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ENTERED
Office of Proceedings
March 22, 2024
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Public Record

March 22, 2024

By Electronic Filing

Ms. Cynthia T. Brown
Chief, Section of
Administration Office of
Proceedings
Surface Transportation Board
395 E Street, S.W.,
Room 1034
Washington, DC 20423-0001

**Re: Docket No. FD 36759
Tarantula Corporation – Control – Texas
Central Railroad Company**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding are the (1) Petition for Exemption of Tarantula Corporation ("Tarantula") under 49 U.S.C. §10502 and 49 C.F.R. §1121 from the provisions of 49 U.S.C. §§11323-11324 to allow Tarantula to acquire control of Texas Central Railroad Company ("Texas Central"), a Class III railroad and (2) Motion for Protective Order of Tarantula pursuant to 49 C.F.R. § 1104.14(b).

The sum of \$12,300, representing the appropriate fee for the Petition, has been tendered electronically via Pay.gov.

Exhibit B of the Petition is a redacted Public version of the Stock Purchase Agreement governing the proposed transaction. Tarantula will separately file under seal an unredacted Confidential version of the Stock Purchase Agreement.

FILED
March 22, 2024
SURFACE TRANSPORTATION BOARD

FEE RECEIVED
March 22, 2024
SURFACE TRANSPORTATION BOARD

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Sheys', with a stylized, flowing script.

Kevin M. Sheys

Counsel for Tarantula Corporation

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36759

**TARANTULA CORPORATION
-ACQUISITION OF CONTROL EXEMPTION -
TEXAS CENTRAL RAILROAD COMPANY**

PETITION FOR EXEMPTION

EXPEDITED CONSIDERATION REQUESTED

Kevin M. Sheys
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Counsel for Tarantula Corporation

Dated: March 22, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36759

**TARANTULA CORPORATION
-ACQUISITION OF CONTROL EXEMPTION -
TEXAS CENTRAL RAILROAD COMPANY**

PETITION FOR EXEMPTION

Tarantula Corporation (“Tarantula”), a non-carrier holding company, petitions for an exemption under 49 U.S.C. §10502 and 49 C.F.R. §1121 from the provisions of 49 U.S.C. §§11323-11324 to allow Tarantula to acquire control of Texas Central Railroad Company (“Texas Central”), a Class III railroad. Tarantula currently controls three Class III railroads all operating in Texas.¹ Because FWWR already leases the rail line of Texas Central and the line connects with the rail line of FWWR at Dublin, TX, this transaction is not eligible for the class exemption at 49 C.F.R. §1180.2(d)(2).

In support of its petition for exemption, Tarantula submits the following:

THE PROPOSED TRANSACTION

In the transaction under consideration, Tarantula proposes to acquire control of Texas Central, a Class III carrier, through the acquisition of the common stock of Texas Central. The Texas Central is owned by Birdsong Corporation (“Birdsong”).

¹ Tarantula currently controls Fort Worth & Western Railroad Company (“FWWR”), Fort Worth & Dallas Railroad Company and Fort Worth & Dallas Belt Railroad Company. *See Tarantula Corp. – Continuance in Control Exemption – Fort Worth & Dallas Belt Rd.*, Docket No. FD 32515 (STB served July 25, 1994). A map showing the lines operated by the three controlled carriers is attached as Exhibit A.

Texas Central is a 24.9-mile rail line with two shippers (Birdsong Peanut Company and Gorman Milling Co, Inc.). Both shippers have filed letters in support of the proposed transaction.² Texas Central does not operate its line. Since 1998, Tarantula-controlled FWWR has leased and operated the Texas Central line.³ If the proposed transaction is approved and Tarantula acquires control of Texas Central (through the purchase of Texas Central's stock), FWWR will continue to operate on the Texas Central line. In other words, the proposed transaction is the acquisition of control of a Class III railroad owning a 24.9-mile line with two shippers who support the transaction, by an entity that already controls (*inter alia*) another Class III railroad that has been operating the line for 35 years.

The proposed transaction will have no adverse effect on competition or rail operations on the Texas Central line and is of limited scope. If not for the fact that FWWR already leases the rail line of Texas Central and the line connects with the rail line of FWWR at Dublin, TX, Tarantula's acquisition of control of Texas Central would be handled as an exempt transaction under 49 C.F.R. §1180.2(d)(2).

ADDITIONAL INFORMATION

To facilitate the Board's review of this Petition, Tarantula provides the following additional information that would have been required under 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5)-(6) and (a)(7)(ii) if this were being handled as an exempt transaction under 49 C.F.R. §1180.4(g):⁴

² See Exhibit C.

³ See *Fort Worth & Western Rd. – Acquisition Exemption – South Orient Rd.*, Docket No. FD 33681 (STB served Nov. 30, 1998).

⁴ The proposed transaction is for the acquisition of stock of Texas Central and is not a proposed acquisition or operation of a rail line. Nevertheless, in the interest of a complete record, Tarantula certifies that (1) no interchange commitment is being imposed as part of the proposed transaction and (2) Texas Central is not subject to any existing interchange commitments. See 49 C.F.R. §1121.3(d).

Section 1180.6(a)(1)(i)-(iv): A brief summary of the proposed transaction, the name of the applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed; the proposed time schedule for consummation of the proposed transaction; the purpose sought to be accomplished by the proposed transaction; and the nature and amount of any new securities or other financial arrangements.

The proposed transaction is Tarantula's acquisition of control of Texas Central by purchase of the common stock of Texas Central. Because Tarantula is the owner of other three other rail carriers, its acquisition of ownership control of Texas Central requires authorization under 49 U.S.C. §11323(a)(5), or an exemption therefrom.

The full name, address and telephone number of the applicant:

Tarantula Corporation
6300 Ridglea Place, Ste 1200
Fort Worth, Texas 76116
(817) 763-8297

The name, address and telephone number of Tarantula's counsel who should receive correspondence:

Kevin M. Sheys
Law Office of Kevin M. Sheys LLC
42 Brush Hill Road
Sherborn, MA 01770
(240) 463-4663

Tarantula expects to consummate the proposed transaction on June 15, 2024, provided that this Petition is granted and effective.

The purpose of the proposed transaction is to allow Tarantula, a non-carrier that owns three Class III rail carriers, to acquire ownership and control of Texas Central. The acquisition of Texas Central will provide funds to expand the facilities of Birdsong Peanut Company at Gorman, TX and facilitate Tarantula's planned capital improvements to the Texas Central line.

No new securities will be issued in connection with the proposed transaction.

Section 1180.6(a)(5): A list of the State(s) in which any part of the property of each applicant carrier is situated.

Non-carrier applicant Tarantula controls three Class III railroads operating in Texas.

Texas Central owns rail line in Texas.

1180.6(a)(6): Map Exhibit

A map of the lines operated by the three carriers controlled by Tarantula and the line owned by Texas Central is attached as Exhibit A.

1180.6(a)(7)(ii): Agreement Exhibit

A redacted copy of the Stock Purchase Agreement governing the proposed transaction is attached hereto as Exhibit B.⁵

THE PROPOSED TRANSACTION SHOULD BE EXEMPTED FROM REGULATION

The Board is directed by 49 U.S.C. §10502 to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101, and (2) either the proposed transaction is limited in scope or regulation is not needed to protect shippers from the abuse of market power. 49 U.S.C. §10502.

As to the first prong, the Board's analysis focuses on the criteria relating to the underlying statute from which exemption is sought. *See Indiana R. Co. - Acq. & Oper. - Illinois Central R. Co.*, 6 ICC 2d 1004, 1006 (1990), *aff'd sub nom., Village of Palestine v. ICC*, 936 F.

⁵ Concurrently with this Petition, Petitioner has filed a Motion for Protective Order pursuant to 49 C.F.R. § 1104.14(b) and filed under seal an unredacted copy of the Stock Purchase Agreement designated as Confidential. The copy of the Stock Purchase Agreement filed in the public docket redacts "Confidential Information" as defined in the proposed Protective Order accompanying the Motion for Protective Order.

2d 1335 (D.C. Cir 1991).⁶ In this case, absent an exemption, Tarantula would be required by 49 U.S.C. §11323(a)(5) to file an application for control of Texas Central. Since the proposed transaction does not involve the merger of two Class I railroads, the Board would be required to approve the Tarantula application unless it were to find (*inter alia*) that Tarantula's control of Texas Central likely would cause "substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation." 49 U.S.C. §11324(d).

Applying that test in the context of a petition for exemption, regulation of Tarantula's acquisition of control of Texas Central is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101 because such control would not cause any of the anticompetitive effects enumerated in 49 U.S.C. §11324(d) (let alone substantial anticompetitive effects). Tarantula subsidiary FWR has been operating the Texas Central line since 1998. The Texas Central line connects with lines operated by FWR at Dublin, TX. See Exhibit A. If the proposed transaction is approved and Tarantula acquires control of Texas Central (through the purchase of Texas Central's stock), FWR will continue to operate on the Texas Central line. There are two shippers on the line (Birdsong Peanuts and Gorman Milling Co, Inc.) and both shippers support the proposed transaction. See Exhibit C.⁷

⁶ The Board is not obliged to extend its analysis "beyond what [it] would address in an application proceeding itself. Section 10505 [now 10502] provides a shortcut analysis to see if regulation ... is necessary. *Id.*

⁷ Further, granting the requested exemption would promote the rail transportation policy in 49 U.S.C. §10101. It would minimize the need for Federal regulatory control (49 U.S.C. §10101(2)), ensure the development of a sound rail transportation system with effective competition among rail carriers and other modes, to meet the needs of the public (49 U.S.C. §10101(4)), foster sound economic conditions in transportation (49 U.S.C. §10101(5)), reduce regulatory barriers to entry (49 U.S.C. §10101(7)), encourage efficient management of railroads (49 U.S.C. §10101(9)) and provide for expeditious handling and resolution of all proceedings (49 U.S.C. §10101(15)). Moreover, the grant of the exemption will not adversely affect any of the other items which have been made a part of rail transportation policy by 49 U.S.C. §10101.

For the same reasons, regulation of this transaction is not needed to protect shippers from an abuse of market power. The Board has previously found that common control of an additional Class III carrier does not expose shippers to an abuse of market power where there is no significant change in service or competitive alternatives. See, e.g., *Genesee & Wyoming Inc. - Control Exemption - Georgia Southwestern Railroad, Inc.*, STB Finance Docket No. 35183 (served December 15, 2008).

Because regulation of the proposed transaction is not needed to protect shippers from an abuse of market power, the Board does not need to determine whether the transaction is limited in scope. However, the proposed transaction is of limited scope. It is the acquisition of control of a Class III railroad owning a 24.9-mile line with two current shippers by an entity that already controls (*inter alia*) another Class III railroad that has been operating the line for 35 years.

LABOR PROTECTION

Under 49 U.S.C. § 10502(g), the Board may not exempt a rail carrier from otherwise applicable employee protection obligations. However, pursuant to 49 U.S.C. § 11326(c), no employee protective conditions may be imposed on this proposed transaction because it involves only Class III rail carriers.

ENVIRONMENTAL AND HISTORIC REPORTS

The proposed acquisition of control involves only the acquisition of stock and will not affect the level of operations on the Texas Central rail line or of any of the other lines operated by the three railroads in the Tarantula corporate family. As such, the proposed transaction should be exempt from the Board's environmental reporting requirements pursuant to 49 C.F.R. §1105.6(c)(1)(i). Further, the proposed transaction is exempt from the historic preservation reporting requirements since the proposed acquisition of control will not substantially change the

level of operations over, or maintenance of, the Texas Central rail line or of any of the other lines operated by the three railroads in the Tarantula corporate family. See 49 C.F.R. §1105.8(b)(3).

EXPEDITED CONSIDERATION

Tarantula respectfully requests expedited consideration of this Petition. As noted above, Texas Central is owned by Birdsong, which owns Birdsong Peanut Company, a FWWR-served facility on the Texas Central line at Gorman, TX. Birdsong plans to use the sale proceeds to pay in part for expansion of its Birdsong Peanut Company facilities at Gorman. In addition, Tarantula plans to upgrade infrastructure on the Texas Central line to provide increased safety, improved reliability, enhanced efficiency, improved connectivity which can lead to greater marketability and competitiveness for communities and businesses in the rural area served by FWWR. Tarantula anticipates seeking a CRISI Grant to help facilitate these improvements. Expedited consideration of this Petition and a decision issued and effective on or before June 15, 2024, would support Birdsong's expansion project at Gorman and allow Tarantula to make a stronger application in the competitive CRISI grant program and commence the infrastructure improvements on a faster schedule. Gorman Milling Co, Inc., the only other current shipper on the Texas Central line, has filed a letter in support of this Petition. See Exhibit C. Thus, expedited consideration would not prejudice shippers on the Texas Central line.

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CONCLUSION

For the foregoing reasons, Tarantula requests that the Board, under 49 U.S.C. §10502, exempt its proposed acquisition of control of Texas Central from regulation under 49 U.S.C. §§11323-11324 and that the exemption be made effective before June 15, 2024.

Respectfully submitted,

/s/ Kevin M. Sheys

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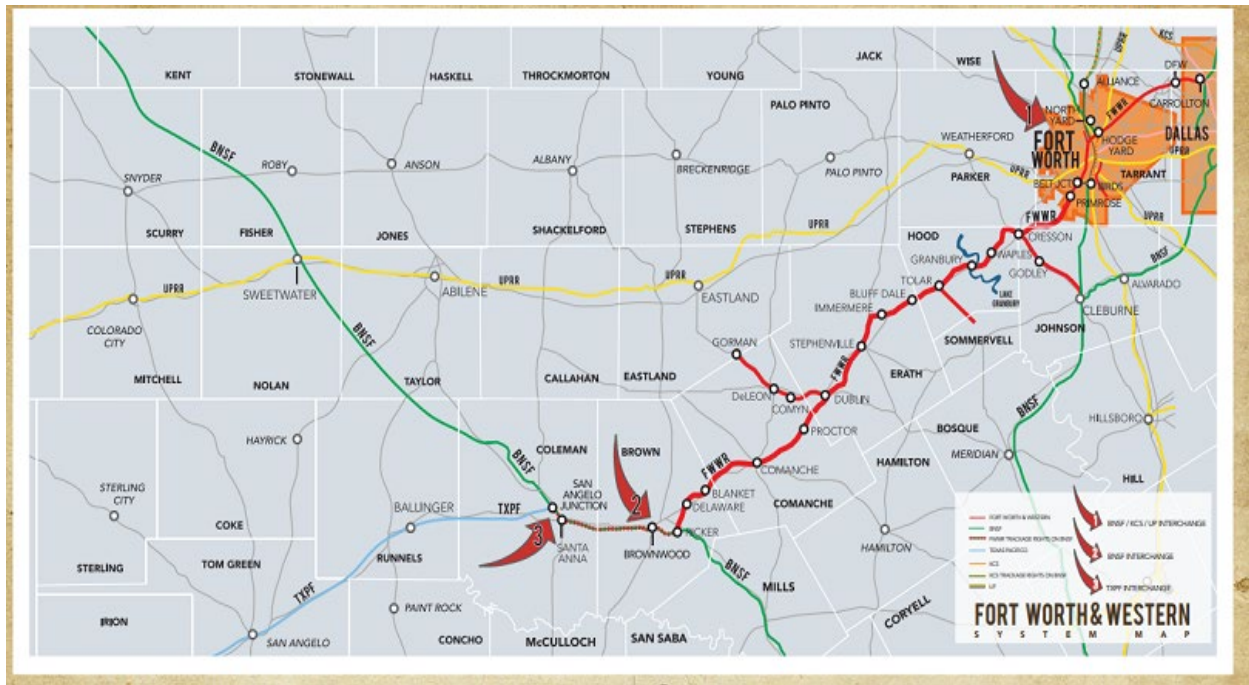
Dated: March 22, 2024

VERIFICATION

I, KEVIN ERASMUS, declare under penalty of perjury that the statements of fact in foregoing Petition for Exemption are true and correct to the best of my knowledge. Further, I certify that I am duly authorized to make this verification on behalf of Tarantula Corporation.

