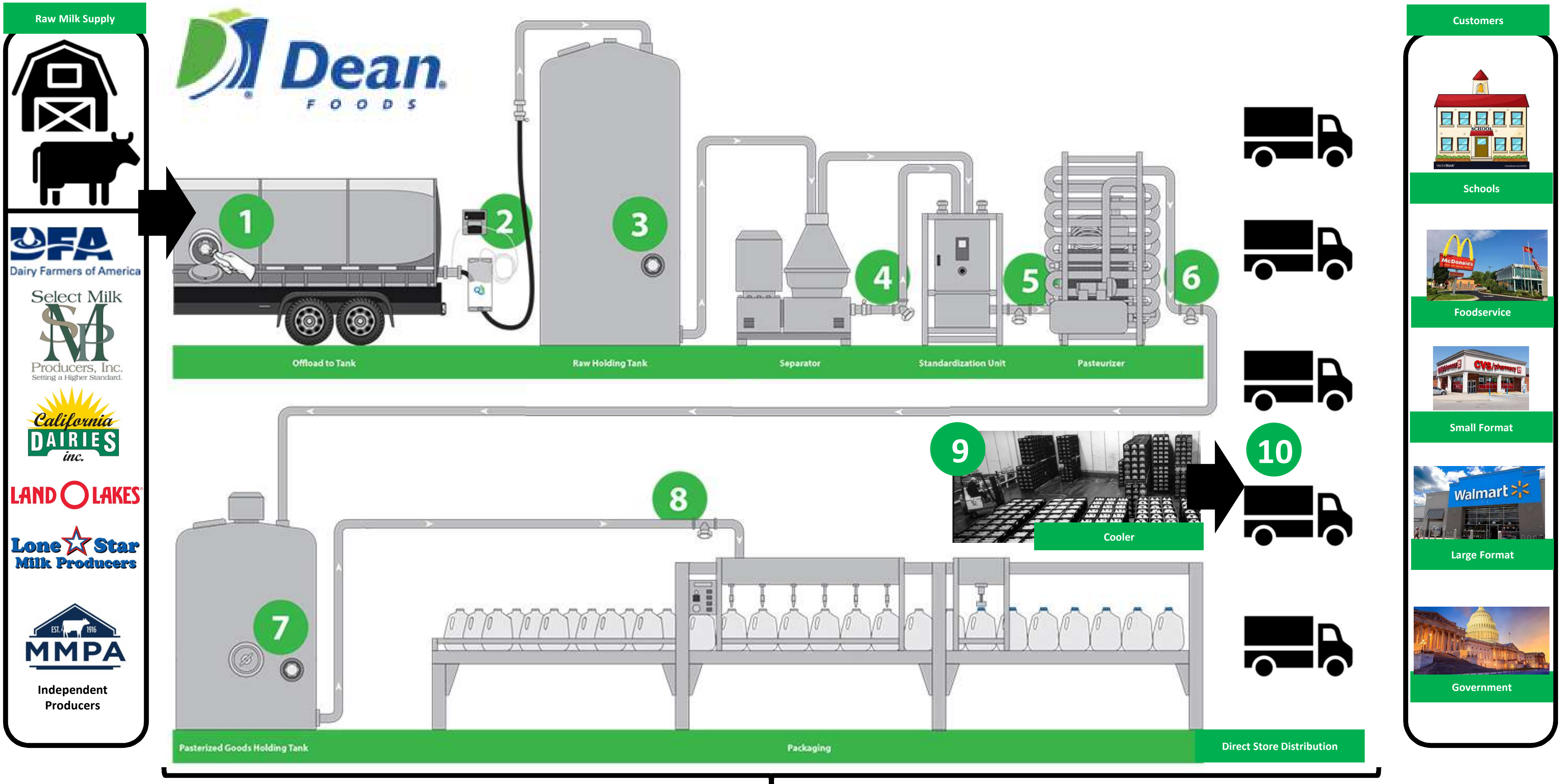
i. *Assets and Activities*

8. With a history dating to 1925, Dean Foods is a leading food and beverage company and the largest processor and direct-to-store distributor of fresh fluid milk and other dairy and dairy case products in the United States. Dean Foods or a predecessor has been a public company since 1961 and listed on the New York Stock Exchange since 1981. Dean Foods manufactures, markets, and distributes a wide variety of branded and private label dairy and dairy case products, including fluid milk, ice cream, cultured dairy products, creamers, ice cream mix, and other dairy products to retailers, distributors, foodservice outlets, educational institutions, and governmental entities across the United States.

9. Dean Foods sells its products under national, regional and local proprietary or licensed brands. Products not sold under these brands are sold under a variety of private labels. Dean Foods sell its products primarily on a local or regional basis through its local and regional sales forces, although some national customer relationships are coordinated by a centralized corporate sales department. Dean Foods' largest customer is Walmart Inc. ("**Walmart**"), including its subsidiaries such as Sam's Club, which accounted for approximately 15.3% of net sales for the year ended December 31, 2018.

[See next page for graphic depicting Dean Foods' role

in the farm to consumer supply chain]


Raw Milk Supply
DFA
Dairy Farmers of America
Select Milk Producers, Inc.
Setting a Higher Standard.
California Dairies inc.
Land O Lakes
Lone Star Milk Producers
EST. 1916
MMPA
Independent Producers
Dean Foods
1
2
3
4
5
6
Offload to Tank
Raw Holding Tank
Separator
Standardization Unit
Pasteurizer
7
8
9
10
Cooler
Pasterized Goods Holding Tank
Packaging
Direct Store Distribution
Customers
Schools
Foodservice
Small Format
Large Format
Government

Dean Foods Company and its Subsidiaries

10. Dean Foods brands include *DairyPure*®, the country's largest fresh, white milk national brand, and *TruMoo*®, the leading national flavored milk brand. As of December 31, 2018, Dean Foods' national, local and regional proprietary and licensed brands included the following:

Alta Dena®
Arctic Splash®
Barbers Dairy®
Barbe's®
Berkeley Farms®
Broughton™
Brown Cow®
Brown's Dairy®
Chug®
Country Fresh™
Country Love®
Creamland™
DairyPure®
Dean's®
Fieldcrest®
Friendly's®
Fruit Rush®
Gandy's™
Garelick Farms®
Good Karma®
Hygeia®
Jilbert™
Knudsen® (licensed brand)
LAND O LAKES® (licensed brand)
Land-O-Sun & design®
Lehigh Valley Dairy Farms®
Louis Trauth Dairy Inc.®
Mayfield®
McArthur®
Meadow Brook®
Meadow Gold®
Model Dairy®
Morning Glory®
Nature's Pride®
Nurture®
Nutty Buddy®
Oak Farms®
Orchard Pure®
Organic Valley® (licensed by joint venture)
Over the Moon®
PET® (licensed brand)
Pog® (licensed brand)
Price's™
Purity™
ReadyLeaf®
Reiter™
Robinson™
Schepps®
Sonora™
Steve's®
Stroh's®
Swiss Dairy™
Swiss Premium™
TruMoo®
T.G. Lee®
Turtle Tracks®
Tuscan®
Uncle Matt's Organic®
Viva®

11. Dean Foods currently operates 58 manufacturing facilities in 29 states located largely based on customer needs and other market factors, with distribution capabilities across all 50 states. Due to the perishable nature of Dean Foods' products, it delivers the majority of its products directly to its customers' locations in a fleet of approximately 5,000 refrigerated trucks or trailers that its owns or leases. This form of delivery is called a "direct-to-store delivery" or "DSD" system. Dean Foods has one of the most extensive refrigerated DSD systems in the United States.

12. The primary raw material used in Dean Foods' products is conventional raw milk (which contains both raw skim milk and butterfat) that is purchased primarily from farmers' cooperatives, as well as from independent farmers. The federal government and certain state governments set minimum prices for raw skim milk and butterfat on a monthly basis. Another significant raw material used by Dean Foods is resin, which is a fossil fuel-based product used to make plastic bottles. The price of resin fluctuates based on changes in crude oil and natural gas prices. Other raw materials and commodities used by Dean Foods include diesel fuel, used to operate its extensive DSD system, and juice concentrates and sweeteners used in its other products. Dean Foods generally increases or decreases the prices of its private label fluid dairy products on a monthly basis in correlation with fluctuations in the costs of raw materials, packaging supplies and delivery costs. Dean Foods manages the pricing of its branded fluid milk products on a longer-term basis, balancing consumer demand with net price realization but, in some cases, is subject to the terms of sales agreements with respect to the means and/or timing of price increases.

13. In 2018, Dean Foods' reported consolidated net sales of $7.755 billion, gross profit of $1.655 billion, and operating income of $(315.2) million. Through the first 6 months of 2019, Dean Foods' reported consolidated net sales of $3.931 billion, gross profit of $753.2 million, and operating income of $(96.2) million.

14. The fluid milk industry remains highly competitive with a rapidly-changing industry landscape and a dynamic retail environment. Within private label fluid milk, competition for volume has increased significantly. In addition, retailers continue to aggressively price their private label products, which Dean Foods' believes negatively impacts its branded product sales, resulting in compressed margins.

15. Dean Foods has several competitors in each of its major product and geographic markets. Competition between dairy processors for shelf-space with retailers is based primarily on price, service, quality and the expected or historical sales performance of the product compared to its competitors' products. In some cases Dean Foods pays fees to customers for shelf-space. Competition for consumer sales is based on a variety of factors such as price, taste preference, quality and brand recognition. Dairy products also compete with many other beverages and nutritional products for consumer sales. Additionally, Dean Foods faces competitive pressures from vertically integrated retailers, discount supermarket chains, dairy cooperatives and other processors, and online and delivery grocery retailers.

ii. *Employees*

16. As of December 31, 2018, Dean Foods' had approximately 15,000 employees in active status, working in both full-time and part-time positions, including those related to milk and dairy products production, operations and logistics, sales, accounting and finance, administration, human resources, and information technology. Approximately 40% of the employees participate in at least one of a multitude of collective bargaining agreements with the Debtors of varying duration and terms (the "**CBAs**"). The Debtors maintain headquarters in Dallas, Texas, where the majority of their corporate and administrative employees reside, but they also have employees located across all 50 states.

iii. *Operations Overview*

17. Aggregate 2018 sales[2] were divided by product line as follows: fluid milk – 67%; ice cream (including ice cream, ice cream mix and ice cream novelties) – 15%; fresh cream

[2] These figures exclude sales of excess raw materials of $515.2 million and sales of other bulk commodities of $157.7 million.

(including half-and-half and whipping cream) – 6%; ESL and ESL creamers (including creamers and other extended shelf-life fluids) – 3%; cultured – 4%; other beverages (including fruit juice, fruit flavored drinks, iced tea, water, and flax-based beverages) – 4%; and other (including items for resale such as butter, cheese, eggs and milkshakes) – 1%. 50% of those sales derived from company brands (including all national, regional and local brands), and 50% from private label products.

18. Dean Foods is a national supplier to restaurant chains such as Wendy's, McDonald's, Darden, Panera, Taco Bell, Starbucks, and Waffle House, large format retailers such as Walmart, Target, and Publix, small format convenience stores and pharmacies like Dollar General, CVS, and Walgreens, contract management companies such as Aramark, Sodexo, and Compass, and approximately 30,000 schools. Dean Foods makes approximately 240,000 total weekly deliveries to large format retailers, small format retailers, food service businesses, and schools during the school year. For the trailing twelve months ending in July, Dean Foods produced 2.2 billion gallons of milk and other dairy products.

19. Any interruption in the fulfillment of the orders from these customers, whether stemming from a disruption in Dean Foods' own supply or as a result of Dean Foods' current liquidity constraints, would have a rapid and catastrophic effect on the enterprise. Milk is a staple daily requirement for these customers, and required to sustain their servicing of their own customer obligations. Dean Foods' customers will almost certainly seek alternative suppliers if Dean Foods were unable to meet its contractual commitments. The nature of the limited shelf-life of dairy products further exacerbates the situation in that a commercial vendor or school does not typically hold more than several days of inventory and would therefore need to move rapidly to find an alternative reliable source for its dairy needs – in some cases, on the same day. Such a

precipitous loss in customers would dramatically exacerbate Dean Foods' current financial and liquidity difficulties. Indeed, any hope that assets might be meaningfully preserved for Debtors' stakeholders by way of a sale (or otherwise) would be foreclosed.

B. Corporate Structure

20. Dean Foods Company was incorporated in Delaware in 1994 and is headquartered in leased premises at 2711 North Haskell Avenue, Suite 3400, Dallas, Texas 75204. The common equity of Dean Foods Company is traded publically on the New York Stock Exchange under the ticker symbol "DF."

21. Dean Foods Company is the ultimate parent for 56 direct or indirect subsidiaries, including partial interests in 4 joint ventures. A chart showing the corporate structure of Dean Foods is attached hereto. The corporate tree is primarily organized in two branches, stemming from the April 5, 2001 merger of Dean Foods Company and Suiza Foods Corporation ("**Suiza**"). Dean Foods Company's debtor subsidiaries are each wholly owned, directly or indirectly, by the Dean Foods Company.

C. Capital Structure[3]

22. The Debtors have approximately $189 million in secured indebtedness under the Prepetition Revolving Credit Facility.[4] Certain of the Debtors are party to a $450 million prepetition receivables facility (the "**Securitization Facility**"), pursuant to which the Debtors

[3] The following summary is qualified in its entirety by reference to the operative documents, agreements, schedules, and exhibits.

[4] "**Prepetition Revolving Credit Facility**" herein refers to that certain senior secured revolving credit facility pursuant to that certain credit agreement, dated as of February 22, 2019 (as amended, amended and restated, supplemented or otherwise modified from the Petition Date, the "**Prepetition Credit Agreement**"), among the Dean Foods Company, each lender party thereto from time to time (the "**Prepetition Revolving Lenders**"), and Coöperatieve Rabobank U.A., New York Branch ("**Rabobank**"), as administrative agent).

sell trade receivables to two non-Debtor wholly owned, bankruptcy remote special purpose vehicle subsidiaries, which is a significant source of liquidity for the Debtors. Additionally the Debtors have approximately $700 million in aggregate principal amount of senior unsecured notes as described in paragraph 29 below (the "**2023 Notes**"). These and other amounts are summarized in following table and detailed below.[5]

1. Obligation	Priority Against Debtors	Loans Outstanding[6]	Letters of Credit Outstanding
Prepetition Revolving Credit Facility	Secured	$188.8 million	$0.0
Securitization Facility	Secured / True Sale	$180 million	$195.2 million
2023 Notes	Senior Unsecured	$700 million	N/A

Prepetition Revolving Credit Facility

23. On February 22, 2019, the Dean Foods Company, as borrower, and certain of the other Debtors, as guarantors, entered the Prepetition Credit Agreement with Rabobank as administrative agent and collateral agent, and the Prepetition Lenders, pursuant to which the Prepetition Lenders provided a senior secured revolving borrowing base credit facility with a maximum facility amount of up to $265 million. On August 27, 2019 Dean Foods exercised its right to increase the aggregate principal amount of the commitments under the Prepetition Credit Agreement to $350 million. A portion of the Prepetition Revolving Credit Facility is available for the issuance of up to $25 million of standby letters of credit although no letters of credit were outstanding as of the Petition Date. Loans outstanding under the Prepetition Revolving Credit Facility bear interest, at Borrowers' option, at either: (i) the Base Rate (as defined in the Prepetition Revolving Credit Agreement) or (ii) the Adjusted Eurodollar Rate (as defined in the Prepetition Revolving Credit Agreement), plus a margin ranging between 1.25% and 1.75% (in

[5] The table is for illustration and summary purposes only. The Debtors do not admit to the validity, priority and/or allowance of any claim, lien or interest in property and reserve rights in relation to such issues.

[6] The amounts tabulated above reflect the outstanding principal amounts owed, and do not include accrued and unpaid interest, fees, premiums or other related claims.

the case of Base Rate loans) or 2.25% and 2.75% (in the case of Eurodollar Rate loans), in each case based on Dean Foods' total net leverage ratio at such time. The Prepetition Revolving Credit Facility is secured by substantially all of Debtors' assets and the assets of Debtors' material domestic subsidiaries (subject to certain exceptions, including the equity of the Debtors' subsidiaries who are sellers under the Receivables Securitization Facility and the receivables sold thereunder).

