

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT**

In re:	)	Chapter 11
	)	
GROEB FARMS, INC.,	)	Case No. 13-58200-wsd
	)	Honorable Walter Shapero
Debtor.	)	
Official Committee of Unsecured Creditors of Groeb Farms, Inc.,	)	
	)	
Plaintiff,	)	
v.	)	Adv. Proc. No. 13-5410-wsd
	)	
Troy Groeb, Ernest L. Groeb, E. Jeanne Groeb Living Trust, Groeb Farms LLC, Ernest L. Groeb Jr. Trust B,	)	
	)	
Defendants.	)	

**THE GENERAL UNSECURED CLAIMS LITIGATION TRUSTEE’S MOTION FOR AN  
ORDER TO APPROVE (1) STIPULATION AND SETTLEMENT AGREEMENT BY,  
BETWEEN, AND  
AMONG THE GENERAL UNSECURED CLAIMS LITIGATION TRUSTEE,  
PROPOSED CLASS REPRESENTATIVES, PRODUCER/PACKER CLAIMANTS  
AND THE GROEB PARTIES, (2) CLASS ACTION SETTLEMENT AGREEMENT  
AND RELEASE, AND (3) SETTLEMENT AND RELEASE AGREEMENT  
BETWEEN FEDERAL INSURANCE COMPANY, GROEB FARMS, INC.,  
NATURAL AMERICAN FOODS, INC., GENERAL UNSECURED CLAIMS  
LITIGATION TRUSTEE, TROY L. GROEB, ROBERT FEERICK, THOMAS JENKINS  
AND MICHAEL BAILEY, PURSUANT TO SECTIONS 363(b) AND 105(a) OF THE  
BANKRUPTCY CODE AND BANKRUPTCY RULES 9019(a) AND 6004(h)**

The General Unsecured Claims Litigation Trustee (the “GUC Trustee”) of Groeb Farms, Inc., (the “Debtor”) in the above-captioned matter (the “Bankruptcy Case”) hereby moves (the “Motion”) this Court for entry of an order pursuant to sections 363(b) and 105(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 9019 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving certain related settlement



agreements (the “Settlement Agreements”) resolving certain claims related to the allegations of transshipping of honey by the Debtor. In support of this Motion, the GUC Trustee respectfully states as follows:

### **Jurisdiction**

1. This Court has jurisdiction to hear the Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Sections 363(b) and 105(a) of the Bankruptcy Code and Federal Bankruptcy 9019 authorize the relief requested in this Motion.

### **Introduction**

2. The Settlement Agreements represent the culmination of years of efforts by the GUC Trustee and the various Parties (capitalized terms have the meanings given to them herein unless otherwise indicated) to resolve multiple disputes pending in multiple courts.

3. As a result of the Settlement Agreements, a payment in excess of \$1,000,000 will be paid to the GUC Trust, a proof of claim filed on behalf of the Proposed Class Representatives in the amount of not less than \$189,200,000 will be withdrawn with prejudice and expunged, proofs of claim filed by certain Producer/Packer Claimants will be resolved and allowed, proofs of claim filed by the Groeb Parties (the “Groeb Claims”) will be withdrawn with prejudice and expunged and the GUC Trustee will resolve its interest in multiple disputes pending in multiple courts.

4. The net effect of the Settlement Agreements is an extremely significant recovery for the GUC Trust, resolution of and/or withdrawal with prejudice of some of the most significant claims filed in the Bankruptcy Case and elimination of complex and costly litigation.

5. For the reasons set forth in further detail below, the Debtor seeks approval of the Settlement Agreements pursuant to Sections 363(b) and 105(a) of the Bankruptcy Code and Rule 9019 of the Bankruptcy Rules.

### **Background**

6. In 2001, the U.S. Department of Justice (“DOJ”) began to investigate the honey industry and the possibility that honey was being “transshipped” (*i.e.*, shipped through a second country to conceal its true country of origin) and/or mislabeled. As a result of the DOJ investigation, the Debtor entered into a Deferred Prosecution Agreement with the DOJ.

7. During April, 2013, Ruby’s Apiaries, Inc., Kallas Honey Farm, Inc., Larry Krause d/b/a Wind River Honey Company, William H. Perry d/b/a Perry Apiaries, Heaven’s Honey, Inc. d/b/a Bennett’s Honey Farm and Chip’s Bees, Blake Shook d/b/a Desert Creek Honey, Cox Honey of Utah, LLC, Kelvin Adee d/b/a Adee Honey Farms, Bernard Casavan d/b/a Casavan Apiaries, Brett Adee d/b/a Adee Honey Farms, Chris Moore d/b/a Moore’s Honey Farm, Bauer Honey, Inc., Daniel C. Whitney d/b/a Dan’s Honey Company, Charles Hendrycks d/b/a Hendrycks Apiaries, Bee Natural Honey, LLC, Brad Stromme d/b/a Stromme Honey, McCoy’s Sunny South Apiaries, Inc., Willow Bee, LLC, GloryBee Natural Sweeteners, Inc., and Drange Apiary, Inc. (collectively, the “Producer/Packer Claimants”) filed two actions alleging the unlawful transshipment of honey in the United States District Court for the Northern District of Illinois (the “District Court”) against the Debtor and other defendants, including named and unnamed co-conspirators (together, the “Producer/Packer Action”).

8. Additionally, during April, 2013, Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, and Hackenberg Apiaries, individually and as representatives of the proposed class in the Bankruptcy Case (the “Proposed Class Representatives” or the

“PCRs”) filed a class action lawsuit alleging the unlawful transshipment of honey in the District Court against Debtor and other defendants, including named and unnamed co-conspirators (the “Class Action”).

9. The Producer/Packer Claimants’ action and the Class Action have been consolidated in *In re Honey Transshipping Litigation*, Case No. 13 C 2905 (N.D. Ill.) (the “Transshipping Litigation”, and the United States District Court for the Northern District of Illinois referred to as the “Transshipping Court”).

10. On October 1, 2013 (the “Petition Date”), under the weight of the Transshipping Litigation, the Debtor filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code.

11. On October 9, 2013, the United States Trustee appointed the Official Committee of Unsecured Creditors in the Bankruptcy Case.

12. Upon investigating the claims of transshipping, the Committee asserted that the recovery on account of any such claims belonged to the Debtor’s estate and, specifically, its creditors.

13. Accordingly, the Committee preserved the rights of the estate (and specifically, its unsecured creditors) to pursue any claims against the Debtor’s directors and officers for, among other things, harm that was caused to the unsecured creditors from the Debtor’s violations of transshipping laws in the Debtor’s Second Amended Plan of Reorganization (the “Plan”). The Plan was confirmed and went effective on December 31, 2013 (the “Plan Effective Date”).

14. In accordance with the terms of the Plan, on the Plan Effective Date, the General Unsecured Claims Litigation Trust (“GUC Trust”) was created for purposes including,

among other things, pursuing and/or liquidating the GUC Trust Assets<sup>1</sup>, distributing the GUC Trust Distributable Proceeds (as defined in the Plan), if any, and reconciling and objecting to General Unsecured Claims as provided in the Plan. The General Unsecured Claims Litigation Trustee (the “GUC Trustee”) has the power to act on behalf of the GUC Trust.

15. Also in accordance with the Plan, as of the Plan Effective Date, the GUC Trust assumed Forefront Portfolio Policy No. 8208-1192, issued by Federal Insurance Company (“Federal” or the “Insurer”) to the Debtor for the claims-made policy period of May 1, 2011 through May 1, 2012 (the “D&O Policy”). Subject to all of its terms, conditions and exclusions, the D&O Policy has a maximum aggregate limit of liability of \$5,000,000, plus an additional \$500,000 that is dedicated solely to claims against “Executives,” as defined in the D&O Policy.

16. Upon the formation of the GUC Trust, the GUC Trustee was made aware that the D&O Policy was a “wasting” policy – that is, the first dollars out of the D&O Policy were required to be used to pay the cost of defense of the insureds under the D&O Policy.

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<sup>1</sup> Under the Plan “*General Unsecured Claims Litigation Trust Assets*” means the (i) General Unsecured Claims Litigation Trust Payment, (ii) the General Unsecured Claims Litigation Trust Causes of Action, and all proceeds of the foregoing, (iii) all proceeds under the D&O Policy, subject to all rights of covered parties to the D&O Policy to assert claims against the D&O Policy, (iv) the Trade Claim Remaining Amount, and (v) all rights of setoff and other defenses against General Unsecured Claims held by General Unsecured Claims Litigation Trust Beneficiaries.

“*General Unsecured Claims Litigation Trust Causes of Action*” means any and all actual or potential Avoidance Actions and Causes of Action, exclusive of: (a) any of the foregoing that are released under the Plan; and (b) any of the foregoing to the extent released under a New Trade Agreement. For the avoidance of doubt, General Unsecured Claims Litigation Trust Causes of Action shall include Transshipping Claims unless such Transshipping Claims are released by the Debtor pursuant to a settlement approved by the Court.

“*Transshipping Claims*” means any Claim in favor of the Debtor arising from or relating to transshipping, the facts set forth in the Deferred Prosecution Agreement, or the facts set forth in the information filed with the Deferred Prosecution Agreement.

17. With the GUC Trust (and formerly, the Committee), the PCR's, the Producer/Packer Claimants, and the Groeb Parties embroiled in contentious litigation, it appeared likely that due to the wasting nature of the D&O Policy there would be a high likelihood of no recovery for any of the Parties absent a resolution. While the Parties each acknowledged that there was a likelihood of no recovery absent a settlement, the differences between and among the Parties was too great for them to resolve their disputes on their own.

18. The Transshipping Court appointed Magistrate Judge Rowland to serve as a mediator for the Parties (including, but not limited to, the GUC Trust, which is not a party to the Transshipping Litigation).

19. On December 2, 2014, the Parties met in Chicago with Judge Rowland, who conducted a full-day mediation. The mediation continued thereafter telephonically with Judge Rowland, who ultimately was able to facilitate a settlement by, between and among the Parties.

20. Due to the extensive litigation and mediation, the available D&O Policy proceeds have been reduced, and after applicable defense costs and other allowed costs under the terms of the D&O Policy, the remaining availability is \$4,183,467 ("Remaining Policy Limit").

21. The GUC Trustee, the Producer Packer Claimants, the PCR's, Federal and certain of the defendants in the Class Action and the Producer/Packer Action and various related parties, including, without limitation, Ernest L. Groeb, Jr. ("E. Groeb"), Troy Groeb ("T. Groeb") (together with E. Groeb, the "Groebs"), E. Jeanne Groeb ("J. Groeb"), Groeb Farms, LLC ("Groeb LLC"), the Groeb Family Partnership ("Groeb Partnership"), the E. Jeanne Groeb Living Trust ("JG Trust"), and the Ernest L. Groeb Jr. Living Trust ("EG Trust") (and collectively with E. Groeb, T. Groeb, J. Groeb, Groeb LLC, Groeb Partnership and the JG Trust, (the "Groeb Parties")), have reached a global resolution of their disputes. (The Groeb Parties, the

Producer/Packer Claimants, the PCRs and the GUC Trustee are referred to herein together as the “Parties”).)

22. The global resolution of the Parties’ disputes has been memorialized in three separate settlement agreements: (a) Class Action (the “Class Action Settlement Agreement”); (b) the insurance settlement (the “Insurance Settlement Agreement”) and (c) the Stipulation and Settlement Agreement by, between and Among the General Unsecured Claims Litigation Trustee, Proposed Class Representatives, Producer/Packer Claimants and the Groeb Parties (the “Bankruptcy Stipulation”). The Class Action Settlement Agreement, the Insurance Settlement Agreement and the Bankruptcy Stipulation are referred to herein collectively as the “Settlement Agreements”). Effectiveness of the Settlement Agreements is conditioned upon approval of each agreement.

### **RELIEF REQUESTED**

23. By this motion, the GUC Trustee seeks an order, pursuant to Sections 363(b), and 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a), approving the Settlement Agreements. The GUC Trustee also seeks an order from this Court that the Insurer is permitted to pay the Settlement Payments required by the Settlement Agreements.<sup>2</sup>

24. While the GUC Trustee has the authority under the Plan to enter into the Settlement Agreements and resolve these claims, given the complexity of the matters at issue, the number of parties involved and the importance of the Settlement Agreements to the GUC Trust, the GUC Trustee seeks Bankruptcy Court approval of the Settlement Agreements in an abundance

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<sup>2</sup> Under the Plan, the General Unsecured Claims Litigation Trustee, for the benefit of the General Unsecured Claims Litigation Trust, shall have the sole power and authority to prosecute and resolve any General Unsecured Claims Litigation Trust Causes of Action, without approval of the Bankruptcy Court.

of caution.

**25.** If the Settlement Agreements are approved by this Court and the District Court approves the Class Action Settlement Agreement, the GUC Trust will obtain the following benefits for its beneficiaries:

- GUC Trust will receive a payment of not less than \$1,068,467.00<sup>3</sup> to be paid by the Insurer in accordance with the terms of the Settlement Agreements.
- Proofs of Claim filed on behalf of the PCRs in the amount of not less than \$189,200,200 will be withdrawn with prejudice and expunged.
- Proofs of Claim filed by the Groeb Parties will be withdrawn with prejudice and expunged.
- Proofs of Claim filed by the Producer/Packer Claimants will be resolved and allowed.
- The GUC Trust's interest in *In re Honey Transshipping Litigation*, Case No. 13-C 2905 (N.D. Ill.) will be resolved.
- The Adversary Proceeding Case No. 13-05410 (Bankr. E.D. MI), which seeks equitable subordination of the claims of the Groeb Parties (the "Equitable Subordination Complaint"), will be resolved.
- The Parties will exchange releases.

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<sup>3</sup> The GUC Trust Settlement Payment is calculated as follows:

D & O Policy Limit	\$5,500,000
(less) Total Defense Costs Paid to Date	<u>\$1,316,533</u>
Net Policy Proceeds Amount	\$4,183,467
<b><u>PAYMENTS AND RESERVE</u></b>	
Class Action Settlement Payment	\$3,000,000
Reorganized Debtor Payment	\$50,000
Defense Cost Reserve	<u>\$65,000</u>
<b>GUC Trust Settlement Payment</b>	<b>\$1,068,467</b>



- Costly, expensive and time-consuming litigation will be ended for the GUC Trust

### **BASIS FOR RELIEF**

26. Rule 9019(a) of the Federal Rules of Bankruptcy Procedure governs compromise and settlement. Rule 9019(a) provides that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. Proc. 9019(a).

27. Accordingly, this Court has authority to approve the Settlement Agreements.

28. In determining whether to approve a settlement, the court should determine whether the agreement is “fair and equitable”. Reynolds v. C.I.R., 861 F.2d 469, 473 (6<sup>th</sup> Cir. 1988). Any factor “relevant to a full and fair assessment of the wisdom of [a] proposed compromise” should be considered by the bankruptcy court. Protective Comm., 390 U.S. at 424. The Court in Dow Corning delineated the following specific factors as among those the court should consider when determining whether a proposed settlement is “fair and equitable”:

- A. The balance between the likelihood of the plaintiff’s or defendant’s success should the case go to trial compared to the present and future benefits offered by the settlement;
  - B. The prospect of complex, costly and protracted litigation if settlement is not approved;
  - C. The competency and experience of counsel who support the settlement; and
  - D. The extent to which the settlement is the product of arm’s length bargaining.
- In re Dow Corning Corp., 192 B.R. 415, 421-22 (Bankr. E.D. Mich. 1996).

29. As discussed more fully below, the Settlement Agreements meet the “fair and equitable” test as established in Dow Corning.

30. Furthermore, section 363(b) of the Bankruptcy Code permits a trustee to use, sell or lease property of the estate outside the ordinary course of business after notice and a hearing. 11 U.S.C. § 363(b). To the extent that the Settlement Agreements are viewed as a use of estate property outside the ordinary course of business, the requested relief should be considered under the business judgment standard. See, e.g., In re Asarco, LLC, 650 F.3d 593 (5th Cir. 2011); In re Friedman's Inc., 336 B.R. 891, 895 (Bankr. S.D. Ga. 2005) (“Courts review a debtor's use of estate property outside of the ordinary course of business pursuant to a debtor's demonstration of sound business judgment”); In re Tom's Foods, Inc., 2005 WL 3022022, \*2 (Bankr. M.D. Ga. 2005) (“In determining whether to approve a proposed sale under section 363, courts generally apply standards that . . . represent essentially a business judgment test”); In re Phoenix Steel Corp., 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (judicial approval under section 363 of the Bankruptcy Code requires a showing that the proposed action is supported by, among other things, a good business reason). As established below, the Settlement Agreements are a sound exercise of the GUC Trustee's business judgment and should be approved by this Court.

**a. The Settlement Agreements are Fair and Equitable to the Parties, and the Estate's Creditors and Should Be Approved.**

31. The law favors compromise. The United States Supreme Court has ruled that “[c]ompromises are a normal part of the process of reorganization. In administering reorganization proceedings in an economical and practical manner it will often be wise to arrange the settlement of claims as to which there are substantial and reasonable doubts.” Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424 (1968).

