

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

FULCRUM BIOENERGY, INC., et al.,¹

Debtors.

Chapter 11

Case No. 24-12008 (TMH)

(Jointly Administered)

**NOTICE OF (I) APPROVAL OF DISCLOSURE STATEMENT, (II) DEADLINE FOR
CASTING VOTES TO ACCEPT OR REJECT THE PLAN, AND (III) THE HEARING
TO CONSIDER CONFIRMATION OF THE PLAN**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On March 6, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed (a) the *Amended Disclosure Statement for Amended Joint Chapter 11 Plan of Liquidation* [D.I. 455-1] (as may be amended, modified or supplemented, the “Disclosure Statement”) and (b) the *Amended Joint Chapter 11 Plan of Liquidation* [D.I. 456-1] (as may be amended, modified, or supplemented, the “Plan”).²

2. Pursuant to an order, dated March 7, 2025 [D.I. 458] (the “Order”), the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) approved the Disclosure Statement.

3. A hearing to consider confirmation of the Plan (the “Confirmation Hearing”) will be held before The Honorable Thomas M. Horan, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 5th Floor, Courtroom 4, Wilmington, Delaware 19801, **on April 14, 2025, at 10:00 a.m. (prevailing Eastern Time)**, to continue thereafter from day to day as necessary. The Confirmation Hearing may be continued from time to time without further notice other than the announcement by the Debtors of the adjourned date(s) at the Confirmation Hearing or any continued hearing or as indicated in any notice filed with the Bankruptcy Court.

4. Objections to confirmation of the Plan, if any, must (a) be in writing and (b) be filed with the Bankruptcy Court and served upon: (i) counsel for the Debtors Morris, Nichols, Arsht & Tunnell, L.L.P. 1201 N. Market Street, 16th Floor, P.O. Box 1347, Wilmington, DE 19801, Attn.: Robert J. Dehney, Sr., rdehney@morrisnichols.com, Curtis S. Miller,

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

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Disclosure Statement and the Plan, as applicable.



cmiller@morrisnichols.com, Clint M. Carlisle, ccarlisle@morrisnichols.com, Avery J. Meng, ameng@morrisnichols.com; (ii) counsel to the Official Committee of Unsecured Creditors, (a) Eversheds Sutherland (US) LLP, The Grace Building, 40th Floor, 1114 Avenue of the Americas, New York, New York 10036, Attn: Jennifer Kimble, jenniferkimble@eversheds-sutherland.com and Sameer M. Alifarag, sameeralifarag@eversheds-sutherland.com, Evershed Sutherland (US) LLP, 999 Peachtree Street NW, Suite 2300, Atlanta, Georgia 30309, Attn: Todd C. Meyers, toddmeyers@eversheds-sutherland.com, and (b) Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801, Attn: Jeffrey R. Waxman, jwaxman@morrisjames.com; Eric J. Monzo, emonzo@morrisjames.com; and Christopher M. Donnelly, cdonnelly@morrisjames.com; and; and (iii) Counsel for UMB Bank, N.A.: (a) Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, NY 10065, Attn: Alexander Woolverton, awoolverton@kramerlevin.com, and Douglas Buckley, dbuckley@kramerlevin.com, and (b) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Andrew Magaziner, amagaziner@yest.com; (iv) Counsel for PCL Administration LLC: Katten Muchin Rosenman LLP, 525 West Monroe Street, Chicago, IL 60661, Attn: Steven J. Reisman, sreisman@katten.com, Peter P. Knight, peter.knight@katten.com, and Joshua M. Altman, josh.altman@katten.com (v) Office of the United States Trustee, 844 N. King Street, Room 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Rosa Sierra-Fox, Rosa.Sierra.Fox@usdoj.gov; so that they are received no later than **March 31 2025, at 4:00 p.m. (prevailing Eastern Time)**. The Debtors and any other party in interest supporting the Plan may file any reply to any such objections and/or any affidavits or declarations in support of approval of the Plan by no later than **April 9, 2025, at 4:00 p.m. (prevailing Eastern Time) (or two (2) Business Days prior to the date of any adjourned Confirmation Hearing)**.

5. Pursuant to the Order, the Court approved the use of certain materials in the solicitation of votes to accept or reject the Plan and certain procedures for the tabulation of votes to accept or reject the Plan. If you are a holder of a Claim against the Debtors as of **March 6, 2025** and entitled to vote, you have received with this Notice a ballot form (a “Ballot”), and instructions for completing the Ballot.

