

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2017

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: **1-3390**

**SEABOARD CORPORATION**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation or Organization)

**04-2260388**

(I.R.S. Employer Identification No.)

**9000 West 67th Street, Merriam, Kansas 66202**

(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code **(913) 676-8800**

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Common Stock \$1.00 Par Value	NYSE American

Securities registered pursuant to Section 12(g) of the Act:

None

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of the 260,841 shares of Seaboard common stock held by nonaffiliates was approximately \$1,042,059,795, based on the closing price of \$3,995.00 per share on July 1, 2017, the end of Seaboard's most recently completed second fiscal quarter. As of January 31, 2018, the number of shares of common stock outstanding was 1,170,550.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the following documents are incorporated by reference into the indicated parts of this report: (1) Seaboard Corporation's annual report to stockholders furnished to the SEC pursuant to Rule 14a-3(b) – Parts I and II; and (2) Seaboard Corporation's definitive proxy statement, which will be filed no later than 120 days after December 31, 2017, pursuant to Regulation 14A for the 2018 annual meeting of stockholders – Part III.

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### SEABOARD CORPORATION

#### Forward-looking Statements

This report, including information included or incorporated by reference in this report, contains certain forward-looking statements with respect to the financial condition, results of operations, plans, objectives, future performance and business of Seaboard Corporation and its subsidiaries (“Seaboard”). Forward-looking statements generally may be identified as statements that are not historical in nature and statements preceded by, followed by or that include the words “believes,” “expects,” “may,” “will,” “should,” “could,” “anticipates,” “estimates,” “intends” or similar expressions.

In more specific terms, forward-looking statements include, without limitation:

- statements concerning the projection of revenues, income or loss, capital expenditures, capital structure or other financial items;
- statements regarding the plans and objectives of management for future operations;
- statements of future economic performance;
- statements regarding the intent, belief or current expectations of Seaboard and its management with respect to:
  - (i) Seaboard’s ability to obtain adequate financing and liquidity;
  - (ii) the price of feed stocks and other materials used by Seaboard;
  - (iii) the sale price or market conditions for pork, grains, sugar, turkey and other products and services;
  - (iv) the recorded tax effects under certain circumstances and changes in tax laws;
  - (v) the volume of business and working capital requirements associated with the competitive trading environment for the Commodity Trading and Milling division;
  - (vi) the charter hire rates and fuel prices for vessels;
  - (vii) the fuel costs and related spot market prices in the Dominican Republic;
  - (viii) the effect of the fluctuation in foreign currency exchange rates;
  - (ix) the profitability or sales volume of any of Seaboard’s divisions;
  - (x) the anticipated costs and completion timetables for Seaboard’s scheduled capital improvements, acquisitions and dispositions;
  - (xi) the productive capacity of facilities that are planned or under construction, and the timing of the commencement of operations at such facilities; or
  - (xii) other trends affecting Seaboard’s financial condition or results of operations, and statements of the assumptions underlying or relating to any of the foregoing statements.

This list of forward-looking statements is not exclusive. Seaboard undertakes no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events, changes in assumptions or otherwise. Forward-looking statements are not guarantees of future performance or results. They involve risks, uncertainties and assumptions. Actual results may differ materially from those contemplated by the forward-looking statements due to a variety of factors. The information contained in this Form 10-K and in other filings Seaboard makes with the Securities and Exchange Commission (the “SEC”), including without limitation, the information under the items “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this Form 10-K, identifies important factors which could cause such differences.

**FORM 10-K**

**SEABOARD CORPORATION**

**PART I**

**Item 1. Business**

**(a) General Development of Business**

Originally founded in 1918, today Seaboard Corporation, a Delaware corporation organized in 1946, and its subsidiaries (“Seaboard”) are a diverse global agribusiness and transportation company. In the United States (“U.S.”), Seaboard is primarily engaged in pork production and processing and ocean transportation. Overseas, Seaboard is primarily engaged in commodity merchandising, grain processing, sugar production and electric power generation. Seaboard also has an equity method investment that has turkey operations in the U.S.

Seaboard Flour LLC and SFC Preferred, LLC, Delaware limited liability companies, collectively own approximately 76% of the outstanding common stock of Seaboard. Mr. Steven J. Bresky, President and Chief Executive Officer of Seaboard, and other members of the Bresky family, including trusts created for their benefit, own the equity interests of Seaboard Flour LLC and SFC Preferred, LLC.

**(b) Financial Information about Segments**

The financial information relating to reportable segments required by this item is incorporated herein by reference to Note 13 to the consolidated financial statements included in Seaboard’s annual report to stockholders furnished to the SEC pursuant to Rule 14a-3(b) and attached as Exhibit 13 to this annual report on Form 10-K (“Annual Report to Stockholders”).

**(c) Narrative Description of Business**

**(1) Business Done and Intended to be Done by the Registrant**

**(i) Principal Products and Services**

Pork Division – Seaboard, through its subsidiary Seaboard Foods LLC, engages in the business of hog production and pork processing in the U.S. Through these operations, Seaboard’s Pork division produces and sells fresh and frozen pork products to further processors, foodservice operators, grocery stores, distributors and retail outlets throughout the U.S., and, to a lesser extent, internationally. Other further processing companies also purchase fresh and frozen pork products in bulk and produce products, such as lunchmeat, ham, bacon and sausage. Fresh pork, such as loins, tenderloins and ribs are sold to distributors and grocery stores. The Pork division’s hog processing plant is located in Oklahoma and generally operates at capacity. The Pork division also has a ham-boning and processing plant in Mexico.

The Pork division’s hog production operations consist of the breeding and raising of over five million hogs annually primarily at facilities owned by Seaboard or at facilities owned and operated by third parties with whom Seaboard has grower contracts. The hog production operations are located in the Central U.S. As a part of the hog production operations, the Pork division produces specially formulated feed for the hogs at seven owned feed mills. The remaining hogs processed are purchased from third-party hog producers, primarily pursuant to purchase contracts.

The Pork division produces biodiesel at facilities in Oklahoma and Missouri. The biodiesel is produced from pork fat supplied by the division’s Oklahoma pork processing plant and from other animal fat or vegetable oil supplied by non-Seaboard facilities. The biodiesel is sold to fuel blenders for distribution and in the retail markets.

The Pork division earns fees to market substantially all of the products produced by Triumph Foods, LLC (“Triumph”) at its pork processing plant located in Missouri, and by Seaboard Triumph Foods, LLC (“STF”) at its pork processing plant located in Iowa. As part of the operations, Seaboard and Triumph sell a portion of their hogs to be processed at the STF plant. Seaboard has a 50% noncontrolling interest in STF.

The Pork division has a 50% noncontrolling interest in Daily’s Premium Meats, LLC (“Daily’s”). Daily’s produces and markets raw and pre-cooked bacon and ham under the Daily’s® brand name primarily for the food service industry and, to a lesser extent, retail markets. Daily’s has three further processing plants located in Utah, Montana and Missouri. Seaboard, STF and Triumph each supply raw product to Daily’s.

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### **SEABOARD CORPORATION**

Commodity Trading and Milling Division – Seaboard’s Commodity Trading and Milling (“CT&M”) division is an integrated agricultural commodity trading, processing and logistics company. This division markets wheat, corn, soybean meal and other commodities in bulk to third parties and affiliated companies. The CT&M division is principally managed under the name of Seaboard Overseas and Trading Group and conducts business primarily through its subsidiaries, Seaboard Overseas Limited with offices in Colombia, Ecuador, Isle of Man, Kenya, Singapore, Korea and South Africa, Seaboard Overseas Trading and Shipping (PTY) Ltd. located in South Africa, PS International, LLC located in Chapel Hill, North Carolina and Canada, and its non-consolidated affiliates, ContiLatin del Peru S.A. located in Peru, Interra International, LLC located in Atlanta, Georgia, Plum Grove Pty Ltd located in Australia, and Zalar Holding S.A. located in Morocco. This division also operates an ocean transportation brokerage operation through Seaboard Bulk Services, Ltd. located in Greece. Seaboard integrates the service of delivering commodities to its customers through the use of chartered and owned bulk vessels.

On January 5, 2018, the CT&M division acquired five entities operating as Groupe Mimran (“Mimran”). Mimran operates three flour mills and an associated trading business located in Senegal, Ivory Coast and Monaco. Excluding the acquisition of Mimran, the CT&M division sources, transports and markets approximately ten million tons of agricultural commodities on an annual basis. All of the commodities marketed by this division are purchased from growing regions worldwide, with primary destinations being Africa, South America, the Caribbean and Asia.

The CT&M division also operates grain and feed milling and related businesses with 38 locations in 20 countries, including wheat flour mills in 16 countries, which are primarily supplied by the trading locations discussed above. The grain processing businesses are operated through 6 consolidated and 18 non-consolidated affiliates in Africa, South America, the Caribbean and Europe. These are primarily flour, feed and maize milling and oilseed crush businesses, which produce approximately five million metric tons of finished products per year. In addition, this division has a noncontrolling interest in poultry businesses in Africa and a bakery business in the Democratic Republic of Congo. Most of the products produced by these operations are sold in the countries in which the products are produced or into adjacent countries.

Marine Division – Seaboard, through its subsidiary, Seaboard Marine Ltd., and various foreign affiliated companies and third-party agents, provides cargo shipping services to 28 countries between the U.S., the Caribbean and Central and South America. Seaboard’s Marine division uses a network of offices and agents throughout the U.S., Canada, Central and South America and the Caribbean to book cargo to and from the U.S. and between the countries it serves. Through agreements with a network of connecting carriers, this division can transport cargo to and from numerous U.S. locations by either truck or rail to and from one of its U.S. port locations, where it is staged for export via vessel or received as import cargo from abroad.

The Marine division’s primary operations are located in Miami, Florida and includes a terminal located at PortMiami and off-dock warehouses for cargo consolidation and temporary storage. This division also operates a cargo terminal facility at the Port of Houston that includes an on-dock warehouse space for temporary storage of bagged grains, resins and other cargoes. This division also makes scheduled vessel calls in Brooklyn, New Orleans, Philadelphia, and 49 foreign ports. The Marine division’s fleet consists of 20 chartered and 3 owned vessels and dry, refrigerated and specialized containers and other related equipment.

