

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

PLEASE TAKE NOTICE that, on February 3, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Disclosure Statement for Joint Chapter 11 Plan of Liquidation* [D.I. 415] and (b) the *Joint Chapter 11 Plan of Liquidation* [D.I. 415-1].

PLEASE TAKE FURTHER NOTICE that, on March 6, 2025, the Debtors filed (a) the *Amended Disclosure Statement for 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].²

PLEASE TAKE FURTHER NOTICE that 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.

PLEASE TAKE FURTHER NOTICE that on April 9, 2025, the Debtors’ filed the *Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 522-1] (as may be amended, modified, or supplemented, the “Plan”).

PLEASE TAKE FURTHER NOTICE 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

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

² Capitalized terms used but not defined herein are defined in the Plan.



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.

PLEASE TAKE FURTHER NOTICE that, attached hereto as **Exhibit 1** is the proposed *Findings of Fact, Conclusion of Law, and Order Confirming the Debtors' Second Amended Joint Chapter 11 Plan of Liquidation* (the "Proposed Confirmation Order"). The Debtors intend to present the Proposed Confirmation Order and Plan (subject to any modifications and/or amendments) to the Court for approval at the Confirmation Hearing.

Dated: April 9, 2025
Wilmington, Delaware

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Exhibit 1

Confirmation Order

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

In re

FULCRUM BIOENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12008 (TMH)

(Jointly Administered)

Re: D.I. 455, 456, 458, 487, 522, 523

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

Upon consideration of the Debtors' *Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 456-1], dated March 6, 2025, attached hereto as **Exhibit A** (together with all exhibits thereto, and as may be amended, modified, or supplemented, the "Plan") proposed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and this Court having approved the *Amended Disclosure Statement for Joint Chapter 11 Plan of Liquidation* [D.I. 455-1] (the "Disclosure Statement"), by order dated March 7, 2025 [D.I. 458] (the "Solicitation Procedures Order"); and the Debtors having filed the *Plan Supplement* on March 24, 2025 [D.I. 487], as may be amended, modified, or supplemented, the ("Plan Supplement"); and upon the *Notice of the Revised Exhibit to Plan Supplement* [D.I. 523]; and upon the affidavit of service filed reflecting compliance with the notice and solicitation requirements of the Solicitation Procedures Order [D.I. 510] (collectively, the "Notice Affidavit"); and upon the *Notice of (I) Approval of Disclosure Statement, (II) Deadline for Casting Votes to Accept or Reject the Plan, and (III) The Hearing to Consider Confirmation of the Plan* [D.I. 477] (the "Hearing Notice"); and

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upon the *Declaration of James Lee of Kurtzman Carson Consultants, LLC dba Verita Global Regarding the Solicitation of Votes and Tabulation of Ballots Cast on the Amended Joint Chapter 11 Plan of Liquidation* [D.I. 524], filed with this Court on April 9, 2025 (the “Voting Declaration”); and upon the *Declaration of Mark Smith in Support of Confirmation of the Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 525] (the “Smith Declaration”), filed with this Court on April 9, 2025; and upon the *Memorandum of Law in Support of Confirmation of the Second Amended Joint Chapter 11 Plan of Liquidation* [D.I. 528], filed with this Court on April 9, 2025 (the “Confirmation Memorandum”); and any objections to the Plan having been resolved and/or overruled by this Court pursuant to this Confirmation Order; and a hearing to consider confirmation of the Plan having been held on April 14, 2024 (the “Confirmation Hearing”); and upon the evidence adduced and proffered and the arguments of counsel made at the Confirmation Hearing; and this Court having reviewed all documents in connection with Confirmation and having heard all parties desiring to be heard; and upon the record of these Chapter 11 Cases; and after due deliberation and consideration of all of the foregoing; and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. Reserved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Confirmation of the Plan

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

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

Conditions Precedent

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

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

- (b) the Confirmation Order shall have become a Final Order;
- (c) all funding, actions, documents and agreements necessary to implement and consummate the Plan and the transactions and other matters contemplated thereby, shall have been effected or executed;
- (d) the Liquidation Trust shall be established and validly existing and the Liquidation Trust Agreement shall have been executed;
- (e) all professional fees and expenses that, as of the Effective Date, were due and payable under an order of the Bankruptcy Court shall have been paid in full, other than any Fee Claims subject to approval by the Bankruptcy Court;
- (f) the Debtors shall have funded the Professional Fees Account in accordance with Section 2.3 of the Plan;
- (g) the Debtors shall have sufficient Cash on hand to pay in full, or reserve for, the projected Allowed Administrative Expense Claims, Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and U.S. Trustee Fees otherwise due or payable on the Effective Date;
- (h) no Governmental Unit or federal or state court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any law or order (whether temporary, preliminary or permanent), in any case which is in effect and which prevents or prohibits consummation of the Plan or any of the other transactions contemplated hereby and no Governmental Unit shall have instituted any action or proceeding (which remains pending at what would otherwise be the Effective Date) seeking to enjoin, restrain or otherwise prohibit consummation of the transactions contemplated by the Plan;
- (i) all authorizations, consents, regulatory approvals, rulings or documents that are necessary to implement and effectuate the Plan as of the Effective Date shall have been received, waived or otherwise resolved; and
- (j) all documents and agreements necessary to implement the Plan, including those set forth in the Plan Supplement, shall have (i) been tendered for delivery and (ii) been effected or executed by all Entities party thereto, and all conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

