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HONORABLE FREDERICK P. CORBIT

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re BREWSTER HEIGHTS PACKING & ORCHARDS, LP,[1] Debtors.	Chapter 11 Lead Case No. 26-01136 Jointly Administered DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) APPROVING BID PROCEDURES FOR THE SALE OF SUBSTANTIALLY

[1] The debtors are Brewster Heights Packing & Orchards, LP (Case No. 26-01136); Gebbers Farms Inc. (Case No. 26-01140); Gebbers Orchards, Inc. (Case No. 26-01141); C&M II, LLC (Case No. 26-01137); D&E Storage, LLC (Case No. 26-01138); Eastco, LLC (Case No. 26-01139); GF SA, LLC (Case No. 26-01142); Northco, LLC (Case No. 26-01143); P&G Orchards, LLC (Case No. 26-01144); REPO, LLC (Case No. 26-01145); TJF Properties, LLC (Case No. 26-01146); Westco Orchards, LLC (Case No. 26-01147); and Westco Sales, Inc. (Case No. 26-01148) (collectively, the "Chapter 11 Cases").

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ALL OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) SCHEDULING CERTAIN DATES WITH RESPECT THERETO; (III) APPROVING THE SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS; (IV) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES; AND (V) GRANTING RELATED RELIEF

Brewster Heights Packing & Orchards, LP ("BHPO") and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") move (this "Bid Procedures Motion"), pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1 of the Local Rules for the United States Bankruptcy Court for the Eastern District of Washington (the "Local Rules") for entry of an order, substantially in the form attached hereto as Exhibit A (the "Bid Procedures Order"):

a. Authorizing and approving the proposed bid procedures (the "Bid Procedures"), substantially in the form attached to the Bid Procedures Order as Exhibit 1, in connection with the purchase and Sale of the Assets;

b. Scheduling an Auction in connection with the acquisition of the Debtors' business and/or their assets (the "Assets"), to be held and establishing certain dates and deadlines in connection with the Bid Procedures;

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c. Approving the form and manner of the Sale Notice with respect to the Sale of the Assets free and clear of liens, claims, encumbrances, and other interests, attached as Exhibit 2 to the Bid Procedures Order;

d. Approving the Assumption and Assignment Procedures and approving the form, attached as Exhibit 3 to the Bid Procedures Order, and manner of the notice thereof; and

e. Granting related relief.

The Debtors also seek entry of an order (the "Sale Order") authorizing: (i) a sale (the "Sale") of the Assets free and clear of liens, claims, encumbrances and other interests; and (ii) assumption and assignment (the "Assumption and Assignment") of executory contracts and unexpired leases ("Assumed/Assigned Contracts and Leases").

In support of this Motion, the Debtors rely upon, and incorporate by reference (i) the *Declaration of Skye Root in Support of Debtors' Motion for Entry of an Order (I) Approving Bid Procedures for the Sale of Substantially All of Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Scheduling Certain Dates with Respect Thereto; (III) Approving the Sale of Substantially All of Debtors' Assets; (IV) Approving Assumption and Assignment Procedures; and (V) Granting Related Relief* (the "Root Declaration"); and (ii) the *Declaration of Brooke McGuire in Support of the Debtors' Bankruptcy Petitions and First Day Pleadings* (the "McGuire Declaration"). In further support of this Bid Procedures Motion, the Debtors respectfully state as follows:

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I. FACTUAL BACKGROUND

A. Procedural Background

On June 4, 2026 (the "Petition Date"), the Debtors each filed a voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Washington (the "Court").

The Debtors are operating their businesses and managing their affairs as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

No trustee, examiner, or statutory committee of creditors has been appointed in the Chapter 11 Cases as of the date of this Motion.

Additional information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the commencement of the Chapter 11 Cases, is set forth in the McGuire Declaration.

B. The Debtors' Prepetition Marketing Efforts

In light of growing liquidity challenges and significant financial distress, the Debtors specifically, and the agriculture industry generally, have been experiencing since approximately the fourth quarter of 2024, the Debtors retained Capstone Capital Markets LLC ("Capstone") in June 2025 to commence a formal marketing process for the Debtors' assets.

Initially, the Debtors launched a refinancing process during the fourth quarter of 2024 and into 2025. That effort culminated in extensive and exclusive negotiations with a single interested party that had significant existing investments in the Washington agricultural sector. Unfortunately, those negotiations proved unsuccessful.

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At that time, the Debtors were operating under short-term forbearance agreements with their secured lenders, BMO Bank N.A., as successor-in-interest to Bank of the West ("BMO") and The Prudential Insurance Company of America ("Prudential"). Both lenders agreed to extend their forbearance periods through August 31, 2025, during which time they would forbear from exercising their rights and remedies under their respective facilities, but only on the condition that the Debtors conduct a concurrent and expedited sale process, encompassing either a sale of the Debtors' assets or an alternative restructuring transaction. Thus, Capstone went back to the market and through Capstone's efforts, the Debtors received four indications of interest from prospective transaction parties in August 2025. Two such proposals were immediately deemed unacceptable, while the remaining two showed potential. With the expiration of the forbearance period approaching, BMO and Prudential each expressed interest in exploring the two remaining out-of-court restructuring proposals and agreed, both formally and informally, to forbear from exercising their respective rights and remedies until approximately November 15, 2025. By the end of 2025, however, neither proposal materialized.

Throughout calendar year 2026, Capstone continued to remain in contact and engage potentially interested parties regarding a transaction involving the Debtors, either by way of refinancing, additional investment, or sale. As the Debtors' need for liquidity became imperative and the only viable solution was a debtor in possession ("DIP") loan, Capstone immediately pivoted its efforts and began reaching out to potential buyers and

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investors, both strategic and financial, with the goal of securing a party to serve as a stalking horse bidder in a chapter 11 process.

As of the Petition Date, the Debtors and their advisors contacted over 80 potentially interested parties as part of this prepetition marketing process and entered into 49 nondisclosure agreements. Potential investors and/or acquirors also had access to a virtual data room. The extensive prepetition marketing process, which continued for almost 18 months, yielded a number of serious expressions of interest, resulting in seven letters of intent from prospective transaction parties.

However, only one proposal was received, structured as a chapter 11 "stalking horse" bid. Multiple other interested parties, however, expressed an interest in participating in any court-run process. Thus, shortly before the Petition Date, the Board of Directors for BHPO approved a Letter of Intent with U.S. Farming Realty Trust III, LP (and then subsequently after the Petition Date, the Term Sheet with Heritage Orchard Alliance LLC, or another newly-formed acquisition vehicle designated by International Farming Management Company LLC or its assigns/affiliates ("Heritage Orchard")) for a proposed transaction entailing a sale of substantially all of the Debtors' assets pursuant to Bankruptcy Code § 363. A copy of the Term Sheet is attached hereto as Exhibit B. Although Heritage Orchard has not yet been designated as a stalking horse bidder and no definitive asset purchase agreement (the "Stalking Horse APA") has been executed, the Debtors and Heritage Orchard are actively negotiating toward a Stalking Horse APA. Heritage Orchard has expressed its willingness to serve as a stalking horse bidder (the

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"Stalking Horse Bidder") in these Chapter 11 Cases subject to the multi-step bid procedures process described below.

The prepetition marketing process conducted by Capstone has generated meaningful interest, and the Debtors are optimistic that a competitive bidding process will ensue, in connection with which Debtors are seeking approval of the Bid Procedures. The Debtors will also consider bids for discrete asset packages or combinations thereof to maximize recoveries.

As part of the prepetition marketing process, the Debtors and their advisors worked to identify potential sources for DIP financing in order to extend the timeline to bridge to consummation of a sale transaction. Sandton Capital Solutions Master Fund VI, LP committed to provide DIP financing to bridge through the sale process. However, if the Debtors are unable to consummate a sale process consistent with the timeline proposed in this Motion, they will face substantial liquidity challenges and may be unable to maintain the going-concern value necessary to consummate a value-maximizing sale. Against this backdrop, the Debtors and their advisors are moving with urgency.

C. **<u>Terms of the Proposed Transaction with Heritage Orchard</u>**

Under the Term Sheet, Heritage Orchard has agreed to pay $231,300,000 in consideration, comprising $75,000,000 cash at closing plus assumed liabilities. The transaction would also entail the participation of certain non-Debtor affiliated parties and individuals by way of cooperation, contribution of assets, releases of debt obligations, and other related structures.

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Notably, the contemplated transaction also contains an exclusivity provision under which, subject to Court-approval, from the Petition Date until such time as the Court approves the Debtors' designation of Heritage Orchard as the Stalking Horse Bidder, or orders otherwise (the "Exclusivity Period"), the Debtors and Heritage Orchard may only negotiate with one another with respect to the Sale. During the Exclusivity Period, no party may solicit, entertain, or enter into discussions regarding any alternative transaction involving, among other things, a Sale of the Assets. This Exclusivity Period is expected to run through July 1, 2026, when the parties expect to have a Court-approved Stalking Horse APA.

The Term Sheet also provides for the following bid protections (the "Bid Protections"), which the Debtors seek to have approved at the Bid Procedures Hearing: (i) a break-up fee amounting to 3% of the purchase price, calculated to include cash and assumed debt (the "Break-Up Fee"); (ii) reimbursement of expenses for diligence and legal costs incurred by Heritage Orchard in connection with the negotiation, execution, and performance of the Term Sheet and the Stalking Horse APA and the Sale contemplated thereby; and (iii) a requirement that minimum Overbids must amount to $1,000,000 over the purchase price, *provided* that the initial Overbid must total the Break-Up Fee plus expenses incurred, plus the minimum overbid amount, with all subsequent Overbids subject to the same minimum overbid amount. The Break-Up Fee and unpaid expense reimbursements would be payable to Heritage Orchard upon the Debtors' consummation of the Sale of the Assets to an alternative Successful Bidder.

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The Debtors believe the Sale under the terms negotiated with Heritage Orchard presents the highest value for the Assets received to date from potential buyers, is fair market value (at a minimum) and will set a competitive floor for higher and better offers.

II. PROPOSED MULTI-STEP BID PROCEDURES PROCESS

In light of the status of the Debtors' marketing efforts and the need to preserve the participation of Heritage Orchard while maintaining a competitive sale process, the Debtors propose a three-step approach to the Bid Procedures, as follows:

1. **Emergency Exclusivity Relief**. On June 9, 2026, the Court approved the exclusivity provision contained in the Term Sheet.

2. **Expense Reimbursement.** On June 16, 2026, the Debtors will seek approval of limited, initial expense reimbursement for Heritage Orchard for costs and expenses (including advisor fees) incurred by Heritage Orchard from the Petition Date through July 1, 2026, in an amount not to exceed $250,000.00. This is designed to incentivize Heritage Orchard to continue to invest time and resources in negotiating a definitive Stalking Horse APA given not only the extensive investment of time and expenses incurred by Heritage Orchard prepetition, but also to compensate Heritage Orchard for working on an expedited basis, postpetition, towards finalizing the Stalking Horse APA.

3. **Approval of Remaining Bid Protections and Bid Procedures**. At the hearing on this Bid Procedures Motion (the "Bid Procedures Hearing"), the Debtors will seek approval of the Bid Procedures, which will include additional Bid Protections for the stalking horse, and which are designed to promote a fair, transparent, and competitive

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process for the marketing and sale of the Assets, and to generate the highest or otherwise best available value for the Debtors' estates.

III. PROPOSED SALE PROCESS

The Debtors seek to establish Bid Procedures for the marketing and potential sale of the Assets. Any objections to the proposed Bid Procedures shall be filed no later than **June 29, 2026 at 12:00 p.m. (PT)** and served on the Notice Parties.

The Debtors are seeking approval of the Bid Procedures to establish an open process for the solicitation, receipt, and evaluation of bids on a timeline that allows the Debtors to consummate the Sale in a manner that maximizes value for the Debtors' estates. As explained above, the current marketing process for the Assets began prior to the Petition Date, in late 2024.

A. Proposed Deadlines and Dates

The Bid Procedures are designed to generate the highest or otherwise best available recoveries to the Debtors' creditors and other stakeholders by encouraging prospective bidders to submit competitive, value-maximizing bids for the Assets. More specifically, the Debtors propose the following timeline for the Sale:

Event or Deadline	Proposed Date and Time
Deadline for Debtors to File Proposed Stalking Horse APA	June 24, 2026
Deadline to Object to Bid Procedures Motion	June 29, 2026 at 12:00 p.m. (PT)
Deadline for Debtors to File List of Potential Assumed Contracts and Proposed Cure Amounts (Cure Notices)	July 15, 2026
Bid Deadline	August 7, 2026 at 4:00 p.m. (PT)

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Deadline to Designate Qualified Bids/Notice of Cancellation of Auction (if applicable)	August 10, 2026
Auction (if applicable)	August 12, 2026, at 10:00 a.m. (PT) via live auction at [●] and/or remote video
Deadline for Debtors to File Notice of Auction Results	The later of (i) August 14, 2026 and (ii) one business day after the conclusion of the Auction
Deadline for Debtors to file Designated Contract Schedule	August 14, 2026
Final Sale Objection Deadline & Cure Objection Deadline	August 21, 2026 at 4:00 p.m. (PT)
Sale Hearing	September 1, 2026, at 10:00 a.m. (PT)
Entry of Sale Order	No later than September 4, 2026
Target Closing Date	No later than September 30, 2026

At this time, the Debtors have not yet designated Heritage Orchard as the Stalking Horse Bidder, as no definitive Stalking Horse APA has been executed. Upon execution of the Stalking Horse APA and approval by the Court of such designation at the Bid Procedures Hearing, Heritage Orchard shall be designated as the Stalking Horse Bidder, and Heritage Orchard's bid pursuant to the Stalking Horse APA shall constitute the stalking horse bid (the "Stalking Horse Bid").

Designating Heritage Orchard as the Stalking Horse Bidder and providing Bid Protections will provide the Debtors with the ability to maximize the value of the Assets. Given the Debtors' need to maximize value for creditors and other stakeholders through a timely and efficient marketing and Sale process, the designation of Heritage Orchard as the Stalking Horse Bidder, and provision of Bid Protections is a reasonable and sound

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exercise of the Debtors' business judgment and provides an actual benefit to Debtors' estates.