Dated: March 22, 2024


By: KEVIN ERASMUS
Title: PRESIDENT & CEO
Tarantula Corporation



The [National Rail Network Map \(arcgis.com\)](https://arcgis.com) shows data from the National Transportation Atlas Dataset on the location and ownership of active rail lines across North America, including how those line relate to the lines operated by FWR, shown in the map above.

STOCK PURCHASE AGREEMENT

By and among

TARANTULA CORPORATION (“BUYER”)

BIRDSONG CORPORATION (“SELLER”)

and

TEXAS CENTRAL RAILROAD COMPANY (“COMPANY”)

Dated as of March 21, 2024

APPENDICES

Appendix A Definitions

SCHEDULES

Schedule 1.2	Excluded Assets and Excluded Liabilities
Schedule 4.4	No Material Adverse Change
Schedule 4.5	Compliance with Laws; Permits
Schedule 4.7	Actions and Proceedings
Schedule 4.8	Consents, Approvals and Filings
Schedule 4.9	Real Property
Schedule 4.10	Title to Tangible Assets
Schedule 4.12	Insurance
Schedule 4.13	Taxes
Schedule 4.14	Certain Environmental Conditions
Schedule 4.15	Financial Statements
Schedule 4.16	Operations
Schedule 4.17	Contracts
Schedule 4.24	Customers

This **STOCK PURCHASE AGREEMENT** ("Agreement"), dated as of March 21, 2024, ("Effective Date") is by and among **TARANTULA CORPORATION** a Texas Corporation ("Buyer"), **BIRDSONG CORPORATION** a Virginia Corporation ("Seller"), and **TEXAS CENTRAL RAILROAD COMPANY** a Texas Corporation ("Company").

W I T N E S S E T H :

WHEREAS, the Company is the owner of that certain railroad ("Peanut Line"), which is currently operated between Dublin Texas and Gorman Texas (the "Business"), and Seller wishes to sell, and Buyer, wishes to purchase, all of the outstanding capital stock of the Company, so that following the sale, Buyer will be the indirect owner of the Business. The Fort Worth & Western Railroad Company ("FWWR") which operates the Line, is a wholly owned subsidiary of Buyer.

WHEREAS, capitalized terms used but not defined herein have the meanings specified in Appendix A.

NOW, THEREFORE, in consideration of the premises and the covenants and other agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, each intending to be contractually bound, hereby agree as follows:

1. PURCHASE AND SALE

1.1 Purchase and Sale. Upon the terms and subject to the terms and conditions of this Agreement, at the Closing, Seller shall sell, assign, transfer, convey and deliver to Buyer the Shares, and Buyer shall purchase, acquire and accept from Seller the Shares, free and clear of any and all Liens.

1.2 Excluded Assets. Anything in Section 1.1 to the contrary notwithstanding, the assets of the Company set forth on Schedule 1.2 shall be excluded from the assets of the Company that are being acquired through the purchase of the Shares being sold, assigned, transferred, conveyed and delivered to Buyer hereunder. The obligations and liabilities relating to the Excluded Assets, as well as the obligations and liabilities listed on Schedule 1.2, shall be conveyed with the Excluded Assets by deed without warranty to Seller or an Affiliate, in form and substance reasonably satisfactory to Buyer and shall be the sole responsibility and obligation of Seller or its Affiliate, as the case may be.

1.3 Debt Owed to Parent/Payables. Seller hereby agrees that, upon and effective at Closing, and without further action on the part of any party hereto, all working capital advances and other debts, if any, repayable to Seller by the Company, and all other payables and financial obligations of the Company to any third party as of the Closing Date shall be extinguished and all such amounts shall, as a result thereof, cease upon Closing to be liabilities of the Company.

1.4 Rent. Rent and other fees payable to or received by the Company under the Contracts shall be prorated at Closing as of the Closing Date.

1.5 Damage; Condemnation.

(a) If, prior to the Closing, any material asset of the Business is damaged by fire, vandalism, act of God or other casualty or cause (and such damage is not repaired by the Closing), Buyer will have the option of (i) accepting the assets affected thereby as they are together with the insurance proceeds, if any, and the right to receive the same, (ii) accepting such affected assets and receiving a credit against the Purchase Price equal to the difference between the fair market value thereof immediately prior to such damage and the fair market value thereof immediately after such damage, or (iii) excluding such affected assets and receiving a credit against the Purchase Price equal to the fair market value thereof immediately prior to such damage. If Buyer elects option (i) above, Seller will not allow the Company to settle any insurance claims or legal actions relating thereto without Buyer's prior written consent.

(b) If, prior to the Closing, all or any portion of any Owned Real Property, or other material asset of the Business is taken by eminent domain or is nationalized or otherwise expropriated by any Governmental Entity, Buyer will have the option of (i) accepting the assets affected thereby as they are, together with all compensation and damages awarded, if any, and the right to receive the same, (ii) accepting such affected assets and receiving a credit against the Purchase Price equal to the difference between the fair market value thereof immediately prior to such taking and the fair market value immediately after such taking, (iii) excluding such affected assets and receiving a credit against the Purchase Price equal to the fair market value thereof immediately prior to such taking, or (iv) terminating this Agreement. If Buyer elects option (i) above, Seller will not settle any proceeding relating to such taking without Buyer's prior written consent.

(c) Seller will promptly notify Buyer of any material casualty or any actual or threatened condemnation, nationalization or expropriation affecting all or any portion of any Owned Real Property, Equipment or other material asset of the Business.

2. PURCHASE PRICE

2.1 Purchase Price. Buyer will pay to Seller, as consideration for the Assets, the sum of [REDACTED] ("Purchase Price"), payable as set forth in Section 2.3.

2.2 Payment of Purchase Price. At the Closing, Buyer will deliver to Seller in cash by wire transfer of immediately available funds (to one or more accounts designated in writing by Seller at least five Business Days prior to the Closing Date) an amount equal to the Purchase Price.

3. CLOSING

The closing of the sale and purchase of the Shares and the transactions contemplated hereby ("Closing") will take place at the offices of McDonald Sanders, P.C., 777 Main Street, Suite 2700, Fort Worth, Texas 76102 or at such other mutually acceptable location as Buyer and Seller may agree in writing, at 9:00 a.m., local time, on a mutually acceptable date on or before June 15, 2024, or if the conditions to the Closing set forth in Sections 8 and 9 (other than any such conditions which by their nature must be satisfied or waived at Closing) shall not have been satisfied or waived by the appropriate party hereto on or before such date, as soon as practicable (but in no event later than 30 days) after such conditions have been satisfied or waived. The "Closing Date" will be deemed to be 12:01 a.m. on the date upon which the Closing occurs.

4. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller represents and warrants to Buyer as follows:

4.1 Due Organization and Authority. The Company is a Texas corporation duly organized, validly existing and in good standing under the Laws of the State of Texas and has full power and authority to own, lease and operate its assets, properties and business and to carry on its business as currently conducted. The Company has no ownership interest in any Person and therefore has no subsidiaries. Seller has provided to Buyer accurate and complete copies of the organizational documents of the Company, as such documents have been amended to the date hereof.

4.2 Qualification. The Company is duly qualified, licensed or otherwise authorized as a domestic entity to transact business and is in good standing in each jurisdiction where the character of the properties owned or leased or the nature of the business conducted by it makes such qualification, licensing or authorization necessary.

4.3 Authority to Execute and Perform Agreement. Seller and the Company each has all requisite power and authority to enter into, execute and deliver this Agreement and each of the Seller Documents, and to perform fully their obligations hereunder and thereunder, and no other act or proceeding on the part of Seller or the Company is necessary to authorize the same. This Agreement has been, and each of the Seller Documents will be, duly authorized, executed and delivered by Seller and the Company, and, assuming the due authorization, execution and delivery of this Agreement and each of the Buyer Documents by Buyer and the validity and binding effect hereof and thereof on Buyer, each is, or upon execution will be, a valid and binding obligation of Seller and the Company enforceable against Seller and the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws affecting the enforcement of creditors' rights and remedies generally or general principles of equity (regardless of whether considered and applied in a proceeding at law or in equity).

4.4 No Material Adverse Change. Except as set forth on Schedule 4.4, to Seller's Knowledge, since the close of business on December 31, 2022 there has been no material adverse change in the Condition of the Business, and Seller has no Knowledge of any such change which is threatened or reasonably likely; and there has not been any material damage, destruction or loss to any of the properties or assets of the Business since such date.

4.5 Compliance with Laws; Permits.

(a) Except as set forth on Schedule 4.5, to Seller's Knowledge, the Business is currently being conducted, and has at all times since January 1, 2022 been conducted, in compliance in all material respects with all applicable Laws, and there is no pending or, to Seller's Knowledge, any threatened investigation by any Governmental Entity with respect to actual or alleged violations of any applicable Laws, including Environmental Laws and Laws relating to the safe conduct of business, employment and employment practices, handicapped accessibility, antitrust, Taxes, consumer protection, product safety, currency exchange, customs, tariffs, equal opportunity, health, sanitation, fire, zoning, building, pension, securities and Intellectual Property.

(b) To Seller's Knowledge, the Company has all licenses, permits, registrations, orders and approvals required by all applicable Laws or Governmental Entities (including those relating to Environmental Laws) in order for the Company to carry on the Business as currently conducted, and to own and operate the properties and assets of the Business, and such licenses, permits, registrations, orders and approvals (collectively, "Permits") are listed on Schedule 4.5. Except as set forth on Schedule 4.5, (i) to Seller's Knowledge all such Permits are in full force and effect, (ii) to Seller's Knowledge the Company is in compliance in all material respects with all, and has not violated in any respect, such Permits, and (iii) there are no proceedings pending or, to Seller's Knowledge, threatened that could reasonably be expected to result in the revocation, cancellation or suspension thereof.

4.6 No Breach. The execution, delivery and performance of this Agreement and each of the Seller Documents, and the consummation of the transactions contemplated hereby and thereby, will not (i) violate or result in the breach of any provision of the articles of incorporation, by-laws, or other constituent documents of the Company, (ii) assuming the receipt of the Required Consents, violate, result in the breach of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, any material contract to which the Company is a party or by which the Company or any of its assets may be bound (including any assumed contract or Real Property Lease), (iii) result in the creation or imposition of any Lien upon the Business or the assets of the Company, (iv) violate any order, writ, judgment, injunction, consent, award or decree of any Governmental Entity against Seller, the Company or affecting the Business, or (v) to Seller's Knowledge violate any Law applicable to any of Seller or the Company.

4.7 Actions and Proceedings. Except as set forth on Schedule 4.7, there are no outstanding orders, writs, judgments, injunctions, consents, awards or decrees of any Governmental Entity against the Company, and there is no action, litigation, claim, suit or other legal, administrative, investigative or arbitral proceeding of any type whatsoever pending or, to Seller's Knowledge, threatened against the Company or its officers, directors, employees or agents relating to or affecting the Business.

4.8 Consents, Approvals and Filings. Except for (i) any consents required under the Contracts or the Permits, and (ii) authorization or exemption, as the case may be, from the Surface Transportation Board or its successor agency or body having the same or similar jurisdiction over common carriers by rail, to acquire the Shares and control the Lines and to exercise rights under the other agreements contemplated by this Agreement (collectively, "Contract Consents"; the Contract Consents, together with any other consent required from any Governmental Entity, are hereinafter collectively referred to together as the "Required Consents"), the execution and delivery by Seller of this Agreement and the Seller Documents, and the performance by Seller of its obligations hereunder and thereunder, do not require Seller or the Company to obtain any consent, approval or other action of, or make any filing with or give any notice to, any Governmental Entity or any other Person. All Required Consents are described on Schedule 4.8.

4.9 Real Property.

(a) To Seller's Knowledge, the Company has furnished all deeds in its possession regarding real property owned by the Company ("Owned Real Property"). The Company has good and indefeasible title to each parcel of Owned Real Property, and, to Seller's Knowledge, except for copies of instruments creating or regarding Liens previously provided to Buyer all such Owned Real Property is free and clear of all Liens. To Seller's knowledge there are no Liens or other monetary encumbrances susceptible of discharge by payment of money affecting the Owned Real Property. To Seller's Knowledge, complete and correct copies of any title opinions, surveys and other similar documents with respect to the Owned Real Property have been provided to Buyer.

(b) Schedule 4.9(b) sets forth a true and complete list of all leases, subleases, licenses, easements, rights of way and other similar agreements under which the Company uses or occupies or has the right to use or occupy, now or in the future, any real property, and all amendments and modifications thereto (collectively, "Real Property Leases;" and the land, buildings, structures and other improvements covered by the Real Property Leases are hereinafter collectively referred to as the "Leased Real Property"). Except as set forth on Schedule 4.9(b), (i) the Company has good and indefeasible title to the leasehold estate created under each Real Property Lease free and clear of all Liens, and the Company has the right to quiet enjoyment of all Leased Real Property for the full term of each such Real Property Lease, (ii) the Company is not in default under any Real Property Lease and no written claim of any default thereunder has been received by the Company which has not been cured, and (iii) all rent and other sums and charges currently due or payable by the Company under each of the Real Property Leases have been

paid in full when due and were not, and will not be, subject to any withholding or similar Taxes, and (iv) each Real Property Lease is assignable without the consent of any Person (including the lessor thereunder). Except as set forth in Schedule 4.9(b), each of the Real Property Leases has not been amended and is in full force and effect. Complete and correct copies of all documents relating to Leased Real Property have been delivered to Buyer.

(c) (i) To Seller's Knowledge, all the land, buildings, structures and other improvements used by the Company in connection with the Business is included in the Owned Real Property or the Leased Real Property (such Owned Real Property and Leased Real Property are hereinafter collectively referred to as the "Real Property") save and except for the Real Property included in the Excluded Assets, and (ii) the Company does not own or hold, and is not obligated under or a party to, any option, right of first refusal or other contractual right to purchase, acquire, sell or dispose of any real property with respect to the Business.

(d) Except as set forth on Schedule 4.9(d), there are no Liens or other agreements granting to any Person any right to the possession, use, occupancy or enjoyment of the Real Property, or any part thereof, and there are currently no tenants or other Persons (other than Seller) in possession of the Real Property.

(e) There is neither any condemnation proceeding nor any sale or other disposition in lieu of condemnation pending and, to Seller's Knowledge, threatened or contemplated, with respect to the Real Property, or any part thereof.

(f) The Company is not a party to any contract or subject to any order that would materially restrict the ability to operate over the Lines on the date of this Agreement or that would restrict the ability to serve directly all customers that may be served directly on the date of this Agreement.

4.10 Title to Tangible Assets. Except as set forth on Schedule 4.10, the Company has good, valid and indefeasible title to all tangible assets and property of the Business reflected in the Balance Sheet or thereafter acquired by the Company. Such assets are free and clear of any Lien.

4.11 Employees. There are currently no employees of the Company and there have been no employees of the Company since January 1, 2019.