32. Further, as explained by the Sixth Circuit Court of Appeals, the role of the bankruptcy courts in settlements is as follows:

In bankruptcy proceedings, as distinguished from ordinary civil cases, any compromise between the debtor and his creditors must be approved by the court as fair and equitable. Protective Committee for Independent Stockholders of TMT Trailer Ferry v. Anderson, 390 U.S. 414, 424, 88 S. Ct. 1157, 1163, 20 L. Ed. 2d 1 (1968); In re A&C Properties, 784 F.2d 1137, 1381 (9th Cir.), *cert. denied*, 479 U.S. 854, 107 S. Ct. 189, 93 L. Ed 2d 122 (1986). In considering a proposed compromise, the bankruptcy court is charged with an affirmative obligation to apprise itself of the underlying facts and to make an independent judgment as to whether the compromise is fair and equitable. In re American Reserve Corp., 841 F.2d 159, 162-63 (7th Cir. 1987).

Reynolds, 861 at 473.

33. Although the bankruptcy court should not act as a mere rubber stamp, it also should not conduct a “mini-trial on the merits of the settlement.” In re Dow Corning Corp., 192 at 421 (quoting Drexel Burnham Lambert, 134 B.R. 493, 496 (Bankr. S.D.N.Y. 1991)). Rather, the court’s obligation is to “canvass the issues and see whether the settlement ‘falls below the lowest point in the range of reasonableness.’” Id.

34. In the instant case, the Settlement Agreements resolve all disputes between the GUC Trust and the other Parties and are “fair and equitable” to all parties, and the Debtor’s creditors. With respect to the first Dow Corning factor, the Settlement Agreements provide an acceptable settlement for all Parties given their competing views of the claims resolved by the Settlement Agreements and the uncertainty and burden of litigation to address those claims. The costs and expenses of a continuing to litigate the disputes could have totally consumed the D&O Policy proceeds. The Settlement Agreements obviate the risk of uncertain litigation. Similarly, with respect to the Groeb Claims, the Equitable Subordination Complaint is factual, will require discovery, and has an uncertain outcome. The outcome of the various claims asserted by the

Groebs is also uncertain at this time because they have alleged various contingent and unliquidated claims. The Settlement Agreement eliminates the need for such litigation, and the attendant costs, and provides a very substantial recovery to the GUC Trust, which will benefit the Debtor's unsecured creditors.

35. With respect to the second Dow Corning factor, the Settlement Agreements were negotiated and reached in such a way to preserve a portion of the value of the Policy for the benefit of creditors, rather than consuming it through litigation. However, if the Class Action were to be litigated, the defense costs of that litigation would also be covered by the D&O Policy, which is the most certain asset for collection. Therefore, the recovery could be minimal once defense costs were subtracted from the available funds under the D&O Policy. The Settlement Agreements utilize the D&O Policy proceeds for creditor recovery which would otherwise be eroded by the defense costs. The Settlement Agreements also make such value immediately available once the necessary approvals are obtained, as opposed to waiting years to resolve the litigation and collect the proceeds.

36. With respect to the third Dow Corning factor, all Parties were represented by sophisticated counsel, who engaged in lengthy negotiations on all aspects of the Settlement Agreements.

37. Finally, with respect to the fourth Dow Corning factor, the Settlement Agreements are the product of good faith and arm's length bargaining between all Parties. The Settlement Agreements have been agreed to by virtually all of the Parties after extensive negotiations.

**b. The Settlement Agreements are a Sound Exercise of the GUC Trustee's Business Judgment and Should Be Approved.**

38. To the extent that the Settlement Agreements are viewed as a use of estate property, the requested relief should be considered under the business judgment standard. See, e.g., In re Asarco, 650 F.3d at 593 (5th Cir. 2011).

39. Here, for the reasons discussed above, the Settlement Agreements are a sound exercise of the GUC Trustee's business judgment and should be approved pursuant to Section 363(b) of the Bankruptcy Code. The Settlement Agreements provide a mechanism for a distribution to the unsecured creditors without the uncertainty, delay and cost of complex litigation. The Settlement Agreements also resolve significant claims in an efficient manner which allows for additional distributions to unsecured creditors.

40. For all of these reasons, the GUC Trustee respectfully requests that this Court approve the Settlement Agreements as being in the best interests of the Debtor, the estate, and the Debtor's creditors.

**RELIEF UNDER BANKRUPTCY RULE 6004(h)**

41. The GUC Trustee hereby respectfully requests relief from Bankruptcy Rule 6004(h), which provides that an "order authorizing the use . . . of property . . . is stayed until expiration of 14 days after entry of the order, unless the Court orders otherwise." Fed. R. Bank. P. 6004(h). The Settlement Agreements are all interrelated and, in order to be effective, all must be approved.

## NOTICE

42. The GUC Trustee has provided Notice of this Motion to its Master Service List and all parties to the Settlement Agreements through their counsel. In light of the circumstances of this Motion, the GUC Trustee respectfully submits that no other or further notice need be provided.

WHEREFORE, the GUC Trustee respectfully requests this Court enter an order granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: March 5, 2015

### **DYKEMA GOSSETT PLLC**

/s/ Sheryl L. Toby  
Sheryl Toby (P39114)  
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Bloomfield Hills, Michigan 48304  
Telephone: (248) 203-0522  
Email: stoby@dykema.com

and

### **PACHULSKI STANG ZIEHL & JONES LLP**

Bradford J. Sandler  
James E. O'Neill  
919 North Market Street  
17th Floor  
Wilmington, DE 19801  
Telephone: (302) 778-6424  
Facsimile: (302) 652-4400  
Emails: bsandler@pszjlaw.com  
joneill@pszjlaw.com

*Counsel to the General Unsecured Claims Litigation  
Trustee*

**PROPOSED ORDER**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT**

In re:	)	Chapter 11
	)	
GROEB FARMS, INC.,	)	Case No. 13-58200-wsd
	)	Honorable Walter Shapero
Debtor.	)	
Official Committee of Unsecured Creditors of	)	
Groeb Farms, Inc.,	)	
	)	
Plaintiff,	)	
v.	)	Adv. Proc. No. 13-5410-wsd
	)	
Troy Groeb, Ernest L. Groeb, E. Jeanne Groeb	)	
Living Trust, Groeb Farms LLC, Ernest L.	)	
Groeb Jr. Trust B,	)	
	)	
Defendants.	)	

**ORDER APPROVING (1) STIPULATION AND SETTLEMENT AGREEMENT BY, BETWEEN, AND AMONG THE GENERAL UNSECURED CLAIMS LITIGATION TRUSTEE, PROPOSED CLASS REPRESENTATIVES, PRODUCER/PACKER CLAIMANTS AND THE GROEB PARTIES, (2) CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE, AND (3) SETTLEMENT AND RELEASE AGREEMENT BETWEEN FEDERAL INSURANCE COMPANY, GROEB FARMS, INC., NATURAL AMERICAN FOODS, INC., GENERAL UNSECURED CLAIMS LITIGATION TRUSTEE AND MICHAEL BAILEY, PURSUANT TO SECTIONS 363(b) AND 105(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 9019(a) and 6004(h)**

Upon the GUC Trustee's Motion (the "Motion") for an Order to Approve the

(1) Stipulation and Settlement Agreement By, Between, and Among the General Unsecured Claims Litigation Trustee, Proposed Class Representatives, Producer/Packer Claimants the Groeb Parties;

(2) Class Action Settlement Agreement and Release; and (3) Settlement and Release Agreement Between Federal Insurance Company, Groeb Farms, Inc., Natural American Foods, Inc., General Unsecured Claims Litigation Trustee and Michael Bailey, Pursuant to Sections 363(b) and 105(a) of the Bankruptcy Code and Bankruptcy Rules 9019(a) and 6004(h) (the "Settlement

Agreements”), the Court having jurisdiction over this matter; notice of the Motion having been duly and properly given; no objections to the Motion having been filed or such objections having been resolved; it further appearing that the Settlement as set forth in the Motion is “fair and equitable” and that the relief requested in the Motion is in the best interests of the Debtor, its estate and its creditors and cause for relief from Bankruptcy Rule 6004(h) exists , it is

ORDERED that the Motion be, and hereby is, granted in all respects.

IT IS FURTHER ORDERED that the Settlement Agreements<sup>1</sup> attached hereto as Exhibits “A” each are hereby approved.

IT IS FURTHER ORDERED that the Insurer is authorized to and shall pay the Reorganized Debtor Payment and the GUC Trust Settlement Payment (each as defined in the Bankruptcy Stipulation) and the Settlement Payment (as defined in the Class Action Settlement Agreement) in accordance with the terms of the Settlement Agreements.

IT IS FURTHER ORDER that on the Effective Date, as defined in the Bankruptcy Stipulation, any and all proofs of claim filed in the Bankruptcy Case by the PCR's on behalf of the proposed class in the Bankruptcy shall be withdrawn with prejudice and expunged including, but not limited to, Proof of Claim No 139.

IT IS FURTHER ORDERED that on the Effective Date as defined in the Bankruptcy Stipulation, any and all proofs of claim filed in the Bankruptcy Case on behalf of the Groeb Parties shall be withdrawn and expunged, with prejudice including, but not limited to, Claims Nos. 152, 154, 155, 156, 192.

IT IS FURTHER ORDERED that on the Effective Date, Adversary Proceeding No. 13-05410-wsd shall be marked settled and closed.

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.



IT IS FURTHER ORDERED that the GUC Trustee and all of the Parties shall be, and hereby are authorized to execute any and all other documents, releases or pleadings deemed necessary or appropriate by the GUC Trust to effectuate the Settlement Agreements approved hereby.

IT IS FURTHER ORDERED that the stay under Bankruptcy Rule 6004(h) shall not apply and this order shall have immediate effect upon entry.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Walter Shapero  
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT**

In re:	)	Chapter 11
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GROEB FARMS, INC.,	)	Case No. 13-58200-wsd
	)	Honorable Walter Shapero
Debtor.	)	
Official GUC Trustee of Unsecured Creditors of Groeb Farms, Inc.,	)	
	)	
Plaintiff,	)	
v.	)	Adv. Proc. No. 13-5410-wsd
	)	
Troy Groeb, Ernest L. Groeb, E. Jeanne Groeb Living Trust, Groeb Farms LLC, Ernest L. Groeb Jr. Trust B,	)	
	)	
Defendants.	)	

**NOTICE AND OPPORTUNITY TO OBJECT**

On March 5, 2015, the General Unsecured Claims Litigation Trustee (the “GUC Trustee”) in the above-captioned adversary case, filed the *Motion For An Order To Approve (1) Stipulation And Settlement Agreement By, Between, And Among The General Unsecured Claims Litigation Trustee, Proposed Class Representatives, Producer/Packer Claimants And The Groeb Parties, (2) Class Action Settlement Agreement And Release, And (3) Settlement And Release Agreement Between Federal Insurance Company, Groeb Farms, Inc., Natural American Foods, Inc., General Unsecured Claims Litigation Trustee, Troy L. Groeb, Robert Feerick, Thomas Jenkins And Michael Bailey, Pursuant To Sections 363(B) And 105(A) Of The Bankruptcy Code And Bankruptcy Rule 9019(a)* (the “Motion”) with the United States Bankruptcy Court For The Eastern District Of Michigan, Southern Division, 211 West Fort Street, Detroit, Michigan 48226 (the “Bankruptcy Court”). a copy of the Motion is attached hereto.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, within 21 days you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:<sup>2</sup>

<sup>2</sup> Responses or answer must comply with Fed.R.Civ.P. 8(b), (c) and (e).

United States Bankruptcy Court  
211 W. Fort Street, Suite 210  
Detroit, MI 48226

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

(i) counsel to the GUC Trustee:

Pachulski Stang Ziehl & Jones LLP  
Attn: Bradford J. Sandler, Esq.  
919 North Market Street, 17<sup>th</sup> Floor  
Wilmington, DE 19801

(ii) local counsel to the GUC Trustee

Dykema Gossett PLLC,  
Attn: Sheryl L. Toby, Esq.  
39577 Woodward Ave., Suite 300  
Bloomfield Hills, Michigan 48304

The Office of the United States Trustee  
Attn: Kelley Callard, Esq.  
211 West Fort Street, Suite 700  
Detroit, Michigan 72886

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time, and location of the hearing.

**If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting the relief.**

Please note that the proposed counsel to the GUC Trustee reserves the right to seek concurrence from the Office of the United States Trustee pursuant to Local Bankruptcy Rule 2014-1(b). In accordance with such rule, if the United States Trustee consents, an order

approving the Motion may be entered prior to expiration of the above-referenced 21 day period and without a hearing.

Dated: March 5, 2015

**DYKEMA GOSSETT PLLC**

/s/ Sheryl L. Toby

Sheryl Toby (P39114)

39577 Woodward Avenue, Suite 300

Bloomfield Hills, Michigan 48304

Telephone: (248) 203-0522

Email: stoby@dykema.com

and

**PACHULSKI STANG ZIEHL & JONES LLP**

Bradford J. Sandler

James E. O'Neill

919 North Market Street

17th Floor

Wilmington, DE 19801

Telephone: (302) 778-6424

Facsimile: (302) 652-4400

Emails: bsandler@pszjlaw.com

joneill@pszjlaw.com

*Counsel to the General Unsecured Claims Litigation  
Trustee*

EXHIBIT A

Settlement Agreements

# BANKRUPTCY STIPULATION

	)	
In re:	)	Chapter 11
	)	
GROEB FARMS, INC.	)	Case No. 13-58200
	)	
Debtor.	)	Honorable Walter Shapero
	)	

This Stipulation and Settlement Agreement (the “Agreement”) is entered by and between the following, by and through their undersigned counsel: (i) General Unsecured Claims Litigation Trustee (the “GUC Trustee”); (ii) Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, and Hackenberg Apiaries, individually and as representatives of the proposed class in the Bankruptcy Case (the “Proposed Class Representatives” or the “PCRs”); (iii) Ruby’s Apiaries, Inc., Kallas Honey Farm, Inc., Larry Krause d/b/a Wind River Honey Company, William H. Perry d/b/a Perry Apiaries, Heaven’s Honey, Inc. d/b/a Bennett’s Honey Farm and Chip’s Bees, Blake Shook d/b/a Desert Creek Honey, Cox Honey of Utah, LLC, Kelvin Adee d/b/a Adee Honey Farms, Bernard Casavan d/b/a Casavan Apiaries, Brett Adee d/b/a Adee Honey Farms, Chris Moore d/b/a Moore’s Honey Farm, Bauer Honey, Inc., Daniel C. Whitney d/b/a Dan’s Honey Company, Charles Hendrycks d/b/a Hendrycks Apiaries, Bee Natural Honey, LLC, Brad Stromme d/b/a Stromme Honey, McCoy’s Sunny South Apiaries, Inc., Willow Bee, LLC, GloryBee Natural Sweeteners, Inc., and Drange Apiary, Inc. (collectively,

the “Producer/Packer Claimants”); (iv) Ernest L. Groeb, Jr. (“E. Groeb”), Troy Groeb (“T. Groeb”) (together with E. Groeb, the “Groeb”), E. Jeanne Groeb (“J. Groeb”), Groeb Farms, LLC (“Groeb LLC”), the Groeb Family Partnership (“Groeb Partnership”), the E. Jeanne Groeb Living Trust (“JG Trust”), and the Ernest L. Groeb Jr. Living Trust (“EG Trust”) (and collectively with E. Groeb, T. Groeb, J. Groeb, Groeb LLC, Groeb Partnership and the JG Trust, (the “Groeb Parties”)); (v) Natural American Foods, Inc. (the “Reorganized Debtor”), the successor by merger to Groeb Farms, Inc. (the “Debtor”); (vi) Thomas Jenkins (“Jenkins”); (vii) Robert Feerick (“Feerick”); (viii) Michael Bailey (“Bailey”); and (ix) Marquette, Argosy and Horizon as hereinafter defined. All of the above-listed parties will collectively be referred to as the “Parties.”

## **BACKGROUND**

1. In 2001, the U.S. Department of Justice (“DOJ”) began to investigate the honey industry and the possibility that honey was being “transshipped” (*i.e.*, shipped through a second country to conceal its true country of origin) and/or mislabeled. As a result of the DOJ investigation, the Debtor entered into a Deferred Prosecution Agreement with the DOJ.

2. During April 2013, Producer/Packer Claimants filed two actions alleging the unlawful transshipment of honey in the United States District Court for the Northern District of Illinois (the “District Court”) against Debtor and other defendants, including named and unnamed co-conspirators (together, the “Producer/Packer Action”). Also during April 2013, the PCRs filed a class action lawsuit alleging the unlawful transshipment of honey in the District Court against Debtor and other defendants, including named and unnamed co-conspirators (the “Class Action”). Producer/Packer Claimants’ Amended Consolidated Complaint and the Class



Action Complaint have been consolidated in *In re Honey Transshipping Litigation*, Case No. 13 C 2905 (N.D. Ill.).

3. On October 1, 2013, the Debtor filed its chapter 11 bankruptcy proceeding (the “Bankruptcy Case”) in the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division (the “Bankruptcy Court”).

4. On December 20, 2013, the Bankruptcy Court entered an Order confirming Debtor’s Second Amended Plan of Reorganization (the “Plan”) in the “Bankruptcy Case,” which became effective on December 31, 2013 (the “Plan Effective Date”).

5. In accordance with the terms of the Plan, on the Plan Effective Date, the General Unsecured Claims Litigation Trust (“GUC Trust”)<sup>1</sup> was created for purposes including, among other things, pursuing and/or liquidating the GUC Trust Assets, distributing the GUC Trust Distributable Proceeds, if any, and reconciling and objecting to General Unsecured Claims as provided in the Plan. The General Unsecured Claims Litigation Trustee (the “GUC Trustee”) has the power to act on behalf of the GUC Trust.