The Debtors believe the above sale timeline is necessary, appropriate, and reasonable under the circumstances of these Chapter 11 Cases. Against the backdrop of the Debtors' limited liquidity, and the extensive marketing process that occurred prepetition, the proposed timeline for the Sale of the Assets appropriately balances the need for speed with the need to ensure adequate diligence access and a competitive process. Interested parties have already been afforded the opportunity to evaluate the Assets, and additional diligence will continue to be available throughout the Sale process.

B. <u>The Bid Procedures</u>

The Debtors have developed and proposed the Bid Procedures to govern the Auction process. The Bid Procedures are designed to promote participation and active bidding and ensure an orderly marketing process. The Bid Procedures describe, among other things, the procedures for interested parties to access due diligence, the process for bidding, the manner in which bidders and Bids become "qualified," the receipt and negotiation of Bids received, the conduct of the Auction, the selection and approval of any ultimately Successful Bidder(s), and the deadlines with respect to the foregoing. The Bid Procedures will allow Debtors to conduct the Sale process in a fair, orderly and transparent manner that will maximize value for all stakeholders.

A summary of the Bid Procedures and the procedures for conducting the Auction is as follows:[2]

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[2] The following summary is qualified in its entirety by reference to the provisions of the Bid Procedures. In the event of any inconsistencies between the provisions of the Bid Procedures and the terms herein, the terms of the

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Participation Requirements	To receive due diligence information, including full access to the Debtors' electronic data room and to additional non-public information regarding the Debtors, a Potential Bidder must deliver the following documents (collectively, the "Preliminary Bid Documents") by email to each of: (i) Katten; and (ii) Capstone (collectively, the "Bid Recipients"): a. an executed confidentiality agreement on terms acceptable to the Debtors, to the extent not already executed; and b. the identity of the Potential Bidder and a list of contacts for the Potential Bidder. Promptly after a Potential Bidder delivers Preliminary Bid Documents to the Bid Recipients, the Debtors will assess and notify the Potential Bidder whether such Potential Bidder has submitted acceptable Preliminary Bid Documents so that the Potential Bidder may proceed to conduct due diligence and ultimately submit a Bid and participate in the Auction, as applicable. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents (each, a "Bidder") may submit Bids; provided, however, that the Debtors, in their reasonable discretion, may agree to waive some or all of the Potential Bidder requirements set forth herein. The Debtors reserve the right to work with any Potential Bidder to cure any deficiencies in the Preliminary Bid Documents.
Bid Deadline	A Potential Bidder that desires to make a Bid shall transmit such proposal, solicitation, or offer via email to each of the Bid Recipients so as to be **actually received** by them on or before **August 7, 2026 at 4:00 p.m. (PT)** (the "Bid Deadline").

Bid Procedures shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms have the meanings ascribed to them in the Bid Procedures.

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	The Bid must also include evidence by the Potential Bidder of its financial capacity to close a proposed transaction, which may include financial statements of, or verified financial commitments obtained by, the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of acquiring the Assets, the party that will bear liability for a breach).
Bid Requirements	To be selected to acquire the Assets or to be eligible to participate in the Auction, if applicable, a Potential Bidder (other than a Stalking Horse Bidder) must deliver to the Bid Recipients a written, irrevocable and binding proposal, solicitation, or offer (each, a "Bid") for the purchase of the Assets that must be determined by the Debtors in their business judgment to satisfy each of the following conditions (collectively, the "Bid Requirements"): a. Identity of Assets: Each Bid must state which of the Assets the Potential Bidder seeks to acquire and which liabilities of the applicable Debtor the Potential Bidder agrees to assume; b. Purchase Price: Each Bid must clearly set forth the terms of any proposed transaction (the "Purchase Price"). The Purchase Price should be a single point value in U.S. dollars for the total enterprise value of the Assets the Potential Bidder seeks to acquire on a cash-free basis with the cash component and assumed debt component of the Purchase Price specifically delineated in such Bid. The Purchase Price of any Bid for the total enterprise value of the Assets (or the combined Purchase Price of lot Bids) shall exceed the Stalking Horse's Purchase Price; c. Good Faith Deposit: Each Bid must be accompanied by a cash deposit in an amount equal to the amount provided by the Stalking Horse Bidder to be held in a segregated debtor in possession account to be

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	identified and established by the Debtors (the "Deposit"); d. Marked Agreement: Each Bid must be accompanied by a markup of the Stalking Horse APA (each such marked-up agreement, a "Bidder's APA"), including the exhibits and schedules related thereto and any related Sale documents or other material documents integral to such Bid, pursuant to which the Bidder proposes to effectuate the Sale (collectively, the "Sale Documents"). Each Bidder's APA must provide (i) a commitment to close on the same timeline as the Stalking Horse Bidder, and (ii) a representation that the Bidder will use its reasonable best efforts to satisfy all applicable regulatory conditions. e. Committed Financing: To the extent that a Bid is not accompanied by evidence of the Bidder's capacity to consummate the Sale set forth in its Bid with cash on hand, each Bid must include evidence of committed financing (debt or equity funding, as applicable), including the identity and contact information of the specific person(s) or entity(s) responsible for such committed funding whom the Bid Recipients should contact regarding such funding, that demonstrates that the Bidder has received sufficient debt and/or equity funding commitments to satisfy the Bidder's Purchase Price and other obligations under its Bid. Such funding commitments or other financing must be acceptable to the Debtors (in consultation with the Consultation Parties) and not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and evidence of committed financing, other than to the extent provided for in the Stalking Horse financing commitment, and shall have covenants and conditions acceptable to the Debtors and

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	not greater than those provided for in the Stalking Horse financing commitment. f. <u>Contingencies; No Financing or Diligence Outs</u>: A Bid shall not be conditioned on a Bidder obtaining, or the sufficiency of, financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions, which shall not be more burdensome, in the Debtors' reasonable business judgment, after consultation with the Consultation Parties, than those contemplated by the Stalking Horse Bid, if any, and each Bid must identify with particularity each and every condition to closing, including the executory contracts and unexpired leases for which assumption and assignment is required. The extent and nature of any remaining due diligence should be set forth in a specific list attached to each Bid. g. <u>Identity</u>: Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Bidder if such Bidder is an entity formed for the purpose of consummating the proposed Sale contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s) and counsel whom the Debtors' advisors should contact regarding such Bid. h. <u>Authorization</u>: Each Bid must contain evidence that the Bidder has obtained authorization or approval from its board of directors (or a comparable governing body

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	acceptable to the Debtors) with respect to the submission of its Bid and the consummation of the sale contemplated in such Bid. i. <u>Compliance with the Bankruptcy Code and Non-Bankruptcy Law; Acknowledgement</u>: Each Bid must comply in all respects with the Bankruptcy Code and any applicable non-bankruptcy law. Each Bid must also include a written acknowledgment that the Bidder agrees to all of the terms of the Sale set forth in these Bid Procedures. j. <u>As-Is, Where-Is</u>: Each Bid must include a written acknowledgement and representation that the Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidder's Sale Documents. k. <u>Expenses; Disclaimer of Fees</u>: Each Bid (other than a Stalking Horse Bid) must disclaim any right to receive a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation. For the avoidance of doubt, no Potential Bidder (other than a Stalking Horse Bidder) will be permitted to request, nor be granted by the Debtors, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting a Bid any Bidder is waiving any assertion or request for

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	reimbursement on any basis, including under section 503(b) of the Bankruptcy Code. l. Adequate Assurance of Future Performance: Each Bid must (i) identify the Contracts to be assumed and assigned in connection with the proposed acquisition; (ii) identify the source of payment of all Cure Amounts related to such Contract; and (iii) demonstrate, in the Debtors' reasonable business judgment, that the Bidder can provide adequate assurance of future performance under all such Contracts. m. Joint Bids: The Debtors are authorized to approve joint Bids in their reasonable discretion on a case-by-case basis. n. Backup Bid: Each Bid shall provide that the Bidder will serve as a Backup Bidder if the Bidder's Bid is the next highest or otherwise best Bid. o. Expected Closing Date: Each Bid shall state the Potential Bidder's expected date of closing of the Sale, which shall be no later than **September 30, 2026**; *provided*, that such closing date may be extended pursuant to the terms of a Bidder's APA. p. Employees: Each Bid shall (i) specify whether the Bidder intends to hire any of the Debtors' employees and (ii) expressly propose the treatment of the Debtors' prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including offer letters, employment agreements, consulting agreements, retiree benefits, and any other employment related agreements. q. Compliance with Bid Procedures: Each Bid shall include a covenant to comply with the terms of these Bid Procedures and the Bid Procedures Order.

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Designation of Qualified Bidders	The Stalking Horse Bid shall be a Qualified Bid for all purposes hereof. A Bid will be considered a "Qualified Bid," and each Bidder that submits a Qualified Bid will be considered a "Qualified Bidder," if the Debtors, in consultation with the Consultation Parties, determine that such Bid: a. satisfies the Bid Requirements b. is on terms and conditions acceptable to the Debtors in their business judgment; c. is reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a timeframe acceptable to the Debtors (in consultation with the Consultation Parties); and d. is not conditioned upon any bid protections (such as a topping fee, termination fee, expense reimbursement, or similar type of payment); e. no later than **August 10, 2026**, the Debtors (after consulting with the Consultation Parties) will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties with a copy of each Qualified Bid. If any Bid is determined not to be a Qualified Bid, the Debtors will refund such Bidder's Deposit promptly after the Bid Deadline.
Right to Credit Bid	Any Qualified Bidder that has a valid and perfected lien on any Assets of the Debtors' estates (a "Secured Creditor") shall have the right to credit bid all or a portion of the value of such Secured Creditor's claims within the meaning of Bankruptcy Code § 363(k); *provided* that a Secured Creditor

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	shall have the right to credit bid its claim only with respect to the collateral by which such Secured Creditor is secured.
Bid Protections	To the extent provided for in the Bid Procedures Order, the Debtors shall be authorized, in an exercise of their business judgment, to provide the following Bid Protections to Heritage Orchard, as set forth in the Term Sheet: (i) Break-Up Fee; (ii) expense reimbursement for diligence and legal costs incurred by Heritage Orchard in connection with the negotiation, execution, and performance of the Term Sheet and the Stalking Horse APA; and (iii) a requirement that minimum Overbids must amount to $1,000,000, *provided* that the initial Overbid must total the Break-Up Fee plus expenses incurred, plus the minimum overbid amount, with all subsequent Overbids subject to the same minimum overbid amount.
The Auction	If the Debtors receive one or more Qualified Bids (in addition to the Stalking Horse Bid) by the Bid Deadline, then the Debtors shall conduct the Auction with respect to the Assets. The Auction shall commence on **August 12, 2026 at 10:00 a.m. (PT)**, via live auction and/or remote video, or such later time or other place as the Debtors determine, in which case the Debtors shall timely notify all Qualified Bidders of such later time or other place, and file a notice of the change on the Court's docket for these Chapter 11 Cases.
Provisions Governing the Auction	The Auction will be conducted in accordance with the following procedures (the "Auction Procedures"): a. The Debtors and their professionals shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid (the "Baseline Bid"). All incremental Bids made thereafter shall constitute overbids (each, an "Overbid") and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders. The Debtors shall maintain a written transcript of all Bids

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	made and announced at the Auction, including the Baseline Bid, all Overbids, and the Successful Bid. b. Only Qualified Bidders that have submitted Qualified Bids by the Bid Deadline are eligible to participate in the Auction, subject to the terms of these Bid Procedures and other limitations as may reasonably be imposed by the Debtors. Qualified Bidders participating in the Auction must appear at the Auction in person or through a duly authorized representative. c. Any party in interest may attend (but not participate in) the Auction if any such party in interest provides the Debtors with written notice of its intention to attend the Auction on or before the Bid Deadline, which written notice shall be sent to proposed counsel for the Debtors via electronic mail, to John Mitchell and Yelena Archiyan at john.mitchell@katten.com and yelena.archiyan@katten.com, respectively. Only Qualified Bidders will be entitled to make Bids at the Auction. For the avoidance of doubt, the Consultation Parties may attend the Auction without sending prior written notice of their intention to do so. d. Terms of Overbids: i. <u>Minimum Overbid</u>. Any Overbid, including any Bids by the Stalking Horse Bidder, must be made in minimum increments of $1,000,000, *provided* that the initial Overbid must total the Break-Up Fee plus expenses incurred, plus the minimum overbid amount. For the avoidance of doubt, all subsequent Overbids shall be subject to the minimum Overbid. ii. <u>Conclusion of Each Overbid Round</u>. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (the “Overbid Round Deadline”), subject to extension by the

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	Debtors, by which time any Overbids must be submitted to the Debtors. iii. <u>Overbid Alterations.</u> An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Qualified Bid or Overbid and shall otherwise comply with the terms of these Bid Procedures. iv. <u>Announcing Highest Bid</u>. After each Overbid Round Deadline, the Debtors shall determine, in consultation with the Consultation Parties, whether an Overbid is higher or otherwise better than the Baseline Bid in the initial Overbid round or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the "Prevailing Highest Bid"). The Debtors shall announce and describe to all Qualified Bidders present at the Auction the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid, the identity of the Bidder with the Prevailing Highest Bid, as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Debtors' reasonable business judgment. e. The Debtors, in consultation with the Consultation Parties, reserve the right to adjourn the Auction as necessary to (i) facilitate discussions between the Debtors and Qualified Bidders, (ii) provide Qualified Bidders with additional time to consider how they wish to proceed, and (iii) provide Qualified Bidders the opportunity to offer such additional evidence as the Debtors may require, such as with respect to financial capacity or sufficient funding or financing, in order to

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	consummate the proposed Sale at the prevailing Overbid amount. In any Auction, the Stalking Horse Bidder shall be entitled to a bid credit (which it can bid, and which shall be treated as a cash Bid) in an amount equal to the amount of the Break-Up Fee and Expense Reimbursement. f. The Auction shall continue until there is only one Qualified Bid that the Debtors determine, after consultation with the Consultation Parties, and based on the Debtors' reasonable business judgment, to be the highest or otherwise best Qualified Bid for the Assets. Such Qualified Bid shall be declared the "Successful Bid," and such Qualified Bidder, the "Successful Bidder," and the Auction will be closed. Such acceptance by the Debtors of the Successful Bid is conditioned upon approval by the Court of the Successful Bid. Following the closing of the Auction, the Debtors shall not initiate contact with, solicit, or encourage proposals from any person or entity with respect to the Assets. g. Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the bidding, (ii) its Qualified Bid is a good-faith *bona fide* offer, and (iii) it intends to consummate the proposed Sale if selected as the Successful Bidder.
Backup Bidder	If an Auction is conducted, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid at the Auction for the Assets shall be required to serve as a backup bidder (the "Backup Bidder") until such time as the Sale to the Successful Bidder is consummated, but no later than thirty (30) days past the Sale Hearing, and each Qualified Bidder shall agree and be deemed to agree to be the Backup Bidder if so designated by the Debtors.