6. For a vote to accept or reject the Plan to be counted, the holder of a Ballot must complete all required information on the Ballot, execute the Ballot, and return the completed Ballot in accordance with the instructions, so that it is received by **March 31, 2025, at 4:00 p.m. (prevailing Eastern Time)** (the “Voting Deadline”), which deadline may be extended by the Debtors. Any failure to follow the instructions included with the Ballot, or to return a properly completed Ballot so that it is received by the Voting Deadline, may disqualify such Ballot and vote on the Plan. **You may also submit a Ballot electronically. If you wish to do so, please follow the instructions on your Ballot.** The rules and procedures for the tabulation of the votes are outlined in the Order.

7. If a Holder of a Claim wishes to challenge the allowance or disallowance of a Claim for voting purposes under the Tabulation Procedures (as defined in the Order), such person or entity must file a motion, pursuant to Bankruptcy Rule 3018(a), for an order temporarily allowing its Claim in a different amount or classification for purposes of voting to accept or reject the Plan (a “Rule 3018 Motion”) and serve the Rule 3018 Motion on the Debtors so that it is received no later than **March 24, 2025, at 4:00 p.m. (prevailing Eastern Time)**. The Debtors,

or any other party in interest, shall have until **March 31, 2025, at 4:00 p.m. (prevailing Eastern Time)** to file and serve any responses to such motions. Replies, if any, shall be filed no later **April 9, 2025, at 4:00 p.m. (prevailing Eastern Time)**. Unless the Bankruptcy Court orders otherwise, such Claim will not be counted for voting purposes in excess of the amount determined in accordance with the Tabulation Procedures and Master Ballot Tabulation Procedures.

8. PLEASE TAKE FURTHER NOTICE THAT EXHIBIT 1 ATTACHED HERETO SETS FORTH THE INJUNCTION, EXCULPATION AND RELEASE PROVISIONS SET FORTH IN SECTION 12 OF THE PLAN.

EACH OF THE RELEASING PARTIES ARE DEEMED TO PROVIDE THE RELEASE CONTAINED IN SECTION 12 OF THE PLAN, AS SET FORTH ON EXHIBIT 1, EXCEPT AS OTHERWISE PROVIDED IN THE PLAN.

9. Copies of the Disclosure Statement, the Plan, and the Order may be obtained and/or are available free of charge (a) at the following website maintained by Verita: veritaglobal.net/Fulcrum, or (b) upon request to Verita (x) in writing to Fulcrum BioEnergy, c/o Kurtzman Carson Consultants, LLC dba Verita Global, 222 N. Pacific Highway, Suite 300, El Segundo, CA 90245; (y) by email at FulcrumInfo@veritaglobal.com; or (z) by telephone at (866) 967-0676 (U.S./Canada) or (310) 751-2676 (International). You may also obtain a copy of such documents for a fee via PACER at <http://www.ecf.deb.uscourts.gov>.

Dated: March 14, 2025
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Curtis S. Miller

Robert J. Dehney, Sr. (No. 3578)

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Counsel to the Debtors and Debtors in Possession

Exhibit 1

RELEASE PROVISIONS, EXCULPATION, AND RELATED INJUNCTIONS

12.1 Release of Liens.

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

12.1 Binding Effect.

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

12.3 Term of Injunctions or Stays.

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

12.4 Releases by the Debtors.

As of the Effective Date, except (i) for the rights that remain in effect from and after the Effective Date to enforce the Plan, the Confirmation Order, the Liquidation Trust Agreement, or any Sale Transaction; and (ii) as otherwise provided in the Plan or in the Confirmation Order, for good and valuable consideration, including their cooperation and

contributions to the Chapter 11 Cases, the Released Parties¹ will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released, to the maximum extent permitted by law, by the Debtors and the Estates (including the Wind-Down Estates), in each case, on behalf of themselves and their respective successors (including the Liquidation Trust), assigns, and representatives, and any and all other persons that may purport to assert any Cause of Action derivatively, by, through or on behalf of the foregoing Persons and Entities, from any and all Claims and Causes of Action, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise that the Debtors or the Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on or relating to, in whole or in part, the Debtors, the Chapter 11 Cases, the pre- and post-petition marketing and sale process, any Sale Transaction, the purchase, sale, or rescission of the purchase or sale of any securities issued by the Debtors, the ownership of any securities issued by the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the administration or implementation of the Plan, including the issuance or distribution of the Liquidation Trust Assets pursuant to the Plan, the creation of the Liquidation Trust, the business or contractual arrangements between any Debtor and any Released Party, the Disclosure Statement, the Plan (including the Plan Supplement), or the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date related or relating to the foregoing; provided that nothing in Section 12.4 of the Plan shall act as a release of a direct claim any holder of a Claim or Interest or other Entity may have against any Released Party or a release of any claim or Cause of Action specifically preserved herein.