24. Availability under the Credit Facility is subject to a borrowing base equal to 65% of the appraised value of certain of our real property and equipment. The Prepetition Revolving Credit Facility has a stated maturity of February 22, 2024. As of November 8, 2019, Dean Foods had $188.8 million outstanding borrowings under the Prepetition Revolving Credit Facility.

25. The Prepetition Revolving Credit Facility can also be used to secure designated hedges entered into with any lenders. As of November 11, 2019, the Debtors aggregate notional amount of all secured hedges was $33.6 million.

Securitization Facility

26. As one means of financing their business, Dean Foods entered into the Receivables Agreements,[7] which provided it with a $450 million receivables securitization

[7] "**Receivables Agreements**" herein refers to (i) (a) that certain Amended and Restated Dairy Receivables Sale Agreement, dated as of June 12, 2014 (as amended and restated pursuant to that certain Second Amended and Restated Receivables Sale Agreement, dated as of the Closing Date and as further amended, restated supplemented or otherwise modified from time to time) by and among Alta-Dena Certified Dairy, Inc., Berkeley Farms, Inc., Dean Dairy Holdings, LLC, Dean East II, LLC, Dean Foods North Central, Inc., Dean West II, LLC, Mayfield Dairy Farms, Inc., Midwest Ice Cream Company, LLC, Reiter Dairy, Inc., Verifine Dairy Products Corporation of Sheboygan, LLC. and Dairy Group II (as amended, restated, supplemented or otherwise modified from time to time, the "**Dean RSA**"); and (b) that certain Second Amended and Restated Receivables Sale Agreement, dated as of June 12, 2014 (as amended and restated pursuant to that certain Third Amended and Restated Receivables Sale Agreement, and as may be further amended, restated, supplemented or otherwise modified from time to time) among Country Fresh, LLC, Dean East, LLC, Dean West, LLC, Garelick Farms, LLC, Model Dairy, LLC, Shenandoah's Pride, LLC, Southern Foods Group, LLC, Suiza Dairy Group, LLC, Tuscan/Lehigh Dairies, LLC and Dairy Group (as amended, restated, supplemented or otherwise modified from time to time); and (ii) that certain Receivables Purchase Agreement dated as of February 22, 2019 among Dairy Group Receivables, L.P. and Dairy Group Receivables II, L.P., as Sellers, the Servicers, the Purchasers, PNC Bank, National Association, as LC Bank and Co-(….continued)

facility (the "**Securitization Facility**") pursuant to which certain subsidiaries sell their accounts receivable to the AR Subsidiaries, two wholly-owned, bankruptcy-remote entities. The entities then transfer the receivables to third-party asset-backed commercial paper conduits sponsored by major financial institutions.

27. As of November 8, 2019, Dean Foods had the ability to borrow up to $5.4 million of the total commitment amount under the receivables securitization facility. As of the November 8, 2019, an aggregate of $180 million in loans and $195.2 in undrawn letters of credit were outstanding, and the remaining available borrowing capacity was $5.4 million. The receivables securitization facility bears interest at a variable rate based upon commercial paper and one-month LIBO rates plus an applicable margin based on our total net leverage ratio, which rate was 3.72% as of close of business on November 8, 2019.

28. The Debtors are currently seeking to amend and continue the Securitization Facility as described in greater detail in the Securitization Motion. Absent the relief requested in the AR Reinstatement Motion, the Securitization Facility would automatically terminate and begin to wind down.

Prepetition Senior Unsecured Notes

29. On February 25, 2015, Dean Foods issued the 2023 Notes, $700 million in aggregate principal amount of 6.50% senior notes due 2023 at an issue price of 100% of the principal amount of the 2023 Notes in a private placement for resale to "qualified institutional buyers" as defined in Rule 144A under the Securities Act of 1933, as amended (the "**Securities Act**"), and in offshore transactions pursuant to Regulation S under the Securities Act. The 2023

(continued….)

Agent, and Coöperatieve Rabobank U.A., New York Branch, as Agent (as amended, restated, supplemented or otherwise modified from time to time).

Notes are senior unsecured obligations. The 2023 Notes are fully and unconditionally guaranteed on a senior unsecured basis, jointly and severally, by the same subsidiaries that guarantee Dean Foods' obligations under the Prepetition Credit Facility. The 2023 Notes mature on March 15, 2023 and bear interest at an annual rate of 6.50%, which is payable semi-annually in arrears in March and September of each year. The carrying value under the 2023 Notes at December 31, 2018 was $695.4 million, net of unamortized debt issuance costs of $4.6 million.

Surety Bonds and Self-Bonding

30. Federal and state laws and certain vendors require the Debtors to assure payment of certain obligations related to, among other things, milk purchases, federal and state workers' compensation programs, self-insurance programs, utility service, and other license, permit and financial guarantees as required by statutory regulations for the Debtors' day-to-day business operations. The Debtors satisfy these requirements by obtaining surety bonds from a syndicate of 5 third-party surety providers. As of the Petition Date, the Debtors had approximately $100 million in outstanding third-party commercial surety bonds.

D. Cash Needs

31. Dean Foods' business is capital intensive and relies on its ability to use cash, among other things, (a) to satisfy payroll, pay suppliers, and meet overhead expenses, (b) to fund working capital needs and capital expenditures, (c) to pay for goods or services critical to the health and safety of employees and the communities in which they operate, (d) to pay property taxes and other taxes, and (e) for other general corporate purposes.

32. It is critical that Dean Foods have uninterrupted and unlimited access to its cash. Any limitation on Dean Foods' use of cash would have disastrous effects on Dean Foods' business and operations, threatening its ability to continue as a going concern, and resulting in the rapid deterioration of the value of the enterprise, as Dean Foods would likely lack sufficient

working capital to make payments to employees, vendors, suppliers, and other key providers of goods and services.

33. In order to avoid any business disruption and to ensure a smooth transition into chapter 11, Dean Foods' must signal to its constituents and counterparties that it continues to have access to sufficient liquidity to, among other things, continue the operation of its businesses, maintain relationships with customers, meet payroll, pay capital expenditures, procure goods and services from vendors and suppliers, and otherwise satisfy its working capital and operational needs, all of which are required to preserve and maintain its enterprise value.

E. Senior Management

34. Dean Foods has experienced substantial turnover in senior management over the last two years. At the vice president level and above, almost 70 individuals have departed, including Dean Foods' former President and CEO, Chief Sales Officer, Chief Operating Officer, Chief Human Resources Officer, Chief Information Officer, General Counsel, and two Chief Financial Officers.

35. Eric Beringause has served as Dean Foods' President and Chief Executive Officer and as a member of the Board, since July 29, 2019. Mr. Beringause has significant experience in a broad range of food and consumer products companies. He served as the Chief Executive Officer of Gehl Foods, LLC from March 2015 to August 2018 and as Chief Executive Officer of Advanced Refreshment LLC from 2011 to 2014. He also served as President & Chief Executive Officer of Sturm Foods, Inc. from 2008 to 2011. Mr. Beringause serves on the Management Board of CP Kelco, a leading global producer of specialty hydrocolloid solutions, and on the Board of Trustees at Vassar College. Mr. Beringause holds a B.A. from Vassar College and an M.B.A. from Cornell University.

36. As set forth above at paragraph 1, I am Chief Financial Officer of Dean Foods, having joined in May 2019 as Senior Vice President, Finance & Strategy, a role in which I also continue to serve.

37. Brian Riley has served as our Senior Vice President, Operations since August 2019, and in that role leads our Fluid and Ice Cream Operations, as well as our Environmental, Health and Safety, and Sustainability functions. Since joining Dean Foods in 1991, Mr. Riley has served in numerous roles, most recently as Vice President, Fluid Operations (March 2019 to August 2019), Vice President, Operations – Ice Cream Supply Chain (August 2017 to March 2019), and as Vice President, Supply Chain Optimization (August 2015 to August 2017).

38. Tom Murray was appointed to serve as Dean Foods' Senior Vice President and Chief Commercial Officer, effective November 4, 2019, and leads Dean Foods' sales functions across all business divisions. Since joining Dean Foods in 1993, Mr. Murray has served in numerous roles, most recently serving as Senior Vice President, Group Sales (March 2018 to November 2019), Senior Vice President, North Region (September 2014 to March 2018), Senior Vice President, West Region (May 2013 to September 2014), Group Vice President – Pacific Region (September 2010 to May 2013), Vice President, West (May 2007 to September 2010). He also served as a General Manager of Dean Foods' operating locations in California and Idaho from 1992 through 2002.

39. Greg Wolljung joined Dean Foods in July 2018 as Senior Vice President, Logistics and is responsible for all transportation and logistics operations for Dean Foods' nationwide distribution network. Prior to joining Dean Foods, Mr. Wolljung served as Senior Vice President for the Winebow Group, a national importer and distributor of fine wine and spirits, from October 2017 to July 2018, and served as Vice President, Supply Chain of Snyders-

Lance, Inc., a manufacturer and distributor of snack foods, from Jan 2010 to June 2017 and as its Vice President, Service & Distribution April 2006 to Jan 2010. Prior to that, he held positions of increasing responsibility with Frito-Lay, PepsiCo (1983 to 2006) where he last served as Division Logistics Manager for its North Central and Northeast network operations from 2001 to 2006.

40. Kristy Waterman was appointed as Senior Vice President, General Counsel, Corporate Secretary and Government Affairs of Dean Foods effective September 2019. In this role, she is responsible for all aspects of Dean Foods' legal and regulatory matters. Ms. Waterman joined Dean Foods in May 2014 as Vice President, Chief Counsel, Corporate & Securities and was promoted to Vice President, Deputy General Counsel in April 2018. Prior to joining Dean Foods, Ms. Waterman worked in the Dallas office of the global law firm Norton Rose Fulbright. Ms. Waterman received a B.S. from University of Texas and her law degree from St. Mary's University School of Law.

II.

EVENTS LEADING TO THE CHAPTER 11 CASES

41. A host of both industry trends and company specific events have combined to drive the Debtors to seek chapter 11 relief. The section below describes both major trends and certain Dean Foods specific events over the last two years, as well as the immediate catalysts motivating the filing now.

A. Negative Industry Trends

42. **Category declines**. While milk remains a household item in the U.S., people are simply drinking less of it. For the past 10 years, demand has fallen approximately 2% year-over-year in North America. Aside from the direct negative impact on sales for the core fluid milk business, declining category trends also drive cost deleveraging which hurts margins. Delivered

cost per gallon rose approximately 20.7% between 2018 and 2013 as a result of volume deleverage. Dean Foods suffered a full year 2018 year-over-year decline in fluid milk volume of 5.8% following a 2017 year-over-year decline of 4.2%. Moreover, Dean Foods' volume declines continue to outpace the overall category; while category volumes declined by approximately 4%[8] year-over-year through the end of September, 2019, Dean Foods experience declines of over 11.4%. Shrinking consumption of fluid milk and slim margins have made things very difficult for conventional milk processors like Dean Foods.

43. **Changing consumer tastes and increased product competition.** The decline in dairy sales has occurred in conjunction with the rise of oat, nut, soy, and other alternative "milk" products at retailers and food service locations across the country. Options like almond, soy, rice, coconut, and hemp beverages are beginning to demand more and more space on grocery store shelves as consumers have grown to embrace new flavors and alternative diets. Sales of nut and plant beverages grew by 9% in 2018 and had sales of $1.6 billion, according to the Plant Based Foods Association.

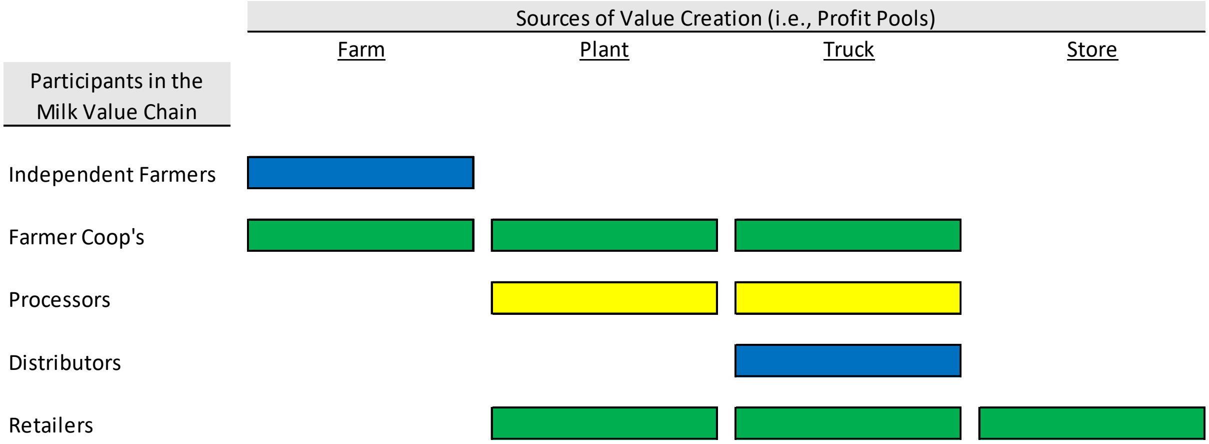
44. **Raw Milk Price Increases**. Prices for conventional raw milk during the third quarter of 2019 were approximately 19.3% higher than year-ago levels and increased approximately 7.5% sequentially from the second quarter of 2019. Dean Foods expects further raw milk inflation in the fourth quarter of 2019 and is currently projecting full-year dairy commodity inflation. Commodity price changes primarily impact Dean Foods' branded business as the changes in raw milk costs are essentially a pass-through cost on our private label products.

45. **Consolidation leads to compressed margins**. Consolidation in the retail sector has meant that a few retailers and super chains have considerable buying power. This trend

[8] Third quarter IRI calculated through the week ending September 29, 2019.

combined with the growth of budget retailers and store label products has translated to increasing pressure on already thin margins.

46. **Competitors on both ends of value chain vertically integrating leads to margin compression.** Many of Dean Foods' large format retail customers are vertically integrated – meaning they have bought or built processing assets to complete with Dean Foods. Retailers that are vertically integrated typically re-dedicate key shelf-space that was formerly occupied by Dean Foods' branded products for their private label products. In addition to the competitive pressures from retail customers, many of Dean Foods' dairy cooperative suppliers have acquired processing assets. By expanding up and down the value chains, these retailers and cooperatives enjoy the benefits of broader profit pools than Dean Foods can access simply by operating in the processing space. Notably there is only one stand-alone processing company of a similar scale to Dean Foods currently operating.



	Sources of Value Creation (i.e., Profit Pools)			
Participants in the Milk Value Chain	Farm	Plant	Truck	Store
Independent Farmers	🟦			
Farmer Coop's	🟩	🟩	🟩	
Processors		🟨	🟨	
Distributors			🟦	
Retailers		🟩	🟩	🟩

Integration across multiple components of the value chain creates synergies and access to more profit pools.

47. **Use of private label milk as loss-leader has driven portfolio shifts and additional margin compression**. Through 2018 and 2019, Dean Foods experienced an accelerated shift from branded to private label milk products. During that period, retailers aggressively priced their private label milk to drive foot traffic, which has been increasing the

price gap between branded and private label milk. This negatively affects Deans Foods' branded product sales as customers trade down to private label products, causing further margin compression. As retailers continue to invest in private-label milk to drive foot traffic, private-label margin over milk contracted to a historic low of $1.26 in June, before falling even further to $1.24 in September.

48. **Fuel, Resin and External Freight Costs**. Dean Foods purchases diesel fuel to operate its extensive DSD system, and incurs fuel surcharge expense related to the products we deliver through third-party carriers. Resin, a fossil fuel-based product, is another significant raw material input for Dean Foods and is used to produce plastic bottles. Sustained, national driver shortages over the past few years have also added to freight costs by increasing the wage, overtime and temp employee costs.

B. Events Specific to Dean Foods

49. **Customer and Cost Initiative Failures; Core Customer Volume Losses**. In early 2018, Walmart, which including its subsidiaries accounted for approximately 17.5% of Dean Foods' net sales for the year ended December 31, 2017, opened a large dairy manufacturing plant in Indiana that resulted in a loss to Dean Foods of approximately 100 million gallons of fluid milk in annualized sales volume. Dean Foods lost an additional nearly 40 million gallons of annualized fluid milk sales from another major customer further exacerbating the effects of volume deleverage.