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	The identity of the Backup Bidder and the amount and material terms of the Qualified Bid of the Backup Bidder (the "Backup Bid") shall be announced by the Debtors, after consultation with the Consultation Parties, at the conclusion of the Auction at the same time the Debtors announce the identity of the Successful Bidder. The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until such time as the Sale is consummated. The Backup Bidder's Deposit shall be held in escrow pending consummation of the Sale to the Successful Bidder. If a Successful Bidder fails to consummate the approved Sale contemplated by its Successful Bid, the Debtors may select the Backup Bidder as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party. In such case, the defaulting Successful Bidder's Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Successful Bidder, including with respect to specific performance.
Reservation of Rights	The Debtors reserve their rights to modify these Bid Procedures, after consultation with the Consultation Parties, in any manner that they reasonably determine will best promote the goals of these Bid Procedures, or impose, at or prior to the Auction, additional customary terms and conditions in connection with a Sale, including, without limitation: (i) extending the deadlines set forth in these Bid Procedures; (ii) adjourning the Auction at the Auction; (iii) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (iv) canceling the Auction; and (v) rejecting any or all Bids or Qualified Bids. Any such modifications are

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	without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA. For the avoidance of doubt and notwithstanding anything to the contrary herein, nothing in these Bid Procedures or the Bid Procedures Order shall require a Debtor or the board of directors, board of managers, or similar governing body of a Debtor to take any action or to refrain from taking any action related to any sale transaction to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under the applicable law. Further, nothing in these Bid Procedures or the Bid Procedures Order shall diminish the right of the Debtors and their respective directors, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives to: (i) consider, respond to, and facilitate alternate proposals for sales or other restructuring transactions involving any or all of the Assets (each, an "Alternate Proposal"); (ii) provide access to non- public information concerning the Debtors to any entity or enter into confidentiality agreements or nondisclosure agreements with any entity; (iii) maintain or continue discussions or negotiations with respect to Alternate Proposals; (iv) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiation of Alternate Proposals; and (v) enter into or continue discussions or negotiations with holders of claims against or equity interests in a Debtor or any other party in interest in these Chapter 11 Cases or any other entity regarding Alternate Proposals.
Notice and Consultation Parties	Information that must be provided to the "Notice Parties" under these Bid Procedures must be provided to the following parties: (i) counsel for the Debtors, Katten Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (ii) proposed Washington co-counsel for the Debtors, Bush Kornfeld LLP,

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	601 Union St., Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (iii) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (iv) proposed financial advisor for the Debtors, VeroPeak LLC, 4539 N 22nd St, Ste N, Phoenix, AZ 85016, Attn: Enrique Acevedo (eacevedo@veropeakpartners.com) and Greg Hill (ghill@veropeakpartners.com); (v) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (vi) counsel for the Debtors' prepetition lenders, (a) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (b) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay (jsakay@buchalter.com); (vii) counsel for any statutory committee appointed in these Chapter 11 Cases; and (viii) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin (Amy.Lambdin@usdoj.gov). The term "Consultation Parties" shall mean: (i) counsel to the Debtors' prepetition lenders; (ii) counsel to the Debtors' postpetition lender; (iii) and (iv) counsel to any statutory committee appointed in these Chapter 11 Cases.
Consent to Jurisdiction	All Bidders will be deemed to have consented to the exclusive jurisdiction of the Court, consented to the Court entering final orders and judgments, and waived any right to a jury trial in connection with any and all disputes relating to, arising from, or connected with the Auction, the marketing process, the

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	Sale, and the construction and enforcement of any purchase agreement.

C. Form and Manner of Sale Notice

As soon as practicable after entry of the Bid Procedures Order, the Debtors will cause the sale notice (the "Sale Notice"), substantially in the form attached to the Bid Procedures Order as Exhibit 2, to be served on the Notice Parties, the Limited Notice Parties, as defined in the Case Management Order [ECF No. 73], as well as all persons and entities previously contacted by Capstone as part of Capstone's prepetition marketing process. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

In addition, as soon as practicable after entry of the Bid Procedures Order, the Debtors will post the Sale Notice on their restructuring website, https://cases.stretto.com/BrewsterHeights (the "Case Website").

The Sale Notice is reasonably calculated to provide all interested parties with timely and proper notice of the proposed Sale, including the date, time, and place of the Auction (if one is held) and the Bid Procedures and the dates and deadlines related thereto. Accordingly, the Debtors request that the form and manner of the Sale Notice be approved and no other or further notice of the Auction be required.

By the later of (i) **August 14, 2026** and (ii) one business day after the conclusion of the Auction, the Debtors will file with the Court and serve on the Notice Parties a notice setting forth the results of the Auction (the "Notice of Auction Results"), which will (i) identify each Successful Bidder and each Backup Bidder, and (ii) include a copy

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of each Successful Bid and each Backup Bid or a summary of the material terms of such Bids, including any proposed assumption and assignment of Contracts contemplated thereby, and (iii) set forth the Final Sale Objection Deadline and Cure Objection Deadline, the date, time and location of the Sale Hearing, and any other relevant dates or other information necessary to reasonably apprise the Notice Parties of the outcome of the Auction.

D. Assumption and Assignment Procedures

The Debtors also seek approval of the procedures set forth below (the "Assumption and Assignment Procedures") to facilitate the fair and orderly assumption, assumption and assignment, or rejection of certain of the Debtors' contracts and unexpired leases (the "Contracts") in connection with the Sale. The proposed Assumption and Assignment Procedures are as follows:

Cure Notice	By no later than **July 15, 2026**, the Debtors shall file with the Court and serve via first class mail, electronic mail, or overnight delivery, a cure notice (the "Cure Notice"), substantially in the form attached to the Bid Procedures Order as Exhibit 3, on certain non-Debtor contract counterparties (each, a "Contract Counterparty" and collectively, the "Contract Counterparties"), and post the Cure Notice to the Case Website (https://cases.stretto.com/BrewsterHeights).
Content of Cure Notice	The Cure Notice shall notify the applicable Contract Counterparty that the Contracts may be subject to assumption and assignment in connection with the Sale, and contain the following information: (i) a list of the applicable Contracts that may be assumed and assigned in connection with the Sale (each, an "Assigned Contract" and, collectively, the "Assigned Contracts"); (ii) the applicable Contract Counterparties; (iii) the Debtors' good faith estimate of the

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	proposed amount necessary to cure all monetary defaults, if any, under each Assigned Contract (the "Cure Amount"); and (iv) the deadline by which any Contract Counterparty to an Assigned Contract must file an objection to the proposed assumption, assignment, cure, and/or adequate assurance and the procedures relating thereto (the "Cure Objection"); *provided* that service of a Cure Notice does not constitute an admission that such Assigned Contract is an executory contract or unexpired lease or that such Assigned Contract will be assumed at any point by Debtors or assumed and assigned pursuant to any Successful Bid.
Cure Objections	Cure Objections, if any, must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, the Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection (whether the objection is to assumption, assignment, or cure) and, if the Cure Objection pertains to the proposed Cure Amounts, state the Cure Amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court prior to **August 21, 2026, at 4:00 p.m. (PT)** (the "Cure Objection Deadline"); *provided* that the Debtors may extend the Cure Objection Deadline by filing a notice of such modification on the Court's docket. A properly filed Cure Objection shall be heard at the Sale Hearing or such later date as may be agreed upon by the parties or fixed by the Court.
Dispute Resolution	Any Cure Objection to the proposed assumption and assignment of an Assigned Contract or Cure Amounts that remains unresolved after the Sale Hearing shall be heard at such later date as may be agreed by the parties or fixed by the Court. To the extent that any Cure Objection cannot be resolved by the parties, such Contract shall be assumed and assigned only upon satisfactory resolution of the Cure Objection, to be determined in the Successful Bidder's reasonable discretion. To the extent a Cure Objection remains

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	unresolved, the Contract may be conditionally assumed and assigned, subject to the consent of the Successful Bidder, pending a resolution of the Cure Objection after notice and a hearing. If a Cure Objection is not satisfactorily resolved, the Successful Bidder may determine that such Contract should be excluded and not assigned, in which case the Successful Bidder will not be responsible for any Cure Amounts in respect of such Contract. Notwithstanding the foregoing, if a Cure Objection relates solely to the Cure Amounts (any such objection, a "Cure Dispute"), the applicable Assigned Contract may be assumed by the Debtors and assigned to the Successful Bidder provided that the Cure Amount the Contract Counterparty asserts is required to be paid under Bankruptcy Code § 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Contract Counterparty) is deposited into a segregated account held by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution thereof.
Supplemental Cure Notice	If the Debtors discover Contracts inadvertently omitted from the Cure Notice or the Successful Bidder identifies other Contracts that it desires to assume or assume and assign in connection with the Sale, the Debtors may, after consultation with the Successful Bidder, at any time before the closing of the Sale, supplement the Cure Notice with previously omitted Contracts or modify a previously filed Cure Notice, including modifying the previously stated Cure Amounts associated with any Contracts (the "Supplemental Cure Notice").
Objection to the Supplemental Cure Notice	Any Contract Counterparty listed on the Supplemental Cure Notice may file an objection (a "Supplemental Cure Objection") only if such objection is to the proposed assumption or assumption and assignment of the applicable Contracts or the proposed Cure Amounts, if any. All Supplemental Cure Objections must: (i) state, with specificity, the legal and factual basis for the objection, as well as what Cure Amounts are required, if any; (ii) include appropriate documentation in support thereof; and (iii) be

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	filed no later than 4:00 p.m. (PT) on the date that is fourteen (14) days following the date of service of such Supplemental Cure Notice, which date will be set forth in the Supplemental Cure Notice.
Dispute Resolution of Supplemental Cure Objection	If a Contract Counterparty files a Supplemental Cure Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtors shall seek an expedited hearing before the Court to determine the Cure Amounts, if any, and approve the assumption of the relevant Contracts. If there is no such objection, then Debtors shall obtain an order of this Court fixing the Cure Amounts and approving the assumption of any Contract listed on a Supplemental Cure Notice.
No Cure Objections	If there are no Cure Objections, or if a Contract Counterparty does not file and serve a Cure Objection in a manner that is consistent with the requirements set forth herein, (i) the Cure Amounts, if any, set forth in the Cure Notice shall be controlling, notwithstanding anything to the contrary in any Contract or any other document, and (ii) the Contract Counterparty will be deemed to have consented to the assumption or assumption and assignment of the Contract and the Cure Amounts, if any, and will be forever barred from objecting to the assumption or assumption and assignment of such Contract and rights thereunder, including the Cure Amounts, if any, and from asserting any other claims related to such Contract against Debtors or the Successful Bidder, or the property of any of them.

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IV. BASIS FOR RELIEF

A. <u>The Sale of the Debtors' Assets is Authorized by Bankruptcy Code § 363(b) as a Sound Exercise of the Debtors' Business Judgment</u>.

Bankruptcy Code § 363 provides, in relevant part, that a debtor in possession "after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Bankruptcy courts typically review a transaction proposed under section 363(b)(1) using a "business judgment" standard. *In re Claar Cellars LLC,* 2020 Bankr. LEXIS 682, at *9 (Bankr. E.D. Wash. Mar. 13, 2020) (citing *In re Equity Funding Corp. of Am.*, 519 F.2d 1274, 1277 (9th Cir. 1975); *In re Ernst Home Ctr., Inc.*, 209 B.R. 974, 979-80 (Bankr. W.D. Wash. 1997)). This is a "deferential" standard pursuant to which a "bankruptcy court will generally approve" a reasoned decision by the debtor. *Id. (*citing *Mission Prod. Holdings, Inc. v. Tempnology, LLC, 139 S. Ct. 1652, 1658, 203 L. Ed. 2d 876 (2019)).* Here, the Debtors have determined in the exercise of their business judgment that the sale of the Assets is in the best interest of their estate and their creditors. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *In re Royal Coachman Mobile Home Park, LLC*, No. 16-03109-FPC11, 2021 Bankr. LEXIS 119, at *11 (Bankr. E.D. Wash. Jan. 20, 2021). The Sale of the Assets by auction will enable the Debtors to obtain the highest and best offer for the Assets, thereby maximizing the value of the Debtors' estates. The fairness and reasonableness of the consideration to be paid by the Successful Bidder ultimately will be demonstrated by adequate "market exposure" and an open and fair auction process—the best means, under the circumstances, for establishing whether a fair and reasonable price is being paid.

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B. Sale Free and Clear Under Bankruptcy Code § 363(f)

Bankruptcy Code § 363(f) provides:

> (f) The Trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if –
> (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest;
> (2) such entity consents;
> (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
> (4) such interest is in bona fide dispute; or
> (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

Here, any lien holder that does not consent to the sale of its collateral free and clear of its liens could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest within the meaning of section Bankruptcy Code § 363(f)(5). *In re Jolan, Inc.*, 403 B.R. 866, 869 (Bankr. W.D. Wash 2009) (discussing *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25 (9th Cir. BAP 2008) and holding that a creditor could be compelled to accept a money satisfaction of its interests under various Washington statutes).

C. Assumption and Assignment of Executory Contracts and Unexpired Leases

Bankruptcy Code § 365(a) provides that, subject to the court's approval, a trustee "may assume or reject any executory contracts or unexpired leases of the debtor." 11 U.S.C. § 365(a). Upon finding that a trustee has exercised its sound business judgment

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in determining to assume an executory contract or unexpired lease, courts will approve the assumption under Bankruptcy Code § 365(a). *In re Hertz*, 536 B.R. 434, 442 (Bankr. C.D. Cal. 2015)*; Official Creditors' Comm. v. X10 Wireless Tech., Inc. (In re X10 Wireless Tech.),* 2005 Bankr. LEXIS 3376, at *8-9 (B.A.P. 9th Cir. Apr. 5, 2005).

Pursuant to Bankruptcy Code § 365(f)(2), a debtor in possession may assign an executory contract or unexpired lease of nonresidential real property if:

> (A) the trustee assumes such contract or lease in accordance with the provisions of this section; and
>
> (B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 U.S.C. § 365(f)(2).