4.12 Insurance. Schedule 4.12 sets forth a Certificate of Liability Insurance showing the insurance policies in which the Company is a named insured. All such policies are in full force and effect and no notice of cancellation, termination or non-renewal has been received with respect to any such policy. All premiums that have become due with respect to such policies for any period ending on or prior to the Closing Date have been or will be paid when due by the Company prior to the Closing. The lease agreements between the Company and each of DELEON SG NUT COMPANY, LLC, Gorman Milling

Company, Inc. and FWWR, as disclosed in Schedule 4.9(d), require the respective lessees to maintain certain insurance. To Seller's Knowledge, none of the required insurance policies name the Company as an additional insured.

4.13 Taxes.

(a) Except as set forth in Schedule 4.13, (i) the Company has timely and properly filed, or will file when due, all federal, state, provincial, local, foreign and other Tax Returns (including relating to their respective properties, franchises, payroll, excise, stamp, occupation, customs, duties, ad valorem, transfer, sales and use) required to be filed in respect of the Company, and all Taxes, interest, penalties, additions to Tax, and other charges due and payable as shown on such Tax Returns, or claimed to be due with respect to taxable periods covered by such Tax Returns, have been paid, (ii) such Tax Returns were when filed (or when filed will be) true, correct and complete, and disclosed (or will disclose) all Taxes required to be paid in respect of the Company for the periods covered thereby, (iii) all Taxes (whether or not shown on any Tax Return) owed by the Company have been timely paid, (iv) all such Tax Returns have been examined by the relevant taxing authorities or the period for assessment of the Taxes in respect of which such Tax Returns were required to be filed has expired, (v) there is no examination, action, suit, investigation, audit, claim or assessment or proceeding pending, proposed or threatened by any Governmental Entity relating to the determination, assessment or collection of, or any delinquencies in filing relating to, any Taxes owing by the Company with respect to the Company, and to Seller's Knowledge, no basis exists therefor, (vi) neither Seller, or the Company has waived or been requested to waive any statute of limitations in respect of Taxes which waiver is currently in effect with respect to the Business, (vii) all monies required to be withheld by the Company have been collected or withheld, and paid to the respective taxing authorities, (viii) none of the assets of the Company are properly treated as owned by any Person other than the Company for income Tax purposes, and (ix) none of the Assets is "tax-exempt use property" within the meaning of Section 168(h) of the Code.

(b) No transaction contemplated by this Agreement is subject to withholding under Section 1445 of the Code and, except as set forth on Schedule 4.13, no sales, use, real estate transfer, registration, inventory, stamp or other similar federal, state, provincial, local or foreign Taxes will be imposed on the sale and transfer of the pursuant to this Agreement.

4.14 Certain Environmental Conditions.

(a) Except as set forth on Schedule 4.14(a), there is no pending, or, to Seller's Knowledge, threatened litigation, suit, complaint, investigation or administrative action or claim of any type whatsoever alleging that (i) the Real Property or the Company is in violation of any Environmental Laws, or (ii) the Real Property or the Company is responsible for remediation of a Contaminant with respect to the

Real Property or with respect to any off-site facility or location, including, any waste disposal site whether or not located on the Real Property.

(b) All reports, studies, audits, notices and correspondence, whether generated by Seller, the Company, any Governmental Entity or any other Person, and all tests, analyses and other documents, in the possession or control of Seller or the Company, and which relate to compliance by the Business or the Real Property with Environmental Laws have been made available to Buyer.

(c) Except as set forth on Schedule 4.14(c), the Company to its Knowledge has complied, and is currently complying in all material respects, with all Environmental Laws applicable to the Company, and all Permits required thereunder.

(d) Except as set forth on Schedule 4.14(d), to Seller's Knowledge no Contaminant is or has been present or released on, in, under, about or above the Real Property in an amount or condition that could give rise to an Environmental Claim. All releases of Contaminants that have occurred on the Real Property in an amount or condition that could give rise to an Environmental Claim, if any, of which Seller or the Company have Knowledge have been reported to the appropriate Governmental Entity pursuant to applicable Environmental Laws.

(e) Except as set forth on Schedule 4.14(e), no Notice with respect to the Company's compliance with Environmental Laws or the environmental condition of any of the Real Property is outstanding, nor has any such Notice been issued by any Governmental Entity or other Person which has not been responded to fully and in a timely fashion.

(f) Except as set forth on Schedule 4.14(f), no underground storage tank used by the Company, or any Person in connection with the Business is, and, to Seller's Knowledge, no underground storage tank has at any time been, located on any of the Real Property that has not been removed in compliance with applicable Environmental Laws. To Seller's Knowledge, the locations on the Real Property of all current or previous underground storage tanks that are or were used by the Company or, any other Person, are described on Schedule 4.14(f).

(g) Except as set forth on Schedule 4.14(g), neither the Company nor any other Person has leased, operated or owned any facilities or property in connection with the Business or the Real Property with respect to which the Company or is subject to any pending or, to Seller's Knowledge, potential proceeding under any Environmental Law.

(h) Except as set forth on Schedule 4.14(h), the Company nor any other Person (i) has, in connection with the Business or the Real Property, sent, or arranged for the shipment of, Contaminants to any facility or site for reuse, recycling, reclamation, treatment, storage or disposal, or (ii)

is subject to any pending or, to Seller's Knowledge, potential proceeding under any Environmental Law with respect to any such facilities or sites.

(i) There are no Contaminants in any inactive, closed or abandoned storage or disposal areas or facilities on property which has been leased, operated or owned by the Company or Seller in connection with the Business or the Real Property. Except as set forth on Schedule 4.14(i), such areas and facilities are not subject to actual or, to Seller's Knowledge, potential proceedings, investigations or Notices by officials of any Governmental Entity or by any private litigant as a result of any previous on-site management, treatment, storage or disposal of Contaminants.

4.15 Financial Statements; Undisclosed Liabilities.

(a) Attached as Schedule 4.15(a) are the balance sheets of the Company as of December 2022, December 2023, and March 4, 2024 ("Balance Sheets"). The Balance Sheets (i) were prepared in accordance with the books and records of the Company, and (ii) fairly present the financial position of the Company as of such dates. In addition, attached is an excerpt from Seller's consolidated financial statement evidencing that the Company is part of the consolidated-combined financial statements of Seller.

(b) There are no liabilities, debts, claims or obligations with respect to the Business (whether accrued, absolute, contingent, unasserted or otherwise and whether or not of a nature required by GAAP to be reflected, disclosed or otherwise provided for in a balance sheet of the Business which, individually or in the aggregate, could have a material adverse effect on the Condition of the Business, except (i) those reflected or otherwise provided for in the Balance Sheets, (ii) for liabilities and obligations occurred in the ordinary course of business consistent with past practice since the date of the Balance Sheet, and (iii) those specifically described on Schedule 4.15(b)

(c) Condition of Assets. The Assets (whether owned or leased) (i) are usable in the ordinary course of business, (ii) are sufficient to conduct the Business immediately after the Closing Date as currently conducted. All leased personal property of the Company, if any, is in all material respects in the condition required of such property by the terms of the leases applicable thereto.

4.16 Operations. Except as disclosed on Schedule 4.16, since December 31, 2022, the Company has operated only in the ordinary course of business consistent with past practice, and, without limiting the generality of the foregoing, the Company has not:

(i) changed in any material respect the character, operation or Condition of the Business;

(ii) (A) except for the Excluded Assets, sold, abandoned or made any other disposition of any properties or assets of the Business except in the ordinary course of business consistent with past practice, (B) granted or suffered any Lien on any of their properties or assets, or (C) entered into or amended any Contract which is in force and effect as of the date hereof or on the Closing Date;

(iii) except in the ordinary course of business consistent with past practice, incurred or assumed any debt, obligation or liability (whether absolute, contingent or otherwise, and whether or not currently due and payable);

(iv) suffered any material destruction, damage or loss (other than ordinary wear and tear), whether or not covered by insurance, relating to any of the properties or assets of the Company;

(v) waived, canceled, sold or otherwise disposed of for less than the fair value thereof any claim or right which the Company had against any other Person, except for routine settlements or resolutions of disputed customer or supplier accounts in the ordinary course of business consistent with past practice;

(vi) entered into, adopted, amended, paid, agreed to pay or incurred any obligation for any payment or contribution to, or with respect to, any benefit plan, or any collective bargaining or severance agreement, or paid or promised to pay any bonus to, or granted an increase in compensation or benefits to, any employee, except for normal accruals under benefit plans and normal compensation adjustments in accordance with past practice;

(vii) received any notice that any supplier, customer or contractor has terminated or is terminating its relationship with, or is threatening any legal or similar action against, the Company or any Subsidiary;

(viii) made any forward purchase commitments,

(ix) entered into any material transaction, whether or not in the ordinary course of business consistent with past practice;

(x) prepared or filed any Tax Return inconsistent with past practice or, on any such Tax Return, taken any position, made any election, or adopted any method that is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax Returns in prior periods (including positions, elections or methods which would have the effect of deferring income to periods for which Buyer is liable pursuant to Section 6.15 (Taxes) or accelerating deductions to periods for which Seller is liable pursuant to Section 6.15); or

(xi) taken any action of a type that would have required the consent of Buyer if such action were to have been taken during the period between the date hereof and the Closing Date.

4.17 Contracts. To Company's Knowledge, there are no oral agreements. All of the Company's written contracts involving payments to or from the Company are listed on Schedule 4.17 ("Contracts"). Except as listed on Schedule 4.17, and except for the Real Property Leases and the assumed contracts, there is no arrangement, understanding, agreement or Contract to which the Company is a party: (i) for the sale, transfer or lease of any asset or group of related assets of the Company; (ii) for the purchase of any asset or group of related assets; (iii) that involves an obligation to pay or render, or an entitlement to receive, monies or services; (iv) that is an indenture, bond, note, loan or credit agreement or other agreement relating to the borrowing of money or relating to the direct or indirect guarantee or assumption of obligations of any Person for borrowed monies; (v) involving a power of attorney, (vi) containing a covenant not to compete; (vii) that is a mortgage, pledge, security agreement, deed of trust or other document granting a Lien (other than a Permitted Lien); or (x) that is otherwise material to the Business. Except as set forth on Schedule 4.17, (xi) each Real Property Lease and Contract, to Seller's Knowledge, is in full force and effect and is enforceable by the Company against the other party or parties thereto in accordance with its terms, and there have been no terminations or cancellations thereunder; (xii) the Company has delivered to Buyer a true, correct and complete copy of each of the Real Property Leases and the Contracts, together with all amendments, modifications and supplements thereto and (xiii) none of the Real Property Leases and the Contracts will be in breach or default, terminate or be terminable by virtue of the transactions contemplated hereby. Neither Seller nor, to Seller's Knowledge, any other person has breached its obligations or defaulted under any Real Property Lease or any assumed contract, and there has occurred no event or condition which, with the giving of notice or passage of time or both, would constitute such a breach or default on the part of the Company nor, to the Company's Knowledge, any other person.

4.18 Accounts Receivable. The accounts receivable of the Business are Excluded Assets.

4.19 Assets Sufficient for Business. Immediately prior to the Closing, to Seller's Knowledge, the Company will own or have legal rights to use as currently used in the Business, those assets, both tangible and intangible, which are necessary and sufficient to conduct the Business as currently conducted.

4.20 Intellectual Property.

(a) The Company does not own any Intellectual Property used in connection with the operation of the Business as currently conducted.

(b) To Seller's Knowledge, the continued operation of the Business as currently conducted, does not and will not interfere with, infringe upon, misappropriate or otherwise come into conflict with, any Intellectual Property rights of any Person.

4.21 No Business Affiliates. No Affiliate of Seller, either directly or indirectly, leases or operates any assets used in connection with the Business.

4.22 Facilities. No facility of the Company is owned, leased or operated by Seller in connection with the Business.

4.23 Books and Records. The Company maintains its books, records and accounts (including, but not limited to, those kept for financial reporting and Tax purposes) in accordance with good business practice and in sufficient detail to reflect accurately and fairly the transactions and the Condition of the Business.

4.24 Customers. The Company has no customers. Seller and Gorman Milling Co, Inc. ("Gorman") are rail served customers of FWWR . Other than listed on Schedule 4.24, there currently exists no condition, event or state of facts or circumstances involving Seller or Gorman of which Seller has Knowledge which would have a material adverse effect on the Condition of the Business, FWWR's provision of rail service to Seller and Gorman, or prevent the conduct of the Business after the consummation of the transactions contemplated by this Agreement in substantially the same manner in which it is currently conducted or proposed to be conducted.

4.25 Capitalization. The authorized capital stock of the Company consists solely of 2700 shares of common stock, of which 2700 shares are issued and outstanding and held by Seller. The Shares constitute the only outstanding shares of capital stock of the Company. The Shares have been duly authorized and validly issued and are fully paid and non-assessable. At the Closing, the Shares will be sold, transferred, assigned and conveyed to Buyer free and clear of any and all Liens. There are no outstanding options, warrants, calls, rights, commitments, claims or agreements obligating Seller or the Company to issue, deliver or sell any shares of capital stock of the Company and there are no outstanding securities or other rights that are convertible or exchangeable into capital stock of, or any other equity interest in, the Company.

4.26 Condition of Lines. To Seller's Knowledge, the physical condition of the Lines is sufficient, in all material respects, to operate the Business as currently conducted.

4.27 Representations Not Waived. The representations and warranties of Seller contained herein will not be affected or deemed waived by reason of any investigation made by or on behalf of Buyer and/or its representatives or agents; provided, however, Buyer shall promptly notify Seller in writing if it knows that any representation or warranty of Seller with respect to the Line is or might be inaccurate in any respect.

4.28 Disclosure. To Seller's Knowledge, none of (i) the representations or warranties of Seller contained herein, (ii) the information contained in the Schedules referred to in this Article 4, and (iii) the

other information or documents furnished to Buyer or any of its representatives or agents by Seller or its representatives or agents pursuant to the terms of this Agreement is or will be false or misleading in any material respect or omits or will omit to state a fact herein or therein required to be stated or necessary to make the statements herein or therein not misleading in any material respect. There is no fact which adversely affects the Business in any material respect which has not been disclosed in this Agreement or the Schedules hereto.

5. REPRESENTATIONS AND WARRANTIES OF BUYER. Buyer represents and warrants to Seller as follows:

5.1 Due Organization and Authority. Buyer is a Texas corporation duly organized, validly existing and in good standing under the Laws the State of Texas, and has all requisite power and authority to own, lease and operate its assets, properties and business and to carry on its business as currently conducted.

5.2 Authority to Execute and Perform Agreement. Buyer has all requisite power and authority to enter into, execute and deliver this Agreement and each of the Buyer Documents, and to perform fully its obligations hereunder and thereunder, and no other act or proceeding on the part of the Buyer is, or will be on the Closing Date, necessary to authorize same. This Agreement has been, and each of the Buyer Documents to be delivered by Buyer at the Closing will be, duly authorized, executed and delivered by Buyer and, assuming the due authorization, execution and delivery of this Agreement and each of the Seller Documents by Seller and the Company, and the validity and binding effect hereof and thereof on Seller and the Company, each is, or upon execution will be, a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws affecting the enforcement of creditors' rights and remedies generally or general principles of equity (regardless of whether considered and applied in a proceeding at law or in equity).

5.3 No Breach. The execution, delivery and performance by Buyer of this Agreement and each of the Buyer Documents to which it is party, and the consummation of the transactions contemplated hereby and thereby, will not (i) violate or result in the breach of any provision of the restated certificate of incorporation, by-laws or other constituent documents of Buyer, (ii) violate, result in the breach of, or constitute a default (or an event which, with the giving of notice or the lapse of time or both, would constitute a default) under, any material contract to which Buyer is party or by which Buyer or any of its assets may be bound, (iii) violate any order, writ, judgment, injunction, award or decree of any arbitrator or Governmental Entity against Buyer or affecting any of its assets or properties, or (iv) violate any applicable Law, which violation, individually or in the aggregate, would reasonably be expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby.