6. Also in accordance with the Plan, as of the Plan Effective Date, the GUC Trust assumed Forefront Portfolio Policy No. 8208-1192, issued by Federal Insurance Company (“Federal”) to the Debtor for the claims-made policy period of May 1, 2011 through May 1, 2012 (the “D&O Policy”). Subject to all of its terms, conditions and exclusions, the D&O Policy has a maximum aggregate limit of liability of \$5,000,000, plus an additional \$500,000 that is dedicated solely to claims against “Executives,” as defined in the D&O Policy.

7. The Debtor and the Reorganized Debtor agreed that any right to the D&O Policy proceeds payable to either the Debtor or the Reorganized Debtor, as applicable, will be paid to the GUC Trust. Federal has informed the Parties that the balance of the D&O Policy proceeds,

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<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the Plan.

after applicable defense costs and other allowed costs under the terms of the D&O Policy, is \$4,183,467 (“Remaining Policy Limit”).

8. The GUC Trustee, the Producer Packer Claimants, the PCRs, Federal and certain of the defendants in the Class Action and the Producer/Packer Action and various related parties, including, without limitation, the Groeb Parties, have reached a global resolution of their disputes. As part of the global resolution, there will be separate settlement agreements for the settlement of the Class Action (the “Class Action Settlement Agreement”) and the insurance-related settlement (the “Insurance Settlement Agreement”) in addition to this Agreement.

9. This Agreement is intended to memorialize the settlement between the Parties concerning the Debtor’s and GUC Trust’s claims, the Producer/Packer Action, and the proofs of claim filed in the Bankruptcy Case by the Producer/Packer Claimants, the PCRs, and the Groeb Parties.

#### **STIPULATION AND SETTLEMENT AGREEMENT**

**NOW, THEREFORE**, the Parties agree and stipulate as follows:

10. This Agreement supersedes and replaces the December 16, 2013 Settlement and Release Agreement (as amended by the First Agreed Amendment to the December 16, 2013 Settlement and Release Agreement, dated February 14, 2014 and the Second Agreed Amendment to the December 16, 2013 Settlement and Release Agreement, dated August 15, 2014) between the Debtor, the Reorganized Debtor, the Groeb Parties, Federal, the Official Committee of Unsecured Creditors in the Bankruptcy Case, Jenkins, Feerick, Michael Bailey, Marquette Capital Fund I, LP, Argosy Investment Partners III LP, Horizon Partners, Ltd., and Horizon Capital Partners III (the “December 2013 Agreement”); the December 2013 Agreement shall be null and void.

11. The PCR's shall file a motion seeking preliminary approval of the Class Action Settlement no later than fifteen (15) days after execution of the Class Action Settlement Agreement as set forth in paragraph 71 of the Class Action Settlement Agreement.

12. The GUC Trustee shall file a motion seeking approval of this Agreement, the Class Action Settlement Agreement and the Insurance Settlement Agreement and the payments contemplated thereunder no later than fifteen (15) days after execution of this Agreement.

13. This Agreement will become effective at the same time that the Class Action Settlement becomes effective pursuant to Paragraph 15 of the Class Action Settlement Agreement (the "Effective Date"). If the Effective Date does not occur, this Agreement will be void and of no force and effect, and all of the Parties' claims, rights, privileges and obligations in existence prior to executing this Agreement will be restored to their respective positions *status quo ante*.

14. The Parties stipulate and agree that, in exchange for the releases in the Class Action Settlement Agreement, Federal will pay Three Million Dollars (\$3,000,000) from the Remaining Policy Limit pursuant to the Class Action Settlement Agreement, on behalf of certain defendants in the Class Action, in full and final resolution of the claims against them, and in full and complete satisfaction of any Proofs of Claim filed by the PCR's in the Bankruptcy Case, all of which Proofs of Claim shall be withdrawn in their entirety and expunged.

15. The Parties further stipulate and agree that within thirty (30) days of the Effective Date, in exchange for the releases set forth herein, Federal will pay (a) Fifty Thousand Dollars (\$50,000) to the Reorganized Debtor for outstanding defense costs incurred on behalf of the Debtor pursuant to the Insurance Settlement Agreement (the "Reorganized Debtor Payment"); (b) up to Eighty Thousand Dollars (\$80,000) for current and future defense costs on behalf of

Insured Persons (as defined in the D&O Policy); and (c) no less than \$1,053,467.00 to the GUC Trust by check payable to “Pachulski Stang Ziehl & Jones LLP (TIN# 95-3823150) in trust for the GUC Trust” via overnight delivery to 919 North Market Street, 17th Floor, Wilmington, DE 19801 (the “GUC Trust Settlement Payment”). The GUC Trust Settlement Payment will be distributed in accordance with the terms of the Plan to Holders of Allowed Class 5B Claims under the Plan; provided, however, if the GUC Trust Settlement Payment is less than \$1,093,467, the GUC Trustee shall have the option to terminate this Agreement (the “GUC Trust Termination Right”). Within thirty (30) days of receiving the GUC Trust Settlement Payment, the GUC Trust will make distribution to holders of Allowed Class 5 B Claims in an aggregate amount of at least \$600,000.00.

16. Producer/Packer Claimants other than Charles Hendrycks d/b/a Hendrycks Apiaries, Bee Natural Honey, LLC, Brad Stromme d/b/a Stromme Honey, McCoy’s Sunny South Apiaries, Inc., Willow Bee, LLC, GloryBee Natural Sweeteners, Inc., and Drange Apiary, Inc. (the “Additional Producer/Packer Claimants”) shall have Allowed Class 5B Claims in the amount currently listed on the claims register in the Bankruptcy Case. The Additional Producer/Packer Claimants that have not yet filed proofs of claim in the Bankruptcy Case shall file their proofs of claim on or before February 27, 2015, in order to share any future distributions from the GUC Trust. Provided the Additional Producer/Packer Claimants file their proofs of claim utilizing the same claim calculus and claim years as the proofs of claim filed by the other Producer/Packer Claimants, their proofs of claim shall be deemed Allowed Class 5B Claims and paid in accordance with the Plan.

17. Upon the Effective Date, any and all proofs of claim filed in the Bankruptcy Case by the PCRs on behalf of the proposed class in the Bankruptcy Case will be withdrawn and

expunged, with prejudice, including, but not limited to, the proofs of claim listed in Exhibit “B,” and the PCR’s agree for themselves and any member of the Settlement Class in the Class Action that they will not be treated as creditors of the Debtor, the Debtor’s estate, or the GUC Trust. PCR’s and any member of the Settlement Class in the Class Action, therefore, will not be entitled to any portion of any distributions under the Plan, any distributions from the GUC Trust, the Debtor, the Debtor’s estate, or any distributions made to the Producer/Packer Claimants from the GUC Trust, and Class Counsel in the Class Action will not be entitled to any attorneys’ fees, litigation expenses or court costs under the Plan, or from the GUC Trust, the Debtor, the Debtor’s estate, or from any distributions made to the Producer/Packer Claimants from the GUC Trust.

18. Upon the Effective Date, the Producer/Packer Claimants shall dismiss with prejudice their claims against Defendants Ernest L. Groeb, Troy L. Groeb and Horizon Partners, Ltd. in the Producer/Packer Action.

19. The Producer/Packer Claimants and their counsel will not be entitled to any portion of the Settlement Fund in the Class Action Settlement Agreement and will not be entitled to any attorneys’ fees, litigation expenses, or court costs in the Class Action.

20. Upon the Effective Date, any and all proofs of claim filed in the Bankruptcy Case on behalf of the Groeb Parties shall be withdrawn and expunged, with prejudice, including, but not limited to, the proofs of claim listed in Exhibit “C,” and the Groeb Parties agree that (i) they will not be treated as creditors of the Debtor, the Debtor’s estate, or the GUC Trust, and (ii) they will not be entitled to any distribution under the Plan, or from the GUC Trust, the Debtor or the Debtor’s estate.

21. Within five (5) business days after the Effective Date, the GUC Trustee will dismiss, with prejudice, adversary proceeding No. 13-5410 (wsd), which is filed in the Bankruptcy Case against the Groeb Parties.

22. Upon the payment of the GUC Trust Settlement Payment to the GUC Trust and payment of the Reorganized Debtor Payment to the Reorganized Debtor, the GUC Trust and the GUC Trustee release and forever discharge (i) the Groeb Parties and their current or former officers or directors, shareholders, affiliates, agents, employees, professionals, including attorneys, and successors or assigns of the referenced entity (the “Groeb Related Parties”); (ii) Thomas Jenkins; (iii) Robert Feerick; (iv) Michael Bailey; (v) Marquette Capital Fund I, L.P., Marquette Capital Partners, LLC, Marquette Capital, LLC f/k/a Marquette Capital Partners, Inc. (collectively, “Marquette”), and each of their current or former officers or directors, shareholders, managers, unitholders, affiliates, agents, employees, professionals, including attorneys, and successors or assigns of the referenced entity (the “Marquette Related Parties”); (vi) the Argosy Parties, including Argosy Investment Partners, L.P., Argosy Investment Partners II, L.P., Argosy Investment Partners III, L.P., Argosy Investment Partners IV, L.P., Argosy Associates, L.P., Argosy Associates II, L.P., Argosy Associates III, L.P., Argosy Associates IV, L.P., Argosy Associates, Inc., Argosy Associates II, Inc., Argosy Associates III, Inc., Argosy Associates IV, LLC, Argosy Management, L.P., Argosy Management Company, LLC (collectively, “Argosy”), and each of their current or former officers or directors, shareholders, managers, unitholders, affiliates, agents, employees, professionals, including attorneys, and successors or assigns of the referenced entity (the “Argosy Related Parties”); (vii) Horizon Partners, Ltd., Horizon Capital Partners III (collectively, “Horizon”) and each of their current or former officers or directors, shareholders, managers, unitholders, affiliates, agents, employees,

professionals, including attorneys, and successors or assigns of the referenced entity (the “Horizon Related Parties”); and (viii) the Debtor, the Reorganized Debtor and their current or former officers or directors, shareholders, managers, unitholders, affiliates, agents, employees, professionals, including attorneys, and successors or assigns of the referenced entity, including without limitation any individual that would qualify as an Insured Person as defined in the D&O Policy (the “Debtor Related Parties”), from any and all past, present or future, known or unknown, fixed or contingent, matured or unmatured, liquidated or unliquidated, claims (including, without limitation, priority, administrative expense or unsecured claims), causes of action, liabilities, rights, demands, penalties, assessments, damages, requests, suits, lawsuits, costs, actions, defenses, remedies or proceedings, of whatever nature, character, type or description, asserted or which could be asserted, including, without limitation, those arising out of the allegations, transactions and events at issue in the Class Action and the Producer/Packer Action.

23. Upon the payment of the GUC Trust Settlement Payment to the GUC Trust and payment of the Reorganized Debtor Payment to the Reorganized Debtor, the Producer/Packer Claimants, and each of their current or former officers or directors, shareholders, affiliates, agents, employees, professionals, including attorneys, and successors or assigns of the referenced entity (the “Producer/Packer Related Parties”) release and forever discharge (i) the Groeb Parties and Groeb Related Parties; (ii) Thomas Jenkins; (iii) Robert Feerick; (iv) Michael Bailey; (v) Marquette and the Marquette Related Parties; (vi) Argosy and the Argosy Related Parties; (vii) Horizon and the Horizon Related Parties; and (viii) the Debtor, its current and former officers and directors and any individual that would qualify as an Insured Person under the D&O Policy and the Reorganized Debtor, from any and all past, present or future, known or unknown,

fixed or contingent, matured or unmatured, liquidated or unliquidated, claims (including, without limitation, priority, administrative expense or unsecured claims), causes of action, liabilities, rights, demands, penalties, assessments, damages, requests, suits, lawsuits, costs, actions, defenses, remedies or proceedings, of whatever nature, character, type or description, asserted or which could be asserted, including, without limitation, those arising out of the allegations, transactions and events at issue in the Producer/Packer Action. As further consideration for the Producer/Packer Claimants' release, Horizon and the Horizon Related Parties will produce to Counsel for the Producer/Packer Claimants all documents and information to be produced to Class Counsel in the Class Action under the Class Action Settlement Agreement or otherwise.

24. Upon the payment of the GUC Trust Settlement Payment to the GUC Trust and payment of the Reorganized Debtor Payment to the Reorganized Debtor, the PCR's and any member of the Settlement Class in the Class Action, and each Class Counsel, release and forever discharge (i) the Debtor, its current and former officers and directors and any individual that would qualify as an Insured Person under the D&O Policy and the Reorganized Debtor; (ii) the GUC Trust and the GUC Trustee; and (iii) the members of the Official Committee of Unsecured Creditors in this bankruptcy proceeding, and each of their respective current or former officers or directors, shareholders, employees, professionals, including attorneys, solely in their capacity as members of the Official Committee of Unsecured Creditors. The PCR's, any member of the Settlement Class in the Class Action, and each Class Counsel do not release the members of the Official Committee of Unsecured Creditors in this bankruptcy proceeding, and each of their respective current or former officers or directors, shareholders, employees, professionals, including attorneys, for any acts or omissions relating to or arising from honey transshipping; provided, however, nothing herein shall or does modify or alter the Plan.



25. Upon the payment of the GUC Trust Settlement Payment to the GUC Trust and payment of the Reorganized Debtor Payment to the Reorganized Debtor, the Groeb Parties and Groeb Related Parties, Thomas Jenkins, Robert Feerick, Michael Bailey, Marquette and the Marquette Related Parties, Argosy and the Argosy Related Parties, Horizon and the Horizon Related Parties and the Debtor, the Reorganized Debtor and the Debtor Related Parties release and forever discharge (i) each other; (ii) the GUC Trust and the GUC Trustee, (iii) the members of the Official Committee of Unsecured Creditors in this bankruptcy proceeding, and each of their respective current or former officers or directors, shareholders, employees, professionals, including attorneys, solely in their capacity as members of the Official Committee of Unsecured Creditors; (iv) the Producer/Packer Claimants and the Producer/Packer Claimants Related Parties, from any and all past, present or future, known or unknown, fixed or contingent, matured or unmatured, liquidated or unliquidated, claims (including, without limitation, priority, administrative expense or unsecured claims), causes of action, liabilities, rights, demands, penalties, assessments, damages, requests, suits, lawsuits, costs, actions, defenses, remedies or proceedings, of whatever nature, character, type or description, asserted or which could be asserted, including, without limitation, those arising out of the allegations, transactions and events at issue in the Class Action and the Producer/Packer Action.

26. Notwithstanding anything herein to the contrary, the Groeb Parties, Thomas Jenkins, Robert Feerick and Michael Bailey each shall be entitled to terminate this Agreement unilaterally if any of the Producer/Packer Claimants or the Producer/Packer Related Parties opt out of the claim process and fail to release all Claims against them. In the event of such a termination, this Agreement shall become null and void and of no force or effect. If an election to terminate pursuant to this Paragraph is made, written notice of such termination must be

provided to all Parties. Following such notice, counsel for the Producer/Packer Claimants and the Producer/Packer Related Parties shall be afforded five (5) business days to convince the relevant Producer/Packer Claimants and the Producer/Packer Related Parties to change their positions. If counsel is successful in its efforts and so certifies to Counsel for the Groeb Parties, Thomas Jenkins, Robert Feerick or Michael Bailey, the termination shall automatically become null and void.

27. The Parties (i) consent to the (a) jurisdiction of the Bankruptcy Court to resolve any disputes or controversies between or among the Parties arising from, or related to, this Agreement and the jurisdiction of the United States District Court for the Northern District of Illinois to resolve any disputes or controversies between or among the Parties arising from, or related to, the Class Action Settlement Agreement, and (b) Bankruptcy Court entering a final judgment determining such matters as to which it has jurisdiction, and (ii) agree that a final judgment in any such action or proceeding, including all appeals, will be conclusive, and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

28. Each of the undersigned individuals represents and warrants that he or she is authorized to execute this Agreement on behalf of the Party (or Parties) for whom he or she purports to act. The PCRs and the Producer/Packer Claimants, through their counsel, represent and warrant that they hold their individual Claims, and have not sold, assigned, pledged or otherwise transferred such Claims.

29. This Agreement may be executed in counterparts, any of which may be transmitted by facsimile, and each of which will be deemed an original, but all of which together will constitute one and the same instrument. Each of the Parties has participated in, and jointly

consented to, the drafting of this Agreement, and any claimed ambiguity will not be construed for, or against, any of the Parties on account of such drafting.

30. The Class Action Settlement Agreement shall not be inconsistent with this Agreement, this Agreement shall not be inconsistent with the Class Action Settlement Agreement.

31. This Agreement and all of its provisions will be binding upon, and inure to the benefit of, the Parties and the Released Parties.

32. This Agreement together with all other agreements referenced herein (including the Class Action Settlement Agreement and the Insurance Settlement Agreement) are the entire agreement between the Parties relating to the matters that are the subject of it. This Agreement may not be modified except in a writing signed by the Party against whom enforcement is sought.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

NATURAL AMERICAN FOODS, INC.,  
Successor by merger to Groeb Farms, Inc.