Sugar Division – Seaboard, through its subsidiaries, Ingenio y Refineria San Martin del Tabacal S.R.L. and Alconoa S.R.L., as well as other Argentine non-consolidated affiliates, grows sugarcane, which it uses to produce refined sugar and alcohol in Argentina. This division also purchases sugar and alcohol in bulk from third parties mostly within Argentina for subsequent resale. The sugar products are mostly sold in Argentina, primarily to retailers, soft drink manufacturers and food manufacturers, with some exports to the U.S. and other South American countries. Seaboard’s Sugar division grows a large portion of the sugarcane on the nearly 70,000 acres of land it owns in northern Argentina. The cane is processed at an owned mill, one of the largest in Argentina, with a current processing capacity of approximately 250,000 metric tons of sugar and approximately 27 million gallons of alcohol per year. Also, this division owns a 51 megawatt cogeneration power plant that is fueled by using sugarcane by-products, natural gas and other biomass when available.

Power Division – Seaboard, through its subsidiary, Transcontinental Capital Corp. (Bermuda) Ltd., is an unregulated independent power producer generating electricity for the local power grid in the Dominican

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### **SEABOARD CORPORATION**

Republic. Seaboard's Power division operates one owned power generating barge with capacity to generate approximately 108 megawatts of electricity that is secured on the Ozama River in Santo Domingo, Dominican Republic. The facility consists of a system of diesel engines mounted onto barge-type vessels and is capable of using natural gas or heavy fuel oil. This operation is exempt from U.S. regulations under the Public Utility Holding Company Act of 1938, as amended. Seaboard's Power division is not directly involved in the transmission or distribution of electricity and primarily sells on the spot market to wholly government-owned distribution companies. This division also has a 29.9% noncontrolling interest in a 300 megawatt electricity generating facility among a few other equity method investments in energy-related businesses in the Dominican Republic.

Turkey Segment – Seaboard has a 50% noncontrolling voting interest in Butterball, LLC (“Butterball”). Butterball is a vertically integrated producer, processor and marketer of branded and non-branded turkey products. Butterball has four processing plants, two further processing plants and numerous live production and feed milling operations located in North Carolina, Arkansas, Missouri and Kansas. Butterball produces over one billion pounds of turkey each year. Butterball is a national supplier to retail and foodservice outlets, and also exports products to Mexico and numerous other foreign markets.

Other Businesses – Seaboard processes jalapeño peppers at its plant in Honduras, which are primarily shipped to and sold in the U.S.

The information required by this item with respect to the amount or percentage of total revenue contributed by any class of similar products or services, which account for 10% or more of consolidated revenue in any of the last three fiscal years, is set forth in Note 13 to the consolidated financial statements included in Seaboard's Annual Report to Stockholders, which information is incorporated herein by reference.

#### **(ii) Status of Product or Segment**

In August 2017, the Pork division acquired hog inventory and related assets from an existing farm operation for an investment of \$40 million. This acquisition provided additional sows to further increase Seaboard's capacity to fulfill its hog supply commitment for processing at the STF plant, which began operations in September 2017.

During 2017, the CT&M division acquired a pulse and grain elevator in Canada for \$14 million that complements an existing CT&M business in Canada, and invested an additional \$7 million in a grain trading and poultry business in Morocco. The additional investment increased Seaboard's ownership interest in this Moroccan business to 19.4% and, as a result, Seaboard changed its accounting method from the cost method to equity method effective on the date of the additional investment. On January 5, 2018, the CT&M division completed the acquisition of Mimran, including three flour mills in Senegal and Ivory Coast having a combined capacity of approximately 2,750 metric tons a day, and a trading business located in Monaco that is expected to increase Seaboard's annual grain trading volume by approximately 900,000 tons. The purchase price was \$375 million, plus an earn-out between zero and \$48 million, using the exchange rate in effect at closing.

Butterball closed its Montgomery, Illinois, further processing plant in 2017, resulting in charges primarily related to impaired fixed assets and accrued severance. Seaboard's proportionate share of these charges, recognized in income (loss) from affiliates, was \$18 million for the year ended December 31, 2017.

#### **(iii) Sources and Availability of Raw Materials**

None of Seaboard's businesses utilize material amounts of raw materials that are dependent on purchases from one supplier or a small group of dominant suppliers except the following: the Power segment has one primary supplier of natural gas, but the barge can run on other types of fuel; and the Turkey segment purchases a significant portion of its feed and grain used in the manufacturing of feed for its turkeys in North Carolina from Seaboard's 50% partner in Butterball.

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### **SEABOARD CORPORATION**

#### **(iv) Patents, Trademarks, Licenses, Franchises and Concessions**

Seaboard uses the trademark of Seaboard™.

The Pork division uses registered trademarks relating to its products, including Seaboard Farms®, Prairie Fresh®, A Taste Like No Other®, St. Joe Pork®, High Plains Bioenergy®, Prairie Fresh Prime®, Seaboard Foods®, Cook-in Bag®, 67<sup>th</sup> Street® and The Thrill Without The Grill®. Daily's, a non-consolidated affiliate of the Pork division, uses the trademarks Daily's®, Daily's Premium Meats Since 1893®, Buffet Brand® and Del Pueblo®. Seaboard considers the use of these trademarks important to the marketing and promotion of its pork products.

The Marine division uses the registered trademarks of Seaboard Marine® and Seaboard Solutions®. Seaboard believes there is significant recognition of these trademarks in the industry and by many of its customers.

The Sugar division markets certain sugar sales under the Chango® brand.

The Turkey segment uses registered trademarks, including Butterball®, Carolina Turkey® and Farm to Family Butterball®. Seaboard considers the use of these trademarks important to marketing and promotion of its turkey products.

Patents, trademarks, franchises, licenses and concessions are not material to any of Seaboard's other divisions.

#### **(v) Seasonal Business**

The Turkey business is seasonal only on the whole bird side with the Thanksgiving and Christmas holidays driving the majority of those sales. Seaboard's other divisions are not seasonally dependent to any material extent.

#### **(vi) Practices Relating to Working Capital Items**

There are no unusual industry practices or practices of Seaboard relating to working capital items.

#### **(vii) Depending on a Single Customer or Few Customers**

Seaboard does not have sales to any one customer equal to 10% or more of consolidated revenues. The CT&M division derived 12% of its sales from a non-consolidated affiliate for the year ended December 31, 2017. The Sugar division derived 39%, 26% and 20% of its sales from one customer for the years ended December 31, 2017, 2016 and 2015, respectively, and another customer represented 10% of its sales for the year ended December 31, 2017. The Power division sells power in the Dominican Republic on the spot market accessed primarily by three wholly government-owned distribution companies. The Turkey Segment had one customer that represented 13% and 11% of its sales for the years ended December 31, 2017 and 2016, respectively, and another customer that represented 11% of its sales for the year ended December 31, 2017. No other division has sales to a few customers that, if lost, would have a material adverse effect on any such division or on Seaboard taken as a whole.

#### **(viii) Backlog**

Backlog is not material to Seaboard's businesses.

#### **(ix) Government Contracts**

No material portion of Seaboard's business involves government contracts.

#### **(x) Competitive Conditions**

Competition in Seaboard's Pork division comes from a variety of regional, national and international producers and processors and is based primarily on product quality, customer service and price. According to *Successful Farming* and *Informa Economics*, trade publications, Seaboard was ranked number three in pork production (based on sows in production) and number four in processing (based on daily processing capacity, including Triumph's and STF's capacity) in the U.S. in 2017.

Seaboard's commodity trading business to third parties faces competition from numerous traders around the world in a very competitive environment with low margin percentages on most trades. Most of the grain processing and related businesses face competition from either imported products or other local producers in the same industries.

Seaboard's Marine division faces competition based on price, reliable sailing frequencies and customer service. Seaboard believes it is among the top five ranking ocean liner services for cargoes in the Caribbean and Central America based on cargo volume.

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### **SEABOARD CORPORATION**

Seaboard's Sugar division owns one of the largest sugar mills in Argentina and faces significant competition for sugar sales in the local Argentine market. Sugar prices in Argentina can fluctuate compared to world markets due to Argentine government price control and protection policies.

Seaboard's Power division is located in the Dominican Republic. Power generated by this division is sold on the spot market or to contract customers at prices based on market conditions and cost-based rates.

Competition for the Turkey segment comes from a variety of national and regional producers and processors and is based primarily on product quality, customer service and price. Butterball ranks as one of the nation's top three turkey producers (based on live production).

#### **(xi) Research and Development Activities**

Seaboard's Pork division and Turkey segment each conduct research and development activities focused on various aspects of their respective vertically integrated pork and turkey processing systems, including improving product quality, production processes, animal genetics, nutrition and health. Incremental costs incurred to perform these tests are expensed as incurred and are not material to operating results.

#### **(xii) Environmental Compliance**

Seaboard's Pork division and Turkey segment are subject to numerous federal, state and local provisions relating to the environment that require the expenditure of funds in the ordinary course of business. Seaboard's Pork division and Turkey segment do not anticipate making expenditures for these purposes that, in the aggregate, would have a significant effect on Seaboard's financial condition or results of operations.

#### **(xiii) Number of Persons Employed by Registrant**

At the time of this report, Seaboard, excluding the recent Mimran acquisition and non-consolidated affiliates, had approximately 11,800 employees, of whom approximately 6,400 were employed in the U.S.

#### **(d) Financial Information about Geographic Areas**

In addition to the narrative disclosure provided below, the financial information relating to export sales required by this item is incorporated herein by reference to Note 13 to the consolidated financial statements included in Seaboard's Annual Report to Stockholders.

Seaboard considers its relations with the governments of the countries in which its foreign subsidiaries and affiliates are located to be satisfactory, but foreign operations in lesser-developed countries are subject to risks of doing business such as potential civil unrest and government instability, increasing the exposure to potential expropriation, confiscation, war, insurrection, civil strife and revolution, sales price controls, currency inconvertibility and devaluation, and currency exchange controls. To minimize certain of these risks, Seaboard has insured its investment in an affiliated flour mill in the Democratic Republic of Congo to the extent available and deemed appropriate with the Overseas Private Investment Corporation, an agency of the U.S. Government. At the date of this report, Seaboard is not aware of any situations that could have a material effect on Seaboard's business.

#### **(e) Available Information**

Seaboard electronically files with the SEC annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports pursuant to Section 13(a) or 15(d) of the Exchange Act. The public may read and copy any materials filed with the SEC at their public reference room located at 100 F Street N.E., Washington, D.C. 20549. The public may obtain further information concerning the public reference room and any applicable copy charges, as well as the process of obtaining copies of filed documents by calling 1-800-SEC-0330.

The SEC maintains an internet website that contains reports, proxy and information statements, and other information regarding electronic filers at [www.sec.gov](http://www.sec.gov). Seaboard provides access to its most recent Form 10-K, 10-Q and 8-K reports, and any amendments to these reports, on its internet website, [www.seaboardcorp.com](http://www.seaboardcorp.com), free of charge, as soon as reasonably practicable after those reports are electronically filed with the SEC.