5.4 Actions and Proceedings. There are no outstanding orders, writs, judgments, injunctions, awards or decrees of any Governmental Entity against Buyer, and there are no actions, litigations or suits or other legal, administrative, investigative or arbitral proceedings of any type whatsoever pending, or to Buyer's Knowledge, threatened, against or involving Buyer which, individually or in the aggregate, would reasonably be expected to have a material adverse effect on the ability of the Buyer to consummate the transactions contemplated hereby.

5.5 Consents and Approvals. The execution and delivery by Buyer of this Agreement and the Buyer Documents, and the performance by Buyer of its obligations hereunder and thereunder, do not require Buyer to obtain any consent, approval, or other action of, or make any filing with or give any notice to, any Governmental Entity or other Person.

5.6 Lease and Use of Assets. Buyer acknowledges that for many years it has leased and used the Lines owned by the Company and which constitutes the Business, and as a result has considerable knowledge and understanding of the Lines.

6. COVENANTS AND AGREEMENTS. The parties hereto covenant and agree as follows:

6.1 Due Diligence; Environmental Study. Promptly after execution of this Agreement, Seller will provide Buyer, and Buyer's counsel, accountants and other representatives, during normal business hours and upon reasonable prior written notice, full access to all of the properties, personnel, books, contracts, records, Tax Returns and files of or relating to the Company, and the Business. Seller will also furnish to Buyer and such representatives, to the extent in the Seller's or the Company's possession or subject to its reasonable control, all such additional documents and financial, operational, environmental, legal and other information concerning the Company, and the Business as Buyer may from time to time reasonably request. Seller will instruct the Company's employees, agents and representatives to cooperate in all reasonable respects with Buyer in its investigation of the Company, and the Business. Buyer shall have a period of Ninety (90) Days from the Effective Date to review the items above.

6.2 Consents, Approvals and Filings.

(a) As soon as practicable after the execution of this Agreement, Seller and Buyer will cooperate with each other with respect to, and will make or cause to be made, all requests, filings and submissions to any Governmental Entity or other Person that are required to be made in connection with the transactions contemplated hereby, including: (i) the obtaining of all necessary actions or non-actions, waivers, consents and approvals from all Governmental Entities, including the making of all necessary registrations and filings with, and the taking of all other reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid any action or proceeding by, any such Governmental Entities (including any in connection with the obtaining the transfer or reissuance of the Permits); (ii) the obtaining of all

necessary consents, approvals or waivers from Persons other than Governmental Entities; and (iii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated hereby, including any attempt to have any stay or temporary restraining order entered by any arbitrator or Governmental Entity vacated or reversed. Notwithstanding the foregoing, neither Buyer nor any of its Affiliates will be required to divest or hold separate or otherwise take or commit to take any action that limits its freedom of action with respect to, or its ability to retain, the Business or any other property or assets, or any material portions thereof. Seller will furnish to Buyer, and Buyer will, furnish to Seller such information and assistance as may reasonably be requested in connection with the preparation of any requests, filings, submissions or other communications. Each party hereto agrees to provide to the other party copies of any notifications that it or its representatives or Affiliates receive from any Governmental Entity in connection with the foregoing matters.

(b) Buyer shall as promptly as practicable, but in no event later than 10 Business Days following the execution and delivery of this Agreement, file with the Surface Transportation Board the appropriate and necessary documentation for the approval or exemption, as the case may be, of the transactions contemplated hereby.

6.3 Expenses. Each party to this Agreement will bear its own expenses incurred in connection with the preparation, execution and performance of this Agreement, including all fees and expenses of agents, representatives, counsel and accountants. Seller also will bear the costs associated with any sales, use, registration, inventory, stamp, transfer, or similar Taxes (including, real property transfer or documentary stamp taxes).

6.4 Indemnification for Brokerage Commissions. Seller represents and warrants to Buyer that no broker, finder, agent or similar intermediary has acted on behalf of Seller, the Company or any subsidiary in connection with this Agreement, and there are no brokerage commissions, finders' fees or similar fees or commissions payable in connection herewith on account of Seller's actions. Seller agrees to indemnify and keep Buyer harmless from any claim or demand for commission or other compensation by any broker, finder, agent or similar intermediary claiming to have been employed or retained by or on behalf of Seller, and to bear the cost of any legal expenses incurred by Buyer in defending against any such claim. Buyer represents and warrants to Seller that no broker, finder, agent or similar intermediary has acted on behalf of Buyer in connection with this Agreement which would obligate Seller to pay any brokerage commissions, finders' fees or similar fees or commissions in connection with this transaction. Buyer agrees to indemnify and keep Seller harmless from any claim or demand for commission or other compensation by any broker, finder, agent or similar intermediary claiming to have been employed or retained by or on behalf of Buyer, and to bear the cost of any legal expenses incurred by Seller in defending against any such claim.

6.5 Insurance. Until the Closing, the Company will maintain or cause to be maintained in force (including necessary renewals thereof) insurance policies against risks and liabilities to the extent and in the manner heretofore maintained by the Company.

6.6 Litigation. Seller will promptly notify Buyer of any lawsuits, investigations or other proceedings that are threatened or commenced against Seller, the Company or any Subsidiary (or any current or former director, officer or employee thereof) which may relate to, or affect this Agreement or the transactions contemplated hereby.

6.7 Access; Records; Operations Manuals. After the Closing, Buyer and Seller will afford to each other and their respective representatives the opportunity, upon reasonable request, to examine and make copies of their respective books and records relating to the Business, and to consult with their respective officers, employees, accountants and other representatives in connection with any reasonable business purpose, including the preparation of Tax Returns and financial reports and the conducting of any audits with respect thereto, the administration of Buyer's benefit plans and benefit arrangements, the review of any materials, books, records or circumstances relating to either party's ongoing obligations under this Agreement or any Operative Document or for any other reasonable business purpose.

6.8 FIRPTA Affidavit. On or not more than 10 days prior to the Closing Date, if applicable, Seller will furnish to Buyer an affidavit, in form and substance reasonably satisfactory to Buyer, stating under penalty of perjury Seller's United States taxpayer identification number and that Seller is not a foreign Person pursuant to Section 1445(b)(2) of the Code.

6.9 Further Assurances. Each party hereto will, and will cause its respective Affiliates to, execute such agreements, documents, instruments and other papers and take such further actions, at any time and from time to time, either before or after the Closing Date, as may be reasonably requested by the other party to carry out the provisions hereof and the transactions contemplated hereby.

6.10 Mail or Other Communications Received After Closing. On and after the Closing Date, Buyer may receive and open all mail or other communications addressed to Seller and deal with the contents thereof in its discretion to the extent that such mail or other communications and the contents thereof relate to the Business. Buyer agrees to keep and cause to be kept confidential the contents of, and to deliver or cause to be delivered promptly to Seller, all other mail or communications (including any mail or communications that relate to the Excluded Assets or the Excluded Liabilities) received by Buyer which are addressed to Seller. In the event that Seller receives mail or other communications which relate to the Business on or after the Closing Date, Seller will deliver or cause to be delivered promptly to Buyer such mail or other communications. Seller agrees to keep and cause to be kept confidential the contents of such mail or other communications.

6.11 Conduct of Business. Unless the Seller has otherwise obtained the prior written consent of Buyer or as otherwise expressly permitted by the terms of this Agreement, from the date hereof to the Closing Date, Seller will cause the Company to:

(a) conduct the Business in the ordinary course in substantially the same manner as currently conducted;

(b) use its best efforts to preserve and maintain the Condition of the Business, including relationships with customers, suppliers and others with whom the Company deals in connection with the Business, and all associated goodwill;

(c) comply with all applicable Laws with respect to the Business; and

(d) pay, perform and discharge, when due, in the ordinary course of business consistent with past practice, all obligations of the Company. In addition, except as set forth on Schedule 6.11 or as otherwise expressly permitted by the terms of this Agreement, the Company will not do any of the following from the date hereof through the Closing Date without the prior written consent of Buyer:

(i) institute any changes in the Business or abandon the Lines;

(ii) except for the disposition of the Excluded Assets, sell, lease, dispose of or encumber, or agree to sell, lease, dispose of or encumber, any properties or assets;

(iii) enter into any contract, lease, commitment, arrangement or transaction;

(iv) enter into any employment agreement;

(v) perform any act or omit to perform any act which, if taken or omitted prior to the date hereof, would constitute, result in or cause a breach of or default under any of the Contracts or Real Property Leases;

(vi) enter into any purchase orders except for purchase orders for services under existing contracts;

(vii) prepare or file any Tax Return inconsistent with past practice or, on any such Tax Return, take any position, make any election or adopt any method that is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax Returns in prior periods (including positions, elections or methods which would have the effect of deferring income to periods for which Buyer is liable pursuant to Section 6.16 or accelerating deductions to periods for which Seller is liable pursuant to Section 6.16); or

(viii) transfer, sell, encumber or pledge, or call or permit the Company to issue, transfer, sell, encumber or pledge, any shares of capital stock of the Company, or issue or sell, or cause or permit the Company or any Subsidiary to issue or sell, any options, warrants or other rights of any kind to acquire any shares of capital stock of the Company, or securities convertible into or exchange for, or which otherwise confer on the holder thereof, any right to acquire, any such shares;

(ix) acquire any assets;

(x) incur any indebtedness for borrowed money (not including intercompany borrowings from Affiliates, accrued expenses and trade payables arising in the ordinary course of business) or capital lease obligations;

(xi) make any change to any method of accounting or accounting practice except for any such change required by reason of a concurrent change in GAAP (provided that Seller shall promptly inform Buyer of any such required change) or change its auditors;

(xii) settle or compromise any material action, suit, litigation or other proceeding, whether administrative, civil or criminal in law or in equity, or before any Governmental Entity or any arbitral or similar proceedings;

(xiii) make, change or revoke any Tax elections, file any amended Tax Return, enter into any Tax closing agreement, settle or consent to any Tax claim or assessment, incur any obligation to make any payment of, or in respect of, any Taxes except in the ordinary course of business or agree to extend or waive the statutory period of limitation for the assessment or collection of Taxes;

(xiv) sell, convey, encumber, transfer, abandon, terminate or cease use of any Intellectual Property; or

(xv) agree, whether in writing or otherwise, to do any of the foregoing.

Seller will not take any action or agree to take any action that results in any of (A) the representations and warranties of Seller set forth in this Agreement becoming untrue or misleading, or (B) the conditions set forth in Section 9 not being satisfied.

6.12 Notice of Certain Events. Each party hereto will promptly notify the other party of any event, occurrence, condition or circumstance of which it becomes aware from the date hereof through the Closing Date that would constitute a violation or breach of any representation, warranty, covenant or agreement made by it in this Agreement.

6.13 Reasonable Commercial Efforts. Upon the terms and subject to the conditions set forth in this Agreement, each party hereto agrees to use its reasonable commercial efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party in doing, all things necessary, appropriate, proper or advisable to fulfill the conditions to the other party's obligations set forth in Sections 7 and 8, as the case may be, to consummate and make effective, in the most expeditious manner practicable, the Closing and the other transactions contemplated hereby, and to ensure the orderly transition of the Assets to Buyer.

6.14 Negotiations. From the date hereof until the termination of this Agreement in accordance with its terms, Seller agrees that Seller, the Company, and their respective Affiliates will continue to deal exclusively and in good faith with Buyer and its Affiliates with respect to any transaction involving the sale, transfer or other disposition of the Shares or the Business, and none of Seller, the Company, their respective Affiliates nor their lenders, investment banking firms, advisors, accountants, attorneys, employees, officers, directors, managers or other agents, nor any Person acting on their behalf, will solicit any inquiries or proposals by, or engage in any discussions or negotiations with, or furnish any non-public information to, or enter into any agreement with, any Person other than Buyer and its Affiliates concerning the sale or other disposition of the Shares or the Business or a merger, consolidation, sale of securities or other transaction involving Seller, its Affiliates, or the Company, if such merger, consolidation, sale or other transaction would be inconsistent, in any respect, with the transactions contemplated by this Agreement, and will promptly notify Buyer of the substance of any inquiry or proposal concerning any such transaction that may be received by Seller, the Company, or their Affiliates.

6.15 Taxes.

(a) Buyer and Seller shall cooperate and file and cause to be filed all Tax Returns and execute such other documents as may be required by any Taxing Authority consistent herewith.

(b) Seller will be liable for and will pay, and will indemnify, defend and hold harmless Buyer and its Affiliates (and directors, officers, employees, stockholders, successors, assigns, representatives and agents) from and against, all Taxes (whether assessed or unassessed), and will be responsible for the preparation and filing of all Tax Returns, applicable to the Company, in each case attributable to taxable years or periods ending on or before the close of the day prior to the day on which the Closing occurs and, with respect to any Straddle Period, the portion of such Straddle Period ending on and including the close of the day prior to the day on which the Closing occurs. The foregoing obligation of Seller includes but is not limited to property taxes imposed or assessed pursuant to Sections 11.43(i), 25.07(a) or 25.21 of the Texas Tax Code with respect to any real or tangible property owned or leased by the Company and attributable to nonpayment of property taxes for periods ending before, or the portion of the Straddle Period ending on, the close of the day prior to the day on which the Closing occurs; provided, that Seller will not be liable for or pay, and will not indemnify, defend or hold harmless, Buyer and its

Affiliates (and their respective directors, officers, employees, stockholders, successors, assigns, representatives and agents) from and against, any Taxes for which Buyer is liable under this Agreement.

(c) Buyer will be liable for and will pay, and will indemnify, defend and hold harmless Seller and its Affiliates (and their respective directors, officers, employees, stockholders, successors, assigns, representatives and agents) from and against, all Taxes (whether assessed or unassessed), and will be responsible for the preparation and filing of all Tax Returns, applicable to the Company and its Subsidiaries that are attributable to taxable years or periods beginning on the day on which the Closing occurs and, with respect to any Straddle Period, the portion of such Straddle Period beginning on the day on which the Closing occurs; provided, that Buyer will not be liable for or pay, and will not indemnify, defend or hold harmless, Seller and its Affiliates (and their respective directors, officers, employees, stockholders, successors, assigns, representatives and agents) from and against, any Taxes for which Seller is liable under this Agreement.

(d) Seller, on the one hand, or Buyer, on the other hand, as the case may be, will provide reimbursement for any Tax paid by one party or its Affiliates all or a portion of which is the responsibility of the other party in accordance with the terms of this Section 6.15. Not later than 30 days prior to the payment of any such Tax, the party paying such Tax will give notice to the other party of the Tax payable and the portion which is the liability of the other party, although failure to do so will not relieve the other party from its liability hereunder.

(e) After the Closing Date, Seller and Buyer will, and will cause their respective Affiliates to: (i) assist in all reasonable respects the other party in preparing any Tax Returns which such other party is responsible for preparing and filing; (ii) cooperate in all reasonable respects in preparing for any audits of, or disputes with taxing authorities regarding, any Tax Returns concerning the Company, any Subsidiary or any Excluded Assets or Excluded Liabilities; (iii) make available to the other party and to any taxing authority as reasonably requested by the other party all information, records, and documents relating to Taxes concerning the Company, any Subsidiary or any Excluded Assets or Excluded Liabilities; (iv) provide timely notice to the other party in writing of any pending or threatened Tax audits or assessments relating to Taxes concerning the Company, any Subsidiary or any Excluded Assets or Excluded Liabilities for taxable periods for which the other party may have a liability under this Section 6.15; and (v) furnish the other party with copies of all correspondence received from any taxing authority in connection with any Tax audit or information request with respect to any such taxable period.