By: Rolf B. Richter  
Rolf B. Richter  
Its: Chief Executive Officer  
Date: FEB. 10. 2015

Thomas H. Jenkins  
Date: \_\_\_\_\_

Michael Bailey  
Date: \_\_\_\_\_

Robert Feerick  
Date: \_\_\_\_\_

**HORIZON PARTNERS, LTD.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**HORIZON CAPITAL PARTNERS III**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**MARQUETTE CAPITAL FUND I, LP**

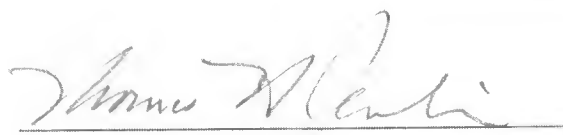
By: Marquette Capital Partners, LLC, its  
General Partner  
By: \_\_\_\_\_  
Thomas A. Jenkins  
Its: Managing Member  
Date: \_\_\_\_\_

**ARGOSY INVESTMENT PARTNERS III  
L.P.,**

By: Argosy Associates, III, L.P., its General  
Partner  
By: Argosy Associates III, Inc., its General  
Partner  
By: \_\_\_\_\_  
Michael Bailey  
Its: Vice President  
Date: \_\_\_\_\_

**NATURAL AMERICAN FOODS, INC.,**  
Successor by merger to Groeb Farms, Inc.

By: \_\_\_\_\_  
Rolf B. Richter  
Its: Chief Executive Officer  
Date: \_\_\_\_\_

  
Thomas H. Jenkins  
Date: 2/4/15

\_\_\_\_\_  
Michael Bailey  
Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Feerick  
Date: \_\_\_\_\_

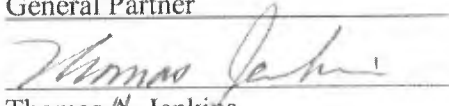
**HORIZON PARTNERS, LTD.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**HORIZON CAPITAL PARTNERS III**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**MARQUETTE CAPITAL FUND I, LP**

By: Marquette Capital Partners, LLC, its  
General Partner  
By:   
Thomas A. Jenkins  
Its: Managing Member  
Date: 2/4/15

**ARGOSY INVESTMENT PARTNERS III  
L.P.,**

By: Argosy Associates, III, L.P., its General  
Partner  
By: Argosy Associates III, Inc., its General  
Partner

By: \_\_\_\_\_  
Michael Bailey  
Its: Vice President  
Date: \_\_\_\_\_

**NATURAL AMERICAN FOODS, INC.,**  
Successor by merger to Groeb Farms, Inc.

By: \_\_\_\_\_  
Rolf B. Richter  
Its: Chief Executive Officer  
Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Jenkins

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Bailey

Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Feerick

Date: \_\_\_\_\_

**HORIZON PARTNERS, LTD.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**HORIZON CAPITAL PARTNERS III**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**MARQUETTE CAPITAL FUND I, LP**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ARGOSY INVESTMENT PARTNERS III,  
L.P.**

By: Argosy Associates III, L.P., its General  
Partner \_\_\_\_\_

By: Argosy Associates III, Inc., its General  
Partner \_\_\_\_\_

By: Michael Bailey  
Michael Bailey

Its: Vice President \_\_\_\_\_

Date: 2/2/15 \_\_\_\_\_

\_\_\_\_\_  
Ernest Groeb

Date: \_\_\_\_\_

NATURAL AMERICAN FOODS, INC.,  
Successor by merger to Groeb Farms, Inc.

By: \_\_\_\_\_  
Rolf B. Richter  
Its: Chief Executive Officer  
Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Jenkins

Date: \_\_\_\_\_

Mr Bailey  
Michael Bailey

Date: 2/2/15

\_\_\_\_\_  
Robert Feerick

Date: \_\_\_\_\_

HORIZON PARTNERS, LTD.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

HORIZON CAPITAL PARTNERS III

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

MARQUETTE CAPITAL FUND I, LP

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

ARGOSY INVESTMENT PARTNERS III

L.P. By: Argosy Associates III, L.P.  
Its: General Partner

By: Argosy Associates III, Inc.

Its: General Partner

Date: By: Mr Bailey  
MICHAEL R. BAILEY, VICE PRESIDENT

Date: 2/2/15

\_\_\_\_\_  
Ernest Groeb

Date: \_\_\_\_\_

\_\_\_\_\_  
Troy Groeb

Date: \_\_\_\_\_

NATURAL AMERICAN FOODS, INC.,  
Successor by merger to Groeb Farms, Inc.

By: \_\_\_\_\_  
Rolf B. Richter  
Its: Chief Executive Officer  
Date: \_\_\_\_\_

HORIZON CAPITAL PARTNERS III

By: \_\_\_\_\_  
Its: GENERAL PARTNER - HORIZON VENTURE ASSOCIATES  
Date: 2/11/15

MARQUETTE CAPITAL FUND I, LP

\_\_\_\_\_  
Thomas H. Jenkins  
Date: \_\_\_\_\_

By: Marquette Capital Partners, LLC, its  
General Partner

By: \_\_\_\_\_  
Thomas A. Jenkins  
Its: Managing Member

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Bailey  
Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Feerick  
Date: 2/11/15

ARGOSY INVESTMENT PARTNERS III  
L.P.,

By: Argosy Associates, III, L.P., its General  
Partner

By: Argosy Associates III, Inc., its General  
Partner

HORIZON PARTNERS, LTD.

By: \_\_\_\_\_  
Its: CHAIRMAN + CEO  
Date: 2/11/15

By: \_\_\_\_\_  
Michael Bailey  
Its: Vice President  
Date: \_\_\_\_\_





Ernest Groeb

Date: 2/11/15

Troy Groeb

Date: \_\_\_\_\_

**SLTNTRST LLC D/B/A SOLUTION TRUST**

By: \_\_\_\_\_

Peter Kravitz

Its: Principal and solely in his capacity as a Principal of SLTNTRST, LLC d/b/a Solution Trust and not in any individual capacity

Date: \_\_\_\_\_

E. Jeanne Groeb

Date: \_\_\_\_\_

**E. JEANNE GROEB LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

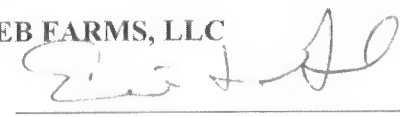
**ERNEST L. GROEB, JR. LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**GROEB FARMS, LLC**

By: 

Its: Member

Date: 2/11/15

**GROEB FAMILY PARTNERSHIP**

By: 

Its: Member

Date: 2/11/15

Ernest Groeb

Date: \_\_\_\_\_

**SLTNTRST LLC D/B/A SOLUTION TRUST**

By: \_\_\_\_\_

Its: Peter Kravitz  
Principal and solely in his capacity as a  
Principal of SLTNTRST, LLC d/b/a  
Solution Trust and not in any individual  
capacity

Date: \_\_\_\_\_

E. Jeanne Groeb  
E. Jeanne Groeb

Date: 2/12/15

**GROEB FARMS, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**GROEB FAMILY PARTNERSHIP**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Troy L. Groeb  
Troy Groeb

Date: 2/12/15

**E. JEANNE GROEB LIVING TRUST**

By: E. Jeanne Groeb

Its: Trustee

Date: 2/12/15

**ERNEST L. GROEB, JR. LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Ernest Groeb

Date: \_\_\_\_\_

**SLTNTRST LLC D/B/A SOLUTION TRUST**

By: \_\_\_\_\_

Its: Peter Kravitz  
Principal and solely in his capacity as a  
Principal of SLTNTRST, LLC d/b/a  
Solution Trust and not in any individual  
capacity

Date: \_\_\_\_\_

E. Jeanne Groeb

Date: \_\_\_\_\_

**GROEB FARMS, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**GROEB FAMILY PARTNERSHIP**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Troy Groeb

Date: \_\_\_\_\_

**E. JEANNE GROEB LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ERNEST L. GROEB, JR. LIVING TRUST**

By: Honorable E. Baker  
Old National Wealth Management,  
Successor in Interest to United Bank & Trust  
Its: \_\_\_\_\_

By: 2/12/15  
Date: Honorable E. Baker, Senior Vice President

\_\_\_\_\_  
Ernest Groeb

Date: \_\_\_\_\_

**SLTNTRST LLC D/B/A SOLUTION TRUST**

By: \_\_\_\_\_

Peter Kravitz

Its: Principal and solely in his capacity as a  
Principal of SLTNTRST, LLC d/b/a  
Solution Trust and not in any individual  
capacity

Date: Feb 19, 2015

\_\_\_\_\_  
Troy Groeb

Date: \_\_\_\_\_

**E. JEANNE GROEB LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ERNEST L. GROEB, JR. LIVING TRUST**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
E. Jeanne Groeb

Date: \_\_\_\_\_

**GROEB FARMS, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**GROEB FAMILY PARTNERSHIP**

By: \_\_\_\_\_

Its: \_\_\_\_\_

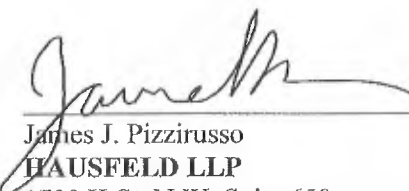
Date: \_\_\_\_\_

**PROPOSED CLASS  
REPRESENTATIVES**, by counsel



---

Adam J. Levitt  
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*Counsel for Proposed Class Representatives  
herein, and Co-Lead Interim Class Counsel in  
the Class Action on behalf of Richard Adee  
d/b/a Adee Honey Farms, Bill Rhodes Honey  
Company, LLC, and Hackenberg Apiaries,  
each individually and as representatives of the  
Class*

**PRODUCE/PACKER CLAIMANTS**, by  
counsel

---

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**THE COFFMAN LAW FIRM**  
The First City Building  
505 Orleans St., Ste. 505  
Beaumont, TX 77701  
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Facsimile: (866) 835-8250  
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Sharon A. Harris  
Erich P. Schork  
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[s.harris@barnowlaw.com](mailto:s.harris@barnowlaw.com)  
[e.schork@barnowlaw.com](mailto:e.schork@barnowlaw.com)

*Counsel for the Producer/Packer Claimants*

**PROPOSED CLASS  
REPRESENTATIVES, by counsel**

---

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*Counsel for Proposed Class Representatives  
herein, and Co-Lead Interim Class Counsel in  
the Class Action on behalf of Richard Adee  
d/b/a Adee Honey Farms, Bill Rhodes Honey  
Company, LLC, and Hackenberg Apiaries,  
each individually and as representatives of the  
Class*

**PRODUCE/PACKER CLAIMANTS, by  
counsel**



Richard L. Coffman  
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(248) 436-3385 (Facsimile)  
[aoliver@oliverlg.com](mailto:aoliver@oliverlg.com)

**OF COUNSEL:**  
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Sharon A. Harris  
Erich P. Schork  
**BARNOW AND ASSOCIATES, P.C.**  
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Telephone: (312) 621-2000  
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[e.schork@barnowlaw.com](mailto:e.schork@barnowlaw.com)

*Counsel for the Producer/Packer Claimants*

**EXHIBIT A**

<b>Claimant Type</b>	<b>Claimant Name</b>	<b>Claim Number</b>	<b>Pounds of Honey Produced/Packed 2001-2012</b>	<b>Allowed Claim Amount</b>
<b>Producer/ Packer Claimants</b>	Ruby's Apiaries, Inc.	132	6,411,137	\$2,243,898
	Kallas Honey Farm, Inc.	134	21,181,280	\$7,413,448
	Larry Krause d/b/a Wind River Honey Company	136	280,8000	\$982,800
	William H. Perry d/b/a Perry Apiaries	137	2,400,000	\$840,000
	Heaven's Honey, Inc. d/b/a Bennett's Honey Farm	138	7,020,000	\$2,457,000
	Blake Shook d/b/a Desert Creek Honey	141	701,574	\$245,551
	Heaven's Honey, Inc., d/b/a Chip's Bees	142	1,615,068	\$565,274
	Cox Honey of Utah, LLC	143	1,212,940	\$424,529
	Kelvin Adee d/b/a Adee Honey Farms	144	8,892,360	\$3,112,326
	Bernard Casavan d/b/a Casavan Apiaries	145	2,082,000	\$728,700
	Brett Adee d/b/a Adee Honey Farms	146	8,892,360	\$3,112,326
	Chris Moore d/b/a Moore's Honey Farm	147	2,564,860	\$897,701
	Bauer Honey, Inc.	148	9,600,000	\$3,360,000
	Daniel C. Whitney d/b/a Dan's Honey Co.	150	1,105,000	\$386,750
	Charles Hendrycks d/b/a Hendrycks Apiaries	TBD	TBD	TBD
	Bee Natural Honey, LLC	TBD	TBD	TBD
	Brad Stromme d/b/a Stromme Honey	TBD	TBD	TBD
	McCoy's Sunny South Apiaries, Inc.	TBD	TBD	TBD
	Willow Bee, LLC	TBD	TBD	TBD

	GloryBee Natural Sweetners, Inc.	TBD	TBD	TBD
	Drange Apiary, Inc.	TBD	TBD	TBD
	<i>Producer/Packer Subtotal</i>			TBD



## EXHIBIT B

### Withdrawn Claims

<b>Settlement Class Member Claimants</b>	Richard Adee d/b/a Adee Honey Farms	139	50,030,640	\$17,510,724.00
	Bill Rhodes Honey Company, LLC	139	9,825,400	\$3,438,890.00
	Hackenberg Apiaries	139	2,092,926	\$732,524.10
	Edward Doan d/b/a Doan's Honey Farm	139	TBD	TBD
	Weebee Honey Inc.	139	TBD	TBD
	All other Settlement Class Members	139	TBD	TBD
	<i>Settlement Class Member Subtotal</i>			TBD
<b>MAXIMUM TOTAL VALUE</b>			1,185,251,419	\$414,837,996.65

## EXHIBIT C

### GROEB CLAIMS

Claim Number	Name
155	E. Jeanne Groeb Living Trust
154	Ernest Groeb
192	Groeb Farms LLC
156	Groeb Farms LLC
152	Troy Groeb

# INSURANCE SETTLEMENT AGREEMENT

## **SETTLEMENT AND RELEASE AGREEMENT**

This is a Settlement and Release Agreement (“Agreement”) by and between Federal Insurance Company (“Federal”) on the one hand and Debtor Groeb Farms, Inc. (“Debtor”), Natural American Foods, Inc. (the “Reorganized Debtor”), General Unsecured Claims Litigation Trustee, on behalf of himself and the General Unsecured Claims Litigation Trust (the “GUC Trustee”), Ernest L. Groeb (“E.Groeb”), Troy L. Groeb (“T.Groeb”), Robert Feerick (“Feerick”), Thomas Jenkins (“Jenkins”) and Michael Bailey (“Bailey”), on the other hand. E.Groeb, T.Groeb, Feerick, Jenkins and Bailey will be referred to singularly or collectively as an “Individual Insured” or the “Individual Insureds.” The signatories to this Agreement will be referred to singularly or collectively as a “Party” or the “Parties,” respectively.

### **PREAMBLE**

**WHEREAS**, Federal issued Forefront Portfolio Policy No. 8208-1192 to the Debtor for the claims-made policy period of May 1, 2011 through May 1, 2012 (the “Policy”);

**WHEREAS**, the Debtor and the Individual Insureds (collectively, the “Insureds”) are or were named as defendants in individual and class action lawsuits consolidated in a case captioned *In re Honey Transshipping Litigation*, Case No. 13 C 2905 (N.D. Ill.), filed in April 2013 (the “Transshipping Litigation”);

**WHEREAS**, the Insureds sought coverage from Federal under the Policy for the Transshipping Litigation and related government investigations (the “Transshipping Claim”);

**WHEREAS**, Federal has reserved its rights and defenses under the Policy and applicable law with respect to the Transshipping Claim;

**WHEREAS**, on October 1, 2013, the Debtor filed its chapter 11 bankruptcy proceeding (the “Bankruptcy Case”) in the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division (the “Bankruptcy Court”);

**WHEREAS**, on December 20, 2013, the Bankruptcy Court entered an Order confirming Debtor’s Second Amended Plan of Reorganization (the “Plan”), which Plan became effective on December 31, 2013 (the “Plan Effective Date”);

**WHEREAS**, in accordance with the terms of the Plan, on its Effective Date, the General Unsecured Claims Litigation Trust (“GUC Trust”) was created for the purpose, among other things, of pursuing and/or liquidating the GUC Trust Assets, distributing the GUC Trust Distributable Proceeds, if any, and reconciling and objecting to General Unsecured Claims as provided in the Plan;

**WHEREAS**, the GUC Trust has asserted certain claims against the Individual Insureds arising out of their prepetition conduct in connection with the Debtor (the “GUC Trust Claim”);

**WHEREAS**, the Individual Insureds sought coverage from Federal under the Policy for the GUC Trust Claim;

**WHEREAS**, Federal has reserved its rights and defenses under the Policy and applicable law with respect to the GUC Trust Claim;

**WHEREAS**, the Insureds, the GUC Trustee and Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, and Hackenberg Apiaries, individually and as representatives of the putative settlement class (the “Class Plaintiffs”) have reached a settlement of the class action lawsuit in the Transshipping Litigation memorialized in a Class Action Settlement Agreement and Release (the “Class Action Settlement Agreement”);

**WHEREAS**, the Insureds, the GUC Trust and the individual producer/packer plaintiffs (the “Produce/Packer Plaintiffs”) have reached a settlement of the individual actions in the Transshipping Litigation and the GUC Trust Claim memorialized in a Stipulation and Settlement Agreement By, Between, and Among the General Unsecured Claims Litigation Trustee, Proposed Class Representatives, Producer/Packer Claimants and the Groeb Parties (the “Bankruptcy Stipulation”);

**WHEREAS**, the Reorganized Debtor and the Individual Insureds have incurred and will incur Defense Costs (as defined in the Policy) in connection with the Transshipping Claim (the “Defense Costs”);

**WHEREAS**, Federal has agreed to contribute the remaining limit of liability of the Policy towards the settlement of the Transshipping Litigation and the GUC Trust Claim and towards the payment of certain Defense Costs as provided herein; and

**WHEREAS**, the Parties desire to settle all of their disputes arising out of or related to the Transshipping Claim and the GUC Trust Claim;

**NOW, THEREFORE**, in consideration of the mutual promises and releases contained herein, the receipt and sufficiency of which hereby are acknowledged, the Parties agree as follows:

**1. SETTLEMENT**

1.1 This Agreement will become effective (the “Effective Date”) at the same time that the Class Action Settlement becomes effective pursuant to Paragraph 15 of the Class Action Settlement Agreement. If the Effective Date does not occur, this Agreement will be void and of no force and effect, and all of the Parties’ claims, rights, privileges and obligations in existence prior to executing this Agreement will be restored to their respective positions status quo ante.