¹ “**Released Parties**” means collectively and in each case, solely in their respective capacities as such: (i) the Debtors; (ii) the Debtors’ directors and officers that have served in such capacity postpetition, as set forth in Exhibit A to the Plan; (iii) the Holdings Trustee, Holdings Collateral Agent, BioFuels Trustee and BioFuels Collateral Agent, (iv) the Prepetition Agent and each Prepetition Fulcrum Lenders, (v) the Consenting Bondholders, (vi) the Committee and each of its members, (vii) the Agent and lenders under the BioFuels Unsecured Term Loan Facility; (viii) the Wind-Down Estates; and (ix) with respect to any Person or Entity in the foregoing clauses (i) through (viii), current and former affiliates’ directors, managers, officers, shareholders, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, predecessors, participants, successors, assigns (whether by operation of law or otherwise), subsidiaries, current, former, and future associated entities, managed or advised entities, accounts or funds, partners, limited partners, general partners, principals, members, management companies, fund advisors, managers, fiduciaries, trustees, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, other representatives, and other professionals, representatives, advisors, predecessors, successors, and assigns, each solely in their capacities as such (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of a Person), and the respective heirs, executors, estates, servants, and nominees of the foregoing (collectively, the “Related Parties”); *provided* that if any of the foregoing parties object to the releases in Section 12.5 of this Plan, or holders of Secured Claims in Classes 2A-2C, Deficiency Claims in Classes 3A-3C, and Undersecured and General Unsecured Claims in Classes 4A-4C vote in favor of the Plan and opt out of the voluntary release contained in Section 12.5 of the Plan, abstain from voting, or vote to reject the Plan, such parties will no longer be considered a Released Party; *provided* further that none of the former directors, managers or officers of the Debtors’ or the Debtors’ affiliates shall be a “Released Party”. For the avoidance of doubt, none of the current officers and directors need to vote in favor of the plan or return a ballot to be a Released Party.

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

12.5 Releases By Holders of Claims and Interests.

As of the Effective Date, except (i) for the right to enforce the Plan, the Confirmation Order, and any Sale Transactions, and (ii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released by the Releasing Parties² in each case, from any and all Claims and Causes of Action, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, in law or equity, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that such entity would have been legally entitled to assert in their own right (whether individually, derivatively, or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on or relating to, or in any manner arising prior to the Effective Date, from, in whole or in part, the Debtors, the Chapter 11 Cases, the pre- and post-petition marketing and sale process, a Sale Transaction, the purchase, sale, or rescission of the purchase or sale of any securities issued by the Debtors, the ownership of any securities issued by the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the administration or implementation of the Plan, including the issuance or distribution of the Liquidation Trust Assets pursuant to the Plan, the creation of the Liquidation Trust, the business or contractual arrangements between any Debtor and any Released Party, the Disclosure Statement, the Plan (including the Plan Supplement), or the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date related or relating to the foregoing.

Notwithstanding anything to the contrary, the release set forth above does not release any post-Effective Date obligations of any Person under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. Moreover, the foregoing release shall have no effect on the liability of,

² “*Releasing Parties*” means collectively, and in each case, solely in their respective capacities as such: (i) the Released Parties and (ii) all holders of Secured Claims in Classes 2A-2C, Deficiency Claims in Classes 3A-3C, and Undersecured and General Unsecured Claims in Classes 4A-4C, who vote to accept the Plan and do not opt out of the voluntary release contained in Section 12.5 of the Plan by checking the “opt out” box on the ballot and returning it in accordance with the instructions set forth thereon.

or any causes of action against, any Entity that results from any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, criminal acts, or gross negligence.

12.6 *Exculpation.*

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

12.7 *Injunction.*

(a) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or Consummation of the Plan in relation to any such Claims and Interests.

(b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtors and a holder of a Claim against or Interest in the Debtors, all Releasing Parties who have held, hold, or may hold Claims against or Interests in the Released Parties that have been released or exculpated in Section 12 of this Plan (the “Released and Exculpated Claims”) are permanently enjoined, on and after the Effective Date, solely with respect to any Released and Exculpated Claims, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Liquidation Trust, the Liquidation Trustee, or the property of any of the Debtors or the Liquidation Trust; (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtors,

and the Liquidation Trust; or the property of any of the Debtors or the Liquidation Trust; (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors or the Liquidation Trust, the Liquidation Trustee, or the property of any of the Debtors or the Liquidation Trust; (iv) asserting any right of setoff (except to the extent exercised prepetition), directly or indirectly, against any obligation due from the Debtors or the Liquidation Trust, or against property or interests in property of any of the Debtors or the Liquidation Trust except as contemplated or allowed by the Plan; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(c) The benefit of the injunctions in Section 12.7 of the Plan shall extend to any successors of the Debtors, the Liquidation Trust, the Liquidation Trustee, and their respective property and interests in property.