50. In turn, Dean Foods initiated certain cost savings and strategic initiatives, and attempted to manage the lost volumes by consolidating 7 plants in just 8 weeks, anticipating that the shifts would drive a reduction in Dean Foods' fixed costs and remove unneeded capacity. Instead, these rapid closures and consolidations resulted in higher than expected costs including

freight, labor, and product loss, offsetting anticipated productivity gains for the year from the plant consolidations and related initiatives.

51. **Covenant Defaults and Refinancings**. Following the significant volume declines in 2018 and higher than expected transitory costs associated with the plant consolidations, on January 17, 2019, Dean Foods negotiated a waiver of certain leverage related financial covenants in the senior secured revolving credit facility and receivables securitization facility then outstanding. This was followed shortly on February 22 by entry into an amended and restated receivables purchase agreement governing the receivables securitization facility and replacement of the prior senior secured revolving credit facility with the Prepetition Revolving Credit Facility with Rabobank as administrative agent to, among other things, (i) extend the liquidity termination date to February 22, 2022 and (ii) replace the leverage ratio and the interest coverage ratio covenant with a springing fixed charge coverage ratio covenant that requires Dean Foods to maintain a fixed charge coverage ratio of at least 1.05 to 1.00 at any time that its liquidity is less than 50% of the borrowing base under the credit facility. Notably, the prior revolving facility had a borrowing base of $450 million as compared to initially available borrowing base of $175 million for the Prepetition Revolving Credit Facility. Accessibility in both cases was subject to compliance with financial covenants.

52. Liquidity remained tight despite, and in February 2019, Dean Foods' board of directors suspended Dean Foods's dividend payments. No dividends were paid in the first nine months of 2019. Although $197.1 million remains authorized for share repurchases under the previously established program, Dean Foods has made no share repurchases since prior to 2017.

53. On June 28, 2019, Dean Foods returned to it Prepetition Revolving Lenders and elected to appraise additional real estate for inclusion in the borrowing base under the Prepetition

Revolving Credit Agreement in order to increase the borrowing base from $175 million to the facility maximum of $265 million.

54. On August 27, 2019, Dean Foods entered into further supplements to the Credit Agreement pursuant to which Dean Foods elected to exercise its rights to increase the aggregate principal amount of the commitments under the Credit Agreement by $85 million to an aggregate principal amount of $350 million. However, due to the fixed charge coverage ratio financial covenant, and despite the increased commitment, Dean Foods only had access to roughly half of the upsized $350 million Prepetition Revolving Credit Facility.

55. **Further Strategic Initiatives.** Dean Foods began 2019 with a new slate of operational objectives and margin improvement initiatives, involving pricing, delivery fees, and cost control programs, that had varying levels of success. However, some of these initiatives ultimately resulted in further customer loss.

56. In February 2019, the Debtors retained Evercore to assist with a broad evaluation of potential strategic alternatives, including the disposition of certain assets, the formation of new joint ventures, strategic business combinations, sale of the enterprise, or other options to re-energize the Debtors' stand-alone business. It was ultimately determined that these options could not be pursued for a variety of reasons, including that potential contingent liabilities that Dean Foods faces related to the underfunded status of certain multi-employer pension plans in which is participates. In particular and by far the most significant, Dean Foods faces an estimated potential, contingent liability of over $700 million in the event it withdraws from Central States Southeast & Southwest Areas Pension. Such potential liabilities significantly impaired Dean Foods' ability to pursue any strategic transactions with third parties outside of a bankruptcy proceeding.

57. In August 2019, as Dean Foods reported its second quarter results it reduced its internal full year adjusted operating income forcast and reported that it would be a net user of cash for the full year 2019. Eric Beringause, the current president and chief executive officer joined Dean Foods on July 29, 2019, and engaged in a renewed effort to evaluate Dean Foods' business plan and strategy.

58. Through September and October 2019 cash losses continued to mount and the Debtors' liquidity diminished. By early October, 2019, the Debtors saw a sharp decline in preliminary third quarter 2019 results and realized they faced a financial outlook that was deteriorating significantly more rapidly than prior forecasts. The Debtors retained Alvarez & Marsal North America, LLC ("**A&M**"), to assist in the analysis of their general liquidity needs, and Davis Polk & Wardwell LLP ("**Davis Polk**") to explore potential options to raise further capital, or refinance their existing debt in or outside of Chapter 11.

59. Continuing performance declines and the results of their advisors' analysis led the Debtors to determine that it would be necessary to seek Chapter 11 relief in order to manage liquidity and prevent potentially ruinous customer flight. Dean Foods anticipated negative cash flows from operations for the fourth quarter 2019. As discussed above, the Debtors provides their customers with a critical daily staple product. Any shortfalls in the Debtors' fulfillment means that school lunch rooms, coffee shops, and grocery stores across America could face weeks without cartons for their lunch trays, milk for their coffee, or gallons for their refrigerators. Dean Foods' customers would not accept risk of instability in their supply, and would likely rapidly seek a replacement vendor. Accordingly, the Debtors and their advisors concluded that seeking the protections of Chapter 11 was the only option for obtaining the

necessary funding to sustain operations and preventing any disruption with their vendors and customers.

60. Accordingly, the Debtors engaged their advisors in the exploration of options for debtor-in-possession ("**DIP**") financing, and a strategic sale transaction. The Debtors and their advisors focused initially on discussions for such a transaction with DFA as potential counterparty for several reasons, including that (i) DFA is a long-time commercial counterparty, providing roughly 60% of Dean Foods' milk supply (Dean Foods in turn accounts for approximately 20% of DFA's milk sales), (ii) DFA's dairy experience and breadth of non-milk retail products (including cheese and other dairy products) compliments Dean's core milk business, and (iii) DFA's financial wherewithal to consummate such a transaction.

61. The proposed DIP facility and the marketing process that led to its selection are all described in more detail in the DIP Motion[9], Securitization Motion, and Yi Declaration all filed contemporaneously with this Declaration.

62. As a result of these efforts, the Debtors have initiated these proceedings with a proposed DIP facility from certain of its prepetition secured lenders and having engaged in advanced discussions with DFA with regard to its role as a potential stalking horse bidder for the

[9] "**DIP Motion**" herein refers to the *Debtors' Motion for Entry of Interim and Final Orders Authorizing the Debtors to Obtain Senior Secured Superpriority Post-Petition Financing, Authorizing the Use of Cash Collateral, and Granting Related Relief*; "**Securitization Motion**" herein refers to the *Debtors' Motion for Entry of Interim and Final Orders Authorizing Certain Debtors to Continue Selling Receivables and Related Rights Pursuant to a Securitization Facility, Modifying the Automatic Stay, and Granting Related Relief*; and the "**Yi Declaration**" herein refers to the *Declaration of Bo S. Yi in Support of the Debtors' (A) Motion for Entry of Interim and Final Orders Authorizing the Debtors to Obtain Senior Secured Superpriority Post-Petition Financing, Authorizing the Use of Cash Collateral, and Granting Related Relief and (B) Motion for Entry of Interim and Final Orders Authorizing Certain Debtors to Continue Selling Receivables and Related Rights Pursuant to a Securitization Facility, Modifying the Automatic Stay, and Granting Related Relief.*

purchase of substantially all of the Debtors' assets pursuant to section 363 of the Bankruptcy Code. The Debtors intend to continue and expand the 363 sale marketing process they began prior to the Petition Date, while simultaneously leveraging the run-way provided by the proposed DIP facility to explore all alternative options for a stand-alone restructuring.

63. Dean Foods believes that filing for Chapter 11 with financing from its Prepetition Secured Lenders and having engaged in advanced discussions with DFA over a potential strategic transaction was critical for managing liquidity and demonstrating to its customers and commercial partners that it is focused on maintaining operations and fulfillment without a single day of disruption.

III.

FIRST DAY MOTIONS

64. Dean Foods filed the First Day Motions concurrently with the chapter 11 petitions and has requested that each of the First Day Motions be granted, as each is a critical element of a successful and smooth transition to chapter 11.

65. For a more detailed description of the First Day Motions than set forth below, I respectfully refer the Court to the respective First Day Motions. To the extent that this Declaration and the provisions of any of the First Day Motions are inconsistent, the terms of the First Day Motions shall control. Capitalized terms that are used in this Part III but not otherwise defined in this Declaration shall have the meanings ascribed to them in the relevant First Day Motion.

A. Administrative Motions

i. *Emergency Motion of Debtors for Entry of an Order Directing Joint Administration of Chapter 11 Cases (the "**Joint Administration Motion**")*

66. The Debtors seek entry of an order directing joint administration of these cases

for procedural purposes only, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and Rule 1015-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas. Specifically, the Debtors request that the Court maintain one file and one docket for all of the Chapter 11 Cases under the lead case—that of Southern Foods Group—and further, that an entry be made on the docket of each of the Chapter 11 Cases of the Debtors to indicate the joint administration of the estates.

67. In addition, the Debtors request that the Court waive the requirement of section 342(c)(1) of the Bankruptcy Code and Bankruptcy Rules 1005 and 2002(n) to include the Debtors' full tax identification numbers in Dean Foods's caption and in notices sent to creditors.

68. The Debtors further request authority to file any monthly operating reports and post-effective date quarterly operating reports on a consolidated basis for the jointly-administered Debtors; *provided, however,* that income and disbursements are tracked and broken out on a Debtor-by-Debtor basis.

69. Given the provisions of the Bankruptcy Code and the Debtors' affiliation, joint administration of these cases is warranted. Joint administration will avoid the preparation, replication, service and filing, as applicable, of duplicative notices, applications and orders, thereby saving Dean Foods considerable expense and resources. The Debtors' financial affairs and business operations are closely related. Many of the motions, hearings and orders in these Chapter 11 Cases will affect each Debtor and their respective estates. The rights of creditors will not be adversely affected, as the Joint Administration Motion requests only administrative, and not substantive, consolidation of the estates. Moreover, each creditor can still file its claim against a particular estate. In fact, all creditors will benefit by the reduced costs that will result from the joint administration of these Chapter 11 Cases. The Court also will be relieved of the

burden of entering duplicative orders and maintaining duplicative files. Finally, supervision of the administrative aspects of these Chapter 11 Cases by the United States Trustee will be simplified.

70. Furthermore, it is appropriate to waive the requirement of section 342(c)(1) of the Bankruptcy Code and Bankruptcy Rules 1005 and 2002(n) to include the Debtors' full tax identification numbers in Dean Food's caption and in notices sent to creditors. This information is available on the Debtors' chapter 11 petitions. Waiver of this requirement is purely procedural in nature and will ease the administrative burden on Dean Foods.

71. I believe that the relief requested in the Joint Administration Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and facilitates achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of each the Debtors, I respectfully submit that the relief requested in the Joint Administration Motion should be granted.

ii. *Emergency Motion of Debtors for Extension of Time To File (i) Schedules of Assets and Liabilities, (ii) Schedules of Current Income and Expenditures, (iii) Schedules of Executory Contracts and Unexpired Leases, and (iv) Statements of Financial Affairs (the "**Extension of Schedules Motion**")*

72. The Debtors seek entry of an order, pursuant to section 521 of title 11 of the United States Code and Rules 1007(c) and 9006(b) of the Federal Rules of Bankruptcy Procedure, extending the deadline by which the Debtors must file their (a) schedules of assets and liabilities, (b) schedules of current income and expenditures, (c) schedules of executory contracts and unexpired leases, and (d) statements of financial affairs by 60 days, for a total of 74 days from the Petition Date (as defined below), through and including January 24, 2020, without prejudice to the Debtors' ability to request additional extensions for cause shown.

73. Given the many critical operational matters that the Debtors, their employees, and

their professional advisors must address in the early days of these Chapter 11 Cases, I believe that with the extension requested, the Debtors will be able to focus their attention on business operations to maximize the value of the Debtors' estates during this critical initial post-petition period for the benefit of creditors and all parties in interest.

74. I believe that the relief requested in the Extension of Schedules Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Extension of Schedules Motion should be granted.

iii. *Emergency Application of Debtors for Entry of an Order Authorizing Debtors To Employ and Retain Epiq Corporate Restructuring, LLC as Notice and Claims Agent for Debtors Nunc Pro Tunc to the Petition Date (the "**Claims Agent Application**")*

75. The Debtors seek entry of an order authorizing the Debtors to employ and retain Epiq Corporate Restructuring ("**Epiq**") as their notice and claims agent (the "**Notice and Claims Agent**") in the Chapter 11 Cases *nunc pro tunc* to the Petition Date. I believe that this retention is the most effective and efficient manner of noticing the creditors and parties in interest of the filing of the Chapter 11 Cases and other developments. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, I believe that the appointment of a notice and claims agent is both necessary and in the best interests of the Debtors' estates and creditors because the Debtors will be relieved of the burdens associated with the notice and claims processing services to be provided by Epiq. Relieved of such burdens, the Debtors will be able to devote their full attention and resources to maximizing value for their stakeholders and facilitating the orderly administration of the Chapter 11 Cases.

76. In its capacity as Notice and Claims Agent, Epiq will, among other things,

distribute notices and transmit, receive, process, docket, and maintain proofs of claim filed in connection with the Chapter 11 Cases. Accordingly, on behalf of each of the Debtors, I respectfully submit that the relief requested in the Claims Agent Application should be granted.

B. Operational Motions Requiring Immediate Relief

i. *Motion of Debtors for Entry of Interim and Final Orders Authorizing (i) Debtors to Continue to Maintain Existing Cash Management System, Bank Accounts, and Business Forms and (ii) Financial Institutions to Honor and Process Related Checks and Transfers (the "**Cash Management Motion**")*

77. The Debtors request entry of interim and final orders (a) authorizing, but not directing, the Debtors to (i) continue to operate the Cash Management System, (ii) maintain the Bank Accounts located at the Banks, and (iii) maintain the Debtors' existing business forms, (b) waiving the requirements of section 345(b) of the Bankruptcy Code on an interim basis, and (c) authorizing the Debtors' financial institutions to receive, process, honor, and pay all checks or wire transfers used by the Debtors to pay for the foregoing.

78. In the ordinary course of business, the Debtors utilize the Cash Management System to collect and disburse funds generated by the operations of the Debtors. The Cash Management System also enables the Debtors to monitor the collection and disbursement of funds and maintain control over the administration of their Bank Accounts. The Cash Management System is not entirely automated—the employees of the Debtors are required to monitor the system, manage the proper disbursement of funds, utilize the wire, check, and ACH capabilities of a number of different banks to disburse funds, and manually deposit checks using an internal remote capture tool.

79. In connection with the daily operation of the Cash Management System, the Intercompany Transactions are frequently conducted pursuant to the Debtors' arrangements (both formal and informal) and are made through book transfers to reimburse certain Debtors for

various expenditures associated with their businesses. As funds are disbursed throughout the Cash Management System and as business is transacted between Debtors, Intercompany Claims are owed by one Debtor to another Debtor. The Intercompany Claims are reflected as journal entry receivables and payables. Further, each Debtor tracks all fund transfers in its respective accounting system and can ascertain, trace, and account for all of its Intercompany Transactions.

80. Moreover, as part of the Cash Management System, the Debtors maintain the Purchase Card Program and the Fuel Card Program. Debtor Dean Foods Company and PNC entered into the Purchase Card Program, pursuant to which the Debtors pay the direct reimbursement of approximately 1,824 Purchase Cards to certain employees that perform services on behalf of the Debtors. In support of the Purchase Card Program, the Debtors issued a letter of credit to PNC in the amount of $10,000,000 with an existing maturity date of November 8, 2020. The Purchase Cards have a $10,000,000 credit limit in the aggregate. The Purchase Cards are used for approved and legitimate business expenses incurred on behalf of the Debtors in the ordinary course, including, among other things, travel, entertainment, repairs and maintenance, and supplies purchases. Payments made on account of the Purchase Card balances are funded through the Concentration Account located at Wells Fargo.

81. Additionally, Debtors Suiza Dairy Group, LLC and Dean Dairy Holdings, LLC maintain the Fuel Card Program with Wex, pursuant to which the Debtors pay fuel expenses charged to approximately 6,100 Fuel Cards. The Fuel Cards have a $1,170,000 credit limit in the aggregate. The Fuel Cards are used by drivers of the Debtors' truck fleet to pay for fueling their transport and delivery trucks in the ordinary course of business. Payments made on account of Fuel Card balances also are funded through the Concentration Account located at Wells Fargo.