1.2 Subject to the terms and final execution of this Agreement, Federal shall pay, in exchange for the releases in this Agreement:

(a) Three Million and 00/100 Dollars (\$3,000,000.00) (the “Class Settlement Payment”) to the Class Plaintiffs pursuant to the Class Action Settlement Agreement;

(b) Fifty Thousand Dollars (\$50,000) (the “Reorganized Debtor Payment”) to the Reorganized Debtor for certain outstanding and disputed Defense Costs by check made payable to Natural American Foods, Inc. and sent by overnight delivery to Natural American Foods, Inc., 10464 Bryan Highway, Onsted, MI 49265-9551 Attention: Rolf Richter, CEO within thirty (30) days of the Effective Date;

(c) Up to Eighty Thousand Dollars (\$80,000) for current and future Defense Costs to those whom Defense Costs shall be paid under the Policy on behalf of the Individual Insureds, which Defense Costs shall be paid on a monthly basis, but no later than thirty (30) days after the Effective Date (the “Individual Defense Cost Payments”), with the remaining balance transferred to the GUC Trust as part of the GUC Trust Settlement Payment; and

(d) No less than \$1,053,467.00 to the GUC Trust pursuant to the Bankruptcy Stipulation (the “GUC Trust Settlement Payment”).

1.3 The Parties agree that the Class Settlement Payment, the Reorganized Debtor Payment, the GUC Trust Settlement Payment and the Individual Defense Costs Payments (collectively, the “Settlement Payments”) will completely erode the limit of liability of the Policy, and that at no time will the Parties assert or contend that the Settlement Payments do not reduce such limit of liability.

## **2. COMPROMISE**

2.1 Each of the Parties agrees and acknowledges that this Agreement is the result of a compromise and shall not be construed as an admission by each such Party of any liability, coverage, wrongdoing, or responsibility on its part or on the part of its predecessors, successors, assigns, agents, parents, subsidiaries, affiliates, officers, directors, employees, or attorneys. Indeed, each Party expressly denies any such liability, coverage, wrongdoing or responsibility.

## **3. RELEASES**

3.1 Upon payment of the Settlement Payments, in exchange for the consideration set forth in this Agreement, the Insureds, the Reorganized Debtor and the GUC Trustee and each of their respective predecessors, successors, and past, present and future parents, subsidiaries, affiliates, assigns, transferees, agents, attorneys, directors, officers, managers, employees, unitholders and shareholders and any person acting on their behalf (collectively, the “Related Parties”) absolutely and forever release and discharge Federal, its predecessors, successors, parents, subsidiaries, affiliates, assigns, transferees, agents, attorneys, directors, officers, employees, shareholders and reinsurers (collectively, the “Federal Related Parties”) from any and all claims, potential claims, rights, damages, debts, liabilities, accounts, attorneys’ fees, reckonings, obligations, costs, expenses, liens, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, which any of them respectively now has, owns or holds, or at any time heretofore had, owned or held, or could, shall or may hereafter have, own, or hold arising out of, related to, based upon, by reason of, or in any way involving:

- (a) the Policy, including without limitation any claim for coverage or notice of potential claim under the Policy;
- (b) the Settlement Payments;



- (c) the Transshipping Claim, the allegations in the Transshipping Claim, or the same or related facts, circumstances, transactions or events or series of facts, circumstances, transactions or events at issue in the Transshipping Claim;
- (d) the GUC Trust Claim, the allegations of the GUC Trust Claim, or the same or related facts, , circumstances, transactions or events or series of facts, circumstances, transactions or events at issue in the GUC Trust Claim;
- (e) any notice of claim or notice of potential claim based on the Transshipping Claim or the GUC Trust Claim; or
- (f) any claim for misrepresentations, fraud, indemnity, contribution, breach of contract, breach of duty, negligence, “bad faith,” violation of statute or regulation, unfair claims handling, or damages of any kind whatsoever arising out of or relating to the Transshipping Claim, the GUC Trust Claim or the Settlement Payments.

3.2 Upon payment of the Settlement Payments, in exchange for the consideration set forth in this Agreement, Federal and the Federal Related Parties absolutely and forever release and discharge the Insureds, the Reorganized Debtor and the GUC Trustee and each of their Related Parties from any and all claims, potential claims, rights, damages, debts, liabilities, accounts, attorneys’ fees, reckonings, obligations, costs, expenses, liens, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, which any of them respectively now has, owns or holds, or at any time heretofore had, owned or held, or could, shall or may hereafter have, own, or hold arising out of, related to, based upon, by reason of, or in any way involving:

- (a) the Policy, including without limitation any claim for coverage or notice of potential claim under the Policy;
- (b) the Settlement Payments;
- (c) the Transshipping Claim, the allegations in the Transshipping Claim, or the same or related facts, circumstances, transactions or events or series of facts, circumstances, transactions or events at issue in the Transshipping Claim;
- (d) the GUC Trust Claim, the allegations of the GUC Trust Claim, or the same or related facts, circumstances, transactions or events or series of facts, circumstances, transactions or events at issue in the GUC Trust Claim;
- (e) any notice of claim or notice of potential claim based on the Transshipping Claim or the GUC Trust Claim; or
- (f) the pursuit of coverage for the Transshipping Claim, the GUC Trust Claim or the Settlement Payments.

3.3 Each of the Parties acknowledges that each respectively may have sustained damages, losses, fees, costs or expenses that are presently unknown or unsuspected; this Agreement has been negotiated and agreed upon in light of such possible damages, losses, fees, costs or expenses, and the Parties shall have no obligation except as set forth in this Agreement for such damages, losses, fees, costs or expenses. The Parties agree that, notwithstanding any statute or provision of the common law that provides that a general release does not extend to claims that a releasor does not know or suspect to exist at the time of executing the release, including California Civil Code Section 1542, the releases provided for in this Agreement shall be deemed to constitute a full release in accordance with their terms. The Parties knowingly,

voluntarily and expressly waive, to the fullest extent permitted by law, any and all rights they may have under any statute or common law principle that would limit the effect of the foregoing releases based upon their knowledge at the time they execute this Agreement. The Parties understand the provisions of this paragraph and knowingly and voluntarily enter into this waiver with the intention in executing this Agreement to discharge each other from any and all present and future, foreseen and unforeseen, claims and causes of action as provided in this Agreement. Each of the Parties acknowledges and agrees that this waiver is an essential and material term of this Agreement, and that, without such waiver, the Agreement would not have been entered into.

#### **4. REPRESENTATIONS AND WARRANTIES**

4.1 The Parties represent and warrant that they have not assigned to any other person or entity any claims released pursuant to this Agreement. If, contrary to this representation and warranty, a Party assigns or has assigned such rights to any other person or entity, that Party shall defend, indemnify and hold harmless the other Party with respect to any claim or action brought by any assignee of any interest assigned contrary to this representation and warranty.

4.2 Each of the Parties acknowledges and represents that each has carefully read and fully understands all of the provisions of this Agreement. Each of the Parties acknowledges that he or it is entering into this Agreement knowingly and voluntarily and that this Agreement is a product of good faith negotiations between the Parties.

4.3 Each of the Parties represents and warrants that he or it is authorized to enter into this Agreement; that the execution and delivery of this Agreement and the consummation of this transaction will not conflict with or result in any violation or default under any provision of any articles of incorporation, charter, by-laws or partnership agreement or of any decree, statute, law, ordinance, rule or regulation applicable to it; and that no further consent, approval, order,

authorization or filing with any governmental authority is required in connection with the execution and delivery of this Agreement or the consummation of the transactions described in this Agreement.

## **5. ADDITIONAL TERMS AND CONDITIONS**

5.1 Each Party understands, acknowledges and agrees that if any fact now believed to be true is found hereafter to be other than, or different from, that which is now believed, each expressly assumes the risk of such difference in fact and agrees that this Agreement shall and will remain effective notwithstanding any such difference in fact.

5.2 The Parties agree that this Agreement shall not be admissible in any other action or proceeding between the Parties except in an action to interpret or enforce this Agreement.

5.3 The Parties agree that they will not bring or commence any action against any of the other Parties for any claim, action, cause of action, right or obligation released in this Agreement.

5.4 All agreements and understandings between the Parties regarding the matters described herein are embodied in and expressed in this Agreement, the Class Action Settlement Agreement or the Bankruptcy Stipulation, and any prior agreements or understandings are fully superseded by this Agreement, the Class Action Settlement Agreement or the Bankruptcy Stipulation. The Parties acknowledge that, except as expressly set forth herein, no representations of any kind or character have been made to it by any of the other Parties to induce the execution of this Agreement.

5.5 In the event any of the provisions of this Agreement are deemed to be invalid and unenforceable, those provisions shall be severed from the remainder of this Agreement only if and to the extent agreed upon by the Parties in writing.

5.6 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. Copies of all or part of this Agreement, including signatures thereto, which are transmitted by facsimile or e-mail shall be presumed valid.

5.7 The Parties and their counsel each have contributed to this Agreement. No provision of this Agreement shall be construed against any Party by reason of authorship.

5.8 This Agreement may not be modified except in a writing signed by all Parties.

5.9 The Parties declare, warrant and represent that they have agreed to the terms of this Agreement. Each signatory of this Agreement declares, warrants and represents that he or it has the general and specific authority to enter into and execute this Agreement.

Executed by:

**FEDERAL INSURANCE COMPANY,  
By Chubb & Son, a division of Federal Insurance Company**



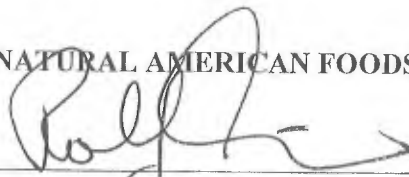
DATE: 2-18-15

By: Alison L. Martin  
Title: Vice President, Specialty Claims

NATURAL AMERICAN FOODS, INC.

By:

Title:

  
ROLF RICHTER  
PRESIDENT/CEO

DATE:

FEB. 10 - 2015

SLTNTRST LLC D/B/A SOLUTION TRUST

By: Peter Kravitz

Title: Principal and solely in his capacity as a Principal  
of SLTNTRST, LLC d/b/a Solution Trust and not in  
any individual capacity

DATE:

ERNEST L. GROEB

DATE:

TROY L. GROEB

DATE:

ROBERT FEERICK

DATE:

THOMAS JENKINS

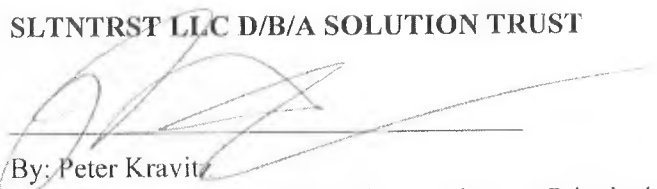
DATE:

NATURAL AMERICAN FOODS, INC.

\_\_\_\_\_  
By:  
Title:

DATE: \_\_\_\_\_

SLTNTRST LLC D/B/A SOLUTION TRUST

  
By: Peter Kravitz  
Title: Principal and solely in his capacity as a Principal  
of SLTNTRST, LLC d/b/a Solution Trust and not in  
any individual capacity

DATE: Feb 19, 2015

ERNEST L. GROEB

\_\_\_\_\_

DATE: \_\_\_\_\_

TROY L. GROEB

\_\_\_\_\_

DATE: \_\_\_\_\_

ROBERT FEERICK

\_\_\_\_\_

DATE: \_\_\_\_\_

THOMAS JENKINS

\_\_\_\_\_

DATE: \_\_\_\_\_

NATURAL AMERICAN FOODS, INC.

DATE: \_\_\_\_\_

By:  
Title:

SLTNTRST LLC D/B/A SOLUTION TRUST

DATE: \_\_\_\_\_

By: Peter Kravitz  
Title: Principal and solely in his capacity as a Principal  
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any individual capacity

ERNEST L. GROEB



DATE: 2/11/15

TROY L. GROEB

DATE: \_\_\_\_\_

ROBERT FEERICK

DATE: \_\_\_\_\_

THOMAS JENKINS

DATE: \_\_\_\_\_



NATURAL AMERICAN FOODS, INC.

DATE: \_\_\_\_\_

By:  
Title:

SLTNTRST LLC D/B/A SOLUTION TRUST

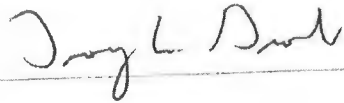
DATE: \_\_\_\_\_

By: Peter Kravitz  
Title: Principal and solely in his capacity as a Principal  
of SLTNTRST, LLC d/b/a Solution Trust and not in  
any individual capacity

ERNEST L. GROEB

DATE: \_\_\_\_\_

TROY L. GROEB



DATE: 2/12/15

ROBERT FEERICK

DATE: \_\_\_\_\_

THOMAS JENKINS

DATE: \_\_\_\_\_

NATURAL AMERICAN FOODS, INC.

\_\_\_\_\_  
By:  
Title:

DATE: \_\_\_\_\_

SLTNTRST LLC D/B/A SOLUTION TRUST

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By: Peter Kravitz  
Title: Principal and solely in his capacity as a Principal  
of SLTNTRST, LLC d/b/a Solution Trust and not in  
any individual capacity

DATE: \_\_\_\_\_

ERNEST L. GROEB

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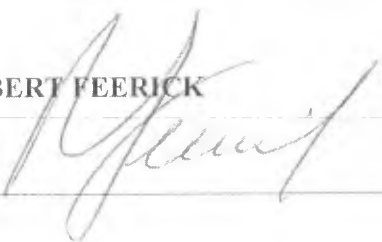
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ROBERT FEERICK

  
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THOMAS JENKINS

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DATE: \_\_\_\_\_

**NATURAL AMERICAN FOODS, INC.**

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DATE: \_\_\_\_\_

By:  
Title:

**SLTNTRST LLC D/B/A SOLUTION TRUST**

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DATE: \_\_\_\_\_

By: Peter Kravitz  
Title: Principal and solely in his capacity as a Principal  
of SLTNTRST, LLC d/b/a Solution Trust and not in  
any individual capacity

**ERNEST L. GROEB**

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**TROY L. GROEB**

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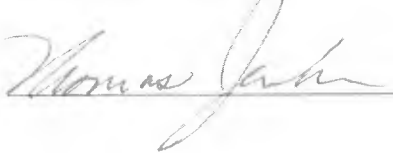
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**ROBERT FEERICK**

\_\_\_\_\_

DATE: \_\_\_\_\_

**THOMAS JENKINS**

\_\_\_\_\_

DATE: 2/2/2013

MICHAEL BAILEY

\_\_\_\_\_

DATE: 2/2/15

# CLASS ACTION SETTLEMENT AGREEMENT

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE	)	
	)	
	)	
HONEY TRANSHIPPING LITIGATION	)	Hon. Joan B. Gottschall
	)	
	)	
	)	Case No. 13-CV-02905
	)	
	)	
	)	
	)	

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release is entered into by and between Ernest L. Groeb, Troy L. Groeb, Robert Feerick, Marquette Capital Partners, Thomas Jenkins, Horizon Partners, Ltd., Horizon Capital Partners III, and the General Unsecured Claims Litigation Trustee (the “GUC Trustee”), on the one hand, and Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan’s Honey Farms, and Weebee Honey, Inc., individually and as representatives of the Settlement Class, on the other hand.

**DEFINITIONS**

1. “Accessible Contact Information” means the names, addresses, and e-mails of Class Members as presently contained in the records of the Settling Defendants and Class Counsel, and using standard address forwarding that may be supplied by the United States Post Office, if any.

2. “Bankruptcy Stipulation” means the “Stipulation and Settlement Agreement By, Between, and Among the General Unsecured Claims Litigation Trustee, Proposed Class Representatives, Producer/Packer Claimants and the Groeb Parties” filed in Groeb Farms Inc.’s

chapter 11 bankruptcy proceeding in the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division.

3. “Class Action” or “Action” means the above-captioned putative class action (*In re Honey Transshipping Litigation*, Case No. 13-CV-02905) currently pending in the United States District Court for the Northern District of Illinois.