The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given a "practical, pragmatic construction." *In re Kabuto Ariz. Props., LLC*, No. 2:09-bk-11282-GBN, 2009 Bankr. LEXIS 4961, at *72-73 (Bankr. D. Ariz. Dec. 9, 2009) (citing e.g, *In re Prime Motor Inns Inc*., 166 B.R. 993, 997 (Bankr. S.D. Fla. 1994) ("[a]lthough no single solution will satisfy every case, the required assurance will fall considerably short of an absolute guarantee of performance"). Among other things, adequate assurance may be provided by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *Id.*

Bankruptcy Code § 365(f)(2)(B) states that a debtor may assign its unexpired leases and executory contracts if, *inter alia,* the assignee provides "adequate assurance of future performance." 11 U.S.C. § 365(f)(2)(B). The Successful Bidder must submit,

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among other things, written evidence of the ability to provide adequate assurance of future performance with respect to any Contracts to be assumed and assigned. The affected Contract Counterparties will be able to challenge the ability of the Successful Bidder to provide adequate assurance as provided in the Bid Procedures Order.

To facilitate and effect the Sale, the Debtors request approval under Bankruptcy Code § 365 of the Debtors' assumption and assignment (as applicable) of the Assigned Contracts to the Successful Bidder. The Debtors further request that the Sale Order provide that the Assigned Contracts will remain in full force and effect for the benefit of the Successful Bidder (and be transferred to a Successful Bidder, to the extent applicable) notwithstanding any provisions in the Assigned Contracts, including those described in Bankruptcy Code § 365(b)(2) and (f)(1) and (3), that prohibit such assumption and assignment.

The Debtors propose to serve Cure Notices, substantially in the form attached to the Bid Procedures Order as Exhibit 3, on all Contract Counterparties to Assigned Contracts as set forth herein and in the Bid Procedures Order and provide such Contract Counterparties with an opportunity to object to assumption and assignment and Debtors' proposed Cure Amounts. The Assigned Contracts will be assumed and assigned at closing of the contemplated Sale.

The Debtors' assumption and assignment of the Assigned Contracts to the Successful Bidder meets the business judgment standard and satisfies the requirements of Bankruptcy Code § 365. The assumption and assignment of key executory contracts and unexpired leases is necessary for the Successful Bidder to conduct business going

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forward. Because no buyer of the going concern would acquire the Assets without certain key executory contracts and unexpired leases, the assumption and assignment of such agreements is essential to securing the highest or otherwise best offer for the Assets. Further, upon consummation of any Sale, the Debtors will no longer continue to operate the Assets and will therefore have no use for any of the executory contracts and unexpired leases previously utilized in the ordinary course of the operation of the Assets.

To the extent that any defaults exist under any Contract that is to be assumed and assigned in connection with the Sale, the Successful Bidder or Debtors, as applicable, will cure any such default prior to such assumption and assignment.

The Debtors contemplate that the Successful Bidder will be able to provide adequate assurance of future performance in connection with any assumed and assigned executory contracts and unexpired leases, because such Successful Bidder must submit evidence sufficient to demonstrate its financial wherewithal and ability to consummate the transaction. In addition, under the Assumption and Assignment Procedures, the Contract Counterparty to any Assigned Contract will have the opportunity to object to adequate assurance of future performance by the Successful Bidder.

The Debtors will present facts at the Sale Hearing establishing the financial credibility, willingness, and ability of the Successful Bidder to perform under the Assigned Contracts. The Sale Hearing therefore will afford the Court and other interested parties the opportunity to evaluate the ability of the Successful Bidder to provide adequate assurance of future performance under the Assigned Contracts, as required under Bankruptcy Code § 365(b)(1)(C). Further, as set forth above, the Debtors will give

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notice to all parties to the Assigned Contracts of their intention to assume and assign the Assigned Contracts, as the case may be, as well as the proposed Cure Amounts.

Accordingly, the Debtors submit that implementation of the proposed Assumption and Assignment Procedures is appropriate in these Chapter 11 Cases, and the Court will have a sufficient basis to authorize Debtors to reject or assume and assign contracts as will be set forth in the Successful Bidder's asset purchase agreement.

D. <u>Successful Bidder Should be Afforded Bankruptcy Code § 363(m) Protections as a Good Faith Purchaser</u>.

Bankruptcy Code § 363(m) protects a good-faith purchaser's interest in property purchased from a debtor's estate notwithstanding that the sale conducted under Bankruptcy Code § § 363(b) is later reversed or modified on appeal. Specifically, Bankruptcy Code § 363(m) states that:

> The reversal or modification on appeal of an authorization under [section 363(b)] . . . does not affect the validity of a sale . . . to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale were stayed pending appeal.

11 U.S.C. § 363(m).

Bankruptcy Code § 363(m) fosters finality by providing that when a sale of assets is made to a good faith purchaser, it may not be modified or set aside unless the sale was stayed pending appeal. *Paulman v. Gateway Venture Partners Iii, Ltd. P'ship (in Re Filtercorp, Inc.)*, 163 F.3d 570, 576 (9th Cir. 1998) (citing *Onouli-Kona Land Co. v. Estate of Richards (In re Onouli-Kona Land Co.)*, 846 F.2d 1170, 1172 (9th Cir. 1988)

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("Finality in bankruptcy has become the dominant rationale for our decisions; the trend is towards an absolute rule that requires appellants to obtain a stay before appealing a sale of assets."). Finality of sales "encourages fervent bidding and ensures that interested parties will sincerely extend their best and highest offers at the auction itself." *In re NAMCO Capital Grp., Inc.*, No. 2011 U.S. Dist. LEXIS 65607, at *7 (C.D. Cal. June 7, 2011) (quoting *In re Farmland Indus., Inc.*, 408 B.R. 497, at 509 (8th Cir. BAP 2009)).

The selection of the Successful Bidder will be the product of arms' length, good faith negotiations within the competitive Bid Procedures. The Debtors intend to request at the Sale Hearing a finding that the Successful Bidder is a good faith purchaser entitled to the protections of Bankruptcy Code § 363(m).

E. <u>Stalking Horse Bid Protections</u>

The Bid Procedures contemplate the designation of Heritage Orchard as the Stalking Horse Bidder upon execution of the Stalking Horse APA and approval by the Court at the Bid Procedures Hearing. Recognizing a Stalking Horse Bidder's expenditure of time, energy, and resources, and that a Stalking Horse provides a floor bid with respect to the Assets that it offers to purchase, the Debtors seek authority to provide for a break-up fee of no more than 3% of Heritage Orchard's Purchase Price for the Assets, along with reimbursement of expenses for diligence and legal costs incurred by Heritage Orchard in connection with the negotiation, execution, and performance of the LOI and the Stalking Horse APA and the Sale contemplated thereby. The Break-Up Fee is fair and reasonable in light of the size and nature of the proposed transaction, the risk that Heritage Orchard will be taking in pursuing the acquisition of the Assets as a "stalking

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horse" bidder, and the efforts that have been or will be expended by Heritage Orchard notwithstanding that the proposed transaction is subject to higher and better offers for the Assets. *In re Pomare, Ltd.*, No. 15-00203 (Chapter 11), 2015 Bankr. LEXIS 1824, at *11 (Bankr. D. Haw. May 18, 2015).

F. <u>The Bid Procedures Will Maximize the Value of the Assets</u>.

The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy sales. *See, e.g.*, *In re Fin'l News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991) ("[C]ourt-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates.").

Here, the Bid Procedures establish the appropriate parameters under which the value of the Assets may be tested at an auction and through the ensuing Sale Hearing. The procedures will increase the likelihood that the estate will receive the greatest possible consideration for the Assets because they will ensure a competitive and fair bidding process. The Bid Procedures also allow the Debtors to undertake an auction in as expeditious and efficient manner as possible, which the Debtors believe is essential to maximizing the value of the estate for creditors.

The Bid Procedures will promote active bidding from seriously interested parties and will dispel any doubt as to the best and highest offer reasonably available for the

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Assets. The Bid Procedures will allow the Debtors to conduct the Auction in a controlled, fair, and open fashion that will encourage participation by financially capable bidders who demonstrate the ability to close a transaction. Further, the Bid Procedures provide the Debtors with the opportunity to consider all Qualified Bids and to select, in their reasonable business judgment, the highest and best offer for the Assets while allowing the Debtors flexibility to modify the Bid Procedures, if necessary, to ensure value for the Assets is maximized. Accordingly, the Bid Procedures are reasonable, appropriate, and within the Debtors' sound business judgment.

G. Waiver of Stay Under Bankruptcy Rules 6004(h) and 6006(d) is Appropriate

Bankruptcy Rules 6004(h) and 6006(d) respectively provide for stay of orders authorizing the use, sale, or lease of property and assignment of executory contracts or unexpired leases. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although each rule is silent as to when a court should "order otherwise" to eliminate or reduce the 14-day stay period, Collier suggests elimination of the 14-day stay period "where there has been no objection to the procedure." COLLIER ON BANKRUPTCY P 6004.11 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). If an objection is filed and overruled and the objecting party informs the court of its intent to appeal, Collier suggests reduction of the amount of time actually necessary to file such appeal. *Id.*

Here, given the Debtors' liquidity issues necessitating a need to close a sale as immediately as practicable, the Debtors request waiver of the 14-day stay periods, or, in

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the alternative, if an objection to the Sale is filed, reduction of the stay period to the minimum amount of time needed by the objecting party to file its appeal.

IV. CONCLUSION

Based on the foregoing, the Debtors respectfully request the entry of the proposed Bid Procedures Order granting the relief requested herein and such other and further relief as the Court may deem just and proper.

DATED this 12th day of June, 2026.

BUSH KORNFELD LLP

By /s/ Christine M. Tobin-Presser
Christine M. Tobin-Presser, WSBA #27628
Thomas A. Buford, WSBA #52969
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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re BREWSTER HEIGHTS PACKING & ORCHARDS, LP,[1] Debtors.	Chapter 11 Lead Case No. 26-01136 Jointly Administered [PROPOSED ORDER] (I) APPROVING BID PROCEDURES FOR THE SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) SCHEDULING CERTAIN DATES WITH RESPECT THERETO; (III) APPROVING THE SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS; (IV) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES; AND (V) GRANTING RELATED RELIEF

[1] The debtors are Brewster Heights Packing & Orchards, LP (Case No. 26-01136); Gebbers Farms Inc. (Case No. 26-01140); Gebbers Orchards, Inc. (Case No. 26-01141); C&M II, LLC (Case No. 26-01137); D&E Storage, LLC (Case No. 26-01138); Eastco, LLC (Case No. 26-01139); GF SA, LLC (Case No. 26-01142); Northco, LLC (Case No. 26-01143); P&G Orchards, LLC (Case No. 26-01144); REPO, LLC (Case No. 26-01145); TJF Properties, LLC (Case No. 26-01146); Westco Orchards, LLC (Case No. 26-01147); and Westco Sales, Inc. (Case No. 26-01148) (collectively, the "Chapter 11 Cases").

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This matter came before the Court upon the motion (the "Bid Procedures Motion"),[2] filed by Brewster Heights Packing & Orchards, LP and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), for entry of an order (this "Bid Procedures Order") (i) authorizing and approving the bid procedures attached hereto as Exhibit 1 (the "Bid Procedures") in connection with the purchase and Sale of the Assets; (ii) scheduling an Auction for the Assets to be held and establishing certain dates and deadlines in connection with the Bid Procedures; (iii) approving the form and manner of the Sale Notice with respect to the Sale of the Assets attached hereto as Exhibit 2; (iv) approving procedures for the assumption and assignment of contracts and noticing of related Cure Amounts; and (v) granting related relief, all as further described in the Bid Procedures Motion. The Court, having reviewed the records and files in these Chapter 11 Cases, including the *Declaration of Skye Root in Support of Debtors' Motion for Entry of an Order (I) Approving Bid Procedures for the Sale of Substantially All of Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Scheduling Certain Dates with Respect Thereto; (III) Approving the Sale of Substantially All of Debtors' Assets; (IV) Approving Assumption and Assignment Procedures; and (V) Granting Related Relief* and the *Declaration of Brooke McGuire in Support of the Debtors' Bankruptcy Petitions and First Day Pleadings*; it appearing that the Court has jurisdiction to consider the Bid Procedures Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Bid Procedures Motion

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bid Procedures Motion.

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and the requested relief therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Bid Procedures Motion having been provided to the appropriate parties; and the Court having held a hearing on the Bid Procedures Motion; and the Court having determined that the legal and factual bases set forth in the Bid Procedures Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Bid Procedures Motion is in the best interests of Debtors and their estates and creditors; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor; it is hereby

FOUND AND DETERMINED THAT:

A. Bid Procedures. The Debtors have articulated good and sufficient reasons for authorizing and approving the Bid Procedures, which are fair, reasonable and appropriate under the circumstances and designed to achieve the highest or otherwise best offer and to maximize the value of the Debtors' estates. The Debtors, with the assistance of their advisors, have engaged and continue to engage in a fulsome marketing and sale process to solicit and develop the highest or otherwise best offer for the Debtors' assets (the "Assets"). The Bid Procedures are designed to build on that marketing and sale process following entry of this Bid Procedures Order.

B. Notice of the Bid Procedures Motion. As reflected in the certificate of service filed on June [●], 2026 [Docket No. [●]] (the "Certificate of Service"), the Bid Procedures Motion and the notice of the Hearing were served on the Court's electronic filing system and all parties entitled to notice. The notice of the Bid Procedures Motion

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and of the Hearing is reasonable and sufficient in light of the circumstances and nature of the relief requested in the Bid Procedures Motion, and no other or further notice of the Bid Procedures Motion or the Sale Hearing is necessary. A reasonable and fair opportunity to object to the Bid Procedures Motion and the relief granted in this Bid Procedures Order has been afforded under the circumstances.

C. **Sale Notice**. The Notice of Auction and Sale Hearing, substantially in the form attached hereto as **Exhibit** 2, (the "Sale Notice"), is reasonably calculated to provide all interested parties with timely and proper notice of the proposed Sale, including: (i) the date, time and place of the Auction (if one is held); (ii) the Bid Procedures and certain dates and deadlines related thereto; (iii) the objection deadline for the Sale and the date, time and place of the Sale Hearing; (iv) reasonably specific identification of the Assets subject to any Sale; (v) instructions for promptly obtaining a copy of the form asset purchase agreement; (vi) representations describing any Sale as being free and clear of liens, claims, interests and other encumbrances, with all such liens, claims, interests and other encumbrances attaching with the same validity and priority to the sale proceeds, and no other or further notice of any Sale shall be required. The Sale Notice shall be filed and served on the Notice Parties, the Limited Notice Parties, as defined in the Case Management Order [ECF No. 73], as well as all persons and entities previously contacted by Capstone as part of Capstone's prepetition marketing process.