Please note that any internet addresses provided in this report are for information purposes only and are not intended to be hyperlinks. Accordingly, no information provided at such Internet addresses is intended or deemed to be incorporated herein by reference.

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**SEABOARD CORPORATION**

**Executive Officers of the Registrant**

The following table lists the executive officers of Seaboard. Generally, executive officers are elected at the annual meeting of the Board of Directors following the Annual Meeting of Stockholders and hold office until the next such annual meeting or until their respective successors are duly chosen and qualified. There are no arrangements or understandings pursuant to which any executive officer was elected.

<u>Name (Age)</u>	<u>Positions and Offices with Registrant and Affiliates</u>
Steven J. Bresky (64)	President and Chief Executive Officer
Robert L. Steer (58)	Executive Vice President, Chief Financial Officer
David M. Becker (56)	Senior Vice President, General Counsel and Secretary
James L. Gutsch (64)	Senior Vice President, Engineering
Ralph L. Moss (72)	Senior Vice President, Governmental Affairs
David S. Oswalt (50)	Senior Vice President, Finance and Treasurer
David H. Rankin (46)	Senior Vice President, Taxation and Business Development
Michael D. Trollinger (49)	Vice President, Corporate Controller and Chief Accounting Officer
Ty A. Tywater (48)	Vice President, Audit Services
David M. Dannov (56)	President, Seaboard Overseas and Trading Group
Edward A. Gonzalez (52)	President, Seaboard Marine Ltd.
Terry J. Holton (58)	President, Seaboard Foods LLC

Mr. Bresky has served as President and Chief Executive Officer of Seaboard since July 2006.

Mr. Steer has served as Executive Vice President, Chief Financial Officer of Seaboard since April 2011.

Mr. Becker has served as Senior Vice President, General Counsel and Secretary of Seaboard since April 2011.

Mr. Gutsch has served as Senior Vice President, Engineering of Seaboard since April 2011.

Mr. Moss has served as Senior Vice President, Governmental Affairs of Seaboard since April 2011.

Mr. Oswalt has served as Senior Vice President, Finance and Treasurer since April 2013, and previously as Senior Vice President, Taxation and Business Development of Seaboard from 2011 to 2013.

Mr. Rankin has served as Senior Vice President, Taxation and Business Development since April 2015 and previously as Vice President, Taxation and Business Development since April 2013 and Vice President of Seaboard from 2010 to 2013.

Mr. Trollinger has served as Vice President, Corporate Controller and Chief Accounting Office of Seaboard since March 2015. Prior to that, he served as Vice President, Finance & Operational Reporting for Jack Cooper Enterprises, Inc. from 2011 to 2015.

Mr. Tywater has served as Vice President, Audit Services of Seaboard since November 2008.

Mr. Dannov has served as President of Seaboard Overseas and Trading Group since August 2006.

Mr. Gonzalez has served as President of Seaboard Marine Ltd. since January 2005.

Mr. Holton has served as President of Seaboard Foods LLC since December 2011.



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### SEABOARD CORPORATION

#### **Item 1A. Risk Factors**

Seaboard has identified important risks and uncertainties that could affect the results of operations, financial condition or business and that could cause them to differ materially from Seaboard's historical results of operations, financial condition or business, or those contemplated by forward-looking statements made herein or elsewhere, by, or on behalf of, Seaboard. Factors that could cause or contribute to such differences include those factors described below.

#### **(a) General**

- (1) Seaboard's Operations Are Subject to the General Risks of the Food Industry. The divisions of the business that are in the food products manufacturing industry are subject to the risks posed by:

- food spoilage or contamination;
- evolving consumer preferences and nutritional and health-related concerns;
- international, foreign, federal, state and local food processing regulations;
- consumer product liability claims;
- product tampering; and
- public perception of food production practices, including handling of production and live animals.

If one or more of these risks were to materialize, Seaboard's revenues could decrease, costs of doing business could increase, and Seaboard's operating results could be adversely affected.

- (2) International Operations Subject Seaboard to Risks That Could Have a Significant Impact on Seaboard's Business. Seaboard is a diverse agribusiness and transportation company with global operations in several industries. Most of the sales and costs of Seaboard's divisions are significantly influenced by worldwide fluctuations in commodity prices or changes in foreign political and economic conditions. Accordingly, revenues, operating income and cash flows could fluctuate significantly from year to year. In addition, Seaboard's international activities pose risks not faced by companies that limit themselves to U.S. markets. These risks include:

- changes in foreign currency exchange rates;
- foreign currency exchange controls;
- changes in a specific country's or region's political or economic conditions, particularly in emerging markets;
- hyperinflation;
- heightened customer credit and execution risk;
- tariffs, other trade protection measures and import or export licensing requirements;
- potentially negative consequences from changes in tax laws;
- legal and regulatory structures and unexpected changes in legal and regulatory requirements and any lawsuits that may arise;
- negative perception within a foreign country of a U.S. company doing business in that foreign country;
- compliance with U.S. laws and regulations for conducting international business such as Foreign Account Tax Compliance Act, Foreign Corrupt Practices Act and Office of Foreign Assets Control regulations;
- expropriation, civil unrest and government instability; and
- inconsistent application or enforcement of local laws, including tax laws.

- (3) Deterioration of Economic Conditions Could Negatively Impact Seaboard's Business. Seaboard's business may be adversely affected by changes in national or global economic conditions, including inflation, interest rates, availability of capital markets, consumer spending rates, energy availability and costs, and the effects of governmental initiatives to manage economic conditions. Any such changes could adversely affect the demand for Seaboard's meat products, grains, shipping services and other products, or the cost and availability of needed raw materials and packaging materials, thereby negatively affecting Seaboard's financial results. The current national and global economic conditions, could, among other things:

- impair the financial condition of some of Seaboard's customers and suppliers thereby increasing customer bad debts or non-performance by customers and suppliers;

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### SEABOARD CORPORATION

- negatively impact global demand for protein and grain-based products, which could result in a reduction of revenues, operating income and cash flows;
  - decrease the value of Seaboard's investments in equity and debt securities, including pension plan assets, causing losses that would adversely impact Seaboard's net earnings; and
  - impair the financial viability of Seaboard's insurers.
- (4) Ocean Transportation Has Inherent Risks. Seaboard's owned and chartered vessels along with related cargoes are at risk of being damaged or lost because of events such as:
- bad weather;
  - mechanical failures;
  - grounding, fire, explosions and collisions;
  - human error; and
  - war, piracy and terrorism.

All of these hazards could result in death or injury to persons, loss of property, environmental damages, delays or rerouting. If one of Seaboard's vessels were involved in an incident, the resulting negative public perception could have a material adverse effect on Seaboard's business, financial condition and results of operations. Also, many aspects of the marine industry are subject to extensive governmental regulations. Compliance with applicable laws, regulations and standards may require installation of costly equipment or operational changes, while the failure to comply may result in administrative and civil penalties, criminal sanctions, the suspension or termination of Seaboard's operations or detention of its vessels.

- (5) Seaboard's Common Stock Is Thinly Traded and Subject to Daily Price Fluctuations. The common stock of Seaboard is closely held and thinly traded on a daily basis on the NYSE American. Seaboard Flour LLC and SFC Preferred, LLC, which are beneficially owned by Mr. Steven Bresky, President and Chief Executive Officer of Seaboard, and other members of the Bresky family, hold approximately 76% of Seaboard's outstanding common stock. Accordingly, the price of a share of common stock could fluctuate more significantly from day-to-day than that of a share of widely held stock that is actively traded on a daily basis.
- (6) Seaboard Has Investments in Non-Consolidated Affiliates That Are Managed by Third Parties. Seaboard has several equity method investments in which it owns 50% or less, with various third-party business partners owning the remaining equity. Due to the ownership structure of these affiliates, Seaboard does not have control in all the decision making and could be exposed to various business risks if the business partners' business practices do not align with Seaboard's best interests, which could adversely impact the results for Seaboard's income (loss) from affiliates.
- (7) Seaboard Is Increasingly Dependent on Information Technology Systems to Manage and Support a Variety of Business Processes and Activities. Any significant breakdown, invasion, destruction, or interruption of these systems could negatively impact operations. In addition, there is a risk of business interruption and reputational damage from leakage of confidential information. Also, the disclosure of sensitive non-public company information through external media channels could lead to information loss. Any business interruptions or damage to Seaboard's reputation could negatively impact its financial condition, results of operations, and the market price of its common stock.

#### **(b) Pork Division**

- (1) Fluctuations in Commodity Pork Prices Could Adversely Affect the Results of Operations. Sales prices for this division's products are directly affected by both domestic and worldwide supply and demand for pork products and other proteins, all of which are determined by constantly changing market forces of supply and demand as well as other factors over which Seaboard has little or no control. Commodity pork prices demonstrate a cyclical nature over periods of years, reflecting changes in the supply of fresh pork and competing proteins on the market, especially beef and chicken. This division's results of operations could be adversely affected by fluctuations in pork commodity prices.
- (2) Increases in Costs of This Division's Feed Components and Third-Party Hog Purchases Could Adversely Affect Costs and Operating Margins. Feed costs are the most significant single component of the cost of raising hogs and could be materially affected by commodity price fluctuations for corn and soybean meal. The results of this division could be negatively affected by increased costs of its feed components. The continued operation of ethanol plants has elevated this risk as it has increased the competing demand for feed ingredients, primarily corn.

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Similarly, accounting for approximately 13% of this division's total hogs slaughtered, the cost of third-party hogs purchased fluctuates with market conditions and could have an impact on this division's total costs. The cost and supply of feed components and the third-party hogs that this division purchases are determined by constantly changing market forces of supply and demand, which are driven by matters over which Seaboard has no control, including weather, current and projected worldwide grain stocks and prices, grain export prices and supports, and governmental agricultural policies. This division attempts to manage certain of these risks through the use of financial instruments; however, this may also limit its ability to participate in gains from favorable commodity fluctuations. Unless wholesale pork prices correspondingly increase, increases in the prices of this division's feed components or in the cost of third-party hogs purchased would adversely affect Seaboard's operating margins.