4. “Class” or “Class Members” or “Proposed Class” is defined as and means all individuals and entities with commercial beekeeping operations (300 or more hives) and packers of honey that produced and/or sold honey in the United States during the period from 2001 to the present, as also identically defined in paragraph 237 of the Class Complaint, except for alleged co-conspirators of the Released Parties and the following individuals and entities who have prospectively opted-out of the Class: Chris Moore d/b/a Moore’s Honey Farm, Cox Honey of Utah, LLC, Brett Adee d/b/a Adee Honey Farms, Kelvin Adee d/b/a Adee Honey Farms, Daniel C. Whitney d/b/a Dan’s Honey Company, Bauer Honey, Inc., Bee Natural Honey, LLC, Bernard Casavan d/b/a Casavan Apiaries, Blake Shook d/b/a Desert Creek Honey, Ruby’s Apiaries, Inc., Kallas Honey Farm, Inc., Larry Krause d/b/a Wind River Honey Company, Heaven’s Honey, Inc. d/b/a Chip’s Bees and Bennett's Honey Farm, Brad Stromme d/b/a Stromme Honey, Charles Hendrycks d/b/a Hendrycks Apiaries, William H. Perry d/b/a Perry Apiaries, McCoy's Sunny South Apiaries, Inc., Willow Bee, LLC, GloryBee Natural Sweeteners, Inc. and Drange Apiary, Inc. (the “Individual Plaintiffs”).

5. “Claim Form” means the Claim Form provided for in this Agreement and attached hereto as Exhibit A, or in such other form as the Parties may later agree upon in writing.

6. “Claim Period” means 2001 through the date of the Court’s Final Approval of this Settlement Agreement.

7. “Claim Submission Deadline” means the date that is 180 days after the Notice Date.

8. “Class Counsel” means counsel for the Class Representatives and the Class Members, Adam J. Levitt of Grant & Eisenhofer, P.A. and James J. Pizzirusso of Hausfeld LLP.

9. “Class Notice” or “Notice” means the notice of the Settlement Agreement to the Settlement Class provided for in this Agreement and attached hereto as Exhibit B, or in such other form as the Parties may later agree upon in writing, subject to approval by the Court.

10. “Class Representatives” or “Plaintiffs” mean Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan’s Honey Farms, and Weebee Honey, Inc.

11. “Class Complaint” means the Consolidated Amended Class Action Complaint filed in the United States District Court for the Northern District of Illinois in this Class Action as Document Number 67.

12. “Counsel Fee and Expense Reimbursement Award” means the attorneys’ fees and expenses awarded to Class Counsel by the Court as described in Paragraphs 73-75.

13. “Court” means the United States District Court for the Northern District of Illinois.

14. “D&O Policy” means Forefront Portfolio Policy No. 8208-1192 issued by Federal Insurance Company to Groeb Farms Inc. for the May 1, 2011 to May 1, 2012 policy period.

15. “Effective Date” means the first date after which all of the following events and conditions of this Settlement Agreement have been met or have occurred:

- (a) the Court has entered a Judgment approving the Settlement Agreement (as defined below) (“Final Approval”); and



- (b) the Judgment has become Final; and
- (c) the United States Bankruptcy Court for the Eastern District of Michigan has entered an order in the Chapter 11 case captioned *In re: Groeb Farms, Inc.*, Case No. 13-58200 (the “Groeb Bankruptcy Case”):
  - (i) approving this Class Action Settlement Agreement and Release as it pertains to the GUC Trustee and the D&O Policy; and
  - (ii) permitting the payment of \$3,000,000.00 from the proceeds of the D&O Policy (the “Bankruptcy Court Approval Order”); and
- (d) the Bankruptcy Court Approval Order has become Final.

16. “Final” means the time for appeal or writ has expired or, if an appeal and/or petition for review is taken and the judgment is affirmed, the time period during which further petition for hearing, appeal, or writ can be taken has expired (if the judgment is set aside, materially modified, or overturned by the trial court or on appeal, and is not fully reinstated on further appeal, the judgment shall not become Final). In the event of an appeal or other effort to obtain review, the Parties may jointly agree in writing to deem the Effective Date to have occurred; however, there is no obligation to agree to advance the Effective Date.

17. “Final Approval Hearing” means the hearing at which the Court will consider all papers and evidence submitted in support of, and any objections submitted in opposition to, final approval of the Settlement Agreement and Class Counsel’s motion for attorneys’ fees, litigation expense reimbursement, and incentive awards for Class Representatives.

18. “GUC Trust” means the General Unsecured Claims Litigation Trust in the Groeb Bankruptcy Case and the “GUC Trustee” is identified as SLNTRST LLC d/b/a Solution Trust.

19. “Judgment” means the Final Judgment Order provided for in Paragraph 76, a form of which is attached hereto and incorporated herein as Exhibit C.

20. “Net Settlement Fund” means the balance of the Settlement Fund after payment of the Counsel Fee and Expense Reimbursement Award, Settlement Administration Costs and Expenses, and incentive awards for Class Representatives.

21. “Notice Date” means the last date on which Published Notice is published.

22. “Opt-Out Date” means the deadline for receipt of any Class Member’s request for exclusion from the Settlement. The Opt-Out Date will be at least thirty (30) days prior to the Final Approval Hearing (or such other date as set by the Court) as set forth in Paragraph 63, and requests for exclusion received after that date will have no legal effect.

23. “Parties” means the parties to this Settlement Agreement: Ernest L. Groeb, Troy L. Groeb, Robert Feerick, Marquette Capital Partners, Thomas Jenkins, Horizon Capital Partners III, Horizon Partners, Ltd., and the General Unsecured Claims Litigation Trustee (the “GUC Trustee”), on the one hand, and Richard Adee d/b/a Adee Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan’s Honey Farms, and Weebie Honey, Inc., individually and as representatives of the Settlement Class, on the other hand.

24. “Person” (when used in the singular or in the plural form) means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity and any other recognizable legal entity.

25. “Preliminary Approval Order” means an order preliminarily approving this Class Action Settlement and Release, substantially in the form of Exhibit D.

26. “Published Notice” means publication of the Notice of the proposed Settlement Agreement, as attached hereto as Exhibit E.

27. “Released Claims” means the claims and liabilities released and discharged under Paragraph 77 of this Settlement Agreement.

28. “Released Parties” means:

- a. Ernest L. Groeb
- b. Troy L. Groeb
- c. E. Jeanne Groeb
- d. Groeb Farms, LLC
- e. The Groeb Family Partnership
- f. E. Jeanne Groeb Living Trust
- g. Ernest L. Groeb, Jr. Living Trust
- h. Robert Feerick
- i. Marquette Parties

i. Marquette Parties shall include Marquette Capital Fund I, L.P., Marquette Capital Partners, LLC, Marquette Capital, LLC f/k/a Marquette Capital Partners, Inc., and each of the officers, directors, members, shareholders, general partners or limited partners of the Marquette Parties.

- j. Thomas Jenkins
- k. Horizon Capital Partners III
- l. Argosy Parties

i. Argosy Parties shall include Argosy Investment Partners, L.P., Argosy Investment Partners II, L.P., Argosy Investment Partners III, L.P., Argosy Investment Partners IV, L.P., Argosy Associates, L.P., Argosy Associates II, L.P., Argosy Associates III, L.P., Argosy Associates IV, L.P., Argosy Associates, Inc., Argosy Associates II, Inc., Argosy Associates III, Inc., Argosy Associates IV, LLC, Argosy Management, L.P., Argosy Management Company, LLC and each of the officers,

directors, members, shareholders, general partners or limited partners of the Argosy Parties.

m. Groeb Farms Inc. (“GFI”), its current and former officers or directors, and any individual that would qualify as an Insured Person as defined in the D&O Policy.

n. The GUC Trustee

o. The GUC Trust

p. Federal Insurance Company and its reinsurers in their capacity as such.

29. “Releasing Persons” shall mean all Settlement Class Members who do not opt out of this Settlement.

30. “Settlement Agreement” means the terms and conditions set forth in this Agreement, including all Exhibits.

31. “Settlement Administration Costs and Expenses” means the costs and expenses connected with administering and facilitating the Settlement, including but not limited to the costs of providing all forms (including, but not limited to, printing, mailing, and maintenance of the Settlement Website) of approved and ordered Notice to the Class, processing Claim Forms, and mailing Settlement Checks to eligible Settlement Class Members.

32. “Settlement Administrator” means the entity chosen by Class Counsel to administer and facilitate the Settlement.

33. “Settlement Fund” means \$3,000,000.00 (three million dollars) in cash from the D&O Policy (the “Settlement Payment”) which shall be deposited into a non-reversionary settlement fund escrow account that is FDIC-insured and administered by the Settlement Administrator, subject to the control and jurisdiction of the Court, from which the Counsel Fee and Expense Reimbursement Award, all Settlement Administration Costs and Expenses, and any incentive awards to Class Representatives will be paid.

34. “Settlement Class” means all individuals and entities with commercial beekeeping operations of 300 or more hives and packers of honey that produced and/or sold honey in the United States during the period from 2001 to the present. The Settlement Class excludes: (a) counsel for the parties and members of their families; (b) the Released Parties; (c) all persons and entities who validly request exclusion from the Settlement Class pursuant to the terms of this Agreement; (d) the Individual Plaintiffs; and (e) Defendants in the Class Action, their alleged co-conspirators, respective parents, subsidiaries and affiliates, as well as any government entities, including the Court and its staff.

35. “Settlement Class Member” means each member of the Settlement Class.

36. “Settlement Checks” are the checks used to pay Settlement Class Members.

37. “Settling Defendants” means Ernest L. Groeb, Troy L. Groeb, Robert Feerick, Marquette Capital Partners, Thomas Jenkins, and Horizon Partners, Ltd.

38. “Settling Defendants’ Counsel” means Greenberg Traurig, LLP; Stetler, Duffy & Rotert, Ltd.; Williams Montgomery & John, Ltd.; Taft Stettinius & Hollister LLP; and Fredrikson & Byron, P.A.

### **RECITALS**

39. This Settlement Agreement is made for the following purposes and with reference to the following facts:

40. WHEREAS, on November 22, 2013, Class Counsel filed the Complaint alleging that the Settling Defendants, and others, engaged in a scheme to defraud the Class by unlawfully importing Chinese honey;

41. WHEREAS, the Complaint seeks money damages, attorneys’ fees and other relief;

42. WHEREAS, Settling Defendants have denied and continue to deny each and all of the claims asserted in the Complaint, as well as each and every allegation therein;

43. WHEREAS, Class Counsel has conducted an investigation regarding the facts and law relevant to the claims and defenses in this case;

44. WHEREAS, Before filing the Complaint and during settlement negotiations, Class Counsel and their consultants examined and evaluated the facts and relevant law to assess the merits of Plaintiffs' claims against the Settling Defendants and to determine how best to serve the interests of the Class;

45. WHEREAS, Class Counsel and the Class Representatives believe that the claims against the Settling Defendants have merit;

46. WHEREAS, Class Counsel, on behalf of the Settlement Class, also recognize, however, that the claims against the Settling Defendants may have an uncertain outcome and that pursuing this litigation against the Settling Defendants through trial would involve substantial cost, risk and inevitable delay. Based on their evaluation of the facts and law, and a weighing of the risks and benefits, which include, among other things, whether the facts support the claims asserted in the Complaint against the Settling Defendants, the expense and length of continued proceedings necessary to prosecute this litigation against the Settling Defendants through trial and any appeals, the expense and length of proceedings necessary to collect any judgment entered against the Settling Defendants, and the substantial benefits the settlement confers upon the Class, Class Counsel have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, adequate, and in the best interests of all Class Members;

47. WHEREAS, the Class Representatives, through Class Counsel, have engaged in arms' length negotiations with Settling Defendants' Counsel, including court supervised

settlement discussions; and have concluded that it is in the best interests of all Class Members to settle the Class Members' claims against the Settling Defendants on the terms set forth herein; and

48. WHEREAS, the terms set forth herein are fair, reasonable, and adequate;

49. NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the Parties, and each of them, hereby warrant, represent, acknowledge, covenant, and agree, subject to approval by the Court, as follows.

**CONSIDERATION; SETTLEMENT BENEFITS**

50. Within ten (10) business days after the Effective Date, the Settling Defendants shall cause to be paid, from the D&O Policy proceeds, the amount of \$3,000,000.00 (three million dollars) (the "Settlement Payment"), into the Settlement Fund in full settlement of the claims of the Settlement Class asserted in the Class Complaint against the Settling Defendants and as consideration for the release of all claims against the Released Parties by the Settlement Class. The Settlement Fund shall be used to pay the Counsel Fee and Expense Reimbursement Award, Settlement Administration Costs and Expenses, and Class Representative incentive awards, as ordered by the Court (collectively, the "Court Awarded Fees and Expenses."). The Net Settlement Fund shall be distributed to eligible Class Members pro rata as described below.

51. The Settlement Fund shall be deposited into an interest bearing escrow account and shall remain subject to the jurisdiction of the Court until such time as such sums shall be paid out, distributed, or returned pursuant to the terms of this Settlement Agreement or further order of the Court.

52. Settling Defendants shall cooperate with Class Counsel in the continued prosecution of the Class Complaint to the extent the scope of such cooperation can be agreed upon between Class Counsel and the respective Settling Defendant(s).

53. Settling Defendants Horizon Partners, Ltd. and Robert Feerick additionally agree to cooperate with Class Counsel in continued prosecution of the Class Complaint by providing the following:

- (a) All documents that Horizon produced in response to any governmental inquiries (including, but not limited to, Department of Justice (“DOJ”), Department of Commerce (“DOC”), any other federal government, state government, or international investigations).
- (b) All documents relating to the importation of foreign-origin honey.
- (c) All documents relating to honey transshipping.
- (d) All documents relating to Chinese origin honey.
- (e) All documents relating to Australian, Cambodian, Hong Kong, Indian, Indonesian, Malaysian, Mongolian, Russian, Singapore, South Korean, Taiwanese, Thai, and Vietnamese honey.
- (f) All documents discussing honey priced under \$1.40 per pound.
- (g) All documents relating to honey purchases that were rejected by other packers, buyers, retailers or any other entities.
- (h) All documents discussing poor quality honey.
- (i) All documents with or discussing the following entities: Brightmin Enterprise, LLC, China Industrial Manufacturing Group, Mega Farm, Inc., Minnesota International Trading, Co., Premium Food Sales, Inc., Silver Spoon International, Inc., Sunland Trading, and Texas Boga, Inc.
- (j) All documents regarding executive GFI decisions pertaining to honey importation, packing, and distribution.



- (k) All documents and other communications with Groeb Farms Inc. (GFI) (including between Feerick and GFI employees, i.e. Ernie and Troy Groeb) regarding honey transshipping, dealings between GFI and other countries, and the prices of imported honey.
- (l) Continued cooperation from Horizon Partners, Ltd. and Feerick in the *In re Honey Transshipping Litigation*, particularly in identifying documents and other potential bad actors by making Feerick and, if necessary, other knowledgeable agents of Horizon Partners, Ltd., available for an interview by Class Counsel, which will take place at an agreed upon location in Chicago, Illinois within 60 days after the documents in subparagraphs (a) through (k) have been provided to Class Counsel. Horizon Partners, Ltd. and Feerick shall provide the documents in subparagraphs (a) through (k) within 14 days of the execution of this Settlement Agreement.

#### **CERTIFICATION OF SETTLEMENT CLASS**

54. The Parties stipulate and agree that, subject to Court approval, the Settlement Class described in Paragraph 34 above should be conditionally certified solely for purposes of effectuating the terms and conditions of the Settlement Agreement. If, for any reason, this Settlement Agreement is not approved by the Court, the stipulation for conditional certification and all of the terms and conditions contained herein shall be considered null and void and may not be referred to or used as evidence, or for any other purposes whatsoever, in the Class Action or any other action or proceeding, and the Parties shall return to their respective positions as of the date on which this Settlement Agreement was executed.

#### **SETTLEMENT ADMINISTRATION AND NOTICE**

55. Within seven (7) days after entry of the Preliminary Approval Order, Settling Defendants and Class Counsel shall produce to the Settlement Administrator the Accessible Contact Information of potential Settlement Class Members. Settling Defendants and Class Counsel will take all reasonable steps necessary to compile this Accessible Contact Information and provide it in a format usable by the Settlement Administrator.

56. The Settlement Administrator shall utilize a service (such as the United States Postal Service's National Change of Address Link Product, or such other service as the Settlement Administrator deems necessary and appropriate) to update the Accessible Contact Information supplied by the Parties.

57. Within ten (10) calendar days after this Agreement is filed in Court, the Settlement Administrator shall serve the notices to the appropriate State and Federal officials as required by 28 U.S.C. § 1715, et seq. Except as set forth in paragraphs 9, 26, 31, 55-65, and 69 of this Agreement, no other notices or press releases shall be distributed by the Parties, Class Counsel, or Settling Defendants' Counsel, unless ordered by the Court, and the Parties, Class Counsel, and Settling Defendants' Counsel shall not seek an order for a press release.

58. As soon as reasonably practicable, but not later than fourteen (14) calendar days following entry of the Preliminary Approval Order, for each potential Settlement Class Member for whom the Settlement Administrator has a postal mailing address, the Settlement Administrator shall send a postcard Class Notice via United States mail in the form attached hereto as Exhibit F. The Postcard Class Notice will include a "tear off" postcard ("Postcard Claim Form") that allows these Settlement Class Members to submit a claim by filling out the required information and returning the Postcard Claim Form, with postage pre-paid, to the Settlement Administrator. As soon as reasonably practicable, but not later than fourteen (14)

calendar days following the entry of the Preliminary Approval Order, the Settlement Administrator shall also e-mail Class Notice in the form attached hereto as Exhibit B to each Settlement Class Member for whom the Settlement Administrator has an e-mail address in a manner that the Settlement Administrator deems most likely to reach the intended recipients' e-mail in-box regardless of whether Class Notice has also been sent to the mailing address.