D. **Assumption and Assignment Procedures**. The Bid Procedures Motion and the Cure Notice (as defined herein) are reasonably calculated to provide

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counterparties to the Assigned Contracts with proper notice of the intended assumption and assignment of their executory contracts, any Cure Amounts (as defined herein), and the Assumption and Assignment Procedures (as defined herein) and are appropriate.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. The Bid Procedures Motion [ECF No. ●] is granted as set forth herein, and any objections, responses and reservation of rights to the Bid Procedures Motion or to the relief requested therein that have not been withdrawn, waived, settled or reserved are hereby overruled in all respects on the merits with prejudice. The Bid Procedures, Sale Notice and Cure Notice are approved.

2. **Sale Hearing**. The Sale Hearing will commence on **September 1, 2026 at 10:00 a.m. (PT)** before the Honorable Frederick P. Corbit of the United States Bankruptcy Court for the Eastern District of Washington, 904 West Riverside Avenue, Suite 304, Spokane, Washington 99210. The Sale Hearing may be adjourned by the Debtors without further notice other than by announcement in open Court, on the Court's calendar or in the applicable hearing agenda. The Debtors shall present the results of the Auction (if any) or otherwise present any Successful Bidder(s) to the Court at the Sale Hearing.

3. **Sale Objection Deadline**. Objections, if any, to the Sale of the Assets to a Successful Bidder, must be filed with the Court and served upon counsel to Debtors so as to be actually received by **August 21, 2026 at 4:00 p.m. (PT)**. In each case, all

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objections must: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules, the Local Rules, and any orders of the Court; (iii) state with particularity the legal and factual bases for the objection and the specific grounds therefor; and (iv) be filed with the Court no later than the applicable objection deadline and served on the following parties (the "Notice Parties"): (a) counsel for the Debtors, Katten Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (b) Washington co-counsel for the Debtors, Bush Kornfeld LLP, 601 Union St., Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (c) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (d) financial advisor for the Debtors, VeroPeak LLC, 4539 N 22nd St, Ste N, Phoenix, AZ 85016, Attn: Enrique Acevedo (eacevedo@veropeakpartners.com) and Greg Hill (ghill@veropeakpartners.com); (e) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (f) counsel for the Debtors' prepetition lenders, (i) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (ii) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay

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(jsakay@buchalter.com); (g) counsel for any statutory committee appointed in these Chapter 11 Cases; and (h) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin (Amy.Lambdin@usdoj.gov), so as to be actually received by the Sale Objection Deadline.

4. **Response Deadline**. Responses, if any, to objections to the Sale of the Assets to a Successful Bidder, must be filed no later than ___________, 2026.

<u>Bid Procedures and Related Relief</u>

5. The Bid Procedures, which are incorporated by reference as though fully set forth herein, are hereby approved in their entirety. The Debtors are authorized to solicit Bids and conduct an Auction, if necessary, pursuant to the terms set forth in the Bid Procedures. The Bid Procedures shall govern the submission, receipt, and analysis of all Bids, and any party desiring to submit a Bid on the Assets must do so strictly in accordance with the terms of the Bid Procedures and this Bid Procedures Order.

6. Each Bidder participating at an Auction (if any) shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale, as set forth in the Bid Procedures, and an Auction (if any) shall be transcribed or recorded.

7. The Debtors are authorized to take all actions as are necessary or appropriate to implement the Bid Procedures. Other than as expressly set forth in this Bid Procedures Order or the Bid Procedures, the Debtors reserve their rights, in their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, to modify the Bid Procedures, after consultation with the Consultation Parties, in any

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manner that they reasonably determine will best promote the goals of the Bid Procedures, or impose, at or prior to the Auction, additional customary terms and conditions in connection with a Sale, including, without limitation: (i) extending the deadlines set forth in the Bid Procedures; (ii) adjourning the Auction, including at the Auction; (iii) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (iv) canceling the Auction; and (v) rejecting any or all Bids or Qualified Bids. Any such modifications are without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA.

8. Other than any Bid Protections approved for Heritage Orchard as Stalking Horse Bidder in accordance with the procedures set forth in this Bid Procedures Order, no person or entity shall be entitled to any expense reimbursement, break-up fees, "topping," termination, or other similar fee or payment, and by submitting such a Bid, such person or entity is deemed to have waived their right to request or to file with this Court any request for expense reimbursement or any fee of any nature in connection with such Bid, whether by virtue of Bankruptcy Code § 503(b) or otherwise.

9. Any Qualified Bidder that has a valid and perfected lien on any assets of Debtors' estates (a "Secured Creditor") shall have the right to credit bid all or a portion of the value of such Secured Creditor's claims within the meaning of Bankruptcy Code § 363(k); *provided* that a Secured Creditor shall have the right to credit bid its claim only with respect to the collateral by which such Secured Creditor is secured.

<u>Auction</u>

10. The Debtors are authorized, subject to the terms of this Bid Procedures

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Order and the Bid Procedures, to take actions reasonably necessary, in the discretion of the Debtors, to conduct and implement the Auction.

11. Any party in interest may attend (but not participate in) the Auction if any such party in interest provides the Debtors with written notice of its intention to attend the Auction on or before the Bid Deadline, which written notice shall be sent to proposed counsel for the Debtors via electronic mail, to John Mitchell and Yelena Archiyan at john.mitchell@katten.com and yelena.archiyan@katten.com, respectively. Only Qualified Bidders (including the Stalking Horse Bidder, which shall be deemed a Qualified Bidder at all times) will be entitled to make any Bids at the Auction. For the avoidance of doubt, the Consultation Parties may attend the Auction without sending prior written notice of their intention to do so.

12. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid, all Overbids and the Successful Bid.

13. Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the bidding; (ii) its Qualified Bid is a good faith *bona fide* offer; and (iii) it intends to consummate the proposed Sale if selected as the Successful Bidder.

14. If the Auction is cancelled, the Debtors shall file a notice with the Court of such election at least one (1) business day prior to the Auction.

Sale Hearing Notice

15. The Sale Notice is hereby approved. As soon as practicable after entry of

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this Bid Procedures Order (the "Service Date"), the Debtors will cause the Sale Notice to be served on: (i) counsel for the Debtors, Katten Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (ii) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (iii) proposed Washington co-counsel for the Debtors, Bush Kornfeld LLP, 601 Union St. Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (iv) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (v) counsel for the Debtors' prepetition lenders, (a) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (b) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay (jsakay@buchalter.com); (vi) counsel to any statutory committee appointed in these Chapter 11 Cases; and (vii) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin (Amy.Lambdin@usdoj.gov). The Debtors shall also post the Sale Notice and this Bid Procedures Order on the Case Website located at Website (https://cases.stretto.com/BrewsterHeights).

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Assumption and Assignment Procedures

16. The Assumption and Assignment Procedures set forth in the Bid Procedures Motion regarding the assumption and assignment of executory contracts and/or unexpired leases proposed to be assumed by the Debtors and assigned to a Successful Bidder are approved.

a. **Cure Notice**. By no later than **July 15, 2026**, the Debtors shall file with the Court and serve via first class mail, electronic mail, or overnight delivery, a cure notice (the "Cure Notice"), substantially in the form attached hereto as Exhibit 3, on non-Debtor contract counterparties (collectively, the "Contract Counterparties"), and post the Cure Notice to the Case Website (https://cases.stretto.com/BrewsterHeights).

b. **Content of Cure Notice**. The Cure Notice shall notify the applicable Contract Counterparty that the Contracts may be subject to assumption and assignment in connection with the Sale, and contain the following information: (i) a list of the applicable Contracts that may be assumed and assigned in connection with the Sale (each, an "Assigned Contract" and, collectively, the "Assigned Contracts"); (ii) the applicable Contract Counterparties; (iii) the Debtors' good faith estimate of the proposed amount necessary to cure all monetary defaults, if any, under each Assigned Contract (the "Cure Amount"); and (iv) the deadline by which any Contract Counterparty to an

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Assigned Contract must file an objection to the proposed assumption, assignment, cure, and/or adequate assurance and the procedures relating thereto (the "Cure Objection"); provided that service of a Cure Notice does not constitute an admission that such Assigned Contract is an executory contract or unexpired lease or that such Assigned Contract will be assumed at any point by Debtors or assumed and assigned pursuant to any Successful Bid.

c. **Cure Objections**. Cure Objections, if any, must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, the Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection (whether the objection is to assumption, assignment, or cure) and, if the Cure Objection pertains to the proposed Cure Amounts, state the Cure Amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court prior to **August 21, 2026, at 4:00 p.m. (PT)** (the "Cure Objection Deadline"); provided that the Debtors may extend the Cure Objection Deadline by filing a notice of such modification on the Court's docket. A properly filed Cure Objection shall be heard at the Sale Hearing or such later date as may be agreed upon by the parties or fixed by the Court.

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d. **Dispute Resolution**. Any Cure Objection to the proposed assumption and assignment of an Assigned Contract or Cure Amounts that remains unresolved after the Sale Hearing shall be heard at such later date as may be agreed by the parties or fixed by the Court. To the extent that any Cure Objection cannot be resolved by the parties, such Contract shall be assumed and assigned only upon satisfactory resolution of the Cure Objection, to be determined in the Successful Bidder's reasonable discretion. To the extent a Cure Objection remains unresolved, the Contract may be conditionally assumed and assigned, subject to the consent of the Successful Bidder, pending a resolution of the Cure Objection after notice and a hearing. If a Cure Objection is not satisfactorily resolved, the Successful Bidder may determine that such Contract should be excluded and not assigned, in which case the Successful Bidder will not be responsible for any Cure Amounts in respect of such Contract. Notwithstanding the foregoing, if a Cure Objection relates solely to the Cure Amounts (any such objection, a "Cure Dispute"), the applicable Assigned Contract may be assumed by the Debtors and assigned to the Successful Bidder provided that the Cure Amount the Contract Counterparty asserts is required to be paid under Bankruptcy Code § 365(b)(1)(A) and (B) (or such lower amount as agreed to by the Contract Counterparty) is deposited into a segregated account held by the Debtors pending the

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Court's adjudication of the Cure Dispute or the parties' consensual resolution thereof.

e. **No Cure Objections**. If there are no Cure Objections, or if a Contract Counterparty does not file and serve a Cure Objection in a manner that is consistent with the requirements set forth herein, (i) the Cure Amounts, if any, set forth in the Cure Notice shall be controlling, notwithstanding anything to the contrary in any Contract or any other document, and (ii) the Contract Counterparty will be deemed to have consented to the assumption or assumption and assignment of the Contract and the Cure Amounts, if any, and will be forever barred from objecting to the assumption or assumption and assignment of such Contract and rights thereunder, including the Cure Amounts, if any, and from asserting any other claims related to such Contract against Debtors or the Successful Bidder, or the property of any of them.

17. Any objection to the ability of the Successful Bidder to provide adequate assurance of future performance, as well as any other objection to assumption, assignment, and cure with respect to any Assigned Contract must be filed with the Court no later than the Cure Objection Deadline.

18. Only those Assigned Contracts that are included on the schedule of assumed and assigned contracts attached to the asset purchase agreement with the Successful Bidder (including amendments or modifications to such schedules in accordance with

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such agreement) will be assumed and assigned to the Successful Bidder.

19. The Cure Notice, substantially in the form attached hereto as Exhibit 3, is hereby approved.

Other Related Relief

20. Notwithstanding Bankruptcy Rule 6004(h) or 6006(d), this Bid Procedures Order shall be effective and enforceable immediately upon its entry.

21. All time periods set forth in this Bid Procedures Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

22. To the extent the provisions of this Bid Procedures Order are inconsistent with the provisions of any exhibits referenced herein or with the Bid Procedures Motion, the provisions of this Bid Procedures Order shall control.

23. The Debtors are authorized and empowered to take all actions they deem necessary to implement the relief granted in this Bid Procedures Order in accordance with the Bid Procedures Motion and to implement the Bid Procedures.

24. This Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Bid Procedures Order.

///End of Order///

Presented by:

BUSH KORNFELD LLP

By____________________________________
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EXHIBIT 1

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Proposed Attorneys for the Chapter 11
Debtors and Debtors-in-Possession

HONORABLE FREDERICK P. CORBIT

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re BREWSTER HEIGHTS PACKING & ORCHARDS, LP,[1] Debtors.	Chapter 11 Lead Case No. 26-01136 Jointly Administered [PROPOSED] BID PROCEDURES

[1] The debtors are Brewster Heights Packing & Orchards, LP (Case No. 26-01136); Gebbers Farms Inc. (CaseNo. 26-01140); Gebbers Orchards, Inc. (Case No. 26-01141); C&M II, LLC (Case No. 26-01137); D&E Storage, LLC (Case No. 26-01138); Eastco, LLC (Case No. 26-01139); GF SA, LLC (Case No. 26-01142); Northco, LLC (Case No. 26-01143); P&G Orchards, LLC (Case No. 26-01144); REPO, LLC (Case No. 26-01145); TJF Properties, LLC (Case No. 26-01146); Westco Orchards, LLC (Case No. 26-01147); and Westco Sales, Inc. (Case No. 26-01148) (collectively, the "Chapter 11 Cases").

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I. OVERVIEW

On June 4, 2026 (the "Petition Date"), the above-captioned debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Washington (the "Court").

On July 1, 2026, the Court entered an order [Docket No. __] (the "Bid Procedures Order") approving these bid procedures (the "Bid Procedures"). The Bid Procedures set forth the process by which the Debtors, in consultation with the Consultation Parties (as defined and set forth below), will solicit and evaluate higher or otherwise better Bids for the acquisition of the Debtors' business and/or their assets (the "Assets").

The Debtors are offering investors and/or purchasers the opportunity to acquire some or all of their assets (a "Sale"). The Debtors' representatives, including the Debtors' investment banker, Capstone Capital Markets LLC ("Capstone"), shall oversee the sale process.

To the extent that these Bid Procedures require the Debtors to consult with the Consultation Parties in connection with making a determination or taking any action, or in connection with any other matter related to these Bid Procedures or at the Auction (as defined below), if any, the Debtors shall use commercially reasonable efforts to do so in a timely manner prior to making such determination or taking any such action; *provided*, however, that during any period in which a Consultation Party has submitted a Qualified Bid and has become a Qualified Bidder, such Consultation Party shall no longer be considered a Consultation Party under these Bid Procedures.