6.16 Confidentiality.

Prior to the Closing and except (i) as necessary to satisfy the parties obligations under this Agreement, or (ii) as required with respect to the Required Consents the parties shall, and shall advise their Affiliates and its and their employees, agents, accounts, legal counsel and other representatives and

advisers to, hold in strict confidence, and not divulge or disclose any, information of any kind concerning the Purchase Price provided, however, that the foregoing obligation of confidence shall not apply to (i) information that is or becomes generally available to the public other than as a result of a disclosure by Buyer, Seller or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers, (ii) information that is or becomes available to Buyer, Seller or their Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers on a nonconfidential basis prior to its disclosure by Buyer or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representations or advisers and (iii) information that is required to be disclosed by Buyer, Seller or their Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers as a result of any applicable Law; and provided further that Buyer and Seller promptly shall notify the other party of any disclosure pursuant to clause (iii) of this Section 6.16.

7. CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLER. The obligation of Seller to consummate the transactions contemplated hereby is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived in writing by Seller:

7.1 Purchase Price, Instruments of Assumption and Ancillary Agreements. Buyer will have delivered to Seller the Purchase Price and Buyer will have executed and delivered to Seller the Buyer Documents.

7.2 Representations, Warranties and Covenants. The representations and warranties of Buyer contained in this Agreement will be true and complete in all respects (if qualified as to materiality) and in all material respects (if not so qualified) when made and on and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date. Buyer will have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Buyer on or prior to the Closing Date. Buyer will have delivered to Seller a certificate, dated the Closing Date and signed by an appropriate officer of Buyer, to the foregoing effect.

7.3 Secretary's Certificate. Buyer will have delivered to Seller a certificate, in form and substance reasonably satisfactory to Seller, signed by the Secretary of Buyer and dated the Closing Date, certifying the accuracy and completeness of the following documents to be delivered therewith: (i) Buyer's certificate of incorporation and by-laws as in effect on the date hereof and the Closing Date; (ii) resolutions duly adopted by the Board of Directors (or a duly authorized committee thereof) authorizing and approving the transactions contemplated hereby; and (iii) the incumbency of certain officers of Buyer.

7.4 Injunction. On the Closing Date, there will not be any Law of any Governmental Entity outstanding against either party hereto, or any of their respective Affiliates, that prevents the consummation of, and no action or proceeding will be pending against either party hereto, or any of their respective

Affiliates, which questions the legality of, or seeks to restructure or to restrain or prevent the consummation of, the transactions contemplated by this Agreement or any of the conditions to the consummation of such transactions, or which could reasonably be expected to have a material adverse effect on the Condition of the Business.

7.5 Additional Instruments or Documents. At the Closing, Buyer shall deliver to Seller such other instruments or documents, the delivery of which is a condition to Closing, as may be necessary to effect the Closing in accordance with this Agreement.

8. CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER The obligation of Buyer to consummate the transactions contemplated hereby is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived in writing by Buyer.

8.1 Closing Documents. Seller will have executed and delivered to Buyer the Seller Documents.

8.2 Representations, Warranties and Covenants. The representations and warranties of Seller contained in this Agreement will be true and complete in all respects (if qualified as to materiality) and in all material respects (if not so qualified) when made and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date. Seller will have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Seller on or prior to the Closing Date. Seller will have delivered to Buyer a certificate, dated the Closing Date to the foregoing effect.

8.3 Consents and Approvals. All Required Consents will have been obtained (or any waiting periods in connection therewith will have expired), in form and substance reasonably satisfactory to Buyer, and all such Required Consents shall remain in full force and effect, and all statutory waiting periods in respect thereof shall have expired.

8.4 Certificate. Seller will have delivered to Buyer a certificate, in form and substance reasonably satisfactory to Buyer, dated the Closing Date, certifying the accuracy and completeness of the following documents to be delivered therewith: (i) the Company's organizational documents as in effect on the date hereof and the Closing Date; (ii) resolutions duly adopted by the Board of Directors and sole shareholder of the Company authorizing and approving the transactions contemplated hereby; and (iii) the incumbency of certain officers of the Company.

8.5 Material Adverse Change. Between the date hereof and the Closing Date, there will not have occurred any material adverse change in the Condition of the Business.

8.6 Injunction. On the Closing Date, there will not be any Law of any Governmental Entity outstanding against either party hereto or any of their respective Affiliates that prevents the consummation of, and no action or proceeding will be pending against either party hereto or any of its Affiliates which questions the legality of, or seeks to restructure or to restrain or prevent the consummation of, the transactions contemplated by this Agreement or any of the conditions to the consummation of such transactions, or which could reasonably be expected to have a material adverse effect on the Condition of the Business.

8.7 Due Diligence. Buyer will have completed its due diligence investigation of the Company, the results of which will be satisfactory to Buyer in its sole discretion, which due diligence investigation will include, among other things, a review of the Condition of the Business, including environmental matters, arrangements with suppliers and customers, and affiliated transactions.

8.8 Transactions to be Effectuated at the Closing.

(a) At the Closing, Seller shall deliver or caused to be delivered to Buyer the following: (i) the stock certificate(s) representing all of the Shares, which certificate(s) shall be either endorsed in blank or attached to a duly executed stock power; (ii) all minute books, stock records books and corporate seals of the Company; (iii) duly executed resignations of each of the officers and directors of the Company; (iv) a duly executed release from Seller and its Affiliates of all claims against the Company other than those regarding Buyer's obligations hereunder; and (v) such other instruments or documents, the delivery of which is a condition to Closing, as may be necessary to effect the Closing in accordance with this Agreement.

(b) On the Closing Date, Seller will deliver or cause to be delivered to Buyer the Records;

9. SURVIVAL

All covenants, representations and warranties and agreements contained herein will terminate and expire on the eighteen month anniversary of the Closing Date, except with respect to (i) Sections 4.1 and 4.3, for which the representations and warranties contained therein will continue to survive indefinitely, and (ii) Section 4.13, for which the representations and warranties contained therein will terminate and expire 60 days after the expiration of the applicable statute of limitations or any extensions thereof. Any party asserting a claim in connection with this Agreement, including without limitation, a claim asserted under Section 4.14, must give the other party a Claims Notice of such claim on or prior to such termination date, if any, or be barred from asserting such claim.

10. INDEMNIFICATION

10.1 Obligation of Seller to Indemnify. Seller agrees to indemnify, defend and hold harmless Buyer (collectively, "Buyer Indemnitees") from and against all claims, losses, liabilities, damages,

deficiencies, costs or expenses, including interest, penalties and attorneys' fees and disbursements (collectively, "Losses"), actually incurred, suffered or paid, directly or indirectly, by the Buyer Indemnitees based upon, arising out of or otherwise in respect of: (i) subject to the limitations contained in Article 9 and Section 10.4(a), any breach, or alleged breach of any representation or warranty of Seller contained in this Agreement, the Schedules hereto, or the Seller Documents; (ii) any breach, or alleged breach of any covenant or agreement of Seller contained in this Agreement or any Seller Document; (iii) the Excluded Assets and the Excluded Liabilities; (iv) the operation of the Business prior to the Closing Date; and (v) any fraud, gross recklessness or willful misconduct of Seller in connection with the transactions contemplated by this Agreement.

10.2 Obligation of Buyer to Indemnify. Buyer agrees to indemnify, defend and hold harmless Seller (collectively, "Seller Indemnitees") from and against any Losses actually incurred, suffered or paid, directly or indirectly, by the Seller Indemnitees based upon, arising out of or otherwise in respect of: (i) subject to the limitations contained in Article 9 and Section 10.4(b), any breach, or alleged breach, of any representation or warranty of Buyer contained in this Agreement, or the Buyer Documents; (ii) any breach, or alleged breach, of any covenant or agreement of Buyer contained in this Agreement or any Buyer Document; (iii) any assumed liability; or (iv) any fraud, gross recklessness or willful misconduct of Buyer in connection with the transactions contemplated by this Agreement.

10.3 Notice and Opportunity to Defend.

(a) Notice of Asserted Liability. Promptly after receipt by any Person entitled to indemnification under this Article 10 ("Indemnitee") of notice of any demand, assertion or other circumstance which could give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (each, an "Asserted Liability") that may result in a Loss, the Indemnitee will give notice thereof ("Claims Notice") to the party obligated to provide indemnification or payment pursuant to Section 10.1 or 10.2 ("Indemnifying Party"), as the case may be, subject to the procedures contained in this Section 10.3. The Claims Notice will describe the Asserted Liability in reasonable detail and will, if possible, indicate the amount of the Loss that has been or may be suffered by the Indemnitee. In no event will the Indemnitee's failure to give a Claims Notice to the Indemnifying Party relieve the Indemnifying Party of any liability under this Article 10, except to the extent that such failure materially prejudices the Indemnifying Party's ability to adequately defend such claim.

(b) Opportunity to Defend. If the Indemnifying Party confirms in writing that it is obligated hereunder to indemnify the Indemnitee with respect to any Asserted Liability, the Indemnifying Party may elect to compromise or defend, at its own expense and with counsel reasonably satisfactory to the Indemnitee, such Asserted Liability; and if the Indemnifying Party so elects to compromise or defend, the Indemnifying Party will have the right to control the defense of such Asserted Liability. If the Indemnifying Party elects to compromise or defend such Asserted Liability, it will within 15 days (or sooner, if the nature

of the Asserted Liability so requires) to notify the Indemnitee of its intent to do so, and the Indemnitee will cooperate with the Indemnifying Party in the compromise of, or defense against, such Asserted Liability. If the Indemnifying Party elects not to compromise or defend such Asserted Liability, fails to notify the Indemnitee of its election as herein provided or contests its obligation to indemnify under this Agreement, the Indemnitee may pay, compromise or defend such Asserted Liability, and the Indemnitee will have the right to control the compromise or defense of such Asserted Liability; and in such case, the Indemnitee will retain the right to pursue its rights to indemnification hereunder against the Indemnifying Party. Notwithstanding the foregoing provisions of this Section 10.3(b), the Indemnifying Party may settle or compromise any Asserted Liability; provided, that (i) such settlement or compromise does not result in any liability to, restriction on or admission by the Indemnitee, and (ii) such settlement or compromise constitutes or includes a full release of the Indemnitee. In any event, the Indemnitee may participate, at its own expense, in the defense of any Asserted Liability. If the Indemnifying Party chooses to defend any Asserted Liability, the Indemnitee will make available to the Indemnifying Party any books, records or other documents within its control that are necessary or appropriate for such defense.

10.4 Limitations on Indemnification.

(a) The indemnification provided for in Section 10.1 and elsewhere in this Agreement and the Seller Documents will be subject to the following limitations:

(i) Seller will not be obligated to pay any amounts for indemnification under Section 10.1(i) until the aggregate Losses actually incurred by the Buyer Indemnitees thereunder exceed \$25,000 ("Seller Basket"), whereupon Seller will be obligated to pay the amount of all Losses actually incurred by such Indemnitees, subject to the maximum limitation set forth in clause (ii) below;

(ii) Seller will not be obligated to pay an aggregate amount in respect of indemnification under Section 10.1(i) in excess of an amount equal to the Purchase Price;

(iii) Notwithstanding clauses (i) and (ii) above, Seller will be obligated to pay any and all amounts for indemnification for breaches of the representations and warranties set forth in Sections 4.1 and 4.3 in full, without regard to the Seller Basket or the maximum limitation set forth in clause (ii) above; and

(iv) Notwithstanding the foregoing, Seller will be obligated to pay any and all amounts for indemnification under Subsections 10.1, (iii) and (v) in full without regard to the Seller Basket or the maximum limitation set forth in clause (ii) above.

(b) The indemnification provided for in Section 10.2 and elsewhere in this Agreement and the Buyer Documents will be subject to the following limitations:

(i) Except with respect to Buyer's obligation to pay the Purchase Price, which shall not be subject to the Buyer Basket, Buyer will not be obligated to pay any amounts for indemnification under Section 11.2(i) until the aggregate of all Losses actually incurred by the Seller Indemnitees thereunder exceed \$25,000 ("Buyer Basket"), whereupon Buyer will be obligated to pay the amount of all Losses actually incurred by such Indemnitees, subject to the maximum limitation set forth in clause (ii) below;

(ii) Buyer will not be obligated to pay an aggregate amount in respect of indemnification under Section 10.2(i) in excess of an amount equal to the Purchase Price; and

(iii) Notwithstanding clauses (i) and (ii) above, Buyer will be obligated to pay any and all amounts for indemnification under Subsections 10.2(iii) and (iv) in full without regard to the Buyer Basket or the maximum limitation set forth in clause (ii) above.

11. TERMINATION OF AGREEMENT

11.1 Termination.

(a) This Agreement may be terminated prior to the Closing as follows:

(i) at the election of Seller, if any one or more of the conditions set forth in Section 8 have not been fulfilled by the 90th day following the Effective Date hereof;

(ii) at the election of Buyer, if any one or more of the conditions set forth in Section 8 have not been fulfilled by the 90th day following the Effective Date hereof other than with respect to the Required Consents including those in referenced in Section 4.8 (ii) by the Closing Date;

(iii) at the election of Buyer or Seller, if (a) any action or proceeding is pending against either party hereto which questions the legality of, or seeks to restructure or restrain or prevent the consummation of, the transactions contemplated hereby, and such action or proceeding, in the sole discretion of either Buyer or Seller, could reasonably be expected to have a material adverse effect on the Assets or the Business, or (b) there exists on the Closing Date any outstanding order against either party hereto or any Law is in effect that prohibits the consummation or orders a restructuring of the transactions contemplated hereby;

(iv) at the election of Buyer or Seller, in the event of a material breach of this Agreement by Seller or Buyer, as the case may be;

(v) by Buyer, in the event that Seller supplements or amends the Schedules and the matter giving rise to such supplement or amendment shall have had or could reasonably be expected to have a material adverse effect on the Condition of the Business;

(vi) by mutual written consent of Seller and Buyer; or

(vii) by Buyer in the event it determines in its reasonable business judgment that its due diligence of the Company and Business is unsatisfactory provided, however, that the right to terminate this Agreement pursuant to clause (i), (ii), (iii), (iv) or (v) above shall not be available to a party whose failure to fulfill an obligation, or its breach of a representation, warranty, covenant or agreement set forth in this Agreement and /or whose delay or nonperformance shall have been the cause of, or shall have resulted in, the right to terminate this Agreement pursuant to this Section 11.1.

(b) In the event of termination by Buyer or Seller pursuant to Section 11.1(a), written notice thereof shall promptly be given to the other party and the transactions contemplated by this Agreement shall be terminated, without further action by any party. If the transactions contemplated by this Agreement are terminated as provided herein, each party shall return or destroy all documents and other materials received from the other relating to the transactions contemplated hereby, whether or not obtained before or after the execution hereof, and all confidential information received by any party with respect to the other party's business or that of any of its Affiliates shall remain confidential.

11.2 Survival. If this Agreement is terminated in accordance with Section 11.1(a) and the transactions contemplated hereby are not consummated, this Agreement will become null and void and have no further force or effect, and neither party will have any liability to the other except that such termination will not relieve either party hereto from liability for any breach of this Agreement or impair the right of any party to compel specific performance by any other party of its obligations under this Agreement. Notwithstanding anything to the contrary herein, if this Agreement and the transactions contemplated hereby have not Closed by June 15, 2024, this Agreement shall terminate and be null and void.