Classification and Treatment

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

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

Authorization to Implement the Plan

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

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

Enforceability of the Plan

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

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

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

The Liquidation Trust

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

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

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

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

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

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

Executory Contracts and Unexpired Leases

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

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

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

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

Administrative Expense Claims

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

Governmental Bar Date

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

Professional Fees Account and Fee Claims

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

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

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

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

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

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

Release, Injunction, Exculpation and Related Provisions

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

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

Payment of Statutory Fees

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

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

Asset Sales

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

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

Dissolution of the Committee

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

Binding Effect on all Parties

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

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

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

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

Modifications

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

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

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

Matters Related to the Abengoa Entities

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

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

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

- ii. nothing in the Plan Documents shall release, waive, discharge, or in any way adversely affect any claims of either of the Abengoa Entities against any of the Debtors or the Liquidation Trust including, without limitation, any claims that may be subject to a right of setoff or recoupment;
- iii. nothing in the Plan Documents (including, without limitation, any injunction provision or any provision addressing claim disputes and/or claim allowance procedures), shall in any way limit any rights of the Abengoa Entities to demand, request, or assert (whether by objection, motion, request, adversary proceeding, or otherwise) that their claims against the Debtors (or any of them) and the counterclaims of the Debtors (or any of them) against the Abengoa Entities should be adjudicated in the pending arbitration before the International Court of Arbitration of the International Chamber of Commerce (the “ICC Arbitration”) and not in another forum (including the Bankruptcy Court);
- iv. the Debtors, their bankruptcy estates, and all of their respective successors and assigns hereby agree and acknowledge that all proofs of claim filed by AATGP or Abengoa (specifically, Proofs of Claim Nos. 111, 112, 117, and 118 (collectively, the “Abengoa Proofs of Claim”)) were timely filed prior to the applicable proof of claim bar date (the “Bar Date”) and shall not be subject to any objection by the Debtors, the Liquidating Trust, or any other party-in-interest in the Debtors’ bankruptcy cases, that the Abengoa Proofs of Claim were not timely filed by the Bar Date;
- v. neither of the Abengoa Entities have voted on the Plan and, therefore, the Abengoa Entities are neither Releasing Parties nor Released Parties under the Plan; and
- vi. Solely for purposes of Section 7.3 of the Liquidation Trust Agreement regarding establishment of the Disputed Claim Reserve (and, for the avoidance of doubt, not for purposes of allowance of any claim asserted by either or both of the Abengoa Entities against the Debtors or the Liquidation Trust), the Disputed Claim Reserve shall reserve for the Abengoa Entities’ pro rata share of any distributions utilizing the face amount of the Abengoa Entities’ timely filed Proofs of Claim in (i) Class 4A against Fulcrum in the amount of \$106,332,179.00 and (ii) Class 4C against BioFuels in the amount of \$106,332,179.00.

Notice of Entry of Confirmation Order and Effective Date

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

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

Retention of Jurisdiction

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

- (a) to hear and determine motions and/or applications for the assumption or rejection of Executory Contracts or Unexpired Leases and the allowance, classification, priority, compromise, estimation or payment of Claims resulting therefrom;
- (b) to determine any motion, adversary proceeding, application, contested matter, or other litigated matter pending on or commenced after the Confirmation Date, including any such motions, adversary proceeding, application, contested matter or other litigated matter brought by the Liquidation Trust;
- (c) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;
- (d) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of or objection to any Claim;

- (e) to enter, implement or enforce such orders as may be appropriate in the event this Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;
- (f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the Consummation, implementation or enforcement of the Plan, this Confirmation Order, or any other order of the Bankruptcy Court;
- (g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including this Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;
- (h) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred before the Effective Date;
- (i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, this Confirmation Order, the Sale Order, the Liquidation Trust Agreement, or any agreement, instrument, or other document governing or relating to any of the foregoing;
- (j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following Consummation;
- (k) to hear any disputes arising out of, and to enforce, any order approving alternative dispute resolution procedures to resolve personal injury, employment litigation and similar Claims pursuant to section 105(a) of the Bankruptcy Code;
- (l) to determine such other matters and for such other purposes as may be provided in this Confirmation Order;
- (m) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);
- (n) to adjudicate any and all disputes arising from or relating to distributions under the Plan;
- (o) to hear, determine and resolve any cases, matters, controversies, suits, disputes or Causes of Action in connection with or in any way related to the Chapter 11 Cases, including with respect to the releases, exculpation and injunction provisions contained in Section 12 of the Plan and this Confirmation Order;

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

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

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

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

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

Rules Governing Conflicts Between Documents

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

Section 1146 Exemption

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

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

Headings

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

No Stay of Confirmation Order

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

Exhibit A

Confirmed Plan

Exhibit B

Notice of Effective Date

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

In re

FULCRUM BIOENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12008 (TMH)

(Jointly Administered)

Re: D.I. ____

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

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

PLEASE TAKE NOTICE THAT:

1. **Entry of Confirmation Order.** On [●], 2025 (the “Confirmation Date”), the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Chapter 11 Plan of Liquidation* (D.I. ●) (the “Confirmation Order”), thereby confirming the Debtors’ *Second Amended Joint Chapter 11 Plan of Liquidation*, dated April 9, 2025 (D.I. 522-1) (together with the Plan Supplement, the “Plan”).²

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

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

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

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

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

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

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

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

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

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

[Signatures to follow]

Dated: [●], 2025
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/_____

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