82. The basic structure of the Cash Management System constitutes the Debtors'

ordinary, usual, and essential business practices. The Cash Management System is similar to those commonly employed by corporate enterprises comparable to the Debtors in size and complexity. The Cash Management System is integrated with the Debtors' accounting processes and software that produce the Debtors' financial statements and includes the necessary accounting controls to enable the Debtors, as well as other interested parties in the Chapter 11 Cases, to trace funds through the system. The design, development, testing, and implementation of this portion of the Debtors' accounting system, and its interfacing with the Cash Management System, require the dedicated efforts of a significant number of the Debtors' employees. If the Debtors were required to dismantle the Cash Management System, it would disrupt the Debtors' day-to-day operations and their accounting processes and software. Dismantling the Cash Management System would also impair the Debtors' ability to generate timely reports of transactions and balances, as well as annual and quarterly SEC filings.

83. It would be very time consuming, difficult, and costly for the Debtors to establish an entirely new system of accounts and a new cash management system, and doing so would disrupt the Debtors' relationships with their key counterparties and suppliers. The attendant delays from opening new accounts, revising cash management procedures, and instructing their commercial counterparties and countless other entities to redirect payments would negatively impact the Debtors' ability to operate their businesses while pursuing these arrangements. Under the circumstances, maintenance of the Cash Management System is essential and clearly in the best interest of the Debtors' estates. Furthermore, preserving the "business as usual" atmosphere and avoiding the unnecessary and costly distractions that would inevitably be associated with any substantial disruption to the Cash Management System will facilitate the Debtors' efforts to maximize the value of their estates in the Chapter 11 Cases. In short, any benefits of the

Debtors' strict compliance with the U.S. Trustee Guidelines would be far outweighed by the resulting expense, inefficiency, and disruption to the Debtors' businesses.

84. Moreover, to avoid delays in payments to administrative creditors, to ensure as smooth a transition into chapter 11 as possible with minimal disruption, and to aid in the Debtors' efforts to preserve and enhance the value of the Debtors' estates, it is important that the Debtors be permitted to continue to maintain the Bank Accounts with the same account numbers following the commencement of the Chapter 11 Cases. Further, to minimize expenses, the Debtors request that they be authorized to continue to use their correspondence and Business Forms, substantially in the forms existing immediately before the Petition Date, without reference to their status as debtors in possession. As a result of the press releases issued by the Debtors and other press coverage, parties doing business with the Debtors undoubtedly will be aware of the Debtors' status as debtors in possession. In the absence of such relief, the Debtors' estates will be required to bear a potentially significant expense that the Debtors respectfully submit is unwarranted.

85. If the Debtors are not permitted to maintain and use their Bank Accounts and continue to use their existing Business Forms as set forth herein, the resulting prejudice will include (a) disruption of the ordinary financial affairs and business operations of the Debtors, (b) delay in the administration of the Debtors' estates, (c) compromise of the Debtors' internal controls and accounting system, and (d) costs to the Debtors' estates to set up new systems, open new accounts, and print new Business Forms. The Debtors also seek authorization to open any additional bank accounts or close any existing Bank Account as they may deem necessary and appropriate.

86. Finally, cause exists to waive the investment and deposit restrictions of section

345(b) of the Bankruptcy Code on an interim basis, as set forth in the Proposed Order, to the extent that the Debtors' cash management deposits do not comply. The Banks at which the Debtors maintain accounts are financially stable banking institutions and are FDIC insured (up to an applicable unit per account). The Debtors intend to be in chapter 11 only a short period of time, and the costs of having to obtain additional guaranties or sureties far outweigh the risk of the Debtors continuing to maintain their traditional cash-only Bank Accounts and for the short period of time they remain in chapter 11.

87. I believe that the relief requested in the Cash Management Motion is in the best interests of the Debtor's estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Cash Management Motion should be granted.

ii. *Emergency Motion of Debtors for Entry of an Order Authorizing (I) Debtors To (A) Pay Prepetition Employee Obligations and (B) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (II) Current and Former Employees To Proceed With Outstanding Workers' Compensation Claims, and (III) Financial Institutions To Honor and Process Related Checks and Transfers (the "**Wages and Benefits Motion**")*

88. The Debtors seek relief (a) authorizing, but not requiring, the Debtors to (i) pay or cause to be paid, in their sole discretion, all or a portion of the Prepetition Employee Obligations and (ii) unless otherwise set forth herein, continue, in their sole discretion, the Employee Programs, as applicable, as those Employee Programs were in effect as of the Petition Date and as may be modified, terminated, amended, or supplemented from time to time by the Debtors in their sole discretion, and to make payments pursuant to the Employee Programs in the ordinary course of business, as well as to pay related administrative obligations, (b) permitting current and former Employees holding claims under the Workers' Compensation Program to

proceed with such claims in the appropriate judicial or administrative fora, and (c) authorizing the Debtors' financial institutions to receive, process, honor, and pay all checks or wire transfers used by Debtors to pay the foregoing.

89. The Debtors' Prepetition Employee Obligations include the following:

a. **Wages**. The Debtors' pay the Wages under a number of different cycles:

i. Semi-monthly. Approximately 2,200 Employees are paid on the 15th and 31st of each month, and are considered to be current as of each pay date. For each semi-monthly payroll period, the Debtors pay on average approximately $11,100,000 (in gross amounts). The Debtors estimate that, as of the Petition Date, the Debtors owe approximately $100,000 on account of such Wages.

ii. Bi-weekly. Approximately 6,600 Employees are paid every other Friday, one week in arrears (with an exception that 300 employees are paid two weeks in arrears). Of these Employees, approximately 3,400 are paid on the first and third Friday of each month (*i.e.*, bi-weekly odd) and approximately 3,200 are paid on the second and fourth Friday of each month (*i.e.*, bi-weekly even). For each bi-weekly odd payroll period, the Debtors pay on average approximately $8,900,000 (in gross amounts) and, for each bi-weekly even payroll period, the Debtors pay on average approximately $9,100,000 (in gross amounts). The Debtors estimate that, as of the Petition Date, the Debtors owe approximately $7,100,000 in Wages to bi-weekly odd Employees and $4,800,000 to bi-weekly even Employees.

iii. Weekly. Approximately 6,200 Employees are paid every Friday, one week in arrears. For each weekly payroll period, the Debtors pay on average approximately $8,300,000 (in gross amounts). The Debtors estimate that, as of the Petition Date, the Debtors owe approximately $6,200,000 in Wages to weekly Employees.

b. **Withholding Obligations**. The Debtors withhold from Employees' Wages certain amounts that the Debtors are required to transmit to third parties for such purposes as Social Security, Medicare, federal, and state income taxes, the medical and dental plans, the vision plan, retirement plans, contributions and payroll deduction payment programs for various insurance programs, health savings accounts, flexible savings accounts, garnishments, and other similar mandatory withholdings. The Debtors' average Withholdings Obligations are summarized below:

Withholding Obligation	Estimated Amount Per Payroll Period	Estimated Amount Accrued & Unpaid as of the Petition Date
Employee Taxes	$3,600,000	$3,800,000
Medical and Dental	$400,000	$400,000
Vision	$100,000	$100,000
401(k)	$900,000	$3,100,000
Insurance	$100,000	$100,000
Health Savings Accounts & Flexible Savings Accounts	$200,000	$200,000
Garnishments	$200,000	$200,000
Other Withholdings	$200,000	$200,000
Total	**$5,700,000**	**$8,100,000**

I believe that the Withholding Obligations, to the extent that they were in the Debtors' possession as of the Petition Date and/or remain in the Debtors' possession, are not property of the Debtors' bankruptcy estates under section 541 of the Bankruptcy Code.

c. **Business Expense Reimbursement**. In accordance with their corporate policies, the Debtors reimburse Employees who incur business expenses in the ordinary course of performing their business duties on behalf of the Debtors. These reimbursement obligations include, among other things, travel (*e.g.*, airfare, hotel, car rental, car mileage, gas, cab, and business parking), business meals and entertainment, and office expenses. In the first nine months of 2019, the Reimbursement Obligations averaged approximately $600,000 per month. The Debtors estimate that that the Debtors owe approximately $900,000 related to Reimbursement Obligations as of the Petition Date.

d. **Relocation Obligations**. In the ordinary course of business, the Debtors pay or reimburse Employees for relocation expenses incurred at the Debtors' request or for the Debtors' benefit on a case-by-case basis at the Debtors' discretion. The Relocation Obligations generally include amounts incurred for property rental assistance, temporary lodging and housing, moving expenses, travel expenses for housing services and visits, storage, lease termination, and sales and marketing assistance. As of the Petition Date, I believe that $400,000 in Relocation Obligations remain outstanding.

e. **Health and Welfare Benefits**. The Debtors offer several health and welfare benefit plans to Employees, including, among other things, coverage for medical, medical plan support vendors, prescription drugs and specialty prescriptions, dental, vision, health savings accounts and flexible spending accounts, critical illness and accidental death and dismemberment insurance, short-term disability and long-term disability insurance, workers' compensation, and COBRA. In the first nine months of 2019, payments on account of Health and Welfare Plans totaled approximately $99,400,000, comprised of (a) $76,300,000 for payments under the Medical and Dental Plans, (b) $11,500,000 for prescription and specialty drugs, (c) $6,500,000 for contributions to health savings accounts and flexible savings accounts, (d) $0 for payments under the vision plans (which are fully funded by Employees), (e) $3,500,000 for payments under the short-term disability benefits plan, (f) $400,000 for payments under the critical illness and accidental death and dismemberment insurance plans, (g) $1,000,000 for payments under the employee assistance plan (*i.e.*, counseling service for employees), and (h) $200,000 for other post-employment benefits. The Debtors also incurred $3,500,000 in the first nine months of 2019 in COBRA Obligations. As of the Petition Date, approximately 200 former Employees have elected to receive COBRA coverage. Based on historical experience and expected future trends, the Debtors estimate that the cost of the Health and Welfare Plan Obligations (including payments to administrators) is approximately $11,500,000 per month. As of the Petition Date, the Debtors estimate that the Debtors owe approximately $15,200,000 on account of the Health and Welfare Plan Obligations (including payments to administrators).

f. **Paid Time Off**. Pursuant to the Debtors' general paid time off policies, Employees earn PTO days based on length of service, and they are earned over the course of a calendar year:

Length of Service	**PTO days**
Less than 2 years	10
2 to 6 years	15
7 to 14 years	20
15 to 24 years	25
25 years and up	30

Unless specifically approved by the Debtors, unused PTO days are not permitted to be carried over into the next calendar year. Certain Employees are eligible to sell back their earned but unused PTO days to the Debtors, and the Debtors estimate that, as of the Petition Date, such sell back obligations total approximately $3,000,000. Additionally, if an Employee's employment is terminated, that Employee is entitled to receive pay for earned but unused PTO days, regardless of the Employee's length of service or the reason for termination. In addition to PTO days, certain Employees are eligible for holiday pay. I understand that the Debtors intend to honor the PTO Obligations in the ordinary course of business.

g. **Disability Benefits**. The Debtors offer disability benefits to their Employees, consisting of short-term and long-term disability benefits. In the event that an Employee becomes eligible for disability benefits, the benefits are provided for up to 26 weeks, after which period certain eligible Employees may receive additional long-term disability benefits. In the first nine months of 2019, the Debtors' incurred expenses of approximately $3,500,000 on account of such obligations. I believe that, as of the Petition Date, $2,300,000 in Disability Obligations remain outstanding.

h. **Pensions**. The Debtors currently are contributing employers to 15 MEPPs, each of which is sponsored by a specific labor union. The Debtors are required to make annual contributions to the MEPPs under each relevant CBA that the Debtors have entered into with each labor union. In 2019, the Debtors contributed $29,800,000 to the 15 MEPPs. In addition, the Debtors sponsor various SEPPs in addition to the union-sponsored MEPPs. Only the Debtors' Employees and former Employees may participate in the SEPPs. In 2019, the Debtors contributed $0 to the SEPPs.

i. **Non-Pension Retirement Plans**. The Debtors maintain 401(k) plans for both union and non-union Employees, as well as a 401(k) restoration plan that permits the Debtors to match contributions made by Employees whose contributions are cut off by the 401(k) wage limits. The Debtors estimate that the Debtors have made contributions related to the Non-Pension Retirement Obligations in an amount equal to $17,300,000 on a year-to-date basis. As of the Petition Date, I believe that the Debtors have approximately $1,100,000 in aggregate Non-Pension Retirement Obligations outstanding.

j. **Workers' Compensation Program**. The Debtors are required to maintain a workers' compensation insurance program to cover Employees' workers' compensation claims arising from or related to their employment with the Debtors. The Workers' Compensation Obligations are backed by secured letters of credit, and if the Debtors were to fail to make payments owed under the Workers' Compensation Program such secured letters of credit would be drawn. For each claim under the Workers' Compensation Program, the Debtors file an injury report with a third party claims administrator. As of October 1, 2018, the Debtors' current third party administrator is Sedgewick; however, there are also legacy third party claims administrators handling active Workers' Compensation claims, including Helmsman, Gallagher-Bassett, and Crawford. The third party administrators perform an independent investigation of whether the claim is eligible for coverage. Once a claim is deemed eligible, the third party claims administrators administer and pay out such claims. As of the Petition Date, the Debtors have $85,400,000 in outstanding Workers' Compensation Obligations.

k. **Contingent Workers**. From time to time, the Debtors use Contingent Workers, which include, but are not limited to, short-term production staff, maintenance staff, clerical staff, and other short-term service providers as needed on an *ad hoc* basis. Contingent Workers Obligations vary according to the terms of the Contingent Workers' individual contracts with the Debtors or according to the terms of the Debtors' contracts with the appropriate staffing agencies. It is difficult to determine total accrued and unpaid prepetition obligations to the Contingent Workers because of the generally unpredictable and irregular nature of such obligations.

l. **Severance Program**. The Debtors have certain obligations arising out of a severance plan maintained by the Debtors for the benefit of all of their Employees, some of whom may be considered insiders of the Debtors (as that term is defined in section 101(31) of the Bankruptcy Code). The Severance Program, as amended and restated by the Debtors on May 8, 2019, provides terminated Employees with cash payments, depending on title and basis for termination, in accordance with the terms thereof and as summarized below:

Title	Calculation	Minimum Payment	COBRA-Related Benefit
Grade 18 & Above Senior Executives and all levels of VPs	Weekly Wages (Annual Wages / 52 weeks) x Weeks of Severance x 2x (Severance multiplier)	$14,100,000	Employer Coverage for Earned Weeks of Severance
Grade 15-17 Directors and Senior Managers	Weekly Pay (Annual Pay / 52 weeks) x Weeks of Severance x 2x (Severance multiplier)	$35,400,000	Employer Coverage for Earned Weeks of Severance
Grade 10-14 Supervisors, Managers, and Exempt Employees	Weekly Pay (Annual Pay / 52 weeks) x Weeks of Severance x 1x (Severance multiplier)	$63,500,000	Employer Coverage for Earned Weeks of Severance
Below Grade 10 Non-union front-line workers, hourly associates, and non-exempt office staff	Weekly Pay (Annual Pay / 52 weeks) x Weeks of Severance x 1x (Severance multiplier)	$203,900,000	Employer Coverage for Earned Weeks of Severance

In the first nine months of 2019, the Debtors paid approximately $6,900,000 on account of Severance Obligations. I believe that that, as of the Petition Date, approximately $12,600,000 owed under the Severance Program is outstanding. For the avoidance of doubt, I understand that the Debtors are not seeking authority to continue the Severance Program with respect to Employees who were or are Insiders, but only with respect to all other Employees who are not Insiders and are eligible to receive payments pursuant to the Severance Program. I believe that the Debtors having the authority, in their sole discretion, to maintain the Non-Insider Severance Obligations is essential to their businesses in order to retain, and provide security to, Eligible Non-Insider Employees. Although it is difficult to estimate the average monthly cost of the Non-Insider Severance Obligations given the generally unpredictable and irregular nature of such obligations, I believe that the monthly cost of maintaining the Non-Insider Severance Program for Eligible Non-Insider Employees is negligible in the context of the Debtors' aggregate compensation and benefit obligations.