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Copies of the Order or other documents related thereto are available upon request to Stretto, Inc. or visiting the Debtors' Case Website at https://cases.stretto.com/BrewsterHeights.

The applicable Debtor representatives and their contact information are set forth below.

<u>Proposed Investment Banker to the Debtors</u>:

Capstone Capital Markets LLC
Skye Root (sroot@capstonepartners.com)
Jerry Sturgill (jsturgill@capstonepartners.com)
Arnav Virmani (avirmani@capstonepartners.com)

<u>Proposed Counsel to the Debtors</u>:

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John Mitchell (john.mitchell@katten.com)
Yelena Archiyan (yelena.archiyan@katten.com)

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Thomas Buford (tbuford@bskd.com)
Jason Wax (jwax@bskd.com)

II. KEY DATES & DEADLINES

These Bid Procedures set forth the terms by which a prospective bidder, if any, may qualify for and participate in an Auction, thereby competing to make the highest or otherwise best offer or combination of offers which, in the aggregate, will make the highest or otherwise best offer (a "Bid") to acquire some or all of the Debtors' business and/or Assets. The Debtors may consider Bids from multiple Bidders (including multiple Bids submitted by the same Bidder) in any combination for the Debtors' business and/or Assets. The Debtors may select multiple bids for any non-overlapping Assets.

Subject to Debtors' rights set forth herein, the following table sets forth key dates and deadlines with respect to the Sale process.

Event or Deadline	Proposed Date and Time
Deadline for Debtors to File Proposed Stalking Horse APA	June 24, 2026
Deadline to Object to Bid Procedures Motion	June 29, 2026 at 12:00 p.m. (PT)

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Event or Deadline	Proposed Date and Time
Deadline for Debtors to File List of Potential Assumed Contracts and Proposed Cure Amounts (Cure Notices)	July 15, 2026
Bid Deadline	August 7, 2026 at 4:00 p.m. (PT)
Deadline to Designate Qualified Bids/Notice of Cancellation of Auction (if applicable)	August 10, 2026
Auction (if applicable)	August 12, 2026, at 10:00 a.m. (PT) via live auction at [●] and/or remote video
Deadline for Debtors to File Notice of Auction Results	The later of (i) August 14, 2026 and (ii) one business day after the conclusion of the Auction
Deadline for Debtors to file Designated Contract Schedule	August 14, 2026
Final Sale Objection Deadline & Cure Objection Deadline	August 21, 2026 at 4:00 p.m. (PT)
Sale Hearing	September 1, 2026, at 10:00 a.m. (PT)
Entry of Sale Order	No later than September 4, 2026
Target Closing Date	No later than September 30, 2026

III. MARKETING PROCESS

A. Contract Parties

The Debtors, in consultation with Capstone, developed a list of parties whom they believe may be interested in, and whom the Debtors reasonably believe would have the financial resources to consummate, a transaction through a Bankruptcy Code § 363 sale process, chapter 11 plan, or otherwise (any such alternative, a "Sale"). The list of parties includes both strategic investors and financial investors (collectively, the "Contact Parties"). The Contact Parties include parties whom the Debtors or their advisors previously contacted regarding a Sale or transaction, regardless of whether such parties

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expressed any interest at such time in pursuing a Sale or transaction. The Debtors will continue to discuss and may supplement the list of Contact Parties throughout the marketing process, as appropriate.

The Debtors may distribute (to the extent not already distributed) to each Contact Party and any other interested party or potential bidder (each, a "Potential Bidder") an "Information Package" consisting of: (i) a copy of the Bid Procedures, the Order, and the Motion; (ii) to the extent not already executed, a form confidentiality agreement (a "Confidentiality Agreement") in form and substance acceptable to the Debtors; and (iii) such other materials as may be appropriate under the circumstances.

B. Participation Requirements and Initial Diligence

To receive due diligence information, including full access to the Debtors' electronic data room and to additional non-public information regarding the Debtors, a Potential Bidder must deliver the following documents (collectively, the "Preliminary Bid Documents") by email to each of: (i) Katten; and (ii) Capstone (collectively, the "Bid Recipients"):

a. an executed confidentiality agreement on terms acceptable to the Debtors, to the extent not already executed; and

b. the identity of the Potential Bidder and a list of contacts for the Potential Bidder.

Promptly after a Potential Bidder delivers Preliminary Bid Documents to the Bid Recipients, the Debtors will assess and notify the Potential Bidder whether such Potential Bidder has submitted acceptable Preliminary Bid Documents so that the Potential Bidder

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may proceed to conduct due diligence and ultimately submit a Bid and participate in the Auction, as applicable. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents (each, a "Bidder") may submit Bids; provided, however, that the Debtors, in their reasonable discretion, may agree to waive some or all of the Potential Bidder requirements set forth herein. The Debtors reserve the right to work with any Potential Bidder to cure any deficiencies in the Preliminary Bid Documents.

A Bidder shall have access to the data room or additional information allowing such Bidder to conduct due diligence on the potential acquisition of some or all of the Assets. Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (i) to any person or entity who (a) is not a Bidder, (b) does not comply with the participation requirements set forth above, or (c) in the case of competitively sensitive information, is a competitor of the Debtors; and (ii) if and to the extent doing so would (1) violate any law to which the Debtors are subject, including any privacy law, (2) result in the disclosure of any trade secrets of third parties in breach of any contract with such third party, (3) violate any legally-binding obligation of any Debtor with respect to confidentiality, non-disclosure or privacy, or (4) jeopardize protections afforded to any Debtor under the attorney-client privilege or the attorney work product doctrine (provided that, in case of each of clauses (1) through (4), the Debtors shall use commercially reasonable efforts to (x) provide such access as can be provided (or otherwise convey such information regarding the applicable matter as can be conveyed) without violating such privilege, doctrine, contract, obligation or law, and (y) provide such information in a manner without violating such

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privilege, doctrine, contract, obligation or law. Notwithstanding the foregoing, the Debtors reserve the right, in their discretion, to withhold or limit access to any information that the Debtors determine to be sensitive or otherwise not appropriate to disclose to any Bidder. The Debtors shall provide the Stalking Horse Bidder (defined below) with any information provided to a Bidder that has not already been provided to the Stalking Horse Bidder.

The Debtors may terminate access to the data room and any other non-public information in their reasonable discretion at any time, including if (i) a Bidder fails to become a Qualified Bidder (as defined below) or (ii) these Bid Procedures are terminated. The Bidder shall return or destroy any non-public information the Debtors or their advisors provided to the Bidder in accordance with the terms of the confidentiality agreement executed by the Debtors and the Bidder.

The Debtors will work to accommodate all reasonable requests from any Bidders for additional information and due diligence access. Each Bidder shall be required to acknowledge that it has had an opportunity to conduct any and all due diligence regarding the Assets in conjunction with submitting its Bid, and that its Bid does not contain due diligence conditions more extensive than those in the Stalking Horse APA. All due diligence requests shall be directed to Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com).

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As soon as reasonably practicable after the Debtors determine that a Potential Bidder is a Bidder, the Debtors will provide such Bidder with access to an electronic data room and reasonable due diligence information as reasonably requested by such Bidder (to the extent such Bidder has not already been provided such access and information). All substantive direct communications, including any due diligence requests, with Potential Bidders, Bidders, and Qualified Bidders shall be through and directed to Capstone (via email is sufficient). Capstone will work to facilitate meetings between any interested Bidder and the Debtors' management team. Except to the extent provided in the Stalking Horse APA, for all Bidders (including the Stalking Horse Bidder), the due diligence period will end on the Bid Deadline, and after the Bid Deadline, the Debtors will have no obligation to furnish any due diligence information.

The Debtors and their advisors will coordinate all reasonable requests from Bidders for additional information and due diligence access. The Debtors, in consultation with the Consultation Parties, may decline to provide such information to Bidders who, in the Debtors' business judgment and in consultation with the Consultation Parties, have not established, or who have raised doubt, that such Bidder intends in good faith or has the capacity to consummate a Sale.

For any Bidder who is a competitor of the Debtors or is affiliated with any competitor of the Debtors, the Debtors reserve the right to withhold, in consultation with the Consultation Parties, any diligence materials that the Debtors determine are business-sensitive or otherwise inappropriate for disclosure to such Bidder at such time.

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Each Bidder shall comply with all reasonable requests for additional information and due diligence access by the Debtors or their advisors regarding such Bidder and its contemplated Sale.

IV. STALKING HORSE BIDDER AND BID PROTECTIONS

On June __, 2026, the Debtors entered into an Asset Purchase Agreement (the "Stalking Horse APA") with Heritage Orchard Alliance LLC, or another newly-formed acquisition vehicle designated by International Farming Management Company LLC or its assigns/affiliates ("Heritage Orchard"). A copy of the Stalking Horse APA may be obtained by visiting the Debtors' Case Website at https://cases.stretto.com/BrewsterHeights or by contacting counsel for the Debtors (John Mitchell and Yelena Archiyan) via electronic mail at john.mitchell@katten.com and yelena.archiyan@katten.com, respectively.

Pursuant to the Stalking Horse APA, Heritage Orchard has agreed to pay $231,300,000 in consideration for substantially all of the Debtors' assets, comprising $75,000,000 cash at closing plus assumed liabilities.

The Bid Procedures Order designated Heritage Orchard as the stalking horse bidder (the "Stalking Horse Bidder") and provides that Heritage Orchard's bid pursuant to the Stalking Horse APA shall constitute the stalking horse bid (the "Stalking Horse Bid"). The Bid Procedures Order also provides for the following bid protections (the "Bid Protections") for Heritage Orchard: (i) a break-up fee amounting to 3% of the purchase price, calculated to include cash and assumed debt (the "Break-Up Fee"); (ii) reimbursement of expenses for diligence and legal costs incurred by Heritage Orchard in connection with the negotiation, execution, and performance of the Term Sheet and a

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definitive stalking horse asset purchase agreement (the "Stalking Horse APA") and the Sale contemplated thereby; and (iii) a requirement that minimum Overbids must amount to $1,000,000, *provided* that the initial Overbid must total the Break-Up Fee plus expenses incurred, plus the minimum overbid amount, and all subsequent overbids shall be subject to the minimum overbid amount.

V. <u>AUCTION PROCESS</u>

A. <u>Bid Deadline</u>

A Bidder that desires to make a proposal, solicitation, or offer (each, a "Bid") shall transmit such proposal, solicitation, or offer via email to each of the Bid Recipients so as to be **actually received** by them on or before **August 7, 2026 at 4:00 p.m. (PT)** (the "Bid Deadline").

B. <u>Bid Requirements</u>

Each Bid by a Bidder must be submitted in writing and satisfy the following requirements (collectively, the "Bid Requirements"):

a. <u>Identity of Assets</u>: Each Bid must state which of the Assets the Potential Bidder seeks to acquire and which liabilities of the applicable Debtor the Potential Bidder agrees to assume;

b. <u>Purchase Price</u>: Each Bid must clearly set forth the terms of any proposed transaction (the "Purchase Price"). The Purchase Price should be a single point value in U.S. dollars for the total enterprise value of the Assets the Potential Bidder seeks to acquire on a cash-free basis with the cash component and assumed debt component of the Purchase Price specifically delineated in such Bid. The Purchase Price of any Bid for the total enterprise value of the Assets (or the combined Purchase Price of lot Bids) shall exceed the Stalking Horse's Purchase Price;

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c. Good Faith Deposit: Each Bid must be accompanied by a cash deposit in an amount equal to the amount provided by the Stalking Horse Bidder to be held in a segregated debtor in possession account to be identified and established by the Debtors (the "Deposit");

d. Marked Agreement: Each Bid must be accompanied by a markup of the Stalking Horse APA (each such marked-up agreement, a "Bidder's APA"), including the exhibits and schedules related thereto and any related Sale documents or other material documents integral to such Bid, pursuant to which the Bidder proposes to effectuate the Sale (collectively, the "Sale Documents"). Each Bidder's APA must provide (i) a commitment to close on the same timeline as the Stalking Horse Bidder, and (ii) a representation that the Bidder will use its reasonable best efforts to satisfy all applicable regulatory conditions.

e. Committed Financing: To the extent that a Bid is not accompanied by evidence of the Bidder's capacity to consummate the Sale set forth in its Bid with cash on hand, each Bid must include evidence of committed financing (debt or equity funding, as applicable), including the identity and contact information of the specific person(s) or entity(s) responsible for such committed funding whom the Bid Recipients should contact regarding such funding, that demonstrates that the Bidder has received sufficient debt and/or equity funding commitments to satisfy the Bidder's Purchase Price and other obligations under its Bid. Such funding commitments or other financing must be acceptable to the Debtors (in consultation with the Consultation Parties) and not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and evidence of committed financing, other than to the extent provided for in the Stalking Horse financing commitment, and shall have covenants and conditions acceptable to the Debtors and not greater than those provided for in the Stalking Horse financing commitment.

f. Contingencies; No Financing or Diligence Outs: A Bid shall not be conditioned on a Bidder obtaining, or the sufficiency of, financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions, which shall not be more burdensome, in the Debtors' reasonable business

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judgment, after consultation with the Consultation Parties, than those contemplated by the Stalking Horse Bid, if any, and each Bid must identify with particularity each and every condition to closing, including the executory contracts and unexpired leases for which assumption and assignment is required. The extent and nature of any remaining due diligence should be set forth in a specific list attached to each Bid.

g. Identity: Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Bidder if such Bidder is an entity formed for the purpose of consummating the proposed Sale contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s) and counsel whom the Debtors' advisors should contact regarding such Bid.

h. Authorization: Each Bid must contain evidence that the Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the consummation of the Sale contemplated in such Bid.

i. Compliance with the Bankruptcy Code and Non-Bankruptcy Law; Acknowledgement: Each Bid must comply in all respects with the Bankruptcy Code and any applicable non-bankruptcy law. Each Bid must also include a written acknowledgment that the Bidder agrees to all of the terms of the Sale set forth in these Bid Procedures.

j. As-Is, Where-Is: Each Bid must include a written acknowledgement and representation that the Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidder's Sale Documents.