59. On each Claim Form, whether obtained via the Settlement Website or via the Postcard Claim Form, the Class Member must certify the following under the penalty of perjury:

- (a) his or her name and address;
- (b) his or her Class membership;
- (c) the mass (in pounds or kilograms) of domestic honey produced and sold by that Class Member in the United States during the Claim Period;
- (d) the mass (in pounds or kilograms) of domestic honey packed and sold by that Class Member in the United States during the Claim Period; and
- (e) that the Class Member did not import, pack, or purchase fraudulently mislabeled Chinese-origin honey; and
- (f) that the Class Member has not assigned his or her proposed Released Claim.

60. Copies of the notice and the Claim Form and instructions substantially in the forms attached hereto as Exhibit G (as approved by the Court) will be posted and available for download on the Settlement Website maintained by the Settlement Administrator, and shall be mailed upon request at no charge to Class Members who call a toll-free number to be established by the Settlement Administrator (the "Toll-Free Number"). The Toll-Free Number shall include an interactive voice response system that will provide answers to frequently asked questions. The Toll-Free Number shall also include an option that will enable a Class Member to be connected to an operator during regular business hours if the Class Member is unable to obtain

an answer to his or her question via the interactive response system or requires assistance in filling out a Claim Form.

61. The Settlement Website shall include at least the following documents: the Settlement Agreement, the Complaint, papers in support of preliminary and final settlement approval and Class Counsel's petition for attorneys' fees, expense reimbursement and Class Representative's incentive awards (when made), plus related orders of the Court, and all documents necessary for Class Members to submit a Claim. The Claim Forms shall remain available on the Internet until the Claim Submission Deadline has passed.

62. The Settlement Administrator shall cause the Published Notice, substantially in the form attached hereto as Exhibit E, to be published once in a trade periodical of national circulation to be determined by the Settlement Administrator in consultation with Class Counsel, and once on a different date in another trade periodical of national circulation to be determined by the Settlement Administrator in consultation with Class Counsel. The Published Notice shall include the address of the Settlement Website and the Toll-Free Number.

63. The Class Notice shall provide a procedure for Class Members to request exclusion from the Settlement Class or object to the proposed settlement and/or fee request and be represented by counsel of their choice at their own expense. Requests for exclusion shall be mailed to the Settlement Administrator and received no later than thirty (30) days prior to the Final Approval Hearing (or such other date set by the Court). To be effective, the request for exclusion must make clear that exclusion is sought by stating: "I WANT TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN *In re Honey Transshipping Litigation*, Case No. 13 C 2905" and also contain the excluded Class Member's name, address, and signature. If the Court grants Final Approval of the Settlement, any Class Member who does not timely and validly

request exclusion consistent with this Paragraph shall become a Settlement Class Member and shall be bound by the terms of this Settlement Agreement.

64. Objections by Class Members to this Settlement Agreement shall be filed with the Court and served on Class Counsel, the Settling Defendants' Counsel, the General Unsecured Claims Litigation Trustee's counsel, and the Settlement Administrator no later than thirty (30) days prior to the Final Approval Hearing (or such date as is set by the Court). Any such objecting Class Member shall have a right to appear and be heard at the Final Approval Hearing provided that such Class Member timely served its objection. Any Class Member who does not make an objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement Agreement, the award of attorneys' fees to Class Counsel, or the incentive award to the Class Representatives unless otherwise ordered by the Court.

65. Following the final date for Class Members to exclude themselves from the Settlement Class, and no fewer than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall give written notice to the Settling Defendants Counsel and Class Counsel of the total number of Class Members who elected to exclude themselves from the Settlement Class.

#### **CLAIMS PROCESS AND RELATED PROVISIONS**

66. The Net Settlement Fund shall be paid and distributed to Settlement Class Members who have submitted valid Claims Forms prior to the Claim Submission Deadline pro rata based on the mass of honey produced or packed (whichever mass is greater, mass produced shall not be combined with mass packed for the purposes of calculating distributions of the Net Settlement Fund) by that Settlement Class Member. To be valid, Claim Forms must be received by the Claim Submission Deadline. All claims are subject to review and validation by the

Settlement Administrator. Class Counsel shall have the right to review and provide input concerning the Settlement Administrator's process for reviewing, validating, or rejecting claims.

67. The Settlement Administrator shall take appropriate follow-up steps with respect to any Settlement Class Member who has not deposited or cashed their settlement check within 180 days of mailing.

68. The Settlement Administrator shall, in good faith, administer the process of receiving, handling, processing, and paying claims. Decisions regarding claims administration shall be made jointly with Class Counsel. Class Counsel shall have the right to discuss all aspects of notice, claims administration, and implementation of the settlement with the Settling Defendants' Counsel and the Settlement Administrator. The Settlement Administrator shall have the right to reject any claims deemed to be fraudulent, insufficient, or incomplete, pursuant to criteria agreed upon by the Parties.

69. For defective or incomplete claims, the Settlement Administrator will mail the Settlement Class Member a written notice of the additional information required for the Claim Form to be valid ("Cure Notice"). The Settlement Class Member may cure the defective or incomplete claim by providing the information requested in the Cure Notice by mail within thirty (30) days of the date of mailing of the Cure Notice. The 30-day cure period may extend after the end of the period for submission of Claim Forms so long as the original Claim Form was timely received.

70. On a quarterly basis after the commencement of claims fulfillment, the Settlement Administrator will provide Class Counsel with a list of rejected Claims. Class Counsel shall have a reasonable opportunity to inspect originals or copies of the Claim Forms. Counsel for the

Parties will first attempt to resolve any disputes concerning rejected claims informally. If counsel cannot reach agreement, the claims will be submitted to the Court for determination.

**PRELIMINARY APPROVAL ORDER AND SETTLEMENT HEARING**

71. Upon full execution of this Settlement Agreement, Class Counsel shall take all necessary steps to obtain the Preliminary Approval Order from the Court, granting conditional certification of the Settlement Class, granting preliminary approval of this Settlement Agreement, and approving the forms and methods of Notice to the Class and the claims process and plan of allocation set forth herein. Class Counsel shall move for a Preliminary Approval Order within fifteen (15) days of the execution of this Settlement Agreement by all Parties. The Preliminary Approval Order shall further set a date for a Final Approval Hearing, which is no more than one hundred and twenty (120) days after the entry of the Preliminary Approval Order (or such date as is set by the Court), at which the Court will determine whether the requirements for certification of the Settlement Class have been met; whether the proposed settlement should be finally approved as fair, reasonable, adequate, and in the best interests of the Settlement Class Members; whether the award of fees and litigation expense reimbursement to Class Counsel should be approved; whether incentive awards should be paid to the Class Representatives; and whether a final judgment should be entered dismissing the Complaint against the Settling Defendants (except Horizon Partners, Ltd.) on the merits and with prejudice.

72. If at any point the Court does not approve this Settlement Agreement, the Settlement Agreement shall terminate and be of no force and effect, unless the Parties voluntarily agree in writing to modify this Settlement Agreement in the manner necessary to obtain Court approval.

### **PAYMENT OF ATTORNEYS' FEES AND EXPENSES**

73. Class Counsel has prosecuted the Complaint on a contingent basis since this Action was filed and without receiving reimbursement for any out-of-pocket expenses. Class Counsel may apply for an award of attorneys' fees and reimbursement of reasonable litigation expenses based on a percentage (up to, but not more than, 33 percent) of the three-million dollar (\$3,000,000) Settlement Fund, as provided by applicable law, and the Settling Defendants, Released Parties, and Individual Plaintiffs shall not oppose such application. Class Counsel may also seek an incentive award for each Class Representative of no more than \$5,000 per Class Representative, which shall also be paid out of the Settlement Fund. Any amount awarded by the Court for attorneys' fees and reasonable litigation expenses shall be paid as set forth in Paragraph 75 below from the Settlement Fund into an escrow or other account for the benefit of Class Counsel. The Settling Defendants shall have no other responsibility for the payment of any attorneys' fees or litigation expenses and the Settling Defendants shall have no responsibility for the allocation of attorneys' fees among Class Counsel.

74. The Settling Defendants shall not be liable for any additional fees or expenses of Plaintiffs or any Settlement Class Member in connection with the Complaint. Class Counsel expressly agree that they will not seek any additional fees or costs from the Settling Defendants or from the Settlement Fund in connection with the Complaint or settlement of the Class Action. The Settling Defendants expressly agree that they will not seek to recover their court costs, attorneys' fees, or expenses once the Court enters dismissal of the Complaint as it relates to the Settling Defendants.

75. No later than seven (7) business days following the funding of the Settlement Fund (which shall occur within ten (10) business days of the Effective Date pursuant to Paragraph 50), the Settlement Administrator shall transfer the Counsel Fee and Expense



Reimbursement Award by wire transfer from the Settlement Fund. Class Counsel agree to provide the Settlement Administrator all information necessary to effectuate the payment of the Counsel Fee and Expense Reimbursement Award.

**JUDGMENT; MUTUAL RELEASE OF CLAIMS**

76. Upon the Court's Final Approval of this Settlement Agreement, an order approving the settlement containing language substantially in the same form as Exhibit H shall be issued and a judgment substantially in the same form as Exhibit C shall be entered dismissing the claims of all Plaintiffs in this Action against the Settling Defendants with prejudice (except for Horizon Partners, Ltd., as discussed more fully at Paragraph 86), but as a condition of this Settlement Agreement shall, at a minimum, include the following provisions:

- a. A finding that the distribution of the Class Notice fully and accurately informed all Class Members entitled to notice of the material elements of the Settlement Agreement, constituted the best notice practicable under the circumstances, constituted valid, due and sufficient notice, and complied fully with Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution and any other applicable law;
- b. A finding that after proper notice to the Class and after sufficient opportunity to object, no timely objections to this Settlement Agreement have been made, or that all timely objections have been considered and denied;
- c. Approval of the settlement, as set forth in the Settlement Agreement, as fair, reasonable, adequate, and in the best interests of the Class, under Rule 23 of the Federal Rules of Civil Procedure, and finding that the settlement is in good faith, and ordering the Parties to perform the settlement in accordance with the terms of this Settlement Agreement;

d. A finding that neither the Judgment nor the Settlement Agreement shall constitute any admission(s) by the Settling Defendants, or any of them, of any liability or wrongdoing;

e. Subject to reservation of jurisdiction for matters discussed in subparagraph 86, below, dismisses with prejudice the Complaint against the Settling Defendants; except for Defendant Horizon Partners, Ltd., which will be dismissed *without* prejudice;

f. In accordance with Rule 54(b) of the Federal Rules of Civil Procedure, finds that there is no just reason for delay, and orders the entry of a Judgment with respect to the Settling Defendants; and

g. A finding that all Settlement Class Members, including such Settlement Class Members' past or present officers, directors, trustees, members, employers, employees, partners, member firms, affiliates, principals, agents, shareholders, attorneys, accountants, auditors, advisors, personal and legal representatives, heirs, beneficiaries, assigns, predecessors, successors, parents, subsidiaries, divisions, associates, related or affiliated entities, any members of their immediate families to the extent such Persons can be bound by this Judgment, shall, as of the Effective Date, conclusively be deemed to have released and forever discharged the Released Parties (Settling Defendant Horizon Partners, Ltd. is excluded from the definition of Released Parties) from all Released Claims, and forever enjoining and barring all such persons and entities from asserting, instituting, recovering from or prosecuting in any capacity, before any court or governmental agency, any action or proceedings against the Released Parties that assert any Released Claims.

77. It is the agreement and intent of the Parties that this Settlement Agreement be construed and enforced as a mutual and global release subject to the limitations and exclusions provided in Paragraph 78 of this Agreement. Accordingly, it is hereby agreed that upon the Effective Date of this Settlement Agreement, each Releasing Person shall hereby be deemed to have, and by operation of this Settlement Agreement have, fully, finally, and forever released, relinquished, discharged, and waived each Released Party (Settling Defendant Horizon Partners, Ltd. is excluded from the definition of Released Parties) from any and all claims of whatever kind or nature, from the beginning of time to the Effective Date hereof, on account of any and all loss or damages of any kind whatsoever, known or unknown, arising out of, resulting from or relating to all allegations, claims or defenses which have been or which could have been raised against the Settling Defendants in this Action. The Settling Defendants and the Released Parties also agree to release and forever discharge Plaintiffs, Settlement Class Members, fellow Settling Defendants, the Released Parties and their counsel, and Class Counsel of and from all causes of action, suits, claims and demands whatsoever, at law or in equity, whether now known or unknown, suspected or unsuspected, existing, claimed to exist or which can ever exist, in any way relating to this Action. Plaintiffs and Settlement Class Members and Class Counsel also agree to release and forever discharge the Settling Defendants, the Released Parties and their attorneys of and from all causes of action, suits, claims and demands whatsoever, at law or in equity, whether now known or unknown, suspected or unsuspected, existing, claimed to exist or which can ever exist, in any way relating to this Action.

78. The Parties understand and agree that the provisions of Paragraph 77 shall be construed to exclude, and shall not impair, any right or cause of action arising from a breach of this Settlement Agreement, including but not limited to, any future claims that may arise with

regard to the relief to the Settlement Class Members, or the implementation of the Settlement Agreement.

79. Notwithstanding any statute, including but not limited to California Civil Code Section 1542, or provision of the common law that provides that a general release does not extend to claims that a releasor does not know or suspect to exist at the time of executing the release, the provisions of Paragraph 77 shall be deemed to constitute full releases in accordance with their terms. The Parties shall be deemed knowingly and voluntarily to have waived, to the fullest extent permitted by law, the provisions, rights, and benefits of any federal law or the law of any state or territory or common law that would in any way limit the provisions of Paragraph 77. The Parties acknowledge and agree that without such waiver the Settlement Agreement would not have been entered into.

#### **MUTUAL OPT-OUT TERMINATION RIGHT**

80. The Settling Defendants or Class Counsel may terminate this Settlement if more than an agreed upon number (the “Trigger Number”), to be set forth by the Parties in a Confidential Trigger Number Agreement, of Class Members exclude themselves from the Settlement Class. (By definition, the Individual Plaintiffs are neither Class Members nor Settlement Class Members, and are excluded from the calculation of the Trigger Number.) Notwithstanding the above, if any Class Representative excludes itself from the Class, the Settling Defendants or Class Counsel may terminate this Settlement without regard to any Trigger Number described herein. In the event of such a termination, this Settlement Agreement shall become null and void and of no further force or effect. If the Settling Defendants or Class Counsel elect to terminate the Settlement Agreement pursuant to this Paragraph, written notice of such termination must be provided to all Parties on or before five (5) business days after they are informed of the final list of excluded Class Members. Class Counsel shall have the right to

communicate with Class Members regarding their decisions to opt-out. If a sufficient number of Class Members withdraw their requests for exclusion such that the excluded Class Members do not exceed the Trigger Number described above, Class Counsel shall so advise the Settling Defendants' Counsel in writing and provide proof of the withdrawal of the request for exclusion from the Class Members, and any notice by the Settling Defendants of termination of the Settlement shall automatically and immediately become null and void.

**CONDITIONS OF SETTLEMENT AND EFFECT OF  
DISAPPROVAL, RECISSION, OR TERMINATION**

81. This Settlement Agreement, including the releases herein, shall be null and void, and the provisions of Paragraph 82 below shall apply, if each of the following conditions fails to occur or be satisfied prior to the date that the Judgment becomes Final:

a. All non-settlement related activities in the Class Action concerning the Settling Defendants shall be, and shall remain, stayed by the Court pending entry of the Final Judgment;

b. All Parties shall approve, execute, and perform all such acts or obligations that are required by this Settlement Agreement to be performed prior to the date that the Judgment becomes Final;

c. A Preliminary Approval Order, in a form as described by paragraph 71 above and attached as Exhibit D shall be entered by the Court;

d. At or prior to the Final Approval Hearing, no objections to this Settlement Agreement have been received, or if any such objections have been received, all such objections have been considered and denied by the Court;

e. A Judgment, in a form as described by Paragraph 76, above, shall be entered by the Court;

f. The United States Bankruptcy Court for the Eastern District of Michigan has entered an order in the Chapter 11 case captioned In re: Groeb Farms, Inc., Case No. 13-58200 (the “Groeb Bankruptcy Case”): (1) approving this Class Action Settlement Agreement and Release as it Pertains to the GUC Trustee and the D&O Policy; and (2) permitting the payment of \$3,000,000.00 from the proceeds of the D&O Policy (the “Bankruptcy Court Approval Order”); and (3) the Bankruptcy Court Approval Order has become Final.

g. Subject to the reservation of jurisdiction for matters described in Paragraph 86, the Action must be dismissed with prejudice as to the Settling Defendants (with the exception of Horizon Partners, Ltd.) upon Final Approval.