m. **Retention Obligations**. The Debtors have certain retention obligations arising out of *ad hoc* agreements that the Debtors entered into in the normal course of business with key Employees. As of the Petition Date, the Debtors have accrued approximately $1,800,000 in retention obligations owed to non-Insiders. I understand that the Debtors are seeking authority to pay Non-Insider Retention Obligations of approximately $180,000 related to calendar year 2019 and Non-Insider Retention Obligations of approximately $540,000 related to calendar year 2020. None of the foregoing Employees are covered by any other of the Debtors' retention programs. I believe that the Debtors having the authority, in their sole discretion, to pay the Non-Insider Retention Obligations to non-Insider Employees is essential to their businesses in order to retain, and provide security to, eligible non-Insider Employees.

n. **Non-Insider Incentive Plans**. The Debtors maintain incentive plans for the Employees. The incentive plans are carefully calibrated to ensure that eligible Employees are rewarded for their efforts toward the Debtors' financial performance and productivity, as well as their contributions to the Debtors' achievement of maximum quality, workplace safety, and environmental compliance. I understand that the Debtors are seeking authority to continue certain of these incentive plans with respect to Employees who are not Insiders, but are not seeking to continue any incentive plans with respect to Insiders. In the ordinary course of business, the Debtors offer awards under a STIP to certain Employees for the purpose of providing Employees with a direct financial incentive in meeting certain financial goals and other departmental objectives identified by the Debtors. Each Employee's STIP opportunity is based on his or her role and position within the Debtors' businesses and is earned at the company-wide and individual employee levels. Indeed, certain minimum performance thresholds must be achieved prior to the payment of any compensation under the STIP. The STIP is earned over the course of a calendar year and paid on March 15 of the following calendar year. The calendar year 2018 STIP that was paid on March 15, 2019 totaled approximately $10,000,000. I understand that the Debtors are seeking authority to pay the Non-Insider STIP Obligations for employee performance during the calendar year 2019. The Debtors estimate that the Non-Insider STIP Obligations accrued thus far for the calendar year 2019 due to be paid on March 15, 2020 will total approximately $9,400,000. The Debtors also maintained, in the ordinary course of business, a LTIP. The LTIP was available to approximately 320 Employees (including all Insiders) and provided for a variety of cash- and stock-based incentive awards to individual Employees at the discretion of the Debtors' Board of Directors. Under the LTIP, the Debtors paid approximately $4,000,000 in Awards in 2019.

o. **Miscellaneous Programs**. The Debtors maintain a number of miscellaneous programs aimed at boosting Employee morale. Such programs are *de minimis* in amount and include, among other things, the following: year of service awards; special performance awards; gift card programs; retirement awards; employee appreciation rewards; plant closure incentives; holiday parties; and other bonuses related to attendance, quality assurance, and safety. The Debtors estimate that the Miscellaneous Obligations total approximately $2,300,000 annually. As of the Petition Date, the Debtors estimate that the Debtors have approximately $500,000 of Miscellaneous Obligations outstanding.

90. I believe that many of their Prepetition Employee Obligations constitute priority claims under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. To the extent such Prepetition Employee Obligations constitute priority claims, the Debtors will be required to pay such claims in full to confirm a chapter 11 plan. Thus, granting the relief sought herein would only cause such Employee claims to be paid in the initial stages of the Chapter 11 Cases, rather than at the plan confirmation stage.

91. Any delay in paying the Prepetition Employee Obligations or failure to maintain the Employee Programs and pay related administrative obligations will adversely impact the Debtors' relationships with their Employees and could irreparably impair Employees' morale, dedication, confidence, and cooperation. The Debtors' businesses hinge on their relationships with their customers and the ability to deliver superior products and services is vital. The Employees' support for the Debtors' restructuring efforts in the Chapter 11 Cases is critical to the success of those efforts. At this early stage, the Debtors simply cannot risk the substantial damage to their businesses that would inevitably attend any decline in their Employees' morale attributable to the Debtors' failure to pay the Prepetition Employee Obligations.

92. Absent an order granting the relief requested in this Motion, many Employees would undoubtedly suffer hardship and, in many instances, serious financial difficulties, as the amounts in question are needed to enable certain Employees to meet their own personal financial

obligations. Without the requested relief, the stability of the Debtors would be undermined, perhaps irreparably, by the possibility that otherwise loyal Employees will seek other employment alternatives. Consequently, all of the Debtors' creditors will benefit if the requested relief is granted.

93. It is also crucial for Employee morale and for the Debtors' operations that the Debtors be able to continue to (a) pay workers' compensation benefits and (b) honor the Workers' Compensation Obligations under the Workers' Compensation Program. To the extent that any current or former Employees hold claims pursuant to the Workers' Compensation Program, the Debtors seek authorization under section 362(d) of the Bankruptcy Code to permit such current or former Employees, in the Debtors' sole discretion, to proceed with such claims in the appropriate judicial or administrative fora. The Debtors believe that cause exists to grant them authority to modify the automatic stay, where the Debtors deem it appropriate to do so, because staying such claims could have a detrimental effect on the financial and medical well-being and morale of their Employees and lead to the departure of certain Employees. Such departures could cause a severe disruption in the Debtors' businesses, to the detriment of all parties in interest.

94. I believe that the relief requested in the Wages and Benefits Motion is in the best interests of the Debtors' estates, their creditors and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief in the Wages and Benefits Motions should be granted.

iii. *Emergency Motion of Debtors for Entry of an Order Authorizing (i) Debtors to Continue and Renew Their Liability, Property, Casualty, Surety Bond, and Other Insurance Programs and Honor All Obligations in Respect Thereof and (ii) Financial Institutions to Honor and Process Related Checks and Transfers (the "**Insurance Motion**")*

95. The Debtors seek entry of an order (a) authorizing, but not directing, them to maintain, continue, and renew, in their sole discretion, their various liability, property, casualty, surety bond, and other insurance programs (collectively, the "**Insurance Programs**") in the ordinary course of their businesses through several private Insurance Carriers on an uninterrupted basis and in accordance with the same practices and procedures as were in effect before the Petition Date and (b) authorizing the Debtors' financial institutions to receive, process, honor, and pay checks or wire transfers used by the Debtors to pay the foregoing. This would include (y) paying all Insurance Obligations arising under the Insurance Programs, including, but not limited to, any Broker's Fees, whether due and payable before, on, or after the Petition Date and (z) renewing or obtaining new insurance policies as needed in the ordinary course of business.

96. The Debtors maintain various Insurance Programs through the Insurance Carriers. A summary of the Debtors' principal Insurance Programs is attached to the Insurance Motion. The Insurance Programs include coverage for, among other things, personal injury, property damage, operation of vehicles, crime, business interruption, breach of duty by officers or directors, the Debtors' development and production facilities, cyber liability, fiduciary liability, product recall, environmental, employment liability, casualty, and various other property-related and general liabilities. As part of the Insurance Programs, the Debtors also maintain a workers' compensation policy. All of the Insurance Programs are essential to the ongoing operation of the Debtors' businesses and the preservation of the value of the Debtors' estates.

97. The Debtors employ Marsh USA, Inc. (the "**Broker**") to assist them with the

procurement and management of the Insurance Programs. The Debtors estimate that they pay Broker's Fees in the approximate amount of $72,000 in the aggregate annually. The employment of the Brokers allows the Debtors to obtain and manage the Insurance Programs in a reasonable and prudent manner and to realize considerable savings in the procurement of such policies. Accordingly, I believe that it is in the best interest of the creditors and estates to continue their business relationships with the Broker. As of the Petition Date, no Broker's Fees remain outstanding.

98. The Insurance Programs renew on various dates throughout the year. The premiums for most of the Insurance Programs (collectively, the "**Insurance Premiums**") are determined annually and are due either in their entirety at policy inception or in periodic installments throughout the policy term. The Debtors make such payments to various parties, including directly to the Insurance Carriers and indirectly to the Insurance Carriers through the Broker.

99. The Debtors' aggregate annual Insurance Premiums under the Insurance Programs total approximately $15,000,000. I believe that all material Insurance Premiums that were due and payable on or prior to the Petition Date have been fully paid, but, out of an abundance of caution, the Debtors seek authority to satisfy any unpaid prepetition Insurance Premiums, including, without limitation, three installments of Annual Casualty premiums with Chubb (f/k/a ACE American Insurance Company). The remaining three payment installments of $630,063 each are paid on the following dates: January 1, 2020; April 1, 2020; and July 1, 2020.

100. Pursuant to the Insurance Programs, the Debtors may be required to pay various Insurance Deductibles, depending upon the type of claim and insurance policy involved. Under certain policies, the Insurance Carriers and third party administrators for casualty losses may pay

claimants and then invoice the Debtors or draw funds directly from the Debtors' bank accounts for reimbursement for claims paid within any Insurance Deductible. In such situations, the Insurance Carriers may have prepetition claims against the Debtors. As of the Petition Date, I do not believe that there are any material prepetition obligations owed to Insurance Carriers relating to Insurance Deductibles, but, out of an abundance of caution, the Debtors seek authority to satisfy any unpaid prepetition Insurance Deductibles.

101. In the ordinary course of business, the Debtors are required by certain third parties or under certain state regulations to maintain surety bonds, including, among others, "Milk Dealer and Handler" bonds, workers compensation and self-insurance bonds, utility deposit bonds, court bonds, and other miscellaneous bonds for licenses, permits, and financial guarantees. A schedule of the surety bonds currently maintained by the Debtors in the Surety Bond Program is attached to the Insurance Motion.

102. The Surety Bond Program involves 123 bonds that are supported by a syndicate of five surety companies ("**Sureties**") with exposures in the following approximate amounts: (a) Chubb (formerly known as ACE American Insurance Company) for $925,649; (b) Sompo Holdings, Inc. (formerly known as Endurance American Insurance Company) for $11,278,000; (c) Liberty Mutual Insurance Companies for $44,093,851; (d) Travelers Property Casualty Group for $25,396,163; and (e) Zurich Insurance Group for $9,512,387. The Sureties' exposures are backstopped by the following posted letters of credit: (a) $3,000,000 for Chubb to support workers compensation and self-insurance bonds; (b) $5,639,000 for Sompo to support the State of New York Milk Dealer Bond; (c) $10,000,000 for Liberty Mutual Insurance Companies to support the surety program rather than a specific obligation or risk; (d) $3,012,000 for Travelers Property Casualty Group to support workers compensation and self-insurance bonds; and (e)

$7,710,000 for Zurich Insurance Group to support the State of Wisconsin Milk Dealer Bond.

103. The premiums for the surety bonds are generally determined on an annual basis and are typically paid by the Debtors within 30 days of receipt of bulk bills for each quarter, starting on the October of the year. In 2019, the Debtors paid the bulk bills it received on January 21, April 30, July 31, and October 11. In 2020, the estimated premium amounts to be due are as follows: $390,904 for the first quarter of November 2019 through January 2020; $74,368 for the second quarter of February through April 2020; $664,253 for the third quarter of May through July 2020; and $12,590 for the fourth quarter of August through October 2020. A schedule of the surety bonds currently maintained by the Debtors is attached to the Insurance Motion.

104. The nature of the Debtors' businesses makes it essential for the Debtors to maintain their Insurance Programs on an ongoing and uninterrupted basis. The non-payment of any premiums, deductibles, or related fees under the Insurance Programs could result in one or more of the Insurance Carriers terminating or declining to renew their insurance policies or refusing to enter into new insurance policies with the Debtors in the future. If any of the Insurance Programs lapse without renewal, the Debtors could be in violation of state and/or federal law and be exposed to substantial liability for personal and/or property damages, to the detriment of all parties in interest.

105. Moreover, pursuant to contractual obligations with numerous third party property owners, customers, suppliers, distributors, contractors, and lenders, the Debtors are obligated to remain current with respect to certain of the Insurance Programs. Furthermore, the Debtors must maintain the Insurance Programs to comply with the operating guidelines of the Office of the United States Trustee for Region 7. Lastly, Local Rule 4002-1 requires a debtor to maintain an

Insurance Program "to prevent the depletion of assets of the business during the proceedings." Bankr. L.R. 4002-1. Thus, in order for the Debtors to maintain their operations in compliance with various legal and contractual obligations, the Debtors must be able to continue the Insurance Programs without disruption.

106. Even where coverage is not expressly required by applicable law, the Debtors are nevertheless compelled by sound business practice to maintain essential insurance coverage. Any interruption in such coverage would expose the Debtors to a variety of risks, including the possible (a) incurrence of direct liability for the payment of claims that otherwise would have been covered by the Insurance Programs, (b) incurrence of material costs and other losses that otherwise would have been reimbursed, such as attorneys' fees for certain covered claims, (c) inability to obtain similar types and levels of insurance coverage, and (d) incurrence of higher costs for reestablishing lapsed policies or obtaining new insurance coverage.

107. The Debtors' ability to maintain and honor their Insurance Programs in a timely manner is critical to the ongoing operation of their businesses, as discussed above, and therefore necessary to their successful reorganization. The Debtors believe that any prepetition amounts that they will pay in respect of Insurance Programs would be small relative to the size of the Debtors' estates and the critical benefits provided by the Insurance Programs. As noted above, interruption of the Debtors' insurance coverage could, among other things, cause the Debtors to violate state and/or federal law and expose the Debtors to direct liability for significant claims that otherwise would be covered by insurance, thus potentially substantially diminishing the value of the Debtors' estates. For the Debtors to pay what would be relatively small prepetition amounts under the Insurance Programs to avoid such an occurrence is in the best interests of the Debtors, their estates, and all of the Debtors' stakeholders and other parties in interest.

Accordingly, the continuation of the Insurance Programs and the payment of prepetition Insurance Premiums, including any payments to the Brokers, falls within the sound business judgment of the Debtors and will benefit, rather than prejudice, the Debtors' creditors by preserving the property of the Debtors' estates.

108. I believe that the relief requested in the Insurance Motion is in the best interests of the Debtors' estates, their creditors and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Insurance Motion should be granted.

iv. *Emergency Motion of Debtors for Entry of an Order (i) Prohibiting Utilities From Altering, Refusing or Discontinuing Service, (ii) Deeming Utilities Adequately Assured of Future Performance, and (iii) Establishing Procedures for Determining Requests for Additional Adequate Assurance (the "**Utilities Motion**")*

109. The Debtors seek entry of an order, pursuant to sections 105 and 366 of the Bankruptcy Code and Rules 6003 and 6004 of the Bankruptcy Rules, (a) prohibiting the Utilities (as defined below) from altering, refusing, or discontinuing any Utility Services (as defined below) on account of prepetition amounts outstanding or on account of any perceived inadequacy of the Debtors' proposed adequate assurance, (b) determining that the Debtors' proposed offer of deposits, as set forth herein, provides the Utilities with adequate assurance of payment within the meaning of section 366 of the Bankruptcy Code, and (c) approving procedures for resolving requests by Utilities for additional or different assurances beyond those set forth in the Utilities Motion.

110. In connection with the operation of their businesses and management of their properties, the Debtors obtain utility services, as that term is used in section 366 of the Bankruptcy Code, including electricity, natural gas, telephone, sewage, telecommunications,

waste removal, water, and other similar services from hundreds of utility companies. The Debtors have made an extensive and good faith effort to identify all of the utilities that provide them utility services and to include them on the Utilities List attached to the Utilities Motion.

111. Uninterrupted utility services are essential to the Debtors' ongoing operations and, therefore, the preservation of the value of the Debtors' estates. The Debtors' businesses are supported by, among other things, a total of approximately 685 facilities made up of corporate offices, manufacturing plants, distribution warehouses, cross docks and parking facilities, all of which depend on reliable delivery of power and other utility services. Should any utility alter, refuse, or discontinue service, even for a brief period, the Debtors' operations could be severely disrupted. The impact of this disruption on the Debtors' business operations and revenue would be extremely harmful and could jeopardize the value of the Debtors' estates.

112. The relief requested in the Utilities Motion will ensure that the Debtors' operations will not be disrupted. Furthermore, the relief requested provides the utilities with a fair and orderly procedure for addressing requests for additional or different adequate assurance. Without the Adequate Assurance Procedures, as defined in the Utilities Motion, the Debtors could be forced to address numerous requests by the utilities in a disorganized manner at a critical period in the Chapter 11 Cases and during a time when the Debtors' efforts could be more productively focused on the continuation of the Debtors' operations for the benefit of all parties in interest.