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k. Expenses; Disclaimer of Fees: Each Bid (other than a Stalking Horse Bid) must disclaim any right to receive a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation. For the avoidance of doubt, no Potential Bidder (other than a Stalking Horse Bidder) will be permitted to request, nor be granted by the Debtors, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting a Bid any Bidder is waiving any assertion or request for reimbursement on any basis, including under section 503(b) of the Bankruptcy Code.

l. Adequate Assurance of Future Performance: Each Bid must (i) identify the Contracts to be assumed and assigned in connection with the proposed acquisition; (ii) identify the source of payment of all Cure Amounts related to such Contract; and (iii) demonstrate, in the Debtors' reasonable business judgment, that the Bidder can provide adequate assurance of future performance under all such Contracts.

m. Joint Bids: The Debtors are authorized to approve joint Bids in their reasonable discretion on a case-by-case basis.

n. Backup Bid: Each Bid shall provide that the Bidder will serve as a Backup Bidder if the Bidder's Bid is the next highest or otherwise best Bid.

o. Expected Closing Date: Each Bid shall state the Potential Bidder's expected date of closing of the Sale, which shall be no later than **September 30, 2026**; *provided*, that such closing date may be extended pursuant to the terms of a Bidder's APA.

p. Employees: Each Bid shall (i) specify whether the Bidder intends to hire any of the Debtors' employees and (ii) expressly propose the treatment of the Debtors' prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including offer letters, employment agreements, consulting agreements, retiree benefits, and any other employment related agreements.

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q. Compliance with Bid Procedures: Each Bid shall include a covenant to comply with the terms of these Bid Procedures and the Bid Procedures Order.

The Stalking Horse Bid shall be a Qualified Bid for all purposes hereof. By submitting its Bid, each Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bid Procedures and to refrain from submitting a Bid or seeking to reopen the Auction after conclusion of the Auction. **The submission of a Bid shall constitute a binding and irrevocable offer to acquire the Assets reflected in such Bid**.

C. Designation of Qualified Bidders

A Bid will be considered a "Qualified Bid," and each Bidder that submits a Qualified Bid will be considered a "Qualified Bidder," if the Debtors, in consultation with the Consultation Parties, determine that such Bid:

a. satisfies the Bid Requirements;

b. is on terms and conditions acceptable to the Debtors in their business judgment;

c. is reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a timeframe acceptable to the Debtors (in consultation with the Consultation Parties);

d. is not conditioned upon any bid protections (such as a topping fee, termination fee, expense reimbursement, or similar type of payment); and

e. no later than **August 10, 2026**, the Debtors (after consulting with the Consultation Parties) will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties with a copy of each Qualified Bid.

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If any Bid is determined not to be a Qualified Bid, the Debtors will refund such Bidder's Deposit promptly after the Bid Deadline.

Between the date that the Debtors notify a Bidder that it is a Qualified Bidder and the Auction date, the Debtors may (in consultation with the Consultation Parties) discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the prior written consent of the Debtors (in consultation with the Consultation Parties), a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase its Purchase Price, or otherwise improve the terms of, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bid Procedures; *provided* that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply with the requirements for Qualified Bids set forth in these Bid Procedures.

D. The Auction

If necessary, the Auction shall take place on **August 12, 2026, at 10:00 a.m. (PT)**, via live auction and/or remote video; or such other place and time as the Debtors shall notify all Qualified Bidders that have submitted Qualified Bids.

The Debtors will notify all Qualified Bidders of the highest and best Qualified Bid received (the "Baseline Bid") and provide copies of the documents supporting the Baseline Bid to all Qualified Bidders. The determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Successful Bid shall take into account any factors the Debtors (in consultation with the Consultation Parties) deem relevant to the value of the Qualified Bid to the Debtors' estates, including, among

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other things: (i) the type and amount of Assets sought to be purchased in the Bid; (ii) the amount and nature of the total consideration; (iii) the likelihood of the Bidder's ability to close a transaction and the timing thereof including any terms or consideration of such Qualified Bid; (iv) the net economic effect of any changes to the value to be received by the Debtors' estates from the transaction contemplated by the Qualified Bid; (v) the assets and liabilities excluded from the Qualified Bid and any executory contracts or leases or other liabilities proposed to be assumed; (vi) any benefit to the Debtors' estates from any assumption of liabilities or waiver of liabilities; (vii) the likelihood of a Qualified Bid leading to a confirmed chapter 11 plan; (viii) the transaction structure and execution risk, including conditions to, timing of, and certainty of closing, availability of financing and financial wherewithal to meet all commitments, and any required governmental or other approvals; (ix) the tax consequences of such Qualified Bid; (x) equitable considerations surrounding the structure of the Qualified Bid, including but not limited to the impact upon the employees, vendors, and the community; and (xi) any other factors the Debtors may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the "Bid Assessment Criteria").

The Auction shall be conducted according to the following procedures:

a. The Debtors Shall Preside Over the Auction; Participation and Attendance at the Auction

The Debtors and their professionals shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid (the "Baseline Bid"). All incremental Bids made thereafter shall constitute overbids (each, an "Overbid") and shall be made and received on an open basis, and all material terms of

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each Overbid shall be fully disclosed to all other Qualified Bidders. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid, all Overbids, and the Successful Bid.

Only Qualified Bidders that have submitted Qualified Bids by the Bid Deadline are eligible to participate in the Auction, subject to the terms of these Bid Procedures and other limitations as may reasonably be imposed by the Debtors. Qualified Bidders participating in the Auction must appear at the Auction in person or through a duly authorized representative.

Any party in interest may attend (but not participate in) the Auction if any such party in interest provides the Debtors with written notice of its intention to attend the Auction on or before the Bid Deadline, which written notice shall be sent to proposed counsel for the Debtors via electronic mail, to John Mitchell and Yelena Archiyan at john.mitchell@katten.com and yelena.archiyan@katten.com, respectively. Only Qualified Bidders will be entitled to make Bids at the Auction. For the avoidance of doubt, the Consultation Parties may attend the Auction without sending prior written notice of their intention to do so.

b. <u>Terms of Overbids</u>

i. <u>Minimum Overbid</u>. Any Overbid, including any Bids by the Stalking Horse Bidder, must be made in minimum increments of $1,000,000, *provided* that the initial Overbid must total the Break-Up Fee plus expenses incurred, plus the minimum overbid amount. For the avoidance of doubt, all subsequent Overbids shall be subject to the minimum Overbid.

ii. <u>Conclusion of Each Overbid Round</u>. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline

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(the "Overbid Round Deadline"), subject to extension by the Debtors, by which time any Overbids must be submitted to the Debtors.

iii. Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Qualified Bid or Overbid and shall otherwise comply with the terms of these Bid Procedures.

iv. Announcing Highest Bid. After each Overbid Round Deadline, the Debtors shall determine, in consultation with the Consultation Parties, whether an Overbid is higher or otherwise better than the Baseline Bid in the initial Overbid round or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the "Prevailing Highest Bid"). The Debtors shall announce and describe to all Qualified Bidders present at the Auction the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid, the identity of the Bidder with the Prevailing Highest Bid, as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Debtors' reasonable business judgment.

c. Consideration of Overbids

The Debtors, in consultation with the Consultation Parties, reserve the right to adjourn the Auction as necessary to (i) facilitate discussions between the Debtors and Qualified Bidders, (ii) provide Qualified Bidders with additional time to consider how they wish to proceed, and (iii) provide Qualified Bidders the opportunity to offer such additional evidence as the Debtors may require, such as with respect to financial capacity or sufficient funding or financing, in order to consummate the proposed Sale at the

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prevailing Overbid amount. In any Auction, the Stalking Horse Bidder shall be entitled to a bid credit (which it can bid, and which shall be treated as a cash Bid) in an amount equal to the amount of the Break-Up Fee and Expense Reimbursement.

d. Closing the Auction

The Auction shall continue until there is only one Qualified Bid that the Debtors determine, after consultation with the Consultation Parties, and based on the Debtors' reasonable business judgment, to be the highest or otherwise best Qualified Bid for the Assets. Such Qualified Bid shall be declared the "Successful Bid," and such Qualified Bidder, the "Successful Bidder," and the Auction will be closed. Such acceptance by the Debtors of the Successful Bid is conditioned upon approval by the Court of the Successful Bid. Following the closing of the Auction, the Debtors shall not initiate contact with, solicit, or encourage proposals from any person or entity with respect to the Assets.

e. No Collusion; Good Faith *Bona Fide* Offer

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the bidding, (ii) its Qualified Bid is a good-faith *bona fide* offer, and (iii) it intends to consummate the proposed Sale if selected as the Successful Bidder.

E. Backup Bidder

Notwithstanding anything in these Bid Procedures to the contrary, if an Auction is conducted, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid at the Auction for the Assets shall be required to serve as a backup bidder (the

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"Backup Bidder") until such time as the Sale to the Successful Bidder is consummated, but no later than thirty (30) days past the Sale Hearing, and each Qualified Bidder shall agree and be deemed to agree to be the Backup Bidder if so designated by the Debtors.

The identity of the Backup Bidder and the amount and material terms of the Qualified Bid of the Backup Bidder (the "Backup Bid") shall be announced by the Debtors, after consultation with the Consultation Parties, at the conclusion of the Auction at the same time the Debtors announce the identity of the Successful Bidder. The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until such time as the Sale is consummated. The Backup Bidder's Deposit shall be held in escrow pending consummation of the Sale to the Successful Bidder.

If a Successful Bidder fails to consummate the approved Sale contemplated by its Successful Bid, the Debtors may select the Backup Bidder as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party. In such case, the defaulting Successful Bidder's Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Successful Bidder, including with respect to specific performance.

F. <u>Notice and Consultation Parties</u>

Information that must be provided to the "Notice Parties" under these Bid Procedures must be provided to the following parties: (i) counsel for the Debtors, Katten

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Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (ii) Washington co-counsel for the Debtors, Bush Kornfeld LLP, 601 Union St., Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (iii) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (iv) financial advisor for the Debtors, VeroPeak LLC, 4539 N 22nd St, Ste N, Phoenix, AZ 85016, Attn: Enrique Acevedo (eacevedo@veropeakpartners.com) and Greg Hill (ghill@veropeakpartners.com); (v) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (vi) counsel for the Debtors' prepetition lenders, (a) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (b) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay (jsakay@buchalter.com); (vii) counsel for any statutory committee appointed in these Chapter 11 Cases; and (viii) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin (Amy.Lambdin@usdoj.gov).

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The term “Consultation Parties” shall mean: (i) counsel to the Debtors’ prepetition lenders; (ii) counsel to the Debtors’ postpetition lender; (iii) and (iv) counsel to any statutory committee appointed in these Chapter 11 Cases.

G. <u>Reservation of Rights</u>

The Debtors reserve their rights to modify these Bid Procedures, after consultation with the Consultation Parties, in any manner that they reasonably determine will best promote the goals of these Bid Procedures, or impose, at or prior to the Auction, additional customary terms and conditions in connection with a Sale, including, without limitation: (i) extending the deadlines set forth in these Bid Procedures; (ii) adjourning the Auction at the Auction; (iii) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (iv) canceling the Auction; and (v) rejecting any or all Bids or Qualified Bids. Any such modifications are without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA.

For the avoidance of doubt and notwithstanding anything to the contrary herein, nothing in these Bid Procedures or the Bid Procedures Order shall require a Debtor or the board of directors, board of managers, or similar governing body of a Debtor to take any action or to refrain from taking any action related to any sale transaction to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under the applicable law. Further, nothing in these Bid Procedures or the Bid Procedures Order shall diminish the right of the Debtors and their respective directors, officers, employees, investment bankers, attorneys, accountants, consultants,

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and other advisors or representatives to: (i) consider, respond to, and facilitate alternate proposals for sales or other restructuring transactions involving any or all of the Assets (each, an "Alternate Proposal"); (ii) provide access to non- public information concerning the Debtors to any entity or enter into confidentiality agreements or nondisclosure agreements with any entity; (iii) maintain or continue discussions or negotiations with respect to Alternate Proposals; (iv) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiation of Alternate Proposals; and (v) enter into or continue discussions or negotiations with holders of claims against or equity interests in a Debtor or any other party in interest in these Chapter 11 Cases or any other entity regarding Alternate Proposals.

H. <u>Consent to Jurisdiction</u>

All Bidders will be deemed to have consented to the exclusive jurisdiction of the Court, consented to the Court entering final orders and judgments, and waived any right to a jury trial in connection with any and all disputes relating to, arising from, or connected with the Auction, the marketing process, the Sale, and the construction and enforcement of any purchase agreement.

I. <u>Sale Hearing</u>

A hearing to consider approval of the Successful Bid (or to approve the Stalking Horse APA, as applicable, if no Auction is held) (the "Sale Hearing") is proposed to take place on **September 1, 2026, at 10:00 a.m. (PT)**. At the Sale Hearing, the Debtors will present such Successful Bid to the Court for approval. For the avoidance of doubt, the

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Sale Hearing may be a confirmation hearing if the Debtors and the Successful Bidder elect to implement a Sale pursuant to a chapter 11 plan.

J. Return of Deposit

The Deposit of the Successful Bidder shall be applied to the Purchase Price of the Sale at closing. The Deposits for each Qualified Bidder shall be held in one or more escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to the Successful Bidder and the Backup Bidder) promptly after the Auction.

If a Successful Bidder fails to consummate a proposed transaction because of a material breach by such Successful Bidder (as determined by the Court), the Debtors will not have any obligation to return the Deposit deposited by such Successful Bidder, which may be retained by the Debtors as liquidated damages, in addition to any and all rights, remedies, or causes of action that may be available to the Debtors, and the Debtors shall be free to consummate the proposed transaction with the applicable Backup Bidder without the need for an additional hearing or order of the Court.

K. No Modification of Bid Procedures

These Bid Procedures may not be modified except with the express prior written consent of the Debtors.

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DATED this ___ day of June, 2026.

BUSH KORNFELD LLP

By________________________________
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Thomas A. Buford, WSBA #52969
Jason Wax, WSBA #41944
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and

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EXHIBIT 2

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Debtors and Debtors-in-Possession

HONORABLE FREDERICK P. CORBIT

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re BREWSTER HEIGHTS PACKING & ORCHARDS, LP,[1] Debtors.	Chapter 11 Lead Case No. 26-01136 Jointly Administered NOTICE OF AUCTION AND SALE HEARING

[1] The debtors are Brewster Heights Packing & Orchards, LP (Case No. 26-01136); Gebbers Farms Inc. (Case No. 26-01140); Gebbers Orchards, Inc. (Case No. 26-01141); C&M II, LLC (Case No. 26-01137); D&E Storage, LLC (Case No. 26-01138); Eastco, LLC (Case No. 26-01139); GF SA, LLC (Case No. 26-01142); Northco, LLC (Case No. 26-01143); P&G Orchards, LLC (Case No. 26-01144); REPO, LLC (Case No. 26-01145); TJF Properties, LLC (Case No. 26-01146); Westco Orchards, LLC (Case No. 26-01147); and Westco Sales, Inc. (Case No. 26-01148) (collectively, the "Chapter 11 Cases").