12. MISCELLANEOUS

12.1 Publicity. Neither Seller, the Company, any Subsidiary nor Buyer will make any publicity release or announcement concerning this Agreement or the transactions contemplated hereby without the prior written approval thereof by Buyer or Seller, as the case may be, except as required by applicable Law, in which case the party issuing the release will so advise the other party in writing and submit a copy of such release in advance of such issuance.

12.2 Notices. Any notice or other communication required or permitted hereunder will be in writing and will be delivered personally, sent by facsimile transmission or sent by certified, registered or express mail, postage prepaid. Any such notice will be deemed given when delivered personally, or sent

by facsimile transmission (after receiving confirmation of receipt) or, if mailed, five days after the date of deposit in the United States mail or, if express mailed, one Business Day after delivery to a reputable overnight express mail courier, as follows:

(i) If to Buyer, to:

Tarantula Corporation
6300 Ridglea Place Suite 1200
Fort Worth, Texas 76116
Attention: Kevin Erasmus
Telephone: (817) 763-8297
Facsimile: (817) 738-9657

with a copy (which copy shall not constitute notice) to:

McDonald Sanders, P.C.
777 Main Street, Suite 2700
Fort Worth, Texas 76102
Attention: Robert L. Ginsburg
Telephone: (817) 347-3644
Facsimile: (817) 334-0271
Email: rginsburg@mcdonaldlaw.com

(ii) If to Seller, to:

Birdsong Corporation
612 Madison Avenue
Suffolk, VA 23434
Attention: Michael Franke
Telephone: (757) 539-3456
Facsimile: (806) 637-1050

with a copy (which copy shall not constitute notice) to:

McGuire, Craddock & Strother, P.C.
500 N. Akard Street, Suite 2200
Dallas, Texas 75201
Attention: Thomas W. Craddock
Telephone: (214) 954-6834
Facsimile: (214) 954-6868
Email: tcraddock@mcslaw.com
gmorgan@mcslaw.com

Either party may by notice given in accordance with this Section 12.2 designate another address or Person for receipt of notices hereunder.

12.3 Entire Agreement. This Agreement (including the Schedules hereto), the Buyer Documents and the Seller Documents contain the entire understanding among the parties with respect to the purchase and sale of the Shares and supersede all prior agreements, written or oral, with respect thereto.

12.4 Amendments and Waivers; Preservation of Remedies. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, in each case only by a written instrument signed by Buyer and Seller or, in the case of a waiver, by the party waiving compliance. No delay on the part of either party in exercising any right, power or privilege hereunder will operate as a waiver thereof; nor will any waiver on the part of either party of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.

12.5 Governing Law, Jurisdiction, Forum Selection and Waiver of Jury Trial. This Agreement, and the rights and obligations of Buyer and Seller hereunder, will be governed by, and construed and enforced in accordance with, the laws of the State of Texas applicable to agreements made and to be performed entirely within such State, without regard to principles of conflict of laws. Buyer and Seller each agrees that any action or proceeding based upon or relating to this Agreement will, to the fullest extent permitted by applicable law, be brought and maintained exclusively in the courts of the State of Texas or in the United States District Court for the Northern District of Texas. Buyer and Seller each hereby irrevocably submits to the jurisdiction of the courts of the State of Texas and of the United States District Court for the Northern District of Texas for purposes of any such action or proceeding, and irrevocably agrees to be bound by any judgment rendered by any such court in connection with such action or proceeding. Buyer and Seller each hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may have to the laying of venue of any such action or proceeding brought in any such court and any claim that any such action or proceeding has been brought in an inconvenient forum. Buyer and Seller each hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or the transactions contemplated hereby.

12.6 Binding Effect; No Assignment. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned by either party hereto without the prior written consent of the other party; provided, that Buyer, upon prior written notice to Seller, may assign any or all of its rights hereunder to one or more Affiliates of Buyer, but no such assignment will release Buyer from any of its obligations hereunder.

12.7 Variations in Pronouns. All pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the context may require.

12.8 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, and all such counterparts will together constitute one and the same instrument.

12.9 Schedules. The Schedules are an integral part of this Agreement as if fully set forth herein. All references herein to Articles, Sections and Schedules will be deemed references to such parts of this Agreement, unless the context otherwise requires.

12.10 Headings. The headings in this Agreement, in any Appendix, Exhibit or Schedule hereto and in the table of contents are for reference only and will not affect the meaning or interpretation of this Agreement.

12.11 Severability of Provisions. If any provision or portion of any provision of this Agreement, or the application of any such provision or portion to any Person or circumstance, shall be held invalid or unenforceable, the remaining provisions of this Agreement or the remaining portion of such provision, and the application of such provision or portion to Persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby.

12.12 No Third-Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

12.13 Equitable Relief. Seller acknowledges and agrees that in view of the uniqueness of the Business, damages at law would be an insufficient remedy for a breach of any of its covenants in this Agreement. Accordingly, Seller agrees that in the event of a breach or threatened breach by Seller of any such provisions, Buyer will be entitled to seek equitable relief in the form of an injunction to prevent irreparable injury. Nothing herein will be construed as prohibiting Buyer from pursuing any other remedies, including damages, for a breach or threatened breach of this Agreement.

12.14 Denominations. All dollar references in this Agreement will be understood to refer to United States dollars.

12.15 Obligations of Seller with Respect to Affiliates. Each obligation, covenant and undertaking of Seller set forth in each of this Agreement and the Seller Documents will be deemed, as and to the extent required by the context, to also include a corresponding obligation, covenant or undertaking of Seller to cause the Company to perform or satisfy such obligation, covenant or undertaking.

12.16 Costs and Attorneys' Fees. If any action, suit, or other proceeding is instituted concerning or arising out of this Agreement or any transaction contemplated under this Agreement, the prevailing party shall recover all of such party's reasonable costs and attorneys' fees incurred in each such action, suit or other proceeding, including any and all appeals or petitions from any such action, suit or other proceeding.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

TARRANTULA CORPORATION

By: 
Name: KEVIN ERASMUS
Title: PRESIDENT & CEO

BIRDSONG CORPORATION

By: 
Name: STEPHEN L. Huber
Title: Chief Financial Officer

TEXAS CENTRAL RAILROAD COMPANY

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

TARRANTULA CORPORATION

By: _____

Name: _____

Title: _____

BIRDSONG CORPORATION

By: _____

Name: _____

Title: _____

TEXAS CENTRAL RAILROAD COMPANY

By: Michael Franke

Name: Michael Franke

Title: Vice-President

DEFINITIONS AND RULES OF USAGE

Rules of Usage

The terms defined below shall have the respective meanings set forth below for all purposes, and such meanings shall be equally applicable to both the singular and plural forms of the terms defined. “Include”, “includes” and “including” shall be deemed to be followed by “without limitation.” “Writing”, “written” and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form. Any instrument or Law defined or referred to below or in any instrument that recites it is to be construed in accordance with this Appendix means such instrument or Law as from time to time amended, modified or supplemented, including (in the case of instruments) by waiver or consent and (in the case of Laws) by succession of comparable successor Laws and includes (in the case of instruments) references to all attachments thereto and instruments incorporated therein. References to any Person are, unless the context otherwise requires, also to its successors and assigns. “Hereof”, “herein”, “hereunder” and comparable terms refer to the entire instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto. References to the singular include, unless the context otherwise requires, references to the plural and vice versa. References in an instrument to “Article”, “Section” or another subdivision or to an attachment are, unless the context otherwise requires, to an article, section or subdivision of or an attachment to such instrument.

Definitions

“Accounts Receivable” means all accounts and notes receivable of the Business.

“Purchase Price” has the meaning specified in Section 2.1.

“AEA” means the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 *et seq.*).

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with, such Person.

“Agreement” means the Stock Purchase Agreement dated as of March 21, 2024, by and among Buyer, the Company and Seller, as may be amended, modified or supplemented from time to time.

“Asserted Liability” has the meaning specified in Section 10.3.

“Business” has the meaning specified in the second introductory paragraph of the Agreement.

“Business Day” means, any day other than Saturday, Sunday or a United States federal holiday on which federally chartered banking and financial institutions are not open for the transaction of business.

“Buyer” has the meaning specified in the first introductory paragraph of the Agreement.

“Buyer Basket” has the meaning specified in Section 10.4.

“Buyer Documents” means, collectively, the Instruments of Assumption and the other documents to be delivered on or prior to the Closing Date by Buyer pursuant to the Agreement or any mutually satisfactory list of closing documents.

“Buyer Indemnitees” has the meaning specified in Section 10.1.

“CAA” means the Clean Air Act (42 U.S.C. Section 7401 *et seq.*).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*).

“Claims Notice” has the meaning specified in Section 10.3.

“Closing” has the meaning specified in Section 3.

“Closing Date” has the meaning specified in Section 3.

“Code” means the Internal Revenue Code of 1986, as amended.

“Condition of the Business” means the business, operations, assets, liabilities, properties, condition (financial or otherwise) or prospects of the Business.

“Contaminant” means (i) those substances defined as “hazardous substances,” “pollutants” or “contaminants” in Section 101 of CERCLA, (ii) those substances defined as “hazardous waste,” “hazardous materials” or “regulated substances” by RCRA, (iii) those substances designated as a “hazardous substance” pursuant to Section 311 of CWA, (iv) those substances defined as “hazardous materials” in Section 103 of HMTA, (v) those substances regulated as a hazardous chemical substance or mixture or as an imminently hazardous chemical substance or mixture pursuant to Section 6 or 7 of TCSA, (vi) those substances regulated by OPA, (vii) those substances defined as a source, special nuclear or by-product material by Section 11 of AEA, (viii) those substances defined as “residual radioactive material” by Section 101 of UMTRCA, (ix) those substances defined as “toxic materials” or “harmful physical agents” pursuant to Section 6 of OSHA, (x) those substances defined as hazardous wastes in 40 C.F.R. Part 261.3, (xi) those substances defined as hazardous waste constituents in 40 C.F.R. Part 260.10, specifically including Appendix VII and VIII of Subpart D of 40 C.F.R. Part 261, (xii) those substances designated as hazardous substances in 40 C.F.R. Parts 116.4 and 302.4, (xiii) those substances defined as hazardous substances or hazardous materials in 49 C.F.R. Part 171.8, (xiv) those substances regulated in the regulations adopted pursuant to such Laws (or any amendments to such Laws), whether or not such regulations are specifically

referenced herein, and (xv) any other material, substance or waste that poses or causes, or is alleged to pose or cause, any damage to property or personal injury or threat to the environment.

“Contracts” has the meaning specified in Section 4.18.

“Contract Consents” has the meaning specified in Section 4.8.

“Current Liabilities” means the sum of all “Accrued Liabilities” and “Accrued Sales Commissions,” as such terms are used in connection with the Business and reflected on the Balance Sheets.

“CWA” means the Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*).

“Environmental Claim” means any written accusation, allegation, notice of violation, claim, demand, order, consent decree, directive, cost recovery action or other cause of action by or on behalf of any Governmental Entity or any other Person for damages, injunctive or equitable relief, personal injury, remedial action costs, tangible or intangible property damage, natural resource damage, nuisance, pollution or any adverse effect on the environment caused by any Contaminant, or for fines, penalties or restrictions, resulting from or based upon (i) the existence or continuation of a release of any Contaminant, (ii) exposure to any Contaminant, (iii) the presence, use, handling, transportation, storage, treatment or disposal of any Contaminant, or (iv) the violation or alleged violation of any Environmental Law.

“Environmental Laws” means (i) CERCLA, (ii) CWA, (iii) RCRA, (iv) AEA, (v) CAA, (vi) EPCRA, (vii) FIFRA, (viii) OPA, (ix) SDWA, (x) SMCRA, (xi) TSCA, (xii) UMTRCA, (xiii) the Pollution Prevention Act of 1990 (42 U.S.C. Section 13101 *et seq.*), (xiv) HMTA, (xv) NWPA, (xvi) the regulations adopted pursuant to all such foregoing Laws, and (xvii) all other Laws concerning Contaminants, pollution or the protection of air, water or land, but excluding any such Laws concerning occupational health and safety (including OSHA and all regulations thereunder).

“EPCRA” means the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 *et seq.*).

“Equipment” means all machinery, equipment, tools, furniture, furnishings, automobiles, trucks, tractors, trailers, forklifts and other vehicles and mobile equipment, computers, copiers, fax machines, telephones and all related equipment, spare parts and all other tangible personal property owned or held by the Company or any Subsidiary, wherever located, used or useful in connection with the conduct of the Business.

“Excluded Assets” means the assets of the Company listed on Schedule 1.2 that are being conveyed to Seller by Deed Without Warranty.

“Excluded Liabilities” means the obligations and liabilities relating to the Excluded Assets, as well as the obligations and liabilities listed on Schedule 1.2, all of which are being assumed by Seller pursuant to the Agreement.

“FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 *et seq.*).

“GAAP” means United States generally accepted accounting principles applied on a consistent basis throughout the periods involved.

“Governmental Entity” means any government or political subdivision, whether federal, state, provincial, local or foreign, or any administrative, regulatory or other agency, commission or instrumentality of such government or political subdivision, or any arbitrator or arbitral tribunal, including any court of law.

“HMTA” means the Hazardous Materials Transportation Act (49 U.S.C. App. Section 1801 *et seq.*).

“Indemnifying Party” has the meaning specified in Section 10.3.

“Indemnitee” has the meaning specified in Section 10.3.

“Intellectual Property” means (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications and patent disclosures, together with all reissues, continuations, continuations-in-part, divisionals, revisions, utility models, extensions and reexaminations thereof, (ii) all trademarks, service marks, trade dress, logos, trade names and corporate names, together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith, and all applications, registrations and renewals in connection therewith, (iii) all copyrightable works, all copyrights and all applications, registrations, renewals and derivatives in connection therewith, (iv) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (v) all computer software (including data and related documentation), (vi) all other proprietary rights, (vii) all copies and tangible embodiments thereof (in whatever form or medium), and (viii) all licenses or agreements in connection with the foregoing, in each case on a worldwide basis and used or useful in the Business.

“Balance Sheets” has the meaning specified in Section 4.15.

“IRS” means the Internal Revenue Service.

“Knowledge” means (a) with respect to Seller, (i) any knowledge attributable to Seller or Company, such representations or warranties or statements shall be deemed to be made to the current actual knowledge

of Michael Franke or Becky Golden ; and (b) with respect to Buyer, (i) any knowledge attributable to Buyer or any Affiliate of Buyer such representations or warranties or statements shall be deemed to be made to the current actual knowledge of Kevin Erasmus or Bill Wood based on its files, books and records, Tax Returns or any other written documentation,.

“Laws” means all federal, state, provincial, local and foreign laws, statutes, ordinances, rules, regulations, orders, judgments, decrees, writs, arbitral orders, settlement agreements, conciliation agreements, injunctions or other requirements of all applicable governmental, judicial, legislative, executive, administrative and regulatory authorities.

“Leased Real Property” has the meaning specified in Section 4.9.

“Liens” means all liens, pledges, mortgages, security interests, claims, covenants, leases, subleases, charges, conditions, options, rights of first refusal, licenses, easements, servitudes, rights of way, encumbrances or any other restriction or limitation whatsoever.

“Lines” means the Peanut Line.

“Losses” has the meaning specified in Section 10.1.

“Notices” means all notices of violation, Liens, complaints, suits, orders, citations, fines, penalties or other notices.