- (3) Seaboard May Be Unable to Obtain Appropriate Personnel at Remote Locations. The remote locations of the pork processing plant and live hog operations and a more restrictive national policy on immigration could negatively affect the availability and cost of labor. This division is dependent on having sufficient properly trained operations personnel. Attracting and retaining qualified personnel is important to this division's success. The inability to acquire and retain the services of such personnel could have a material adverse effect on Seaboard's operations.
- (4) The Loss of This Division's Oklahoma Hog Processing Plant Could Adversely Affect the Business. This division is largely dependent on the continued operation of its Oklahoma hog processing plant. The loss of or damage to this plant for any reason, including fire, tornado or earthquake, or the occurrence of adverse governmental action could adversely affect the business of this division.
- (5) Environmental Regulation and Related Litigation Could Have a Material Adverse Effect on the Business. This division's operations and properties are subject to extensive and increasingly stringent laws and regulations pertaining to, among other things, odors, the discharge of materials into the environment and the handling and disposition of wastes (including solid and hazardous wastes) or otherwise relating to protection of the environment. Failure to comply with these laws and regulations and any future changes to them could result in significant consequences to Seaboard, including civil and criminal penalties, liability for damages and negative publicity. Some requirements applicable to this division may also be enforced by citizen groups. Seaboard has incurred, and will continue to incur, operating expenditures to comply with these laws and regulations.
- (6) Health Risk to Livestock Could Adversely Affect Production, the Supply of Raw Materials and the Business. Seaboard is subject to risks relating to its ability to maintain animal health and control diseases. The general health of the hogs and the reproductive performance of the sows could have an adverse impact on production and production costs, the supply of raw material to this division's pork processing operations and consumer confidence. If this division's hogs are affected by disease, Seaboard could be required to destroy infected livestock, which could adversely affect this division's production or ability to sell or export its products. Moreover, the herd health of third-party suppliers could adversely affect the supply and cost of hogs available for purchase. Adverse publicity concerning any disease or health concern could also cause customers to lose confidence in the safety and quality of this division's food products.
- (7) If This Division's Products Become Contaminated, It Could Be Subject to Product Liability Claims and Product Recalls. Pork products may be subject to contamination by disease producing organisms and foreign material. Once contaminated products have been shipped for distribution, illness and death may result if the organisms are not eliminated at the further processing, foodservice or consumer level. Even an inadvertent shipment of contaminated products is a violation of law and may lead to increased risk of exposure to product liability claims, product recalls and increased scrutiny by federal and state regulatory agencies and could have a material adverse effect on this division's business, reputation, prospects, results of operations and financial condition.
- (8) International Trade Barriers Could Adversely Affect This Division's Operations. This division realizes a significant portion of its revenues from international markets, particularly Japan, Mexico and China. International sales are subject to risks related to general economic conditions, imposition of tariffs, quotas, trade barriers and other restrictions, enforcement of remedies in foreign jurisdictions and compliance with applicable foreign laws, and other economic and political uncertainties. These and other risks could result in border closings or other international trade barriers having an adverse effect on Seaboard's earnings.
- (9) The Operating Profit of the Biodiesel Production Facilities Could Be Adversely Impacted by Various Factors. The profitability of this division's biodiesel plants could be adversely affected by various factors, including the market price of pork fat, other animal fat and vegetable oil, which are utilized to produce biodiesel, and the market price for biodiesel, which is influenced by world oil prices and U.S. government mandates to use biofuels. Unfavorable changes in these prices over extended periods of time or adverse changes in U.S. government

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mandates to use biofuels could adversely affect this division's results of operations and could result in the potential impairment of the recorded value of the property, plant and equipment related to these facilities. Also, the Federal blender's credits are not permanent and may not be renewed.

- (10) Difficulties Could Be Experienced in the Start-up of the STF Pork Processing Plant. STF's new pork processing plant in Sioux City, Iowa, began operations in September 2017. Significant operational delays, difficulty in hog procurement, or other difficulties encountered in the start-up of operations could have an adverse effect on results of operations.

#### (c) **Commodity Trading and Milling Division**

- (1) This Division Is Subject to Risks Associated with Foreign Operations. This division principally operates in Africa, South America, the Caribbean and Europe and, in most cases, in what are generally regarded to be lesser-developed countries. Many of these foreign operations are subject to risks of doing business in lesser-developed countries, which are subject to potential civil unrest and government instability, increasing the exposure to potential expropriation, confiscation, war, insurrection, civil strife and revolution, corruption, currency inconvertibility and devaluation, and currency exchange controls, in addition to the risks of overseas operations mentioned in clause (a)(2) above. In addition, foreign government policies and regulations could restrict the purchase of various agricultural commodities and commodity products, reducing or limiting this division's ability to access materials or to limit this division's sales prices for products sold in local markets.
- (2) Fluctuations in Commodity Prices Could Adversely Affect the Business of This Division. This division's sales are significantly affected by fluctuating worldwide prices for various commodities, such as wheat, corn, soybeans, soybean meal and, to a lesser degree, various other agricultural commodity products. These prices are determined by constantly changing market forces of supply and demand as well as other factors over which Seaboard has little or no control. European flour exports, donated food aid, flour dumping practices and worldwide and local crop production could contribute to these fluctuating market conditions and could have a significant impact on the trading and milling businesses' sales, value of commodities held in inventory and operating income.
- (3) This Division Uses a Material Amount of Derivative Products to Manage Certain Market Risks. The commodity trading portion of this division enters into various commodity derivative and foreign exchange derivative transactions to create what management believes is an economic hedge for commodity trades it executes or intends to execute with its customers. This portion of the division also enters into speculative derivative transactions related to its market risks. Failure to execute or improper execution of a derivative position or a firmly committed sale or purchase contract or a speculative transaction that closes without the desired result or exposure to counter party risk could have an adverse impact on the results of operations and liquidity.
- (4) This Division Is Subject to Higher Than Normal Risks for Attracting and Retaining Key Personnel. In the commodity trading environment, loss of a key employee such as a commodity trader could have a negative impact resulting from the loss of revenues as personal customer relationships can be vital to obtaining and retaining business with various foreign customers. In the milling portion of this division, employing and retaining qualified expatriate personnel are key elements of success given the difficult living conditions, the unique operating environments and the reliance on a relatively small number of executives to manage each individual location.
- (5) This Division Faces Increasing Competition. This division is experiencing increasing competition in certain foreign markets by well-capitalized originators, traders of commodities making sales directly to end-use customers and industrial-asset owners that compete in the same markets as this division. If various raw-material originators refuse to sell commodities to Seaboard for sale in these foreign markets, it could be more challenging for this division to purchase commodities for sale to its customers at competitive prices. This division's sales volume and sale prices for commodities to customers, as well as results of operations, could be adversely impacted by such increased competition.

#### (d) **Marine Division**

- (1) The Demand for This Division's Services Are Affected by International Trade and Fluctuating Freight Rates. This division provides cargo shipping services primarily from the U.S. to many different countries in the Caribbean and Central and South America. In addition to the risks of overseas operations mentioned in (a)(2) above, fluctuations in economic conditions, unstable or hostile local political situations in the countries in which this division operates, could affect import and export trade volumes and cargo freight rates and adversely affect this division's results of operations.

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- (2) Chartered Ships Are Subject to Fluctuating Rates. Time-charter expenses are one of this division's largest expenses. Certain ships are under charters longer than one year while others are less than one year. These costs can vary greatly due to a number of factors including the worldwide supply and demand for shipping. It is not possible to determine in advance whether a charter contract for more or less than one year will be favorable to this division's business. Accordingly, entering into long-term charter hire contracts during periods of decreasing charter hire costs, or short-term charter hire contracts during periods of increasing charter hire costs could have an adverse effect on this division's results of operations.
- (3) Increased Fuel Prices May Adversely Affect This Division's Business. Ship fuel expenses are one of this division's largest expenses and vary greatly from year to year depending on fuel prices. While most trade lanes have a series of fuel surcharges in place that seek to adjust revenues with changes in fuel prices, such mechanisms do not act with precision in terms of timing and amount. When fuel prices increase rapidly or consistently, the surcharge mechanism may not adjust revenues enough to offset the increase in costs. Fuel surcharges are also an area of competition among carriers, and market forces may preclude us from generating enough revenue from the fuel surcharges to offset any increase in costs, which may have a negative effect on this division's profitability. Also, but to a lesser extent, fuel price increases can impact inland transportation costs both in the U.S. and overseas.
- (4) Hurricanes May Disrupt Operations. This division's port operations can be subject to disruption due to hurricanes, especially at this division's major ports in Miami, Florida and Houston, Texas, which could have an adverse effect on this division's results of operations.
- (5) This Division Is Subject to Complex Laws and Regulations That May Adversely Affect the Revenues, Cost, Manner or Feasibility of Doing Business. Federal, state and local laws and domestic and international regulations governing worker health and safety, environmental protection, port and terminal security, and the operation of vessels, including fuel regulations, significantly affect this division's operations, including rate discussions and other related arrangements. Many aspects of the marine industry, including rate agreements and vessel cost sharing agreements, are subject to extensive governmental regulation by the Federal Maritime Commission, the U.S. Coast Guard, and U.S. Customs and Border Protection, and to regulation by private industry organizations. Compliance with applicable laws, regulations and standards may require installation of costly equipment or operational changes, while the failure to comply may result in administrative and civil penalties, criminal sanctions, the suspension or termination of Seaboard's operations or detention of its vessels. In addition, future changes in laws, regulations and standards, including allowed freight rate discussions and other related arrangements, may result in additional costs or a reduction in revenues.
- (6) This Division's Revenues and Cost Structure Are Dependent on the Continuation of Cost Sharing Arrangements. The division has entered into vessel cost sharing arrangements with other service providers that are short term in nature. If they are unable to be renewed or renewed with unfavorable terms it could result in a negative impact to the business.

#### **(e) Sugar Division**

- (1) The Success of This Division Depends on the Condition of the Argentine Economy, Currency and Political Climate. This division operates a sugar mill, alcohol production and power generation facility in Argentina, locally growing a substantial portion of the sugarcane processed at the mill. Fluctuations in economic conditions or changes in the Argentine political climate could have an impact on the costs of operations, the sales prices of products, export opportunities and the exchange rate of the Argentine peso to the U.S. dollar. In this regard, local sales prices are affected by government price control and sugar import duties imposed by the Argentine government, impacting local volume sold, as well as imported and exported volumes to and from international markets. If import duties are changed, this could have a negative impact on this division's sales prices of its products. In addition, the majority of the sales are within Argentina, and any Argentine government attempts to control inflation through retail price controls on mass consumption products, including sugar, could adversely impact the local sales prices of this division's products and the results of operations for this division. A devaluation of the Argentine peso would have a negative impact on this division's financial position.