113. I believe that the utilities have "adequate assurance of payment" even without the proposed Adequate Assurance Deposit, as defined in the Utilities Motion. Contemporaneously herewith, the Debtors are seeking authorization to use cash collateral and enter into the DIP Facility, which will enable them to pay their operating costs, including any utility costs, as they

come due. The Debtors, thus, anticipate having sufficient resources to pay, and intend to pay, any and all valid post-petition obligations for Utility Services in a timely manner. In addition, the Debtors' reliance on Utility Services for the operation of their businesses provides them with a powerful incentive to stay current on their utility obligations.

114. Notwithstanding the foregoing, the Debtors believe that the Proposed Adequate Assurance and the Adequate Assurance Procedures are reasonable, satisfy the requirements of section 366 of the Bankruptcy Code, and are necessary for the Debtors to carry out their reorganization efforts. If they are not approved, the Debtors could be forced to address payment requests by any Utility in a disorganized manner, which would distract management from focusing on the Debtors' reorganization. Moreover, on the 30th day following the Petition Date, the Debtors could be surprised by a Utility unilaterally (a) deciding that it is not adequately protected, (b) discontinuing service, or (c) making an exorbitant demand for payment to continue service. Such discontinuation of Utility Service could put the Debtors' reorganization efforts in jeopardy.

115. I believe that the relief requested in the Utilities Motion is in the best interests of the Debtors' estates, their creditors and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Utilities Motion should be granted.

v. *Emergency Motion of Debtors for Entry of a Final Order Authorizing (i) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments, and Fees and (ii) Financial Institutions to Honor and Process Related Checks and Transfers (the "**Taxes Motion**")*

116. The Debtors seek entry of an order (a) authorizing, but not directing, them to pay, in their sole discretion, Covered Taxes and Fees as described in the Taxes Motion, whether

asserted prior to, on, or after the Petition Date and (b) authorizing the Debtors' financial institutions to receive, process, honor, and pay checks or wire transfers used by the Debtors to pay the foregoing.

117. In the ordinary course of the Debtors' businesses, the Debtors collect, withhold, and incur (a) Income Taxes (federal, state, and local), (b) Sales and Use Taxes, (c) Franchise Taxes and Fees, (d) Property Taxes, (e) Transportation Taxes, and (f) Environmental and Regulatory Fees and Assessments. The Debtors remit the Covered Taxes and Fees to various federal, state, and local Governmental Authorities, including taxing and licensing authorities. Withholding of employment and wage-related taxes is addressed in the Wages and Benefits Motion. I believe that, as of the Petition Date, no more than $500,000 of the Covered Taxes and Fees are past due or delinquent. After entry of the Proposed Order referenced in the Taxes Motion, the Debtors intend to pay such delinquent amounts as soon as possible as they come due in the ordinary course of business.

118. The Debtors have federal, state, and local income tax obligations to certain Governmental Authorities related to their income in various jurisdictions (collectively, "**Income Taxes**"). Over the last 12 months, the Debtors paid approximately $1,700,000 in aggregate Income Taxes. As of the Petition Date, Debtors have accrued but not remitted approximately $1,100,000 of Income Taxes, approximately $5,000 of which will become payable during the first 21 days of the Chapter 11 Cases.

119. On occasion, the Debtors incur various Sales and Use Taxes. The Debtors remit these Sales and Use Taxes to the applicable Governmental Authorities. Over the last 12 months, the Debtors paid approximately $4,000,000 in Sales and Use Taxes, including federal excise taxes of approximately $200,000. As of the Petition Date, Debtors have accrued but not remitted

approximately $1,600,000 in Sales and Use Taxes, including $30,000 of federal excise taxes, and the Debtors estimate that $400,000 of Sales and Use Taxes may come due in the first 21 days of the Chapter 11 Cases.

120. The Debtors are required to pay various Franchise Taxes and Fees in order to continue conducting their businesses within particular jurisdictions. Over the last 12 months, the Debtors paid Franchise Taxes and Fees in Alabama, California, Delaware, Georgia, Illinois, Louisiana, Mississippi, Ohio, New Jersey, New York, Nevada, North Carolina, Pennsylvania, Tennessee, and Texas of approximately $2,500,000 in the aggregate. In addition, approximately $600,000 of Franchise Taxes and Fees have accrued as of the Petition Date, of which approximately $300,000 will become payable during the first 21 days of the Chapter 11 Cases. Failure to pay these Franchise Taxes and Fees would cause the Debtors to lose the ability to conduct their businesses in such jurisdictions.

121. The Debtors have Property Tax obligations to certain Governmental Authorities. Over the last 12 months, the Debtors paid Property Taxes of approximately $20,000,000 in the aggregate. As of the Petition Date, the Debtors have accrued but not remitted approximately $14,800,000 of Property Taxes on account of real and personal property, of which approximately $900,000 will become payable during the first 21 days of the Chapter 11 Cases. It is critical that the Debtors are authorized to pay any Property Taxes where under applicable law the failure to pay gives rise to a secured state law lien. The Debtors' current practice generally is to pay such amounts to the appropriate Governmental Authorities on various dates during the year, and no later than when they come due. Interest and penalties accrue if such Property Taxes are not timely paid. Paying these Property Taxes, therefore, will reduce costs by minimizing interest and penalty charges.

122. The Debtors also collect various Transportation Taxes. The Debtors are required to remit these Transportation Taxes to the appropriate Governmental Authorities on a periodic basis. Over the last 12 months, the Debtors incurred approximately $8,000,000 in Transportation Taxes. In addition, approximately the Debtors estimate that approximately $1,000,000 of Transportation Taxes have accrued as of the Petition Date, of which approximately $800,000 will become payable during the first 21 days of the Chapter 11 Cases.

123. Debtors may incur various fees, penalties, and assessments in connection with environmental, health, and safety laws and regulations, business licensing and permits, and participation in state regulatory agencies and boards (collectively, "**Environmental and Regulatory Fees and Assessments**"). Certain of the Environmental and Regulatory Fees and Assessments carry substantial administrative, civil, or criminal penalties in the event that the Debtors fail to comply with such Environmental and Regulatory Fees and Assessments.

124. The Debtors are required to remit these Environmental and Regulatory Fees and Assessments to the relevant Governmental Authorities on a periodic basis. As of the Petition Date, Debtors are unaware of any Environmental and Regulatory Fees and Assessments not yet remitted to the relevant Governmental Authorities. Over the last 12 months, the Debtors incurred approximately $1,200,000 in Environmental and Regulatory Fees and Assessments for permits, in addition to periodic application fees incurred on an as-needed basis. The Debtors are not aware of any outstanding amounts for alleged violations of health and safety laws as of the Petition Date. In addition, the Debtors estimate that approximately $200,000 of Environmental and Regulatory Fees and Assessments have accrued as of the Petition Date. The Debtors further estimate that $100,000 of such accrued prepetition Environmental and Regulatory Fees and Assessments will become payable during the first 21 days of the Chapter 11 Cases.

125. I believe that payment of certain of the prepetition Covered Taxes and Fees is critical to the Debtors' continued, uninterrupted operations and to avoid immediate and irreparable harm to the Debtors' estates. Nonpayment of the Covered Taxes and Fees may cause certain Governmental Authorities to take precipitous action, including conducting audits, filing liens, pursuing payment of the Covered Taxes and Fees from the Debtors' directors, officers, and other employees, and seeking to lift the automatic stay, any of which would disrupt the Debtors' day-to-day operations and could potentially impose significant costs and burdens on the Debtors' estates. Further, failure to satisfy the Covered Taxes and Fees may jeopardize the Debtors' maintenance of good standing to operate in the jurisdictions in which they conduct business. Prompt payment of the Covered Taxes and Fees will avoid these unnecessary and potentially costly and burdensome governmental actions.

126. I believe that the relief requested in the Taxes Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving an orderly transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Taxes Motion should be granted.

vi. *Emergency Motion of Debtors for Entry of an Order Authorizing (i) the Debtors to Honor Prepetition Obligations to Customers and Otherwise Continue Customer Practices and (ii) Financial Institutions to Honor and Process Related Checks and Transfers (the "**Customer Obligations Motion**")*

127. Pursuant to sections 105(a) and 363 of title 11 of the Bankruptcy Code and Rules 6003 and 6004 of the Bankruptcy Rules, the Debtors seek entry of an order (a) authorizing, but not directing, the Debtors, in their sole discretion to (i) fulfill and honor the Customer Obligations (as defined below) as they deem appropriate and (ii) continue, renew, replace, implement new, and terminate any existing Customer practices as they deem appropriate, in the ordinary course of business without further application to the Court and (b) authorizing and

directing all applicable banks and other financial institutions to receive, process, honor, and pay any and all checks drawn on the Debtors' general disbursement accounts and other transfers to the extent those checks and transfers relate to any of the foregoing.

128. Before the Petition Date, and in the ordinary course of their businesses, the Debtors incurred various obligations related to their wide variety of Customer Products sold under various contracts and arrangements to their Customers. These obligations include those arising in connection with Trade Promotions, Returns and Allowances, Slotting Allowances, and Other Customer Programs (collectively, the "**Customer Obligations**"). The Debtors seek authority to satisfy, in their sole discretion, those Customer Obligations that they deem beneficial and cost-effective to their businesses. Such relief is necessary to preserve the Debtors' critical business relationships and Customer satisfaction for the benefit of their estates, and for this and the other reasons set forth herein, it is essential and in the best interests of the Debtors, their estates, and their creditors that the Debtors be permitted to honor their prepetition and post-petition Customer Obligations and to continue or implement new Customer practices in the ordinary course of the Debtors' businesses as the Debtors deem necessary.

129. With respect to their Customer Products, the Debtors operate in a highly competitive market for milk and dairy products, including products purchased for resale, where alternate suppliers of similar products are available to the same demographic that consumes the Debtors' Customer Products. This competition makes retaining the Debtors' relationship with their retailers and Customers critically important. Without expanding their Customer Products' brand and reaching direct consumers at online and physical marketplaces, the profitability of the Debtors' Customer Products would be reduced. It is essential, therefore, that the Debtors maintain their current Customers through this challenging period. Fulfilling the Customer

Obligations accomplishes this goal by ensuring Customer satisfaction and generating repeat business and net revenue increases.

130. I believe such relief is necessary to preserve the Debtors' critical business relationships and customer satisfaction for the benefit of their estates, and for this and the other reasons set forth herein, it is essential and in the best interests of the Debtors, their estates and their creditors that the Debtors be permitted to honor their prepetition and post-petition Customer Obligations and to continue or implement new customer practices in the ordinary course of the Debtors' businesses as the Debtors deem necessary.

131. If the Debtors are unable to continue their Customer practices and honor the Customer Obligations, the Debtors risk alienating their Customers to select competing producers of milk and dairy products. The Debtors operate in a highly competitive sector. A significant portion of the value of the Debtors' businesses is, and will be, dependent upon the loyalty and confidence of their Customers. If the Debtors fail to honor the Customer Obligations due in the ordinary course, they would almost certainly suffer an irreparable loss of Customer support and confidence, thereby undermining their efforts to maximize value for their estates. The relief requested in this Motion will help minimize any disruption in the Debtors' business operations during the period between the Petition Date and confirmation of a chapter 11 plan, and preserve the value of the Debtors' estates. For the foregoing reasons, the Debtors seek authority to honor prepetition and post-petition Customer Obligations in the ordinary course of business.

132. I believe that the relief requested in the Customer Obligations Motion is in the best interests of the Debtors, their creditors, their estates, and all other parties in interest. Accordingly, on behalf of the Debtors, I respectfully submit that relief requested in the Customer Obligations Motion should be granted.

vii. *Emergency Motion of Debtors for Entry of a Standing Order Confirming the Statutory Protections of the Bankruptcy Code (the "**Automatic Stay Motion**")*

133. The Debtors seek entry of an order (a) confirming the application of (i) the automatic stay provisions of section 362 of the Bankruptcy Code, (ii) the anti-termination and anti-modification provisions of section 365 of the Bankruptcy Code, (iii) the anti-discrimination provisions of section 525 of the Bankruptcy Code, and (iv) the anti-transfer provisions of section 541 of the Bankruptcy Code, and (b) approving the form and manner of notice related thereto.

134. The Debtors are seeking entry of an order confirming application of the Statutory Protections to facilitate their commercial dealings during the course of the Chapter 11 Cases with parties who may be unfamiliar with, are mistaken regarding, or simply ignore the Statutory Protections. Notwithstanding the self-executing and global nature of the Statutory Protections, not all parties affected or potentially affected by the commencement of the Chapter 11 Cases are aware of, comprehensively understand, or will abide by the Statutory Protections. The Debtors own equity interests directly or indirectly in subsidiaries that have operations, assets, and employees overseas. Additionally, certain of the Debtors are party to joint development agreements, supply agreements, and other commercial contracts with counterparties that are non-U.S. entities. Experience has shown that it is vital to advise third parties—particularly non-U.S. third parties—of the existence, scope, and effect of sections 362, 365, 525, and 541 of the Bankruptcy Code through a separate order.

135. I believe that the relief requested in the Automatic Stay Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Automatic Stay Motion should be granted.

viii. *Emergency Motion of Debtors for Entry of (i) Interim and Final Orders Authorizing Debtors To (a) Continue Performing Under Their Prepetition Hedging Agreements and (b) Enter Into and Perform Under New Post-Petition Hedging Agreements, (ii) Interim and Final Orders Modifying Automatic Stay, and (iii) A Final Order Authorizing Debtors To Assume Prepetition Hedging Agreements (the "**Hedging Motion**")*

136. The Debtors seek entry of (i) interim and final orders authorizing debtors to (a) continue performing under their prepetition hedging agreements and (b) enter into and perform under new post-petition hedging agreements, (ii) interim and final orders modifying automatic stay, and (iii) a final order authorizing Debtors to assume prepetition hedging agreements. This would include to:

(a) continue to perform under a financial derivative contracts with Coöperatieve Rabobank U.A., Dairy Products, Inc., and other similar counterparties as available (collectively, the "**Prepetition Hedge Counterparties**") entered into prior to the date hereof (the "**Petition Date**") in the ordinary course of business to hedge the Debtors' exposure to commodity price risks in the milk (all classes), butter, natural gas, non-fat dry milk, and diesel (collectively, the "**Commodities**") markets (collectively, the "**Prepetition Hedging Agreements**");

(b) enter into and perform under new financial derivative contracts (the "**Post-Petition Hedging Agreements**" and, collectively with Prepetition Hedging Agreements, the "**Hedging Agreements**") in the ordinary course of business to hedge the Debtors' exposure to commodity price risks in the Commodities markets and minimize the impact of floating interest rates on their businesses;

(c) honor, pay, or otherwise satisfy all obligations, liabilities, and indebtedness of the Debtors arising under the Hedging Agreements (the "**Hedging Obligations**") as they come due in the ordinary course;

(d) modify the automatic stay provisions of section 362 of the Bankruptcy Code, solely to the extent necessary, to permit the Hedge Counterparties (as defined below) to exercise and enforce their rights and remedies under the Hedging Agreements, including upon the occurrence of an event of default or termination event under the Hedging Agreements; and

(e) assume the Prepetition Hedging Agreements pursuant to a final order.

137. As described more fully in the Hedging Motion, and as is customary in the Debtors' industry, in the ordinary course of business, the Debtors have historically entered into

Prepetition Hedging Agreements primarily to hedge the Debtors' exposure to commodity price risks to their cash flows and the activities related thereto (such activities, the "**Hedging Activities**") with secured lenders under the Prepetition Credit Agreement[10] as well as other creditworthy third parties pursuant to the Hedge Practices (as defined below). The Hedging Activities operate to reduce the Debtors' exposure to commodity price fluctuations and provide the Debtors with long term cash flow predictability to manage their business. Through the Hedging Activities and Prepetition Hedging Agreements, the Debtors are able to hedge against adverse Commodities price fluctuations, which correlate with the primary commodities used for production of the Debtors' dairy products and distribution thereof and thereby protect the economic value of their operations by preventing substantial declines in cash flows.

138. Historically, the Debtors' Prepetition Hedging Agreements consist primarily of swaps, futures, and options. Swaps are designed so that the Debtors receive or make payments based on a differential between fixed and variable prices for the Commodities. As hedges roll off, the Debtor's management ("**Management**") reassess the type of hedging transactions that will provide the best opportunities for the Debtors.