“NWPA” means the Nuclear Waste Policy Act (42 U.S.C. Section 10101 *et seq.*).

“OPA” means the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 *et seq.*).

“Operative Documents” means, collectively, the Agreement, the Buyer Documents and the Seller Documents.

“OSHA” means the Occupational Safety and Health Act, 29 U.S.C. Section 651 *et seq.*) and the regulations thereunder.

“Owned Real Property” has the meaning specified in Section 4.9.

“Permits” has the meaning specified in Section 4.5(b).

“Permitted Liens” means (i) any Liens securing Taxes, or (ii) any claims of materialmen, carriers, landlords and like Persons, in each case, which are not yet due and payable or are being contested in good faith and which, either individually or in the aggregate, would not interfere with Buyer’s ownership, use or operation

of such Assets or conduct of the Business and would not create the risk of imposition of criminal penalties on Buyer.

“Person” means any individual, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Entity or other entity.

“Purchase Price” has the meaning specified in Section 3.1.

“RCRA” means the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*).

“Real Property” has the meaning specified in Section 4.9.

“Real Property Leases” has the meaning specified in Section 4.9.

“Records” means all books and records of Seller relating to the Business, including all original agreements, files, documents, records, computer files and programs, operating data, drawings, specifications, environmental studies, maintenance records, operational manuals and personnel records with regard to the Employees.

“Required Consents” has the meaning specified in Section 4.8.

“SDWA” means the Safe Drinking Water Act (42 U.S.C. Sections 300f *et seq.*).

“Seller” has the meaning specified in the first introductory paragraph of the Agreement.

“Seller Basket” has the meaning specified in Section 10.4.

“Seller Documents” means the Deeds and Assignments and the other documents to be delivered on or prior to the Closing by Seller pursuant to this Agreement or any list of closing documents satisfactory to Seller and Buyer.

“Seller Indemnitees” has the meaning specified in Section 10.2.

“SMCRA” means the Surface Mining Control and Reclamation Act of 1974 (30 U.S.C. Sections 1201 *et seq.*).

“Straddle Period” means a taxable year or period beginning before and ending after the close of the day preceding the day the Closing occurs, which will be treated on a “closing of the books” basis as two partial periods, one ending on the close of the day preceding the date the Closing occurs and the other beginning on the day immediately on which the Closing Date, except that Taxes (such as property Taxes) imposed on a periodic basis will be allocated on a daily basis.

"Tax" means (i) any federal, state, provincial, local or foreign net income, gross income, gross receipts, windfall profits, severance, production, property, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add-on minimum, *ad valorem*, excise, value added, transfer, stamp, environmental, registration or inventory tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, imposed by any Governmental Entity, and (ii) any liability for the payment of amounts with respect to any tax, duty, fee, assessment and charge described in clause (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, or as a result of any obligation under any tax sharing arrangement or tax indemnity agreement.

"Tax Return" means any return, report or similar statement required to be filed with respect to any federal, state, local, provincial or foreign Taxes (including any attached schedules), including, any information return, claim for refund, amended return or declaration of estimated Tax.

"Treasury Regulations" means the regulations of the United States Department of Treasury promulgated thereunder.

"TSCA" means the Toxic Substances Control Act (15 U.S.C. Section 2601 *et seq.*).

"UMTRCA" means the Uranium Mill Tailings Radiations Control Act of 1978 (42 U.S.C. Section 7901 *et seq.*).

SCHEDULES TO STOCK PURCHASE AGREEMENT

By and among

TARANTULA CORPORATION

BIRDSONG CORPORATION

and

TEXAS CENTRAL RAILROAD COMPANY

(Prepared March 20, 2024)

Schedule 1.2

Excluded Assets and Excluded Liabilities

The parcels described in the attached are excluded from the assets being acquired.

METES AND BOUNDS DESCRIPTION

Parcel One – 4.58 Acres

All that certain 4.58 acre tract or parcel of land situated in the Houston and Texas Central Railroad Company Lands, Block 2, Section 63, Abstract Number 164, City of Gorman, County of Eastland, State of Texas, and the Houston and Texas Central Railroad Company Lands, Block 2, Section 62, Abstract Number 1930 of said Eastland County and Abstract Number 1314, County of Comanche, State of Texas, and the Houston and Texas Central Railroad Company Lands, Block 2, Section 61, Abstract Number 503 of said Comanche County, said tract also crossing the Revised Map of Gorman, known as Plat 134, filed 05 November 1897, and recorded in Book 31 Page 492 of the Deed Records of said Eastland County, and being more particularly described as follows;

BEGINNING for the north corner of the tract being described herein at a set 1/2 inch rebar on the northeast line and 90 feet northeast of and perpendicular from the center of the main line of the Texas Central Railroad as shown on said map of Gorman at the intersection of the southwest line of McCall Street and the southeast line of Ector Street, from said rebar a found MAG nail being the southwest corner of said Section 63 bears South 80 degrees 55 minutes 21 seconds West a distance of 2996.20 feet, and from said rebar a found iron rod with a cap marked "Williamson" being the north corner of a called 0.66 acre tract as described in deed from Gorman Milling Co. Inc., dated 05 April 2012, and recorded in county clerks instrument number 2012-001066 of the Official Public Records of said Eastland County bears South 42 degrees 03 minutes 08 seconds West, a distance of 113.43 feet, said rebar also having NAD83 NCTZ grid coordinates of N:6759522.60 E:1916495.92;

THENCE: South 84 degrees 06 minutes 25 seconds East, 90 feet northeast of and parallel to the center of said main line, a distance of 3069.56 feet to a set MAG nail for in the pavement of State Highway Number 6 for the east corner of this tract;

THENCE: South 41 degrees 52 minutes 33 seconds West, a distance of 65.00 feet to a set 1/2 inch rebar 25 feet northeast of and perpendicular from the center of said main line for the south corner of this tract, from said rebar a set 1/2 inch rebar in the center of said main line bears South 41 degrees 52 minutes 33 seconds West, a distance of 25 feet;

THENCE: North 48 degrees 06 minutes 25 seconds West, 25 feet northeast of and parallel to the center of said main line, a distance of 3069.56 feet to a set 60d nail on the southeast line of said Ector Street for the west corner of this tract, from said nail a set 1/2 inch rebar in the center of said main line bears South 41 degrees 52 minutes 33 seconds West, a distance of 25 feet, and from said nail another set 1/2 inch rebar bears South 41 degrees 52 minutes 33 seconds West, a distance of 15 feet;

THENCE: North 41 degrees 52 minutes 09 seconds East, with the southeast line of said Ector Street, a distance of 65.00 feet to the **POINT OF BEGINNING** and containing 4.58 acres of land.

NAD83 Grid Bearings and Distances reflect surface measurements.

METES AND BOUNDS DESCRIPTION
Parcel Two – 3.94 Acres

All that certain 3.94 acre tract or parcel of land situated in the Houston and Texas Central Railroad Company Lands, Block 2, Section 63, Abstract Number 164, City of Gorman, County of Eastland, State of Texas, and the Houston and Texas Central Railroad Company Lands, Block 2, Section 62, Abstract Number 1930 of said Eastland County and Abstract Number 1314, County of Comanche, State of Texas, and the Houston and Texas Central Railroad Company Lands, Block 2, Section 61, Abstract Number 503 of said Comanche County, said tract also crossing the Revised Map of Gorman, known as Plat 134, filed 05 November 1897, and recorded in Book 31 Page 492 of the Deed Records of said Eastland County, and being more particularly described as follows;

BEGINNING for the west corner of the tract being described herein at a found iron rod with a cap marked "Williamson" on the southwest line and 90 feet southwest of and perpendicular from the center of the main line of the Texas Central Railroad as shown on said map of Gorman, said rod being the south corner of a called 0.66 acre tract as described in deed to Gorman Milling Co., Inc., dated 05 April 2012, and recorded in clerks instrument number 2012-001066 of the Official Public Records of said Eastland County, and said rod being on the north line of Townsend Street as platted on said revised map, from said rod a found MAG nail being the southwest corner of said Section 63 bears South 89 degrees 02 minutes 31 seconds West a distance of 3157.67 feet, and from said rod a found iron rod with a cap marked "Williamson" being the west corner of said Gorman Milling tract bears North 48 degrees 06 minutes 25 seconds West, a distance of 428.21 feet, said rebar also having NAD83 NCTZ grid coordinates of N:6759102.68 E:1916694.47;

THENCE: North 41 degrees 52 minutes 33 seconds East, with the southeast line of said Gorman Milling tract, a distance of 65.00 feet to a set "X" in concrete for the north corner of this tract, same being the east corner of said Gorman Milling tract, from said "X" a set 1/2 inch rebar in the center of said main line bears North 41 degrees 52 minutes 33 seconds East, a distance of 25 feet;

THENCE: South 48 degrees 06 minutes 25 seconds East, 25 feet southwest of and parallel to the center of said main line, a distance of 2641.42 feet to a set 1/2 inch rebar in a gravel road crossing said railroad for the east corner of this tract, from said rebar a set 1/2 inch rebar in the center of said main line bears North 41 degrees 52 minutes 33 seconds East, a distance of 25 feet;

THENCE: South 41 degrees 52 minutes 33 seconds West, a distance of 65.00 feet to a set 1/2 inch rebar on the east side of said gravel road for the south corner of this tract, said rebar being 90 feet southwest of and perpendicular from the center of said main line;

THENCE: North 48 degrees 06 minutes 25 seconds West, 90 feet southwest of and parallel to the center of said main line, a distance of 2641.42 feet to the **POINT OF BEGINNING** and containing 3.94 acres of land.

NAD83 Grid Bearings and Distances reflect surface measurements.

Schedule 4.4
No Material Adverse Change

None

Schedule 4.5
Compliance with Laws; Permits

List of Permits

Except for authorizations/consents from the Surface Transportation Board, to Seller's Knowledge the Company has no other licenses, permits, registrations or orders.

Schedule 4.7
Actions and Proceedings

None

Schedule 4.8
Consents, Approvals and Filings

None, except for Surface Transportation Board approval, authorization or exemption.

Schedule 4.9
Real Property

4.9(b)

Leasehold estates held by the Company

None

4.9(d)

Grants of right to possession to other Persons

Attached hereto is a list of tenants holding a leasehold estate in the Real Property

TEXC LEASES/EASEMENTS

COMPANY 11 CONTRACTED PARTY/LESSEE	LEASE #	A/R - RNT - CYCLE 5 ORIGINAL DATE	A/R CODE RNT EXPIRATION/RENEWAL DATE	TCRR LEASES PROPERTY	PAYMENT DUE DATE	ESCALATION PROVISION	ESCALATION DATE AND TERM	DATE DUE	DUE JULY 2023 2023-2024 RENTAL AMOUNT	DUE JULY 2024 2024-2025 RENTAL AMOUNT	DUE JULY 2025 2025-2026 RENTAL AMOUNT	DUE JULY 2026 2026-2027 RENTAL AMOUNT
Phillip and Sharon Alexander d/b/a Dawn Embroidery	-	9/1/2023	08/31/2024 OR UNTIL TERMINATION PER SECTION X OF THE AGREEMENT	APPROXIMATELY 8,330 SQUARE FEET CORNER OF CITY STREET AND TEXAS STREET NUT AND PRODUCE WAREHOUSE IN DELEON TX	"ANNUALLY IN ADVANCE"	SECTION III (3.75% ANNUALLY)	ANNIVERSARY DATE	August 31, 2025	-	\$671.91	-	-
DELEON INDUSTRIAL DEVELOPMENT CORPORATION *TAKING OVER GOLDEN PEANUT #105 DE17035	#118	5/1/2007	04/30/2008 AND 04/30 OF EACH YEAR THEREAFTER UNTIL 90 DAYS WRITTEN NOTICE IS GIVEN BY EITHER PARTY	APPROXIMATELY 11,625 SQUARE FEET BETWEEN MAIN/TEXAS STREET AND MCKINNEY STREET (NORTH OF MAIN LINE OF TEXT RR CO.) IN DELEON, TEXAS	ANNUALLY PRIOR TO MAY 1ST OF EACH YEAR	*	*	October 1, 2023	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
DELEON SG NUT COMPANY EFFECTIVE 03/24/2015 DE19395	#109	ORIGINAL LEASE DATED 08/09/1968-NEW LEASE SIGNED 06/07/1970 WITH SUPPLUMENTS AND ADDENDUMS-LAST ONE BEING DATED 10/29/2009 THEN AMENDE EFFECTIVE 03/24/2015	06/30/2016 OR UNTIL TERMINATED AS SET FOR IN PARAGRAPH 6 OF 06/01/1970 LEASE	APPROXIMATELY 24,750 SQUARE FEET NEAR CHANING STATION 6215 + 75- STORAGE BUILDING AND LOADING FACILITIES IN DELEON, TEXAS	YEARLY IN ADVANCE	MARCH 24, 2015 AMENDMENT TO LEASE, 9	\$1237.50 UNTIL 06/30/2016 THEN FOR EACH YEARLY PERIOD FROM 07/01-06/30 AFTER 06/30/2016, 104% OF THE RENT FOR THE PROCEEDING YEARLY PERIOD	July 1, 2023	\$1,693.60	\$1,761.34	\$1,831.79	\$1,905.06
DELEON SG NUT COMPANY EFFECTIVE 03/24/2015 DE19395	#110	08/01/1976 WITH SUPPLEMENTS AND ADDENDUMS - LAST ONE BEING DATED 10/29/2009 THEN AMENDE EFFECTIVE 03/24/2015	07/31/2016 OR UNTIL TERMINATED AS SET FOR IN PARAGRAPH 6 OF 08/01/1976 LEASE	APPROXIMATELY 6,500 SQUARE FEET, 64FT 7IN NORTH OF AAA CROSSING NUMBER 312 382-K (LOCATED EAST OF BELL STREET AND SOUTH OF MAIN TRACT) - CITY OF DELEON, TEXAS	YEARLY IN ADVANCE	MARCH 24, 2015 AMENDMENT TO LEASE, 9	\$325.00 UNTIL 07/31/2016 THEN FOR EACH YEARLY PERIOD FROM 08/01-07/31 AFTER 07/31/2016, 104% OF THE RENT FOR THE PROCEEDING YEARLY PERIOD	August 1, 2023	\$444.79	\$462.58	\$481.08	\$500.32
FORTH WORTH AND WESTERN FO13244		8/17/1995	08/17/2020 WITH OPTION TO RENEW FOR AN ADDITIONAL 25 YEARS OF UPON TERMINATION AS SET FORTH IN ARTICLE II C.	MAIN LINE TRACK AND RAIL BED CONNECTING A POINT WEST OF THE SANTA FE TRANSFER TRACK AT DUBLIN JUNCTION, ERATH COUNTY TEXAS TO CRESCENT STREET AT GORMAN JUNCTION, EASTLAND COUNTY, TEXAS	ANNUALLY IN ADVANCE PRIOR TO 01/01 OF EACH YEAR	*	*	July 1, 2023	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00
GOLDEN, BECKY GO03466	#103	7/1/2010	YEAR TO YEAR AND SHALL REMAIN IN EFFECT UNTIL CANCELLING IN WRITING	23 ACRES, MORE OR LESS, LOCATED AT DELEON, CAMANCHE COUNTY, TEXAS	ON OR BEFORE JULY 1ST OF EACH YEAR	NO WRITTEN LEASE *	*	July 1, 2023	\$345.00	\$345.00	\$345.00	\$345.00
GORMAN MILLING COMPANY GO03444	#1	7/1/2017	YEAR TO YEAR AND SHALL REMAIN IN EFFECT UNTIL CANCELLED WITH 60 DAYS WRITTEN NOTICE AS STATED IN PARAGRAPH 9 ON THE LEASE	PREMISES LOCATED IN GORMAN, EASTLAND COUNTY, TEXAS, AS DESCRIBED IN MORE DETAIL IN EXHIBIT "A" AS STATED IN PARAGRAPH 2 OF THE LEASE	ON OR BEFORE JULY 1ST OF EACH YEAR	2.50%	ANNUALLY	July 1, 2023	\$4,318.84	\$4,426.81	\$4,537.48	\$4,650.92
COLT MIDSTREAM CO20750	#115	1/8/1960	07/01/1961 AND 01/07 OF EACH YEAR THEREAFTER UNTIL 30 DAY WRITTEN NOTICE IS GIVEN BY EITHER PARTY	12 INCH PIPELINE KNOWN AS LINE KP-D CROSSING TRACKS AT MILE POST 129.17, NEAR GORMAN, TEXAS	ANNUALLY "IN ADVANCE" JAN- DEC	*	*	July 1, 2023	\$20.00	\$20.00	\$20.00	\$20.00
GOODEN PEROLEUM NOT BILLED - NEW LEASE TO BE SIGNED SH07704	#117	ORIGINAL LEASE DATED 02/16/1978 - WITH MULTIPLE SUPPLIMENTAL AGREEMENTS - LAST ONE BEING EFFECTIVE 07/01/1986	06/30/1987 OR UNTIL TERMINATION PER SECTION 6 OF THE ORIGINAL AGREEMENT	7,500 SQUARE FEET LOCATED BETWEEN THE MAIN TRACK AND LESALLE STREET BEGINNING AT A POINT 100 FEET WEST OF BELL STREET AND CONTINUING WEST FOR 125 FEET, CITY OF DELEON, TEXAS	ANNUALLY IN ADVANCE	200.00%	JULY 1, 1988 AND EVERY TWO YEARS THEREAFTER	July 1, 2023	\$750.00	\$750.00	\$750.00	\$750.00