PLEASE TAKE NOTICE REGARDING THE FOLLOWING:

On June 4, 2026 (the "Petition Date"), the above-captioned debtors and debtors in possession (collectively, the "Debtors"), each filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Washington (the "Court").

The Debtors are soliciting offers for the purchase of substantially all of the Debtors' assets and assumption of certain liabilities of the Debtors consistent with the bid procedures (the "Bid Procedures") approved by the Court (the "Court") by entry of an order on July 1, 2026 [Docket No. __] (the "Bid Procedures Order"). **All interested bidders should carefully read the Bid Procedures and Bid Procedures Order**. To the extent that there are any inconsistencies between this notice and the Bid Procedures or the Bid Procedures Order, the Bid Procedures or the Bid Procedures Order, as applicable, shall govern in all respects.

The Bid Deadline is **August 7, 2026 at 4:00 p.m. (PT)**. Any person or entity that wishes to participate in the Auction must comply with the participation requirements, bid requirements, and other requirements set forth in the Bid Procedures. Only Qualified Bidders that have submitted Qualified Bids by the **August 7, 2026 at 4:00 p.m. (PT)** Bid Deadline are eligible to participate in the Auction, subject to the terms of the Bid Procedures and other limitations as may reasonably be imposed by Debtors. Qualified Bidders participating in the Auction must appear at the Auction in person or through a duly authorized representative.

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Any party in interest may attend (but not participate in) the Auction if any such party in interest provides the Debtors with written notice of its intention to attend the Auction on or before the Bid Deadline, which written notice shall be sent to proposed counsel for Debtors via electronic mail, to John Mitchell and Yelena Archiyan at john.mitchell@katten.com and yelena.archiyan@katten.com, respectively.

The Debtors may conduct the Auction, at which time they will consider proposals submitted to the Debtors and their professionals, by and pursuant to the Bid Procedures as set forth in the Bid Procedures Order, on **August 12 at 10:00 a.m. (PT)**, via live auction and/or remote video.

A hearing to consider approval of the Successful Bid (or to approve the Stalking Horse APA, as applicable, if no Auction is held) (the "Sale Hearing") shall take place on **September 1, 2026, at 10:00 a.m. (PT)** at the United States Bankruptcy Court for the Eastern District of Washington, 904 West Riverside Avenue, Suite 304, Spokane, WA 99210. At the Sale Hearing, the Debtors will present such Successful Bid to the Court for approval.

Objections, if any, to the sale of the Assets to the Successful Bidder, as that term is defined in, and determined through, the Bid Procedures (each such objection, a "Final Sale Objection"), must be filed with the Court and served upon counsel to Debtors so as to be actually received by **August 21, 2026, at 4:00 p.m. (PT)**. In each case, all objections must: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules, the Local Rules, and any orders of the Court; (iii) state with particularity the legal and factual bases for the objection and the specific grounds

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therefor; and (iv) be filed with the Court no later than the applicable objection deadline and served on the following parties (the "Notice Parties"): (the "Notice Parties"): (a) counsel for the Debtors, Katten Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (b) Washington co-counsel for the Debtors, Bush Kornfeld LLP, 601 Union St., Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (c) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill (jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (d) financial advisor for the Debtors, VeroPeak LLC, 4539 N 22nd St, Ste N, Phoenix, AZ 85016, Attn: Enrique Acevedo (eacevedo@veropeakpartners.com) and Greg Hill (ghill@veropeakpartners.com); (e) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (f) counsel for the Debtors' prepetition lenders, (i) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (ii) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay (jsakay@buchalter.com); (g) counsel for any statutory committee appointed in these Chapter 11 Cases; and (h) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin

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(Amy.Lambdin@usdoj.gov). **Any party who fails to timely file an objection to entry of the Sale Order (i) shall be forever barred from objecting thereto, (ii) shall be deemed to consent to the sale of the Assets as approved by any Sale Order, and (iii) shall be deemed to "consent" for purposes of Section 363(f)(2) of the Bankruptcy Code**.

Following service of the Notice of Auction Results, as defined in the Bid Procedures Order, parties may file an objection to the proposed assumption, assignment, cure, and/or adequate assurance the procedures related thereto (each such objection, a "Cure Objection"). Any Cure Objection shall be (i) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) served upon the Notice Parties by no later than **August 21, 2026, at 4:00 p.m. (PT)**.

This notice is subject to the fuller terms and conditions of the Bid Procedures Motion, the Bid Procedures, and the Bid Procedures Order. In the event of any conflict, the Bid Procedures Order shall control, and Debtors encourage parties in interest to review such documents in their entirety. Parties interested in receiving more information regarding the Sale and/or copies of any related document, including the Bid Procedures Motion, or the Bid Procedures Order, may make a written request to counsel for the proposed counsel for the Debtors.

Copies of the Bid Procedures Motion, the Bid Procedures Order, and the Bid Procedures may be obtained free of charge by visiting the Debtors' Case Website (https://cases.stretto.com/BrewsterHeights).

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FAILURE TO ABIDE BY THE BID PROCEDURES, THE BID PROCEDURES ORDER OR ANY OTHER APPLICABLE ORDER OF THE COURT ENTERED IN THESE CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID AND YOUR DISQUALIFICATION FROM PARTICIPATING IN THE BID FOR AND AUCTION OF ANY OF THE DEBTORS' ASSETS.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION IN ACCORDANCE WITH THE BID PROCEDURES ORDER, INCLUDING THE FAILURE TO FILE ANY SUCH OBJECTION BY THE APPLICABLE OBJECTION DEADLINE, SHALL FOREVER BAR SUCH PERSON OR ENTITY FROM ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY SUCH OBJECTION TO THE RELIEF REQUESTED IN THE MOTION, THE CONSUMMATION OF ANY APPLICABLE SALE, INCLUDING THE SALE OF ANY ASSETS TO A SUCCESSFUL BIDDER FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES PURSUANT TO BANKRUPTCY CODE § 363(f) OR THE TERMS OF THE STALKING HORSE APA OR OTHER ASSET PURCHASE AGREEMENT EXECUTED BY THE DEBTORS.

DATED this __ day of June, 2026.

BUSH KORNFELD LLP

By________________________________
Christine M. Tobin-Presser, WSBA #27628
Thomas A. Buford, WSBA #52969
Jason Wax, WSBA #41944
Shane E. Creason, WSBA #63865

and

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EXHIBIT 3

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Proposed Attorneys for the Chapter 11
Debtors and Debtors-in-Possession

HONORABLE FREDERICK P. CORBIT

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re BREWSTER HEIGHTS PACKING & ORCHARDS, LP,[1] Debtors.	Chapter 11 Lead Case No. 26-01136 Jointly Administered NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES

[1] The debtors are Brewster Heights Packing & Orchards, LP (Case No. 26-01136); Gebbers Farms Inc. (Case No. 26-01140); Gebbers Orchards, Inc. (Case No. 26-01141); C&M II, LLC (Case No. 26-01137); D&E Storage, LLC (Case No. 26-01138); Eastco, LLC (Case No. 26-01139); GF SA, LLC (Case No. 26-01142); Northco, LLC (Case No. 26-01143); P&G Orchards, LLC (Case No. 26-01144); REPO, LLC (Case No. 26-01145); TJF Properties, LLC (Case No. 26-01146); Westco Orchards, LLC (Case No. 26-01147); and Westco Sales, Inc. (Case No. 26-01148) (collectively, the "Chapter 11 Cases").

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH ONE OR MORE OF DEBTORS AS SET FORTH ON EXHIBIT A ATTACHED HERETO.

PLEASE TAKE NOTICE that on July 1, 2026, the United States Bankruptcy Court for the Eastern District of Washington (the "Court") entered the *Order (I) Approving Debtors' Motion for Entry of an Order (I) Approving Bid Procedures for the Sale of Substantially All of Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Scheduling Certain Dates with Respect Thereto; (III) Approving the Sale of Substantially All of Debtors' Assets; (IV) Approving Assumption and Assignment Procedures; and (V) Granting Related Relief* [Docket No. ___] (the "Bid Procedures Order"), authorizing the Debtors to solicit offers for the purchase of substantially all of the Debtors' assets (the "Assets") and, if necessary, to conduct an auction (the "Auction") to select the party to purchase such Assets. The Auction (if any) will be governed by the bid procedures attached to the Bid Procedures Order as Exhibit 1 (the "Bid Procedures").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bid Procedures and the terms of any Successful Bid, the Debtors *may* assume and assign to the Successful Bidder certain of the Assigned Contracts listed on the Assigned Contracts Schedule, attached hereto as Exhibit A, to which you are a counterparty, upon approval of the Sale. The Assigned Contracts Schedule can also be viewed on Debtors' Case Website (https://cases.stretto.com/BrewsterHeights). The Debtors have conducted a review of their books and records and have determined that the cure amounts for unpaid monetary

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obligations under such Assigned Contracts are as set forth on Exhibit A attached hereto (the "Cure Amounts").

PLEASE TAKE FURTHER NOTICE that if you disagree with the proposed Cure Amounts, object to a proposed assignment to the Successful Bidder of any Assigned Contract, or object to the ability of the Successful Bidder to provide adequate assurance of future performance with respect to any Assigned Contract, your objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Rules, and any order governing the administration of these Chapter 11 Cases; (iii) state with specificity the nature of the objection and, if the objection pertains to the proposed Cure Amounts, state the correct cure amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) if you object to proposed assumption, assignment, cure, and/or adequate assurance and the procedures relating thereto, be filed with the Court **no later than August 21, 2026 at 4:00 p.m. (PT)** (the "Cure Objection Deadline"); and be served on the following parties: (a) counsel for the Debtors, Katten Muchin Rosenman LLP, 2121 N. Pearl Street, Suite 1100, Dallas, TX 75201, Attn: John Mitchell (john.mitchell@katten.com) and Yelena Archiyan (yelena.archiyan@katten.com); (b) proposed Washington co-counsel for the Debtors, Bush Kornfeld LLP, 601 Union St., Suite 4630, Seattle, WA 98101, Attn: Thomas Buford (tbuford@bskd.com), Jason Wax (jwax@bskd.com), and Christy Tobin-Presser (ctobin@bskd.com); (c) the Debtors' investment banker, Capstone Capital Markets LLC, 2670 S. Eagle Rd., Boise, ID 83642, Attn: Skye Root (sroot@capstonepartners.com), Jerry Sturgill

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(jsturgill@capstonepartners.com), and Arnav Virmani (avirmani@capstonepartners.com); (d) proposed financial advisor for the Debtors, VeroPeak LLC, 4539 N 22nd St, Ste N, Phoenix, AZ 85016, Attn: Enrique Acevedo (eacevedo@veropeakpartners.com) and Greg Hill (ghill@veropeakpartners.com); (e) counsel for the Debtors' postpetition lender, Ballard Spahr LLP, 1301 Second Avenue, Suite 2800, Seattle, WA 98101, Attn: Gregory Fox (foxg@ballardspahr.com); (f) counsel for the Debtors' prepetition lenders, (i) Seyfarth Shaw LLP, 233 S. Wacker Drive, Suite 8000, Chicago, IL 60606, Attn: Jason DeJonker (JDeJonker@seyfarth.com) and Nicholas Marcus (nmarcus@seyfarth.com); and (ii) Buchalter, 600 University St., Ste 3100, Seattle, WA 98101, Attn: Ariel Berrios (aberrios@buchalter.com) and Joe Sakay (jsakay@buchalter.com); (g) counsel for any statutory committee appointed in these Chapter 11 Cases; and (h) the Office of the United States Trustee for the Eastern District of Washington, 920 W. Riverside, Room 593, Spokane, WA 99201, Attn: Amy Lambdin (Amy.Lambdin@usdoj.gov).

PLEASE TAKE FURTHER NOTICE that if no objection to (i) the Cure Amount(s), (ii) the proposed assignment and assumption of any Assigned Contract, or (iii) adequate assurance of the Successful Bidder's ability to perform is filed by the Cure Objection Deadline, then (i) you will be deemed to have stipulated that the Cure Amounts as determined by the Debtors are correct; (ii) you will be forever barred, estopped, and enjoined from asserting any additional cure amount under the proposed Assigned Contract; and (iii) you will be forever barred, estopped, and enjoined from objecting to such proposed assignment to the Successful Bidder on any grounds, including that the

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Successful Bidder has not provided adequate assurance of future performance as of the closing date of the Sale.

PLEASE TAKE FURTHER NOTICE that any Cure Objection in connection with the Successful Bid that otherwise complies with these procedures yet remains unresolved as of the commencement of the Sale Hearing, shall be heard at a later date to be fixed by the Court.

PLEASE TAKE FURTHER NOTICE that, notwithstanding anything herein, the mere listing of any Assigned Contract on the Cure Notice does not require or guarantee that such Assigned Contract will be assumed by the Debtors at any time or assumed and assigned, and all rights of the Debtors and the Successful Bidder with respect to such Assigned Contract are reserved. Moreover, the Debtors explicitly reserve their rights, in their reasonable discretion, to seek to reject or assume each Assigned Contract pursuant to Bankruptcy Code § 365(a) and in accordance with the procedures allowing the Debtors and/or the Successful Bidder, as applicable, to designate any Assigned Contract as either rejected or assumed on a post-closing basis.

PLEASE TAKE FURTHER NOTICE that nothing herein (i) alters in any way the prepetition nature of the Assigned Contracts or the validity, priority, or amount of any claims of a counterparty to any Assigned Contract against the Debtors that may arise under such Assigned Contract; (ii) creates a postpetition contract or agreement; or (iii) elevates to administrative expense priority any claims of a counterparty to any Assigned Contract against Debtors that may arise under such Assigned Contract.

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DATED this ___ day of July, 2026.

BUSH KORNFELD LLP

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EXHIBIT B

Exhibit B

As of the date of the filing of the Bid Procedures Motion, the Term Sheet has not been finalized. Once finalized, the Term Sheet will be filed and served on the appropriate parties.