139. The Debtors enter into an International Swap and Derivatives Association, Inc. Master Agreement ("**ISDA**") with each counterparty prior to engaging in Hedging Activities with such counterparty. The ISDA is a standard contract that governs all derivative contracts entered into between the Debtors and the respective counterparty. The ISDA allows for offsetting of amounts payable or receivable between the Debtors and the counterparty, at the election of both parties, for transactions that occur on the same date and in the same currency.

[10] The Debtors are parties to the Credit Agreement, dated February 22, 2019 (as amended, the "**Prepetition Revolving Credit Agreement**"), between Dean Foods Company, as borrower, Cooperatieve Rabobank U.A., New York Branch, as administrative agent and collateral agent, and the lenders thereunder.

140. Historically, the Debtors have entered into transactions under the Prepetition Hedging Agreements for 80%-90% of projected Commodities production for up to 36 months into the future. The Prepetition Hedging Agreements executed with the Debtors' secured lenders under the Prepetition Credit Agreement are secured on a first lien basis with a security interest in the collateral described therein. As of November 11, 2019, the Debtors' aggregate notional amount under all such Prepetition Hedging Agreements was $66,400,000.

141. I believe that as of the Petition Date, no defaults exist under the Prepetition Hedging Agreements (other than those that may be alleged to exist on account of the Debtors' solvency status or the filing of these Chapter 11 Cases) and no cure amounts are owed.

142. The Prepetition Hedging Agreements are common in the Debtors' industry and are routinely used in the ordinary course of business to mitigate exposure to fluctuating commodity prices. The board of directors for DFC has delegated authority to its Risk Management Oversight Committee ("**RMOC**") to engage in Hedging Activities, as the RMOC deems appropriate. As is typical in the Debtors' industry, Management has established certain customary practices (the "**Hedge Practices**") to ensure that such agreements are in the best interests of all the Debtors' stakeholders. The Hedge Practices are described below:

143. *Limited Scope of Hedging Activities*. Historically, the RMOC has limited the Prepetition Hedging Agreements to swaps, futures, and options.

144. *Approval Process*. The Prepetition Hedging Agreements are approved by the RMOC.

145. *Reporting*. Reports on Hedging Activities are provided annually to the board of directors of DFC and include disclosures regarding (a) regulatory environment and Debtor policy and practice compliance and (b) review of RMOC recommendations and results of activities.

146. *Purpose*. The Debtors do not engage in speculative Hedging Activities. The Hedging Activities are directly tied to the Debtors' forecasted future Commodities. Management continually assesses the appropriate level of production to hedge and bases its decisions on a variety of factors, including current and future expected commodity market prices, cost and availability of costless put/call collars and swap contracts, forecasted production activity, and liquidity.

147. Consistent with their past practices, the Debtors target hedging between 80%-90% of the Commodities over the next three years. The Debtors believe it is likely that they will, in the near future, be able to enter into Post-Petition Hedging Agreements with one or more creditworthy third parties (collectively, the "**Post-Petition Hedge Counterparties**" and, together with the Prepetition Hedge Counterparties, the "**Hedge Counterparties**") on terms generally consistent with the Prepetition Hedging Agreements.

148. The Debtors submit that continuation of the Hedging Activities post-petition as described herein are in the best interests of the Debtors' estates and their creditors. I believe that the Post-Petition Hedging Activities will afford the Debtors a low risk means to reduce the impact of volatile commodity prices on the Debtors' cash flow during the pendency of the Chapter 11 Cases.

149. Here, the Debtors seek to continue engaging in Hedging Activities in the ordinary course, consistent with past practice and the reasonable expectations of their creditors. As discussed above, the Debtors typically hedge between 80%-90% of the Commodities over a 0 to 36 month period. The Debtors simply seek to maintain their Hedging Activities in line with historic levels over the next three years through continued performance under the Prepetition Hedging Agreements and entry into new commodity Post-Petition Hedging Agreements in the

ordinary course of business to the extent such Post-Petition Hedging Agreements represent beneficial contracts to the Debtors' estates and are consistent with the Debtors' prepetition Hedge Practices. Accordingly, I believe that performance of the post-petition obligations under the Prepetition Hedging Agreements and entry into new Post-Petition Hedging Agreements is consistent with the Debtors' past, ordinary course practice, appropriate, and in the best interest of their estates and all parties in interest in these Chapter 11 Cases.

150. The Debtors seek modification of the automatic stay provisions of section 362 of the Bankruptcy Code, solely to the extent necessary, for the Hedge Counterparties to exercise and enforce any or all of their rights and remedies under the Hedging Agreements, including upon the occurrence of an event of default or termination event under the Hedging Agreements. Here, cause exists to modify the automatic stay because, absent such relief, the Hedge Counterparties would not be willing to engage in post-petition Hedging Activities with the Debtors. As discussed above, post-petition Hedging Activities will serve to reduce the effects of commodity price volatility on the Debtors' businesses and will enhance the Debtors' ability to maintain a stable cash flow during the pendency of these Chapter 11 Cases. Accordingly, the Debtors in their business judgment believe that modification of the automatic stay is reasonable under the circumstances, is necessary to protect the Debtors' ability to continue engaging in Hedging Activities post-petition and maximize value for the benefit of the Debtors' estates, and is in the best interests of their estates and all parties-in-interest in these Chapter 11 Cases.

151. The Debtors submit that the assumption of the Prepetition Hedging Agreements represents a reasonable exercise of the Debtors' business judgment and will benefit the Debtors' estates. As described above, the Debtors' Hedging Activities are an important component in the operation of the Debtors' businesses, serving to protect against fluctuations in the commodities

markets and provide stability to their future cash flows. Though the Debtors seek to enter into Post-Petition Hedging Agreements, the Prepetition Hedging Agreements are currently the only agreement under which they may pursue Hedging Activities. Importantly, the assumption of the Prepetition Hedging Agreements will not result in any additional costs to the Debtors' estates. As stated above, the parties have agreed that no defaults exist and that no cure amounts are owed. Given the importance of the Hedging Activities in providing value to the Debtors' estates, assumption of the Prepetition Hedging Agreements is appropriate and in the best interests of the Debtors, their estates, and all parties in interest in the Chapter 11 Cases and should be permitted.

152. I believe that the relief requested in the Hedging Motion is in the best interests of the Debtors' estates, their creditors and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Hedging Motion should be granted.

ix. *Emergency Motion of Debtors for Entry of Interim and Final Orders Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Claims Against and Interests in the Debtors' Estates (the "**NOL Motion**")*

153. The Debtors seek entry of interim and final orders, pursuant to sections 105(a) and 362 of title 11 of the United States Code and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure, to enforce the automatic stay by implementing court-ordered procedures intended to protect the Debtors' estates against the possible loss of valuable tax assets that could flow from inadvertent stay violations. In particular, the proposed orders authorize the Debtors to (a) establish and implement restrictions and notification requirements regarding the Tax Ownership and certain transfers of Stock, (b) establish "sell-down" procedures with respect to Covered Claims that could be implemented if the Debtors elect to reorganize, and (c) notify

holders of Stock and Covered Claims of the court-ordered procedures. The Debtors also seek approval of a form of notice, which will notify holders of Stock and Covered Claims whose actions could adversely affect the Debtors' tax assets that the Procedures have been established by order of this Court.

154. I believe that the relief requested in the NOLs Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the NOLs Motion should be granted.

x. *Emergency Motion of Debtors for Entry of Interim and Final Orders Authorizing (i) Debtors to Pay Certain Prepetition Claims of Lien Claimants and (ii) Financial Institutions to Honor and Process Related Checks and Transfers (the "**Lienholders Motion**")*

155. The Debtors seek entry of interim and final orders (a) authorizing, but not directing, the Debtors to pay, in their sole discretion, all or a portion of the Lienholder Claims (as defined below) and (b) authorizing the Debtors' financial institutions to receive, process, honor, and pay checks or wire transfers used by the Debtors to pay the foregoing.

156. In operating their businesses, the Debtors use and make payments to shippers, contractors, mechanics, laborers, warehousemen, and technical engineers (collectively, the "**Lien Claimants**") that repair, maintain, equip, supply, transport, store products, and otherwise service necessary equipment and machinery.[11] As of the Petition Date, the Debtors estimate that they owe approximately $25,000,000 to Lien Claimants for prepetition goods, labor, shipping, delivery, and other charges (collectively, the "**Lienholder Claims**").

157. The Debtors seek authority to pay the prepetition charges of the Lien Claimants

[11] To minimize the amount of payments required, the Debtors request authority to identify Lien Claimants in the ordinary course of their businesses. Publicly disclosing these vendors now would likely cause all such creditors to demand payment in full.

who, under applicable law, have the potential to assert statutory liens against property of the Debtors if the Debtors fail to pay for goods provided or services rendered before the Petition Date. In order to ensure efficient operations and safe and orderly working conditions at their operating locations, the Debtors at times hire third party service providers or purchase goods to care for the processing facilities. These services include, among others, (a) common carrier and freight transport, (b) construction and general contractor service, (c) equipment procurement, service, and repair, (d) mechanical work, and (d) storage. If these costs are not paid, then there could be significant negative repercussions affecting the safety of the businesses. Any disruption in the flow of the aforementioned services, parts, equipment, shipping, or supplies would immediately effect on-time delivery and production volume of products and byproducts. Further, any disruption in the flow of parts or services would cause the Debtors immediate and substantial economic harm and erode their ability to meet delivery obligations.

158. Much of the production equipment in use by the Debtors is highly customized and industry specific, and the available pool of experienced Lien Claimants is therefore limited, particularly in the Debtors' more remote sites. Furthermore, the technical knowledge of the Debtors' engineers and information technology suppliers is unique to the dairy industry and, in many cases, specially tailored to the Debtors' businesses.

159. Although equipment can in theory be obtained elsewhere, doing so economically and with new providers that are located far from the relevant sites represents a significant logistical and financial hurdle. The benefits of paying these equipment providers significantly outweigh the long term costs of failing to pay them for prepetition debts owed by the Debtors.

160. While the Debtors themselves employ on-site mechanics and engineers at many of their properties, the Debtors cannot afford to employ sufficient mechanics to repair and

maintain all the specialized equipment the Debtors operate in all possible locations at which service might be required. Accordingly, in many cases, the Debtors have service agreements or longstanding business relationships with third party maintenance Lien Claimants and even individuals trained and licensed to provide maintenance services at various sites across a number of states. The Debtors have, over the years, nurtured and developed their relationships with these Lien Claimants and have come to rely on the high-quality and priority service they receive. In addition, these Lien Claimants have developed in depth knowledge of the mechanical and engineering requirements of the plants and/or other equipment. It is essential to the continuity of the Debtors' operations, and the preservation of value of the Debtors' estates, that the Debtors maintain their relationships with these Lien Claimants.

161. I believe that the relief requested in the Lienholder Motion represents a sound exercise of the Debtors' business judgment and is necessary to avoid immediate and irreparable harm. The relief sought in the Lienholder Motion is amply justified by importance to Debtors of services and other Goods that the Lien Claimants may hold on the Petition Date or assert liens over. Unless the Debtors have the authority to pay for their Goods and essential services, the businesses will suffer irreparable harm.

162. I believe that the relief requested in the Lienholder Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Lienholder Motion should be granted.

xi. *Emergency Motion of Debtors for Entry of Interim and Final Orders Authorizing (i) Debtors To Pay Prepetition Critical Vendor Claims and 503(b)(9) Claims in the Ordinary Course of Business, (ii) Debtors to*

*Return Goods, and (iii) Financial Institutions To Honor and Process Related Checks and Transfers (the "**Critical Vendors Motion**")*

163. The Debtors seek entry of interim and final orders (a) establishing procedures pursuant to which the Debtors may engage in discussions with counterparties that may qualify as Critical Vendors (as defined below) regarding the validity and amount of their respective claims and to determine whether any such counterparties are Critical Vendors, (b) authorizing, but not directing, the Debtors to pay, in their sole discretion, prepetition obligations related to Critical Vendors (as defined below) and valid claims of vendors under section 503(b)(9) of the Bankruptcy Code in the ordinary course of business, (c) authorizing the Debtors, in their sole discretion, under section 546(h) of the Bankruptcy Code, to return Goods purchased from Vendors by the Debtors prior to the Petition Date for credit against such Vendors' prepetition claims, and (d) authorizing the Debtors' financial institutions to receive, process, honor, and pay checks or wire transfers used by the Debtors to pay the foregoing.

164. In connection with the normal operation of their businesses, the Debtors purchase or contract for, among other things, raw milk, cream, sugar, resin, packaging, other ingredient materials, inventory, supplies, equipment, and related goods necessary for the Debtors' regular operations (collectively, the "**Goods**")[12] and various services from vendors and independent contractors that are unaffiliated with the Debtors and are, by and large, the sole source or limited source for unique materials or services, or services needed for compliance with certain laws and regulations, and provide material economic or operational advantages when compared to other available vendors; without them, the Debtors could not operate (collectively, the "**Critical**

[12] In many instances, the Debtors receive invoices from Vendors covering Goods and related services, such as when a Vendor both sells a Good and installs it at one of the Debtors' locations. To the extent that the Debtors in good faith are unable to ascertain the portion of such invoices that is on account of Goods and the portion that is on account of services, the Debtors hereby request authority to pay the full amount of such invoices.

Vendors"). Many of these vendors hold a virtual monopoly over the goods and services they provide. As discussed in further detail below, the Critical Vendors are so essential to the Debtors' businesses that the lack of any of their particular Goods or services, even for a short duration, could significantly disrupt the Debtors' operations and cause irreparable harm to the Debtors' businesses, goodwill, market share, and estates.

165. While the Debtors hope and expect to ensure a continuing post-petition supply of goods and services by consensual negotiation with their vendors, the Debtors recognize that their fiduciary duties require them to consider and plan for the vendors that may refuse to provide future goods or services unless their prepetition claims are paid. Replacement vendors, even where available, would likely result in substantially higher costs for the Debtors and severe operational disruption. Moreover, replacement vendors may lack knowledge of the Debtors' operations or fail to match the Debtors' high performance standards, thereby placing the safety of the Debtors' employees and the reputation of the Debtors' businesses and products at risk.

166. The Goods are generally shipped on an as-needed basis directly to the Debtors' operations, all as directed by the Debtors. As a consequence of the commencement of the Chapter 11 Cases, the Debtors believe that many of the Critical Vendors may be particularly concerned that they will not be paid for the delivery or shipment of Goods after the Petition Date if such delivery or shipment was based on a Prepetition Order, or that their claims arising from the Prepetition Orders will be treated as general unsecured claims. Accordingly, the Critical Vendors may refuse to provide Goods or services to the Debtors (or may recall shipments) unless the Debtors obtain an order of the Court authorizing the Debtors, in their sole discretion, to satisfy those obligations in the ordinary course of their businesses.

167. If the Debtors can pay Critical Vendors their prepetition claims (such claims,

collectively, the "**Critical Vendor Claims**"), and thereby (a) maintain lower costs of Goods and services purchased during the post-petition period, (b) ensure delivery of Goods ordered prepetition but not yet delivered, (c) ensure the provision of critical services, and (d) avoid the severe disruption and safety risks to their employees that might result from the cessation of such essential Goods and services, it is prudent for the Debtors to do so. Failure to pay the Critical Vendors, and the consequent discontinuity of the Goods and services rendered by such Critical Vendors, may disrupt the Debtors' businesses. This would cause significant and irreparable harm to the Debtors and to the recoveries of all of the Debtors' creditors that would far outweigh the cost of payment of the Critical Vendor Claims.