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- (2) This Division Is Subject to the Risks That Are Inherent in any Agricultural Business. Seaboard's results of operations for this division may be adversely affected by numerous factors over which Seaboard has little or no control and that are inherent in any agricultural business, including reductions in the market prices for this division's products, adverse weather and growing conditions, pest and disease problems, and new government regulations regarding agriculture and the marketing of agricultural products. Of these risks, weather particularly could adversely affect the amount and quality of the sugarcane produced by this division and its competitors located in other regions of Argentina.
- (3) The Loss of This Division's Sole Processing Facility Would Adversely Affect the Business. This division is largely dependent on the continued operation of a single sugar mill. The loss of or damage to this mill for any reason, including fire, tornado or earthquake, or the occurrence of adverse governmental action or labor unrest resulting in labor strikes would adversely affect the business of this division.
- (4) Labor Relations Challenges Could Adversely Affect Operations. This division is dependent on unionized labor at its single sugar mill in Argentina. The political and economic environment in Argentina makes normal labor relations very challenging. Contributing to the situation are the historical policies of Argentina's government and the failure of the Argentine courts to enforce contractual obligations with unions and basic property rights. Interruptions in production as a result of labor unrest could adversely impact the quantity of sugarcane harvested and the amount of sugar, alcohol and power produced and could interfere with the distribution of products stored at the facility.
- (5) The Operating Profit of the Alcohol Production Facility Could Be Adversely Impacted by Government Regulations. The profitability of this division's alcohol production facility could be adversely affected by Argentine government regulations regarding production quotas, fuel blends and sales prices in the bio-ethanol market. In addition, corn alcohol producers in Argentina have increased competition in the bio-ethanol market. Adverse changes in the Argentine government's regulations regarding bio-ethanol production quotas and fuel blends could adversely affect this division's results of operations.
- (6) The Operating Profit of the Cogeneration Power Plant Could Be Adversely Impacted by Contract for the Sale of Energy. The sale price for energy produced and sold by this division's cogeneration power plant is based on a biomass cogeneration contract with the Argentine government. The profitability of the cogeneration power plant could be adversely affected by this division's failure to enforce the terms of the contract, which could adversely affect this division's results of operations and could result in the potential impairment of the recorded value of the property, plant and equipment related to this facility.

#### **(f) Power Division**

- (1) This Division is Subject to Risks of Doing Business in the Dominican Republic. In addition to significant currency fluctuations and the other risks of overseas operations mentioned in clause (a)(2) above, this division could experience difficulty in obtaining timely collections of trade receivables from the government owned distribution companies or other companies that must also collect from the government in order to make payments on their accounts. Currently, the Dominican Republic does not allow a free market to enable prices to rise with demand, which could limit this division's profitability. The government has the ability to arbitrarily decide which power units will be able to operate, which can ultimately determine spot market prices for electricity generated and sold into the power grid and, therefore, could have adverse effects on results of operations.
- (2) Fluctuations in Fuel Costs Could Adversely Affect This Division's Operating Margins. Fuel is the largest cost component of this division's business and, therefore, margins could be adversely affected by fluctuations in fuel prices if such fluctuations cannot be fully passed to customers through the spot market price mechanism.
- (3) Supply of Natural Gas is Limited in the Dominican Republic. Supply of natural gas in the Dominican Republic is limited to one primary supplier. Although the barge can run on other types of fuel, supply disruptions of natural gas could have a negative impact on this division's operating income.
- (4) The Loss of This Division's Sole Facility Would Adversely Affect the Business. This division is dependent on the continued operation of a single facility. The loss of or damage to this facility for any reason, including fire, hurricane, tornado or earthquake, or the occurrence of adverse governmental actions or labor unrest resulting in labor strikes would adversely affect the business of this division.

#### **(g) Turkey Segment**

- (1) Fluctuations in Commodity Turkey Prices Could Adversely Affect the Results of Operations. Sales prices for turkey products are directly affected by both domestic and worldwide supply and demand for turkey products and

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other proteins, which are determined by constantly changing market forces of supply and demand as well as other factors over which Butterball has little or no control. Butterball's results of operations and the value of Seaboard's investment in Butterball could be adversely affected by fluctuations in the turkey commodity prices.

- (2) Increases in Costs of Butterball's Feed Components and Turkey Purchases Could Adversely Affect Costs and Operating Margins. Feed costs are the most significant single component of the cost of raising turkeys and could be materially affected by commodity price fluctuations for corn, soybean meal and other commodity grain inputs. Butterball's results may be negatively affected by increased costs of the feed components. Butterball attempts to manage some of these risks through the use of financial instruments; however this may also limit its ability to participate in gains from favorable commodity fluctuations. Unless wholesale turkey prices correspondingly increase, increases in the prices of Butterball's feed components would adversely affect Butterball's results of operations and the value of Seaboard's investment in Butterball.
- (3) Adverse Operating Results Could Result in Need for Additional Investment. Butterball has third-party bank loan facilities separate from Seaboard that are secured by substantially all of the assets of Butterball. Adverse operating results could cause Butterball to default on such loan facilities, which could result in a significant adverse impact on Butterball's financial position, or result in Seaboard needing to increase its investment in Butterball.
- (4) Decreased Perception of Value in the Butterball Brand Could Adversely Affect Sales Quantity and Price of Butterball Products. Butterball is a premium brand name, built on a long history of offering a quality product that has been differentiated in the market. The value of the Butterball brand allows for sales of a higher unit price than other turkey products. In order to maintain this advantage, Butterball must continue to support the brand with successful marketing efforts. In addition, negative news reports for any reason related to the company or the turkey/poultry industry could negatively impact this brand perception, Butterball's results of operations and the value of Seaboard's investment in Butterball.
- (5) The Loss of Butterball's Primary Further Processing Facility Could Adversely Affect Butterball's Business. Although Butterball has four processing plants and two further processing plants, Butterball is disproportionately dependent on the continued operation of the processing plant in Mt. Olive, North Carolina, that handles a significant volume of the production of further processed turkey products. The loss of or damage to this plant for any reason, including fire, hurricane or tornado or occurrence of adverse governmental action could adversely affect the results of operations for Butterball and the value of Seaboard's investment in Butterball.
- (6) If Butterball's Turkey Products Become Contaminated, the Company Could Be Subject to Product Liability Claims and Product Recalls. Butterball's products may be subject to contamination by disease producing organisms and foreign material. Even an inadvertent shipment of contaminated products is a violation of law and may lead to increased risk of exposure to product liability claims, product recalls and increased scrutiny by federal and state regulatory agencies and may have a material adverse effect on the company's business, reputation, and prospects. This could adversely affect the results of operations and financial condition of Butterball and the value of Seaboard's investment in Butterball.
- (7) Health Risk to Poultry Could Adversely Affect Production, the Supply of Raw Materials and Butterball's Business. Butterball is subject to risks relating to its ability to maintain animal health and control diseases, such as avian influenza. The general health of the turkeys and reproductive performance could have an adverse impact on production and production costs, the supply of raw material to Butterball's processing operations and consumer confidence. If Butterball's turkeys are affected by disease, Butterball may be required to destroy infected birds, which could adversely affect Butterball's production or ability to sell or export its products. Adverse publicity concerning any disease or health concern could also cause customers to lose confidence in the safety and quality of Butterball products, resulting in an adverse effect on Butterball's results of operations and the value of Seaboard's investment in Butterball.
- (8) Butterball May Be Unable to Obtain Appropriate Personnel at Remote Locations. The remote locations of some of Butterball's processing plants and live turkey operations, along with a more restrictive national policy on immigration, could negatively affect the availability and cost of labor. Butterball is dependent on having sufficient properly trained operations personnel. Attracting and retaining qualified personnel is important to Butterball's success. The inability to acquire and retain the services of such personnel could have a material adverse effect on Butterball's operations and the value of Seaboard's investment in Butterball.

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#### **Item 1B. Unresolved Staff Comments**

None.

#### **Item 2. Properties**

Seaboard's principal properties by division are described below:

(1) Pork - Seaboard's Pork division owns a hog processing plant in Guymon, Oklahoma. It has a daily double-shift capacity to process approximately 20,500 hogs and generally operates at capacity with additional weekend shifts depending on market conditions. Seaboard's hog production operations consist of the breeding and raising of over five million hogs annually at facilities it primarily owns or at facilities owned and operated by third parties with whom it has grower contracts. This division owns and operates seven centrally located feed mills, which have a combined capacity to produce approximately three million tons of formulated feed annually. These feed mills are used primarily to support Seaboard's existing hog production, and have the capability of supporting additional hog production in the future. These facilities are located in Iowa, Oklahoma, Texas, Kansas and Colorado. The Pork division also operates a ham-boning and processing plant in Mexico that has the capacity to process 96 million pounds of ham annually.

The Pork division owns biodiesel plants in Guymon, Oklahoma, and St. Joseph, Missouri, with the capacity to produce 46 million gallons and 28 million gallons, respectively, of biodiesel annually.

Daily's, a non-consolidated affiliate, owns three bacon further processing plants located in Salt Lake City, Utah, Missoula, Montana, and St. Joseph, Missouri. The Salt Lake City and Missoula plants are utilized near capacity throughout the year, while the St. Joseph plant is a fairly new production facility. The three plants have a combined daily smoking capacity of approximately 600,000 pounds of raw pork bellies.

STF, a non-consolidated affiliate, owns a pork processing plant in Sioux City, Iowa, that began operations in September 2017. The plant is expected to process about three million market hogs annually when operating a single shift.

(2) Commodity Trading and Milling - Seaboard's CT&M division owns, in whole or in part, grain-processing and related agribusiness operations in 20 countries that have the capacity to mill approximately 10,400 metric tons of wheat and maize per day, produce 7,800 metric tons of animal feed per day, and crush 2,500 metric tons of oilseeds per day. The grain-processing and related agribusiness operations located in Botswana, Brazil, Colombia, Democratic Republic of Congo, Ecuador, Gambia, Ghana, Guyana, Haiti, Jamaica, Kenya, Lesotho, Morocco, Mozambique, Nigeria, Peru, Republic of Congo, South Africa, Turkey, and Zambia own their facilities; and in Kenya, Lesotho, Morocco, Mozambique, Nigeria, Republic of Congo and Zambia, the land on which certain facilities are located is leased under long-term agreements. Certain foreign milling operations may operate at less than full capacity due to low demand, poor consumer purchasing power, excess milling capacity in their competitive environment or imported flour. The CT&M division has investments through non-consolidated affiliates in poultry businesses operating in Morocco, Kenya, Tanzania and Zambia and a bakery business in the Democratic Republic of Congo. Seaboard's CT&M division owns three 18,900 metric ton deadweight dry bulk vessels and charters between 20 and 50 bulk vessels with deadweights ranging from 7,000 to 83,000 metric tons under short-term agreements. Also, the CT&M division charters four dry bulk vessels, each with a deadweight of 28,000 metric tons, which were originally purchased and then subsequently sold and leased-back. On January 5, 2018, the CT&M division completed the acquisition of Mimran, including three flour mills in Senegal and Ivory Coast having a combined capacity of approximately 2,750 metric tons a day, and a trading business located in Monaco that is expected to increase Seaboard's annual grain trading volume by approximately 900,000 tons.