82. In the event this Settlement Agreement is finally rejected upon the Final Approval Hearing, or in the event a Judgment is not entered, or does not become Final, or in the event the Settlement Agreement is rejected by the mandate of an appellate court, or the conditions of paragraph 81 occur, then the terms of this Settlement Agreement shall be null and void and (a) the terms of this Settlement Agreement shall have no further force and effect with respect to the Parties; (b) this Settlement Agreement shall not be used for any purpose; provided, however, this Settlement Agreement may be used for bringing an action for failure of a Party to take steps required by this Settlement Agreement or required by such Party’s position as a fiduciary to secure judicial approval of this Settlement Agreement; (c) the Parties shall be restored to their respective positions in the Class Action as of the date of the Settlement Agreement; and (d) any Judgment or orders entered by the Court in accordance with this Settlement Agreement shall be treated as vacated.

### **THE SETTLING DEFENDANTS' DENIAL OF LIABILITY**

83. The Settling Defendants have indicated their intent to vigorously contest each and every claim in the Complaint, and deny all of the material allegations in the Complaint. The Settling Defendants enter into this Settlement Agreement without in any way acknowledging any fault, liability, or wrongdoing of any kind. The Settling Defendants have concluded that it is in their best interests that the Class Action be settled on the terms and conditions set forth herein in light of the expense that would be necessary to defend the Complaint and the benefits of disposing of this litigation. Neither this Settlement Agreement nor any of its terms shall be construed as an admission or concession by the Settling Defendants of the truth of any of the allegations in the Complaint, or of any liability, fault, or wrongdoing of any kind, nor as an admission or concession by Plaintiffs or the other Class Members of any lack of merit or value of their claims against the Settling Defendants or of their claims against any other Defendant in the Class Action.

84. To the extent permitted by law, neither this Settlement Agreement, nor any of its terms, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, investigative, administrative or other action or proceeding to establish or deny any liability or admission by the Settling Defendants.

85. To the extent permitted by law, the Released Parties (Settling Defendant Horizon Partners, Ltd. is excluded from the definition of Released Parties) may plead this Settlement Agreement as a full and complete defense to, and use this Settlement Agreement as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted for claims covered by the releases in this Settlement Agreement; however, nothing in this Settlement Agreement may be used by the Settling Defendants, any other Released Party,

or any other Person as a basis for contesting any non-party discovery demands served upon any of them.

#### **DISMISSAL OF HORIZON PARTNERS, LTD. WITHOUT PREJUDICE**

86. Settling Defendant Horizon Partners, Ltd. has agreed to cooperate with Class Counsel in the manner described in Paragraph 53 above. Upon Final Approval, the Settlement Class shall dismiss Horizon Partners, Ltd. *without* prejudice. Upon completion of Horizon Partners, Ltd.'s cooperation commitments, Class Counsel will determine, in its sole discretion, based on the quality of information obtained through Horizon Partners, Ltd.'s fulfillment of its cooperation commitments, whether Class Counsel consents to conversion of the *without prejudice* dismissal of Horizon Partners, Ltd. to *with prejudice* dismissal of Horizon Partners, Ltd., and such consent shall not be unreasonably withheld by Class Counsel. Class Counsel shall make its determination as described in the immediately preceding sentence within 60 days of Final Approval. All Parties consent to the Court's retention of jurisdiction to effectuate such conversion of the without prejudice dismissal of Horizon Partners, Ltd. to with prejudice dismissal of Horizon Partners, Ltd.

#### **MISCELLANEOUS PROVISIONS**

87. Class Counsel represent and warrant that as of the date of this Agreement: (i) they have no present intention to file another lawsuit against any Released Party arising out of the same or similar facts at issue in the Action; (ii) they are unaware of any complaint, action, claim, or demand contemplated by anyone other than Class Plaintiffs, the Individual Plaintiffs, and the United States Attorney for the Northern District of Illinois, against any Released Party arising out of the same or similar facts at issue in the Action; and (iii) they will not solicit any other person or entity to bring, file, or institute a complaint, action, suit, proceeding, claim or demand of any kind or nature whatsoever against any Released Party. The Parties and their counsel are



aware of their ethical obligations, and Class Counsel's undertakings, commitments, representations and warranties contained in this Settlement Agreement are not intended, and shall not be construed, to restrict their right to practice law and counsel clients.

88. Agreement to Cooperate. The Parties: (a) acknowledge that it is their intent to execute the Settlement Agreement; and (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of the Settlement Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of the Settlement Agreement.

89. Good Faith Settlement and Advice of Counsel. The Parties agree that the terms of the Settlement Agreement reflect a good-faith settlement of all Class Members' claims in the Class Action, reached voluntarily and after consultation with experienced legal counsel.

90. Incorporation. All of the Exhibits to this Settlement Agreement are material and integral parts of the Settlement Agreement and are fully incorporated herein by this reference.

91. No Waiver. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement; nor shall such a waiver be deemed a waiver by any other Party of that breach or a waiver by that Party of any other Party's breach.

92. Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their successors-in-interest.

93. Headings. The headings of the Paragraphs herein are for convenience only and do not define, limit, or construe the contents of this Settlement Agreement.

94. Entire Agreement. Except as provided herein with respect to the Confidential Trigger Number Agreement described in paragraph 80 above; any cooperation agreement entered into by any of the Parties as described in paragraphs 52-53 and 88 above; and the

Bankruptcy Stipulation described in paragraph 2 above; this Settlement Agreement and the Exhibits attached hereto constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning the Settlement Agreement or its Exhibits. Copies of all or part of the Settlement Agreement, including signatures thereto, that are transmitted by facsimile or electronic mail shall be presumed valid. Facsimile, electronic or PDF transmitted signatures shall be deemed to have the full force and effect of original ink signatures.

95. Authority to Settle. Class Counsel warrant that they are expressly authorized by the Class Representatives to take all appropriate action to effectuate the terms and conditions of the Settlement Agreement and also are expressly authorized to enter into any modifications of, or amendments to, the Settlement Agreement on behalf of the Settlement Class which they deem appropriate.

96. Authority to Execute. Each counsel or other person executing the Settlement Agreement or any of its Exhibits on behalf of any Party hereto hereby warrants that he or she has the full authority to do so.

97. Counterparts. The Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

98. Binding Effect. The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto. All Parties waive the right to appeal or collaterally attack the Judgment entered under this Settlement Agreement.

99. Exclusive Jurisdiction and Venue for Enforcement. Any dispute relating to this Settlement Agreement and/or Judgment shall be resolved exclusively in the U.S. District Court for the Northern District of Illinois. The Parties agree to submit to the exclusive jurisdiction and venue for the purposes described above.

100. Choice of Law. This Settlement Agreement and any document executed in furtherance of the Settlement shall be governed by, subject to, and construed in accordance with the laws of the State of Illinois, without regard to conflicts-of-laws principles.

101. Costs and Expenses. Except as otherwise provided herein, each Party shall bear its own costs and expenses.

102. Notices. All notices to Class Counsel provided herein shall be sent by e-mail as listed below, with a hard copy sent by overnight mail. All notices to the Settling Defendants provided herein shall be sent by e-mail as listed below, with a hard copy (one per firm) sent by overnight mail. The notice recipients and addresses designated in this paragraph may be changed by written notice pursuant to this paragraph:

Class Counsel	Counsel for the Settling Defendants
<p>Adam J. Levitt <b>GRANT &amp; EISENHOFER P.A.</b> 30 North LaSalle Street, Suite 1200 Chicago, Illinois 60602 Tel: (312) 214-0000 Fax: (312) 214-0001 <a href="mailto:alevitt@gelaw.com">alevitt@gelaw.com</a></p> <p>James J. Pizzirusso <b>HAUSFELD, LLP</b> 1700 K Street N.W. Suite 650 Washington, D.C. 20006 Tel: (202) 540-7200 Fax: (202) 540-7201 <a href="mailto:jpizzirusso@hausfeldllp.com">jpizzirusso@hausfeldllp.com</a></p>	<p>Abigail A. Clapp <b>GREENBERG TRAUIG, LLP</b> 77 West Wacker Drive 31<sup>st</sup> Floor Chicago, Illinois 60601 Tel. (312) 456-8400 <a href="mailto:clappa@gtlaw.com">clappa@gtlaw.com</a></p> <p><i>Counsel for Ernest L. Groeb</i></p> <p>Joseph J. Duffy William Paul Ziegelmuller <b>STETLER, DUFFY &amp; ROTERT, LTD.</b> 10 South LaSalle Street Suite 2800 Chicago, Illinois 60603-1203</p>

	<p>Tel. (312) 338-0200  <a href="mailto:jduffy@sdrlegal.com">jduffy@sdrlegal.com</a>  <a href="mailto:bziegel@sdrlegal.com">bziegel@sdrlegal.com</a></p> <p><i>Counsel for Troy L. Groeb</i></p> <p>James Peter Fieweger  Peter C. John  <b>WILLIAMS MONTGOMERY &amp; JOHN, LTD.</b>  233 South Wacker Drive  Suite 6100  Chicago, Illinois 60606-6359  Tel. (312) 443-3200  <a href="mailto:jpf@willmont.com">jpf@willmont.com</a>  <a href="mailto:pcj@willmont.com">pcj@willmont.com</a></p> <p><i>Counsel for Robert Feerick, Horizon Partners, Ltd., and Horizon Capital Partners III</i></p> <p>Allan T. Slagel  Jeffrey M. Schieber  <b>TAFT STETTINIUS &amp; HOLLISTER LLP</b>  111 East Wacker Drive  Suite 2800  Chicago, Illinois 60601  Tel. (312) 527-4000  <a href="mailto:aslagel@taftlaw.com">aslagel@taftlaw.com</a>  <a href="mailto:jschieber@taftlaw.com">jschieber@taftlaw.com</a></p> <p>Todd Wind  <b>FREDRIKSON &amp; BYRON, P.A.</b>  200 South Sixth Street  Suite 4000  Minneapolis, Minnesota 55402  Tel. (612) 492-7471  <a href="mailto:twind@fredlaw.com">twind@fredlaw.com</a></p> <p><i>Counsel for Marquette Capital Partners and Thomas Jenkins</i></p>
General Unsecured Claims Litigation Trustee, General Unsecured Claims Trust, and their Counsel	
Bradford J. Sandler <b>PACHULSKI STANG ZIEHL &amp; JONES</b>	

<p><b>LLP</b>  919 North Market Street, 17th Floor  P.O. Box 8705  Wilmington, DE 19801  Tel: 302-778-6424  <a href="mailto:bsandler@pszjlaw.com">bsandler@pszjlaw.com</a>  <i>Counsel for General Unsecured Claims  Litigation Trustee and General Unsecured  Claims Trust</i></p> <p>Peter Kravitz, solely in his capacity as a  principal of <b>SLTNTRST, LLC</b>  d/b/a Solution Trust and not in any individual  capacity  16830 Ventura Blvd., Suite 160  Encino, California 91436  Tel. (310) 527-4000  <a href="mailto:pkravitz@solutiontrust.net">pkravitz@solutiontrust.net</a></p> <p><i>General Unsecured Claimants Trustee and  General Unsecured Claimants Trust</i></p>	
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103. Interpretation. All Parties have participated in the drafting of this Settlement Agreement and, accordingly, any claimed ambiguity should not be presumptively construed for or against any of the Parties.

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IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: February 18, 2015

<p>/s/ Adam J. Levitt</p> <hr/> <p>Adam J. Levitt <b>GRANT &amp; EISENHOFER P.A.</b> 30 North LaSalle Street, Suite 1200 Chicago, Illinois 60602 Tel: 312-214-0000 E-mail: <a href="mailto:alevitt@gelaw.com">alevitt@gelaw.com</a> <i>Co-Class Counsel on behalf of Richard Adeo d/b/a Adeo Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan's Honey Farms, and Weebee Honey, Inc., individually and as representatives of the Settlement Class</i></p> <p>/s/ James J. Pizzirusso</p> <hr/> <p>James J. Pizzirusso <b>HAUSFELD LLP</b> 1700 K St. N.W. Suite 650 Washington, D.C. 20006 Tel: 202-540-7200 E-mail: <a href="mailto:jpizzirusso@hausfeldllp.com">jpizzirusso@hausfeldllp.com</a> <i>Co-Class Counsel on behalf of Richard Adeo d/b/a Adeo Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan's Honey Farms, and Weebee Honey, Inc., individually and as representatives of the Settlement Class</i></p>	<p>/s/ Abigail A. Clapp</p> <hr/> <p>Abigail A. Clapp <b>GREENBERG TRAURIG, LLP</b> 77 West Wacker Drive 31<sup>st</sup> Floor Chicago, Illinois 60601 Tel. (312) 456-8400 <a href="mailto:clappa@gtlaw.com">clappa@gtlaw.com</a> <i>Counsel for Ernest L. Groeb</i></p> <p>/s/ William Paul Ziegelmueller</p> <hr/> <p>Joseph J. Duffy William Paul Ziegelmueller <b>STETLER, DUFFY &amp; ROTERT, LTD.</b> 10 South LaSalle Street Suite 2800 Chicago, Illinois 60603-1203 Tel. (312) 338-0200 <a href="mailto:jduffy@sdrlegal.com">jduffy@sdrlegal.com</a> <a href="mailto:bziegel@sdrlegal.com">bziegel@sdrlegal.com</a> <i>Counsel for Troy L. Groeb</i></p>
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/s/ Peter Kravitz

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Peter Kravitz, solely in his capacity as a  
principal of SLTNTRST, LLC  
d/b/a Solution Trust and not in any individual  
capacity  
16830 Ventura Blvd., Suite 160  
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Tel. (310) 527-4000  
[pkravitz@solutiontrust.net](mailto:pkravitz@solutiontrust.net)  
*General Unsecured Claims Litigation Trustee*

/s/ James Peter Feiweger

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James Peter Fieweger  
Peter C. John  
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LTD.**  
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[pcj@willmont.com](mailto:pcj@willmont.com)  
*Counsel for Robert Feerick, Horizon Partners,  
Ltd., and Horizon Capital Partners III*

/s/ Allan T. Slagel

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Jeffrey M. Schieber  
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[jschieber@taftlaw.com](mailto:jschieber@taftlaw.com)  
*Counsel for Marquette Capital Partners and  
Thomas Jenkins*

/s/ Todd Wind

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Todd Wind  
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Tel. (612) 492-7471  
[twind@fredlaw.com](mailto:twind@fredlaw.com)  
*Counsel for Marquette Capital Partners and  
Thomas Jenkins*

## CONFIDENTIAL TRIGGER NUMBER AGREEMENT

The Parties to this Settlement Agreement agree that the Trigger Number shall be: [confidential].

<p>/s/ Adam J. Levitt</p> <hr/> <p>Adam J. Levitt <b>GRANT &amp; EISENHOFER P.A.</b> 30 North LaSalle Street, Suite 1200 Chicago, Illinois 60602 Tel: 312-214-0000 E-mail: <a href="mailto:alevitt@gelaw.com">alevitt@gelaw.com</a> <i>Co-Class Counsel on behalf of Richard Adeo d/b/a Adeo Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan's Honey Farms, and Weebee Honey, Inc., individually and as representatives of the Settlement Class</i></p> <p>/s/ James J. Pizzirusso</p> <hr/> <p>James J. Pizzirusso <b>HAUSFELD LLP</b> 1700 K St. N.W. Suite 650 Washington, D.C. 20006 Tel: 202-540-7200 E-mail: <a href="mailto:jpizzirusso@hausfeldllp.com">jpizzirusso@hausfeldllp.com</a> <i>Co-Class Counsel on behalf of Richard Adeo d/b/a Adeo Honey Farms, Bill Rhodes Honey Company, LLC, Hackenberg Apiaries, Edward Doan d/b/a Doan's Honey Farms, and Weebee Honey, Inc., individually and as representatives of the Settlement Class</i></p>	<p>/s/ Abigail A. Clapp</p> <hr/> <p>Abigail A. Clapp <b>GREENBERG TRAUIG, LLP</b> 77 West Wacker Drive 31<sup>st</sup> Floor Chicago, Illinois 60601 Tel. (312) 456-8400 <a href="mailto:clappa@gtlaw.com">clappa@gtlaw.com</a> <i>Counsel for Ernest L. Groeb</i></p> <p>/s/ William Paul Ziegelmueller</p> <hr/> <p>Joseph J. Duffy William Paul Ziegelmueller <b>STETLER, DUFFY &amp; ROTERT, LTD.</b> 10 South LaSalle Street Suite 2800 Chicago, Illinois 60603-1203 Tel. (312) 338-0200 <a href="mailto:jduffy@sdrlegal.com">jduffy@sdrlegal.com</a> <a href="mailto:bziegel@sdrlegal.com">bziegel@sdrlegal.com</a> <i>Counsel for Troy L. Groeb</i></p>
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/s/ Peter Kravitz

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Peter Kravitz, solely in his capacity as a principal of **SLTNTRST, LLC** d/b/a Solution Trust and not in any individual capacity  
16830 Ventura Blvd., Suite 160  
Encino, California 91436  
Tel. (310) 527-4000  
[pkravitz@solutiontrust.net](mailto:pkravitz@solutiontrust.net)  
*General Unsecured Claims Litigation Trustee*

/s/ James Peter Fieweger

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James Peter Fieweger  
Peter C. John  
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[pcj@willmont.com](mailto:pcj@willmont.com)  
*Counsel for Robert Feerick, Horizon Partners, Ltd., and Horizon Capital Partners III*

/s/ Allan T. Slagel

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Jeffrey M. Schieber  
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*Counsel for Marquette Capital Partners and Thomas Jenkins*

/s/ Todd Wind

---

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