168. The Debtors' Critical Vendors include the following:

(a) Milk Vendors. Milk Vendors. The Debtors purchase raw milk from a number of independent family dairy farms ("**family farms**") and dairy farmers' cooperatives ("**farmers' cooperatives**" and, collectively with the family farms, the "**Milk Vendors**"). A more detailed explanation of the Debtors' purchasing relationships with the Milk Vendors is provided in the Matson Declaration. *See generally* Matson Declaration ¶¶ 5–22. Because Dean Foods is the only purchaser of milk from the 600 family farms, and the single largest purchaser for certain of the farmers' cooperatives, *id.* ¶ 11, the Milk Vendors depend upon reliable income streams from the Debtors to pay their business (and personal) expenses, *id.* ¶¶ 17–18. Thus, if the Milk Vendors are not paid, they will be forced to quickly seek alternate buyers, which in turn will cause a cascading effect whereby *other* Milk Vendors also stop supplying Dean Foods in search of more reliable partners. *See id.* ¶¶ 11–12. Attempting to find replacement sources of raw milk would result in significant additional expenses, and such replacement sources may very well not be available in the substantial volumes that the Debtors require. *See generally id.* Even a modest disruption of the Debtors' supply of milk would cause a drop in the Debtors' order fulfillment rate, resulting in Dean Foods' customers—which include Wal-Mart, Starbucks, and public and private schools, along with many others—immediately shifting their orders to competing suppliers. *See id.* ¶ 13. Because it will likely lead first to loss of Debtors' milk supply, and then to loss of the Debtors' customers, failing to pay the Milk Vendors will have a catastrophic effect on the Debtors' business. *See id.* Thus, the benefits of paying the Milk Vendors substantially outweigh any associated costs. As of the Petition Date, the Debtors estimate that they owe the Milk Vendors approximately $272,000,000 on account of prepetition claims, of which the Debtors believe that $110,000,000 is critical.

(b) Specialty Material Vendors. The Debtors also purchase from third party vendors (collectively, the "**Specialty Material Vendors**") various specialty materials required for the operation of their dairy processing plants. These materials include, among other things, cream, sugar, resin, packaging, and other ingredient materials. Attempting to find replacement sources of these materials would result in significant additional expenses, and such replacement sources may very well not be available in the volumes required. Thus, the benefits of paying these vendors substantially outweigh any associated costs given the crucial roles that these materials play in the ongoing viability of the Debtors' businesses. As of the Petition Date, the Debtors estimate that they owe the Specialty Material Vendors approximately $115,000,000 on account of prepetition claims.

(c) Safety and Regulatory Compliance Vendors. The Debtors employ various skilled third party vendors (collectively, the "**Safety and Regulatory Compliance Vendors**") to ensure that the Debtors' operations fully comply with the foregoing safety and regulatory requirements, to provide the Debtors' employees with a safe work environment, and to ensure products meet all food safety and regulatory standards for sale. Specifically, the Safety and Regulatory Compliance Vendors provide services that include, among other things, emergency spill management, waste water treatment and management, underground storage tank removal, environmental site assessments, environmental remediation activities, and food safety regulatory compliance. Failure to comply with such regulations could result in injuries, fines, and potential interruption of operations. Accordingly, the benefits of paying the Safety and Regulatory Compliance Vendors significantly outweigh any associated costs given the critical roles that the Safety and Regulatory Compliance Vendors play in the safety of the Debtors' employees and the ongoing viability of the Debtors' businesses. As of the Petition Date, the Debtors estimate that they owe Safety and Regulatory Compliance Vendors approximately $5,000,000 on account of prepetition claims.

(d) Service Providers. The Debtors employ various skilled third party vendors (collectively, the "**Service Providers**") to ensure that the Debtors' operations run as efficiently as possible. These services are vital to ensuring continuing operations of plant and administrative operations utilized by the Debtors on a daily basis. The services largely consist of non-executory temporary plant manufacturing labor and outsourced information technology services and administrative support provided by internationally based companies, including daily transaction coding and processing functions. As of the

Petition Date, the Debtors estimate that they owe Service Providers approximately $10,000,000 on account of prepetition claims.

(e) Logistical Support Providers. The Debtors employ various skilled third party vendors (the "**Logistical Support Providers**") to ensure that the Debtors' delivery fleet continues operations. These Logistical Support Providers services include, among other things, truck repair and maintenance providers, fuel providers, and third party providers of driver training and certification programs. The Debtors would not be able to maintain their fleet of delivery trucks without the services provided by these Logistical Service Providers. As of the Petition Date, the Debtors estimate that they owe Logistical Support Providers approximately $17,000,000 on account of prepetition claims.

169. The Debtors also believe that a significant portion of their outstanding accounts payables as of the Petition Date, some of which relate to Critical Vendors, would be entitled to administrative expense status under section 503(b)(9) of the Bankruptcy Code because such claims are on account of goods received by the Debtors in the ordinary course of their businesses during the 20-day period prior to the Petition Date (the "**503(b)(9) Claims**"). As of the Petition Date, the Debtors estimate that approximately $189,200,000 of the $555,700,000 of total outstanding accounts payables would be entitled to administrative expense status as 503(b)(9) Claims. As they are administrative claims incurred in the ordinary course of the Debtors' businesses, the Debtors believe that they are authorized to pay the 503(b)(9) Claims pursuant to section 363(c)(1) of the Bankruptcy Code.

170. The Debtors estimate that the maximum amount needed to pay the prepetition claims of Critical Vendors during the first 30 days of the Chapter 11 Cases is approximately $43,700,000 (the "**Interim Period Critical Vendor Claims Cap**"). Similarly, the Debtors

estimate that the maximum amount of claims that the Debtors believe would be entitled to administrative expense status as 503(b)(9) Claims during the first 30 days of the Chapter 11 Cases, all of which relate to Milk Vendors, totals approximately $90,400,000.

171. Finally, the Debtors estimate that the amount needed to pay the prepetition claims of Critical Vendors after the first 30 days of the Chapter 11 Cases is approximately $24,100,000. The Debtors also estimate that the amount of claims entitled to administrative expense status as 503(b)(9) Claims after the first 30 days of the Chapter 11 Cases is approximately $98,800,000.[13]

172. A summary of the relief that the Debtors are seeking related to Critical Vendors and valid 503(b)(9) claims, on both and interim and final basis, is as follows:

Category	**Total AP**	**Critical Vendor**	**503(b)(9)**
Interim Milk		$ 19,600,000	$ 90,400,000
Interim Trade A/P		24,100,000	-
Interim Relief		$ 43,700,000	$ 90,400,000
Final Trade A/P		24,100,000	98,800,000
Grand Total	**$ 555,700,000**	**$ 67,800,000**	**$ 189,200,000**
% of Total AP		*12.2%*	*34.0%*

173. The Debtors are not seeking to pay these amounts immediately or in one lump sum. Rather, the Debtors intend to pay these amounts, in their sole discretion, as they become due and payable in the ordinary course of business operations. The Debtors' cash on hand, the cash generated by the Debtors' business, and the proceeds of the post-petition credit facilities will provide ample liquidity for payment of the Critical Vendor Claims, the 503(b)(9) claims, and the ongoing obligations of its continued operations in the ordinary course during the

[13] Neither the Interim Period Critical Vendor Claims Cap nor the amounts requested to be authorized thereafter include any prepetition claims that the Debtors seek to pay pursuant to other orders requested to be entered by this Court in the Chapter 11 Cases.

pendency of the Chapter 11 Cases.

174. I strongly believe that the uninterrupted supply of Goods and services, on Customary Trade Terms, and the continuing support of their customers are imperative to the ongoing operations and viability of the Debtors. The continued availability of trade credit, in amounts and on terms consistent with those the Debtors have worked hard to obtain over the years, is clearly advantageous to the Debtors. It allows the Debtors to maintain and enhance necessary liquidity and to focus on returning to profitability. I believe that preserving working capital through the retention and reinstatement of their normally advantageous trade credit terms will enable the Debtors to stabilize business operations at this critical time, to maintain their competitiveness, and to maximize the value of their businesses for the benefit of all interested parties. Conversely, any deterioration of trade credit, or disruption or cancellation of deliveries of goods or provision of essential services, could spell disaster for the Debtors' restructuring efforts. Furthermore, if the relief sought herein is not granted, Critical Vendors will have no incentive to continue to supply goods or services to the Debtors on Customary Trade Terms.

175. I believe that the relief requested in the Critical Vendors Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and constitutes a critical element in achieving a successful and smooth transition to chapter 11. The need for the flexibility to pay such claims is particularly acute in the period immediately following the Petition Date to afford the Debtors, their attorneys and financial advisors, and other professionals the opportunity to stabilize the businesses in chapter 11. In light of the foregoing, I believe that payment of Critical Vendor Claims owed to Critical Vendors will be necessary to preserve operations, dramatically reduce the financial burden on the Debtors' estates, maintain goodwill and positive relationships with all Critical Vendors, and maximize the value of the Debtors'

assets for the benefit of all stakeholders. Accordingly, on behalf of each the Debtors, I respectfully submit that the relief requested in the Critical Vendors Motion should be granted.

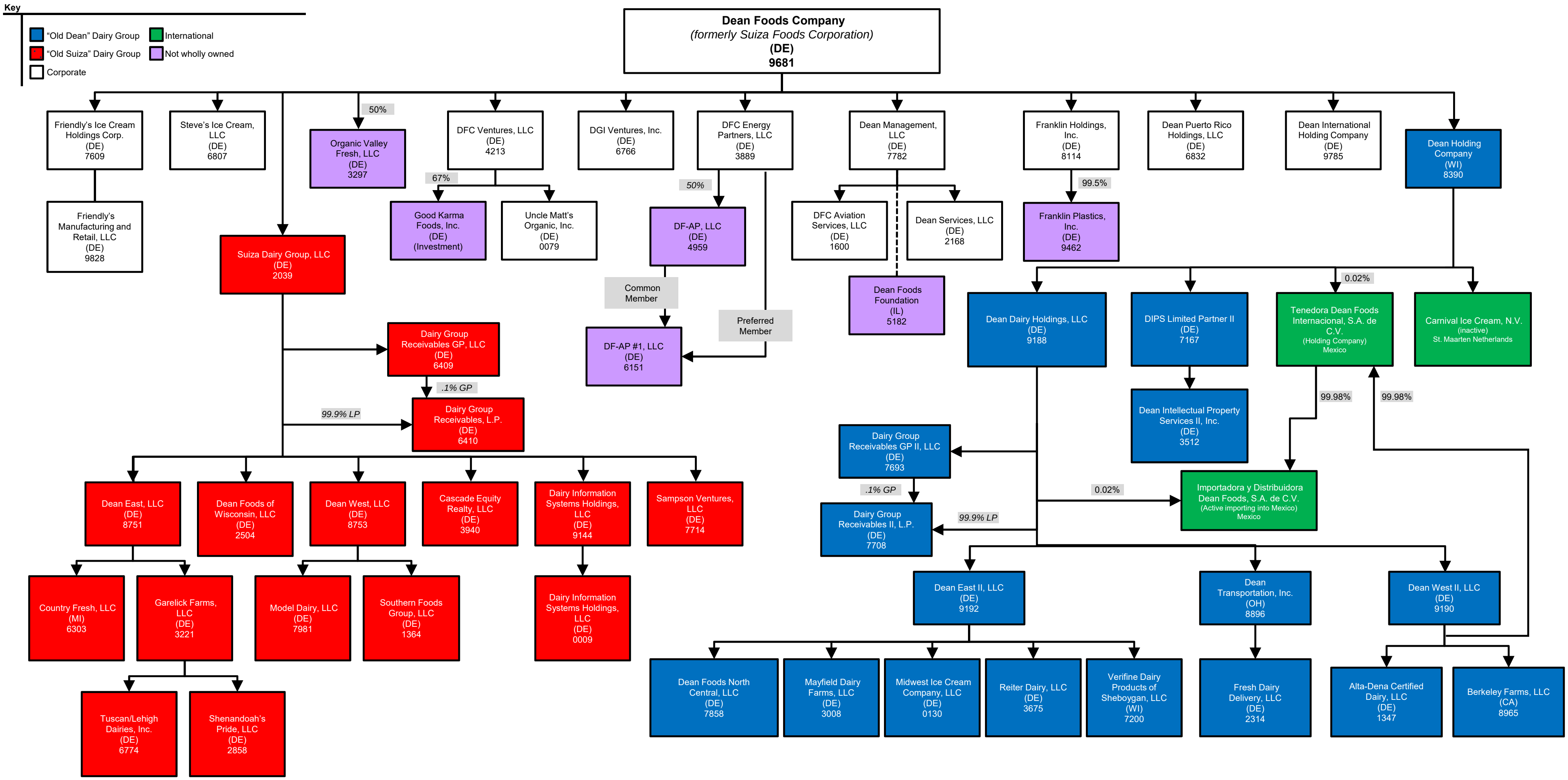
[*Signature page follows*]

I, the undersigned Chief Financial Officer of Dean Foods Company, declare under penalty of perjury that the foregoing is true and correct.

Dated: November 12, 2019

/s/ Gary Rahlfs
Gary Rahlfs
Senior Vice President and Chief Financial Officer

Corporate Structure Chart



Key

🟦 "Old Dean" Dairy Group
🟥 "Old Suiza" Dairy Group
⬜ Corporate
🟩 International
🟪 Not wholly owned

Dean Foods Company
(formerly Suiza Foods Corporation)
(DE)
9681

Friendly's Ice Cream Holdings Corp. (DE) 7609
- Friendly's Manufacturing and Retail, LLC (DE) 9828

Steve's Ice Cream, LLC (DE) 6807

Organic Valley Fresh, LLC (DE) 3297 — 50%

Suiza Dairy Group, LLC (DE) 2039
- Dairy Group Receivables GP, LLC (DE) 6409
  - .1% GP → Dairy Group Receivables, L.P. (DE) 6410
- 99.9% LP → Dairy Group Receivables, L.P. (DE) 6410
- Dean East, LLC (DE) 8751
  - Country Fresh, LLC (MI) 6303
  - Garelick Farms, LLC (DE) 3221
    - Tuscan/Lehigh Dairies, Inc. (DE) 6774
    - Shenandoah's Pride, LLC (DE) 2858
- Dean Foods of Wisconsin, LLC (DE) 2504
- Dean West, LLC (DE) 8753
  - Model Dairy, LLC (DE) 7981
  - Southern Foods Group, LLC (DE) 1364
- Cascade Equity Realty, LLC (DE) 3940
- Dairy Information Systems Holdings, LLC (DE) 9144
  - Dairy Information Systems Holdings, LLC (DE) 0009
- Sampson Ventures, LLC (DE) 7714

DFC Ventures, LLC (DE) 4213
- Good Karma Foods, Inc. (DE) (Investment) — 67%
- Uncle Matt's Organic, Inc. (DE) 0079

DGI Ventures, Inc. (DE) 6766

DFC Energy Partners, LLC (DE) 3889
- DF-AP, LLC (DE) 4959 — 50%
  - Common Member → DF-AP #1, LLC (DE) 6151
- Preferred Member → DF-AP #1, LLC (DE) 6151

Dean Management, LLC (DE) 7782
- DFC Aviation Services, LLC (DE) 1600
- Dean Services, LLC (DE) 2168
- Dean Foods Foundation (IL) 5182

Franklin Holdings, Inc. (DE) 8114
- Franklin Plastics, Inc. (DE) 9462 — 99.5%

Dean Puerto Rico Holdings, LLC (DE) 6832

Dean International Holding Company (DE) 9785

Dean Holding Company (WI) 8390
- Dean Dairy Holdings, LLC (DE) 9188
  - Dairy Group Receivables GP II, LLC (DE) 7693
    - .1% GP → Dairy Group Receivables II, L.P. (DE) 7708
  - 99.9% LP → Dairy Group Receivables II, L.P. (DE) 7708
  - 0.02% → Importadora y Distribuidora Dean Foods, S.A. de C.V. (Active importing into Mexico) Mexico
  - Dean East II, LLC (DE) 9192
    - Dean Foods North Central, LLC (DE) 7858
    - Mayfield Dairy Farms, LLC (DE) 3008
    - Midwest Ice Cream Company, LLC (DE) 0130
    - Reiter Dairy, LLC (DE) 3675
    - Verifine Dairy Products of Sheboygan, LLC (WI) 7200
  - Dean Transportation, Inc. (OH) 8896
    - Fresh Dairy Delivery, LLC (DE) 2314
  - Dean West II, LLC (DE) 9190
    - Alta-Dena Certified Dairy, LLC (DE) 1347
    - Berkeley Farms, LLC (CA) 8965
    - 99.98% → Tenedora Dean Foods Internacional, S.A. de C.V.
- DIPS Limited Partner II (DE) 7167
  - Dean Intellectual Property Services II, Inc. (DE) 3512
- Tenedora Dean Foods Internacional, S.A. de C.V. (Holding Company) Mexico — 0.02%
  - 99.98% → Importadora y Distribuidora Dean Foods, S.A. de C.V. (Active importing into Mexico) Mexico
- Carnival Ice Cream, N.V. (inactive) St. Maarten Netherlands