(3) Marine - Seaboard's Marine division leases approximately 267,000 square feet of off-port warehouse space and 92 acres of port terminal land and facilities in Miami, Florida, which are used in its containerized cargo operations. Seaboard's Marine division also leases an approximately 62 acre cargo handling and terminal facility in Houston, Texas, which includes several on-dock warehouses totaling approximately 690,000 square feet for cargo storage. At December 31, 2017, the Marine division owned three ocean cargo vessels with deadweights ranging from 7,700 to 11,000 metric tons. In addition, this division chartered 20 vessels under contracts that range from approximately two months to three years with deadweights ranging from approximately 11,000 to 34,500 metric tons but has also entered into some longer-term charters up to eleven years. Seaboard's Marine division owns or leases dry, refrigerated and specialized containers and other related equipment.



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(4) Sugar - Seaboard's Sugar division owns nearly 70,000 acres of planted sugarcane and a sugar mill with a current capacity to process approximately 250,000 metric tons of sugar and an alcohol distillery with a current capacity of approximately 27 million gallons of alcohol per year. This capacity is sufficient to process all of the cane harvested by this division and additional quantities purchased from third-party farmers in the region. The sugarcane fields and processing mill are located in northern Argentina in the Salta Province, which experiences seasonal rainfalls that may limit the harvest season, which then affects the duration of mill operations and quantities of sugar and alcohol produced. The Sugar division also owns a 51 megawatt cogeneration power plant that supplies electricity to the Argentine power grid under a renewable energy contract with an Argentine state owned company.

(5) Power - Seaboard's Power division owns one power generating barge with capacity to generate approximately 108 megawatts of electricity that is secured on the Ozama River in Santo Domingo, Dominican Republic.

(6) Turkey - Seaboard's Turkey Segment has a total of four processing plants, two further processing plants and numerous company and third-party live production facilities and feed milling operations, all of which are located in North Carolina, Arkansas, Missouri and Kansas. These plants produce over one billion pounds of turkey each year.

(7) Other - Seaboard owns a jalapeño pepper processing plant and warehouse in Honduras.

In addition to the information provided above, the information under the caption "Principal Locations" of Seaboard's Annual Report to Stockholders is incorporated herein by reference.

Management believes that Seaboard's present facilities are adequate and suitable for its current purposes.

#### **Item 3. Legal Proceedings**

The information required by this item is incorporated herein by reference to Note 10 to the consolidated financial statements included in Seaboard's Annual Report to Stockholders and attached as Exhibit 13.

#### **Item 4. Mine Safety Disclosures**

Not Applicable.

## **PART II**

#### **Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities**

In each of the four quarters of 2017, Seaboard declared and paid quarterly dividends of \$1.50 per share of common stock. Seaboard's Board of Directors intends that Seaboard will continue to pay quarterly dividends for the reasonably foreseeable future, with the amount of any dividends being dependent upon such factors as Seaboard's financial condition, results of operations and current and anticipated cash needs, including capital requirements. As discussed in Note 7 to the consolidated financial statements included in Seaboard's Annual Report to Stockholders and attached as Exhibit 13 (which discussion is incorporated herein by reference), Seaboard's ability to declare and pay dividends is subject to limitations imposed by debt agreements described therein. Seaboard did not declare a dividend during 2016 and 2015. In December 2012, Seaboard declared and paid a dividend of \$12.00 per share on the common stock. The amount of the dividend represented a prepayment of the 2013, 2014, 2015 and 2016 dividends.

Seaboard has not established any equity compensation plans or individual agreements for its employees under which Seaboard common stock, or options, rights or warrants with respect to Seaboard common stock, may be granted.

Seaboard presently may repurchase up to \$100 million market value of its common stock from time to time in open market or privately negotiated purchases under its share repurchase program. See Note 11 to the consolidated financial statements included in Seaboard's Annual Report to Stockholders for further discussion. There were no purchases made by or on behalf of Seaboard or any "affiliated purchaser" (as defined by applicable rules of the SEC) of shares of Seaboard's common stock during the fourth quarter of the fiscal year covered by this report. In addition to the information provided above, the information required by this item is incorporated herein by reference to the information under the captions of

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“Stockholder Information – Stock Listing,” “Quarterly Financial Data” and “Company Performance Graph” of Seaboard’s Annual Report to Stockholders.

#### **Item 6. Selected Financial Data**

The information required by this item is incorporated herein by reference to the “Summary of Selected Financial Data” of Seaboard’s Annual Report to Stockholders and attached as Exhibit 13 to this report.

#### **Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

The information required by this item is incorporated herein by reference to “Management’s Discussion and Analysis of Financial Condition and Results of Operations” of Seaboard’s Annual Report to Stockholders and attached as Exhibit 13 to this report.

#### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

The information required by this item is incorporated herein by reference to the information under the caption “Derivative Information” within “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Derivative Instruments and Hedging Activities” within Note 1 and Note 8 of Seaboard’s consolidated financial statements of Seaboard’s Annual Report to Stockholders and attached as Exhibit 13 to this report.

#### **Item 8. Financial Statements and Supplementary Data**

The information required by this item is incorporated herein by reference to the information under the captions “Quarterly Financial Data,” “Report of Independent Registered Public Accounting Firm,” “Consolidated Statements of Comprehensive Income,” “Consolidated Balance Sheets,” “Consolidated Statements of Cash Flows,” “Consolidated Statements of Changes in Equity” and “Notes to Consolidated Financial Statements” included in Seaboard’s Annual Report to Stockholders and attached as Exhibit 13 to this report.

#### **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

#### **Item 9A. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures** – As of December 31, 2017, Seaboard’s management has evaluated, under the direction of its chief executive and chief financial officers, the effectiveness of Seaboard’s disclosure controls and procedures, as defined under the Securities Exchange Act of 1934 (the “Exchange Act”) Rule 13a-15(e). Based upon and as of the date of that evaluation, Seaboard’s chief executive and chief financial officers concluded that Seaboard’s disclosure controls and procedures were effective to ensure that information required to be disclosed in the reports it files and submits under the Exchange Act is recorded, processed, summarized and reported as and when required. It should be noted that any system of disclosure controls and procedures, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system are met. In addition, the design of any system of disclosure controls and procedures is based in part upon assumptions about the likelihood of future events. Due to these and other inherent limitations of any such system, there can be no assurance that any design will always succeed in achieving its stated goals under all potential future conditions.

**Reports on Internal Control Over Financial Reporting** – Management’s report on internal control over financial reporting and the attestation report of KPMG LLP, Seaboard’s independent registered public accounting firm, on Seaboard’s internal control over financial reporting, as defined in Exchange Act Rule 13a-15(f), is incorporated herein by reference to all information under the captions “Management’s Report on Internal Control over Financial Reporting” and “Report of Independent Registered Public Accounting Firm,” respectively, of Seaboard’s Annual Report to Stockholders and attached as Exhibit 13 to this report.

## **FORM 10-K**

### **SEABOARD CORPORATION**

**Change in Internal Control Over Financial Reporting** – There have been no changes in Seaboard’s internal control over financial reporting that occurred during the fiscal quarter ended December 31, 2017 that has materially affected, or is reasonably likely to materially affect, Seaboard’s internal control over financial reporting.

#### **Item 9B. Other Information**

None.

### **PART III**

#### **Item 10. Directors, Executive Officers and Corporate Governance**

The information about the executive officers of the Company is included under the caption “Executive Officers of the Registrant” in Item 1 of this annual report on Form 10-K.

Seaboard has a Code of Ethics Policy (the “Code”) for directors, officers (including the chief executive officer, chief financial officer, chief accounting officer, and persons performing similar functions) and employees. Seaboard has posted the Code on its internet website, [www.seaboardcorp.com](http://www.seaboardcorp.com), and intends to satisfy the disclosure requirement under Item 10 of Form 10-K regarding any future changes and waivers to the Code by posting such information on that website.

In addition to the information provided above, the information required by this item is incorporated herein by reference to the information under the captions “Item 1: Election of Directors,” “Board of Directors Information – Committees of the Board – Audit Committee,” “Board of Directors Information – Director Nominations” and “Section 16(a) Beneficial Ownership Reporting Compliance” of Seaboard’s definitive proxy statement for the 2018 annual meeting of stockholders, which will be filed no later than 120 days after December 31, 2017 (“Proxy Statement”).

#### **Item 11. Executive Compensation**

The information required by this item is incorporated herein by reference to the information under the captions “Board of Directors Information – Compensation of Directors,” “Executive Compensation and Other Information,” “Employment Arrangements with Named Executive Officers,” “Benefit Plans,” “Compensation Committee Interlocks and Insider Participation,” “Compensation Committee Report,” and “Compensation Discussion and Analysis” included in the Proxy Statement.

#### **Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

Seaboard has not established any equity compensation plans or individual agreements for its employees under which Seaboard common stock, or options, rights or warrants with respect to Seaboard common stock may be granted.

In addition to the information provided above, the information required by this item is incorporated herein by reference to the information under the captions “Principal Stockholders” and “Share Ownership of Management and Directors” included in the Proxy Statement.

#### **Item 13. Certain Relationships and Related Transactions, and Director Independence**

The information required by this item is incorporated herein by reference to the information under the captions “Compensation Committee Interlocks and Insider Participation,” “Board of Directors Information – Controlled Corporation” and “Board of Directors Information – Committees of the Board” included in the Proxy Statement.

#### **Item 14. Principal Accounting Fees and Services**

The information required by this item is incorporated herein by reference to the information under the captions “Item 2: Selection of Independent Auditors” included in the Proxy Statement.

**FORM 10-K**

**SEABOARD CORPORATION**

**PART IV**

**Item 15. Exhibits, Financial Statement Schedules**

**(a) List the following documents filed as a part of the report:**

**1. Financial statements.**

The consolidated financial statements and accompanying notes are incorporated herein by reference to the Annual Report to Stockholders filed as Exhibit 13 hereto.

**2. Financial statement schedules.**

Schedule II - Valuation and Qualifying Accounts

All other schedules are omitted as the required information is not applicable or the information is presented in the consolidated financial statements or related consolidated notes.