Schedule 4.10
Title to Tangible Assets

None

Schedule 4.12
Insurance

See attached Certificate of Liability Insurance.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Suffolk Insurance Corporation 202 Market Street Suffolk VA 23434	CONTACT NAME: Barbara G. Ellis, ACSR PHONE (A/C, No, Ext): 757-539-9988 FAX (A/C, No): 757-539-2989 E-MAIL: bellis@suffolkinsurance.com ADDRESS: bellis@suffolkinsurance.com
INSURED Birdsong Corporation ETALS (SEE REMARKS) P. O. Box 1400 Suffolk VA 23439-1400	INSURER(S) AFFORDING COVERAGE INSURER A: The Phoenix Insurance Company INSURER B: Travelers Property Casualty Company of America INSURER C: INSURER D: INSURER E: INSURER F:
License#: 108173 BIRDCOR-01	NAIC # 25623 25674

COVERAGES

CERTIFICATE NUMBER: 41443572

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC ☐ OTHER: ☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			Y6305278C199PHX23	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			CUP8K0862182314	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

FULL NAMED INSURED includes:
Birdsong Corporation
Birdsong Peanuts (VA/TX/GA)
Birdsong Peanuts, A Division of Birdsong Corporation
Birdsong International Corporation Three
Texas Central Railroad
Birdsong Energy, Inc.
Lee Peanut Farms, LLC
See Attached...

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Barbara G. Ellis

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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Suffolk Insurance Corporation		NAMED INSURED Birdsong Corporation ETALS (SEE REMARKS) P. O. Box 1400 Suffolk VA 23439-1400
POLICY NUMBER		
CARRIER	NAIC CODE	
EFFECTIVE DATE:		

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCELee Peanut Leasing Company, LLC
F&B Storage Company, LLC

Schedule 4.13

Taxes

None

Schedule 4.14
Certain Environmental Conditions

4.14(a)

None

4.14(c)

None

4.14(d)

None

4.14(e)

None

4.14(f)

None

4.14(g)

None

4.14(h)

None

4.14(i)

None

Schedule 4.15
Financial Statements

4.15(a)

Attached are Balance Sheets of the Company for December 2022, December 2023, and March 2024. Also attached is an excerpt from Seller's Independent Auditors' Report showing that the Company is included in the consolidated-combined financial statements of Seller.

4.15(b)

None

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE..12/31/23
12:55 RUN DATE.. 3/04/24
PAGE.. 1

BALANCE SHEET - TAX YEAR

COMPARITIVE FOR YEAR AS OF...

DEC 2023

DEC 2022

A S S E T S

CURRENT ASSETS

CASH ON HAND .00

.00

ACCOUNTS RECEIVABLE

ACCOUNTS RECEIVABLE 20.00
ACCOUNTS RECV-OTHER .00
N/R BIRDSONG PEANUTS .00
N/R KOKOMO ENEREGY .00

630.83
.00
.00
.00

ACCTS RECV SUB TOTAL.....

20.00

630.83

TOTAL CASH & RECEIVABLES

20.00

630.83

PROPERTY, PLANT & EQUIPMENT

WORKING INT O/G LEASHOLD .00
ACC DEPR WRK INT O/G LEAS .00
OIL/GAS TANGIBLE COMPLETI .00
ACCUM DEPR O/G TANBIBLE C .00
ROAD & EQUIPMENT PROP 2,246,114.44
ACC'D DEPR ROAD/EQUIP 1,763,884.60-
LAND .00
BUILDINGS COLD STORAGE .00
ACC DEPR BLDG COLD STORAG .00

.00
.00
.00
.00
2,246,114.44
1,763,884.60-
5,000.00
1,706,189.81
1,706,189.81-

NET BOOK VALUE.....

482,229.84

487,229.84

PREPAID EXPENSES .00
MATERIAL AND SUPPLIES .00
OTHER INVESTMENTS .00
CONSTRUCTION IN PROCESS .00

.00
.00
.00
.00

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE..12/31/23
12:55 RUN DATE.. 3/04/24
PAGE.. 2

COMPARITIVE FOR YEAR AS OF...

DEC 2023

DEC 2022

OTHER ASSETS TOTAL.....

.00

.00

TOTAL ASSETS.....

482,249.84

487,860.67

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE..12/31/23
12:55 RUN DATE.. 3/04/24
PAGE.. 3

COMPARITIVE FOR YEAR AS OF...

DEC 2023

DEC 2022

LIABILITIES AND STOCKHOLDERS' EQUITY

LIABILITIES

INTER COMPANY PAYABLE	65,964.92	23,794.12	
TRAFFIC CAR SVC	.00	.00	
ACCOUNTS PAYABLE (SUB)	.00	.00	
ACCOUNTS PAYABLE-OTHER	.00	.00	
PROPERTY TAXES PAYABLE	.00	18,992.37	
TAXES PAYABLE	.00	.00	
OTHER TAXES ACC'D-WIT	.00	.00	
OTHER TAXES ACC'D-RRT	.00	.00	
OTHER TAXES ACC'D-RUI	.00	.00	
PAYROLL SAVINGS PAYABLE	.00	.00	
INCOME TAXES PAYABLE	.00	.00	
EQUIPMENT DEBT	.00	.00	
TOTAL LIABILITIES.....	65,964.92	42,786.49	
CAPITAL STOCK	27,000.00	27,000.00	
PAID IN CAPITAL	1,039,188.21	1,039,188.21	
RETAINED INCOME	626,114.03-	699,367.00-	
SUB TOTAL.....	440,074.18	366,821.21	
PROFIT OR LOSS	23,789.26-	78,252.97	
TOTAL STOCKHOLDERS EQUITY	416,284.92	445,074.18	
TOTAL LIABILITY & EQUITY..	482,249.84	487,860.67	

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE.. 3/04/24
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BALANCE SHEET - TAX YEAR

COMPARITIVE FOR YEAR AS OF...

MAR 2024

MAR 2023

A S S E T S

CURRENT ASSETS

CASH ON HAND .00

.00

ACCOUNTS RECEIVABLE

ACCOUNTS RECEIVABLE 20.00
ACCOUNTS RECV-OTHER .00
N/R BIRDSONG PEANUTS .00
N/R KOKOMO ENEREGY .00

610.83
.00
.00
.00

ACCTS RECV SUB TOTAL.....

20.00

610.83

TOTAL CASH & RECEIVABLES

20.00

610.83

PROPERTY, PLANT & EQUIPMENT

WORKING INT O/G LEASHOLD .00
ACC DEPR WRK INT O/G LEAS .00
OIL/GAS TANGIBLE COMPLETI .00
ACCUM DEPR O/G TANBIBLE C .00
ROAD & EQUIPMENT PROP 2,246,114.44
ACC'D DEPR ROAD/EQUIP 1,763,884.60-
LAND .00
BUILDINGS COLD STORAGE .00
ACC DEPR BLDG COLD STORAG .00

.00
.00
.00
.00
2,246,114.44
1,763,884.60-
5,000.00
1,706,189.81
1,706,189.81-

NET BOOK VALUE.....

482,229.84

487,229.84

PREPAID EXPENSES .00
MATERIAL AND SUPPLIES .00
OTHER INVESTMENTS .00
CONSTRUCTION IN PROCESS .00

.00
.00
.00
.00

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE.. 3/04/24
12:55 RUN DATE.. 3/04/24
PAGE.. 2

COMPARITIVE FOR YEAR AS OF...

MAR 2024

MAR 2023

OTHER ASSETS TOTAL.....

.00

.00

TOTAL ASSETS.....

482,249.84

487,840.67

G99STM BALANCE SHEET - TAX YEAR
COMP..11 TEXAS CENTRAL RAILROAD

EFF DATE.. 3/04/24
12:55 RUN DATE.. 3/04/24
PAGE.. 3

COMPARITIVE FOR YEAR AS OF...

MAR 2024

MAR 2023

LIABILITIES AND STOCKHOLDERS' EQUITY

LIABILITIES

INTER COMPANY PAYABLE	.00	10,093.27-	
TRAFFIC CAR SVC	.00	.00	
ACCOUNTS PAYABLE (SUB)	.00	.00	
ACCOUNTS PAYABLE-OTHER	.00	.00	
PROPERTY TAXES PAYABLE	.00	49,596.26	
TAXES PAYABLE	.00	.00	
OTHER TAXES ACC'D-WIT	.00	.00	
OTHER TAXES ACC'D-RRT	.00	.00	
OTHER TAXES ACC'D-RUI	.00	.00	
PAYROLL SAVINGS PAYABLE	.00	.00	
INCOME TAXES PAYABLE	.00	.00	
EQUIPMENT DEBT	.00	.00	
TOTAL LIABILITIES.....	.00		39,502.99
CAPITAL STOCK	27,000.00	27,000.00	
PAID IN CAPITAL	1,039,188.21	1,039,188.21	
RETAINED INCOME	649,903.29-	621,114.03-	
SUB TOTAL.....	416,284.92	445,074.18	
PROFIT OR LOSS	65,964.92	3,263.50	
TOTAL STOCKHOLDERS EQUITY			448,337.68
TOTAL LIABILITY & EQUITY..	482,249.84		487,840.67

INDEPENDENT AUDITORS' REPORT

To the Board of Directors and Stockholders of
Birdsong Corporation
Suffolk, Virginia

Opinion

We have audited the accompanying financial statements of Birdsong Corporation (a Virginia corporation), Subsidiaries and Affiliate which comprise the consolidated-combined balance sheets as of June 30, 2023 and 2022, and the related consolidated-combined statements of income and comprehensive income, changes in equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion the financial statements referred to above present fairly, in all material respects, the financial position of Birdsong Corporation as of June 30, 2023 and 2022, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Birdsong Corporation and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events considered in the aggregate, that raise substantial doubt about Birdsong Corporation's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Birdsong Corporation
Suffolk, Virginia
NOTES TO THE CONSOLIDATED-COMBINED FINANCIAL STATEMENTS
June 30, 2023 and 2022

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

This summary of significant accounting policies of Birdsong Corporation (the Company) is presented to assist in understanding the Company's financial statements.

Business Activity

The Company operates peanut shelling operations in Suffolk, Virginia; Brownfield, Texas; Blakely, Sylvester and Colquitt, Georgia. The Company's processed peanuts and by-products are sold through sales distribution in domestic and export markets. The Company also operates a farming operation in Lee, Florida.

Consolidation

The consolidated-combined financial statements include the accounts of Birdsong Corporation (the parent), Birdsong International Corporation Three (a Domestic International Sales Corporation), a brother-sister corporation to Birdsong Corporation, Birdco Energy, Inc., Texas Central Railroad Company, and Lee Peanut Farms, LLC. Birdco Energy, Inc., Lee Peanut Farms, LLC, and Texas Central Railroad Company are wholly-owned subsidiaries of the Company. Lee Peanut Leasing Company, LLC is a wholly-owned subsidiary of Lee Peanut Farms, LLC. All inter-company transactions and accounts are eliminated.

Provision for Uncollectible Accounts

The Company maintains a provision for uncollectible accounts, which is based on prior bad debt experience. While the Company expects to collect all accounts and notes receivable, it has maintained an increased provision for uncollectible accounts due to the global economic conditions. Receivables are written off when they are determined to be uncollectible.

Notes Receivable and Credit Risk

Notes receivable consist of notes with varying interest rates. Some of the notes are secured with peanut purchase agreements, which are due from peanut farmers and peanut buying point locations, and are dependent on the peanut crop economic sector.

Risks and Uncertainties

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

Intangible Assets

Intangible assets consist of goodwill of [REDACTED] and covenants not to compete of [REDACTED]. Management expects the intangibles to be fully recovered, so no provision has been made for impairment.

Schedule 4.16
Operations

None

Schedule 4.17
Contracts

See list of real property leases set forth in Schedule 4.09(d).

Schedule 4.24
Customers

None

TELEPHONE
757-539-3456

FAX
757-539-7360



BIRDSONG PEANUTS

A Division of Birdsong Corporation

PEANUTS

ALL TYPES AND GRADES

SMELLERS
PEANUT OIL
PEANUT MEAL
PEANUT HULLS
CERTIFIED SEED
EXPORTS

P. O. BOX 1400

Suffolk, Virginia

23439-1400

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: Docket No. FD 36759

Dear Ms. Brown:

I write to support the request of Tarantula Corporation for expedited review of the Petition for Exemption in the above referenced docket.

Birdsong Corporation ("Birdsong") intends to use the proceeds from the sale of Texas Central Railroad Company to Tarantula to improve and expand Birdsong's rail served facilities located in Gorman, Texas. Expedited consideration of this Petition would allow Birdsong to move forward with these improvements more quickly.

Respectfully submitted,

Stephen Huber
Chief Financial Officer

GORMAN MILLING CO., INC.

BOX 276

GORMAN, TX 76454

Phone 254-734-2252
1-800-588-2252

Fax 254-734-2375
www.redchainfeeds.com



March 1st 2024

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.,
Room 1034
Washington, DC 20423-0001

Dear Ms. Brown:

My name is John Fritts and I am an owner and president of Gorman Milling Co, Inc. We operate a Livestock Feed Manufacturing facility on the Texas Central rail line in Gorman, TX. The Fort Worth & Western Railroad Company ("FWWR") has provided good reliable service to our facility on the Texas Central line for over thirty years.

My understanding is that FWWR's parent company is going to acquire the Texas Central line. FWWR has advised me that there will be no change in service to Gorman as a result of the acquisition.

This letter is to advise the STB that Gorman Milling Co., Inc. supports the proposed transaction.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Fritts", written over a horizontal line.

John C. Fritts

Gorman Milling Co., Inc.