**3. Exhibits.**

Exhibit No.	Description
2.1+	Sale and Purchase Agreement between Mr. Jean-Claude Mimran, Mr. Robert Mimran, Mr. Patrick Mimran and the Minority Sellers and Seaboard Overseas Limited and Seaboard Corporation dated December 22, 2017. Exhibits and schedules identified in the agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be furnished to the Securities and Exchange Commission upon request.
3.1	Seaboard Corporation Restated Certificate of Incorporation. Incorporated herein by reference to Exhibit 3.1 of Seaboard's Form 10-Q for the quarter ended April 4, 2009.
3.2	Seaboard Corporation By-laws, as amended. Incorporated herein by reference to Exhibit 3.2 of Seaboard's Form 10-K for the fiscal year ended December 31, 2005.
10.1*	Seaboard Corporation Executive Deferred Compensation Plan as Amended and Restated effective January 1, 2009 and dated December 22, 2008, amending and restating the Seaboard Corporation Executive Deferred Compensation Plan dated December 29, 2005. Incorporated herein by reference to Exhibit 10.2 of Seaboard's Form 10-K for the fiscal year ended December 31, 2008.
10.2*	Seaboard Corporation Executive Retirement Plan Trust dated November 5, 2004 between Seaboard Corporation and Robert L. Steer as trustee. Incorporated herein by reference to Exhibit 10.2 of Seaboard's Form 10-Q for the quarter ended October 2, 2004.
10.3*	Seaboard Corporation Retiree Medical Benefit Plan as Amended and Restated effective January 1, 2009 and dated December 22, 2008, amending and restating the Seaboard Corporation Retiree Medical Benefit Plan dated March 4, 2005. Incorporated herein by reference to Exhibit 10.6 of Seaboard's Form 10-K for the fiscal year ended December 31, 2008.
10.4*	First Amendment to the Seaboard Corporation Retiree Medical Benefit Plan effective March 25, 2015 and dated March 31, 2015. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 10-Q for the quarter ended April 4, 2015.
10.5*	Seaboard Corporation Non-Qualified Deferred Compensation Plan effective January 1, 2009 and dated December 22, 2008, amending and restating the Seaboard Corporation Non-Qualified Deferred Compensation Plan dated December 29, 2005. Incorporated herein by reference to Exhibit 10.12 of Seaboard's Form 10-K for the fiscal year ended December 31, 2008.
10.6*	Amendment No. 1 to the Seaboard Corporation Non-Qualified Deferred Compensation Plan effective January 1, 2009 and dated December 17, 2009. Incorporated herein by reference to Exhibit 10.25 of Seaboard's Form 10-K for the fiscal year ended December 31, 2009.

## **FORM 10-K**

### **SEABOARD CORPORATION**

- 10.7\* Seaboard Corporation 409A Executive Retirement Plan Amended and Restated effective January 1, 2013 and dated December 21, 2012, amending and restating the Seaboard Corporation Executive Retirement Plan, Amendment and Restatement dated December 22, 2008. Incorporated herein by reference to Exhibit 10.14 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.8\* First Amendment to the Seaboard Corporation 409A Executive Retirement Plan effective as of January 1, 2015 and dated January 14, 2016. Incorporated herein by reference to Exhibit 10.8 of Seaboard's Form 10-K for the fiscal year ended December 31, 2015.
- 10.9\* Seaboard Corporation Cash Balance Executive Retirement Plan Amendment and Restatement effective January 1, 2013 and dated December 21, 2012, amending and restating the Seaboard Corporation Cash Balance Executive Retirement Plan dated December 18, 2009. Incorporated herein by reference to Exhibit 10.15 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.10\* Seaboard Corporation Pension Plan as restated and amended effective as of January 1, 2017. Incorporated herein by reference to Exhibit 10.10 of Seaboard's Form 10-K for the fiscal year ended December 31, 2016.
- 10.11\* Seaboard Marine Ltd. 401(k) Excess Plan effective January 1, 2009 and dated December 18, 2009. Incorporated herein by reference to Exhibit 10.24 of Seaboard's Form 10-K for the fiscal year ended December 31, 2009.
- 10.12\* Seaboard Corporation Investment Option Plan dated December 18, 2000. Incorporated herein by reference to Exhibit 10.7 of Seaboard's Form 10-K for the fiscal year ended December 31, 2000.
- 10.13\* Seaboard Corporation Executive Officers' Bonus Policy (effective for 2005-2016). Incorporated herein by reference to Exhibit 10.10 of Seaboard's Form 10-K for the fiscal year ended December 31, 2005.
- 10.14\* Seaboard Corporation Executive Officers' Bonus Policy (effective for 2017). Incorporated herein by reference to Exhibit 10.14 of Seaboard's Form 10-K for the fiscal year ended December 31, 2016.
- 10.15\* Seaboard Corporation Executive Incentive Plan effective January 1, 2017. Incorporated herein by reference to Exhibit 10.15 of Seaboard's Form 10-K for the fiscal year ended December 31, 2016.
- 10.16\* Employment Agreement between Seaboard Corporation and Steven J. Bresky dated December 21, 2012. Incorporated herein by reference to Exhibit 10.16 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.17\* Amendment to Employment Agreement between Seaboard Corporation and Steven J. Bresky dated March 22, 2017. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 10-Q for the quarter ended April 1, 2017.
- 10.18\* Employment Agreement between Seaboard Corporation and Robert L. Steer dated December 21, 2012. Incorporated herein by reference to Exhibit 10.17 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.19\* Employment Agreement between Seaboard Foods LLC and Terry J. Holton, dated December 21, 2012. Incorporated herein by reference to Exhibit 10.18 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.20\* Amendment to Employment Agreement between Seaboard Foods LLC and Terry J. Holton dated March 22, 2017. Incorporated herein by reference to Exhibit 10.2 of Seaboard's Form 10-Q for the quarter ended April 1, 2017.
- 10.21\* Employment Agreement between Seaboard Overseas and Trading Group and David M. Dannov dated December 21, 2012. Incorporated herein by reference to Exhibit 10.19 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.22\* Amendment to Employment Agreement between Seaboard Overseas and Trading Group and David M. Dannov dated March 22, 2017. Incorporated herein by reference to Exhibit 10.3 of Seaboard's Form 10-Q for the quarter ended April 1, 2017.

## **FORM 10-K**

### **SEABOARD CORPORATION**

- 10.23\* Employment Agreement between Seaboard Marine Ltd. and Edward A. Gonzalez dated December 21, 2012. Incorporated herein by reference to Exhibit 10.20 of Seaboard's Form 10-K for the fiscal year ended December 31, 2012.
- 10.24 Amended and Restated Terminal Agreement between Miami-Dade County and Seaboard Marine Ltd. for Marine Terminal Operations dated May 30, 2008. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 8-K dated May 30, 2008.
- 10.25 Amendment No. 1 to Amended and Restated Terminal Agreement between Miami-Dade County and Seaboard Marine Ltd. for Marine Terminal Operations dated March 30, 2009. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 10-Q for the quarter ended June 29, 2013.
- 10.26 Amendment No. 2 to Amended and Restated Terminal Agreement between Miami-Dade County and Seaboard Marine Ltd. for Marine Terminal Operations dated July 31, 2013. Incorporated herein by reference to Exhibit 10.2 of Seaboard's Form 10-Q for the quarter ended June 29, 2013.
- 10.27 Marketing Agreement dated February 2, 2004 by and among Seaboard Corporation, Seaboard Farms, Inc., Triumph Foods, LLC, and for certain limited purposes only, the members of Triumph Foods, LLC. Incorporated herein by reference to Exhibit 10.2 of Seaboard's Form 8-K dated February 3, 2004.
- 10.28 Seaboard Triumph Foods, LLC Subscription Agreement dated May 13, 2015. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 8-K dated May 13, 2015.
- 10.29 First Amendment to Seaboard Triumph Foods, LLC Subscription Agreement dated February 29, 2016. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 10-Q for the quarter ended April 2, 2016.
- 10.30 Term Loan Credit Agreement dated December 4, 2015 by and among Seaboard Corporation, Seaboard Foods LLC, CoBank, ACB, Farm Credit Services of America, PCA and other lenders. Incorporated herein by reference to Exhibit 10.1 of Seaboard's Form 8-K dated December 9, 2015.
- 13+ Sections of 2017 Annual Report to Stockholders specifically incorporated herein by reference herein.
- 21+ List of subsidiaries.
- 31.1+ Certification of the Chief Executive Officer Pursuant to Exchange Act Rules 13a-14(a)/15d-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2+ Certification of the Chief Financial Officer Pursuant to Exchange Act Rules 13a-14(a)/15d-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1+ Certification of the Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2+ Certification of the Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 99.1+ Audited statements of Butterball, LLC as of December 31, 2017 and January 1, 2017.
- 101.INS+ XBRL Instance Document.
- 101.SCH+ XBRL Taxonomy Extension Schema Document.
- 101.CAL+ XBRL Taxonomy Extension Calculation Linkbase Document.
- 101.DEF+ XBRL Taxonomy Extension Definition Linkbase Document.
- 101.LAB+ XBRL Taxonomy Extension Label Linkbase Document.
- 101.PRE+ XBRL Taxonomy Extension Presentation Linkbase Document.

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\* Management contract or compensatory plan or arrangement.

+ Filed electronically herewith.

**FORM 10-K**

**SEABOARD CORPORATION**

**(b) Exhibits.**

See exhibits identified above under Item 15(a)(3).

**(c) Financial Statement Schedules.**

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## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

SEABOARD CORPORATION  
(Registrant)

By: /s/ Steven J. Bresky  
Steven J. Bresky, Chairman of the Board,  
President and Chief Executive Officer

Date: February 21, 2018

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Name</u>	<u>Date</u>	<u>Title</u>
<u>/s/ Steven J. Bresky</u> Steven J. Bresky	February 21, 2018	Chairman of the Board, President, Chief Executive Officer and Director (principal executive officer)
<u>/s/ Robert L. Steer</u> Robert L. Steer	February 21, 2018	Executive Vice President, Chief Financial Officer (principal financial officer)
<u>/s/ Michael D. Trollinger</u> Michael D. Trollinger	February 21, 2018	Vice President, Corporate Controller and Chief Accounting Officer (principal accounting officer)
<u>/s/ David A. Adamsen</u> David A. Adamsen	February 21, 2018	Director
<u>/s/ Douglas W. Baena</u> Douglas W. Baena	February 21, 2018	Director
<u>/s/ Edward I. Shifman, Jr.</u> Edward I. Shifman, Jr.	February 21, 2018	Director
<u>/s/ Paul M. Squires</u> Paul M. Squires	February 21, 2018	Director



**SEABOARD CORPORATION AND SUBSIDIARIES**  
**Valuation and Qualifying Accounts**  
(In Millions)

	Balance at beginning of year	Provision <sup>(1)</sup>	Net deductions <sup>(2)</sup>	Balance at end of year
<b>Allowance for Doubtful Accounts:</b>				
Year Ended December 31, 2017	\$ 14	16	(1)	\$ 29
Year Ended December 31, 2016	\$ 21	(1)	(6)	\$ 14
Year Ended December 31, 2015	\$ 12	13	(4)	\$ 21

<sup>(1)</sup> During 2017, \$12 million of the provision was charged to selling, general and administrative expenses, \$2 million to income from affiliates related to reserves on convertible notes and \$2 million to cost of sales related to a rebate reserve.

<sup>(2)</sup> Includes write-offs net of recoveries and currency translation adjustments.

	Balance at beginning of year	Provision <sup>(1)</sup>	Net deductions	Balance at end of year
<b>Allowance for Notes Receivable:</b>				
Year Ended December 31, 2017	\$ 16	—	—	\$ 16
Year Ended December 31, 2016	\$ —	16	—	\$ 16

	Balance at beginning of year	Charge (credit) to expense	Balance at end of year
<b>Allowance for Deferred Tax Assets:</b>			
Year Ended December 31, 2017	\$ 58	1	\$ 59
Year Ended December 31, 2016	\$ 19	39	\$ 58
Year Ended December 31, 2015	\$ 21	(2)	\$ 19

	Balance at beginning of year	Credit to expense	Balance at end of year
<b>Reserve for LIFO Valuation:</b>			
Year Ended December 31, 2017	\$ 21	10	\$ 31
Year Ended December 31, 2016	\$ 28	(7)	\$ 21
Year Ended December 31, 2015	\$ 37	(9)	\$ 28

See accompanying report of independent registered public accounting firm.

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Stockholders and Board of Directors  
Seaboard Corporation:

Our audits of the consolidated financial statements referred to in our report dated February 21, 2018 appearing in the 2017 Annual Report of Seaboard Corporation (which report and consolidated financial statements are incorporated by reference in this Annual Report on Form 10-K) also included an audit of financial statement schedule II. In our opinion, this financial statement schedule presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements.

/s/ KPMG LLP

Kansas City, Missouri  
February 21, 2018

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**SALE AND PURCHASE AGREEMENT**

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**BETWEEN**

**Mr Jean-Claude Mimran**

**Mr Robert Mimran**

**Mr Patrick Mimran**

**The Minority Sellers**

**(the “*Sellers*”)**

**AND**

**Seaboard Overseas Limited**

**(the “*Buyer*”)**

**Seaboard Corporation**

**(“*Seaboard*”)**

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## LIST OF SCHEDULES

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## SALE AND PURCHASE AGREEMENT

### BETWEEN:

1. Mr Jean-Claude Mimran, born on May 2, 1945 in Rabat (Morocco), Israeli Citizen, residing Le Chalet, Promenade 54, Gstaad 3780, Switzerland ("**JCM**"),
2. Mr Robert Mimran, born on September 17, 1943 in Rabat (Morocco), French citizen, residing at Jean des Bois, 1277 Arnex sur Nyon, Switzerland ("**RM**"), duly represented by Mr Jean-Claude Mimran,
3. Mr Patrick Mimran, born on January 11, 1956 in Neuilly-sur-Seine (France), French citizen, residing Es Grands Champs 26, 1195 Dully, Switzerland ("**PM**"), duly represented by Mr Jean-Claude Mimran,

The parties 1 to 3 are hereinafter referred to individually as a "**Guarantor**" or collectively as the "**Guarantors**", acting jointly and severally (*agissant conjointement et solidairement*),

4. The individuals and entities referred to in Schedule A (the "**Minority Sellers**"), duly represented by Mr Jean-Claude Mimran, each acting individually and not jointly (*individuellement et sans solidarité*),

The Guarantors and the Minority Sellers are hereinafter referred to individually as a "**Seller**" or collectively as the "**Sellers**", acting individually and not jointly (*agissant individuellement et sans solidarité*),

### ON THE FIRST PART,

### AND:

5. Seaboard Overseas Limited, a company incorporated under the laws of Bermuda, with a share capital of 12,000 shares, having its registered office at Rose House, 3rd Floor 51-59 Circular Road Douglas, IM1 1AZ, Isle of Man, registered under Bermuda Corporate Registry number 36978 (the "**Buyer**"), represented by Steven J. Bresky, its Chairman, President and CEO, duly authorized for the purpose hereof,
6. Seaboard Corporation, a Delaware corporation headquartered in Merriam, KS, USA ("**Seaboard**"), represented by Steven J. Bresky, its Chairman, President and CEO, duly authorized for the purpose hereof,

### ON THE SECOND PART,

The Sellers, the Buyer and Seaboard are hereinafter referred to individually as a "**Party**" or collectively as the "**Parties**".

**WHEREAS:**

- A. Terms and expressions beginning with a capital letter shall have the meaning ascribed to them pursuant to Article 1 below.
- B. The Sellers are the beneficial owners of a group of companies operating flour milling businesses in West Africa. The organigram of such group is set forth in Schedule B.
- C. On the date hereof and on Completion Date, the Sellers together own:
- 9,000 shares of Borisniak (the “***Borisniak Sold Shares***”), which represent 100% of the share capital of Borisniak;
  - 3,929 shares of GMA (the “***GMA Sold Shares***”), which represent 1.20% of the share capital of GMA; 317,140 shares of GMA, representing 97.05% of the share capital of GMA, are owned by Borisniak the result of which the Sellers together own and/or shall own on Completion Date, directly and indirectly, 98.25% of the share capital of GMA;
  - 2,384 ordinary shares and 42 beneficiary shares (*parts bénéficiaires*) of GMD (the “***GMD Sold Shares***”), which represent 1.01% of the share capital of GMD; 233,596 ordinary shares of GMD and 9,958 beneficiary shares (*parts bénéficiaires*), representing 98.98% of the share capital of GMD, are owned by Borisniak the result of which the Sellers together own and/or shall own on Completion Date, directly and indirectly, 99.99% of the share capital of GMD;
  - 20,525 shares of Eurafrique (the “***Eurafrique Sold Shares***”), which represent 98.68% of the share capital of Eurafrique; 31 shares of Eurafrique, representing 0.15% of the share capital of Eurafrique, are owned by Borisniak the result of which the Sellers together own and/or shall own on Completion Date, directly and indirectly, 98.83% of the share capital of Eurafrique;
  - 20,520 shares of Sometra (the “***Sometra Sold Shares***”), which represent 98.65% of the share capital of Sometra; 36 shares of Sometra, representing 0.17% of the share capital of Sometra, are owned by Borisniak the result of which the Sellers together own and/or shall own on Completion Date, directly and indirectly, 98.82% of the share capital of Sometra;

The Borisniak Sold Shares, the GMA Sold Shares, the GMD Sold Shares, the Eurafrique Sold Shares and the Sometra Sold Shares are together referred to herein as the “***Sold Shares***” and the allocation of the Sold Shares at Completion Date between the Sellers is set forth in Schedule C.

Borisniak also owns 41,158 shares of CFI, which represent 23.45% of the share capital of CFI and GMA owns 120,552 shares of CFI which represent 68.71% of the share capital of CFI (together the “***CFI Shares***”). Such CFI Shares shall be transferred on or prior to Completion Date in accordance with the terms and conditions of this Agreement and will not be part of the assets indirectly acquired by the Buyer.

- D. The Buyer indicated to the Guarantors its intent to acquire the Sold Shares subject to the terms of this Agreement. In connection with this intention, the Buyer had, before the date hereof, access to the Data Room Information and had therefore the opportunity to conduct, alone and with its Representatives, its own independent review and analysis of the Companies and their business through any legal, tax, social, accounting, insurance, strategic and/or financial due diligences based on the Data Room Information.
- E. In addition, before the date hereof, the Buyer and its Representatives had the opportunity to:
- meet and talk with the management of the Operating Companies' and their advisers, particularly to discuss all issues previously identified arising from the Data Room Information,
  - visit all the sites in Africa where the Operating Companies' are conducting business, and
  - receive additional information in relation to the questions they raised.
- F. The Sellers have agreed to sell and the Buyer has agreed to acquire from the Sellers the Sold Shares under the terms and conditions of this Agreement.

**IT HAS BEEN AGREED AS FOLLOWS:**

**ARTICLE 1. DEFINITIONS – CONSTRUCTION**

**1.1** In this Agreement, the following terms shall have the following meaning:

**“Accounts”** means the audited financial statements (balance sheet, profit and loss statement), together with the notes thereon of each of the Companies, excluding Borisniak, for the financial year ending as at the Accounts Date, which are set out in Schedule 1.1(i);

**“Accounts Date”** means December 31, 2016;

**"Additional Payments"** has the meaning given in Article 3.6;

**"Adjustment Amount"** means, the sum of:

- (i) Provisional Net Debt Amount minus Provisional Working Capital Adjustment Amount;

Minus

- (ii) Final Net Debt Amount minus Final Working Capital Adjustment Amount;

for the avoidance of doubt, the Adjustment Amount may be a negative number;



<b><i>“Adjustment Escrow Agreement”</i></b>	means the agreement to be entered into among the Escrow Agent, the Sellers' Representative and the Buyer with respect to the Adjustment Escrow Amount, substantially in the form set out in <u>Schedule 1.1(ii)</u> ;
<b><i>“Adjustment Escrow Amount”</i></b>	means the sum of €10,000,000;
<b><i>“Affiliate”</i></b>	means, with respect to any person, any other person which, directly or indirectly, Controls, is Controlled by or is under the common Control with such person;
<b><i>“Agreement”</i></b>	means this sale and purchase agreement including its preamble and its schedules, which are incorporated herein by reference and form an integral part hereof;
<b><i>“Anti-Corruption Laws”</i></b>	means the U.S. Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-1 , et seq., the U.K. Bribery Act of 2010, the various laws adopted by governments to formally or informally implement the Organization for Economic Cooperation & Development’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, in whole or in part, as well as the similar laws of other jurisdictions, where the Companies do business, that prohibit the payment of bribes or unlawful payments.
<b><i>“Applicable Law”</i></b>	means with respect to any person, property, transaction, event or other matter, any Laws relating or applicable to such person, property, transaction, event or other matter;
<b><i>“Average EBITDA”</i></b>	has the meaning ascribed to it in <u>Schedule 3.5</u> ;
<b><i>“Borisniak”</i></b>	means Borisniak Corp., a corporation organized under the laws of the Republic of Panama, by Public Deed N° 6,856 of September 28, 1979, recorded in the Public Registry Office, Mercantile Section, at Microjacket 45359, Frame 0036, on October 8, 1979;
<b><i>“Borisniak Sold Shares”</i></b>	has the meaning given in the preamble;
<b><i>“Business”</i></b>	means the business of production of flour and animal feed, and of purchasing, selling, trading, importing/exporting of wheat and animal feed material operated by the Companies;
<b><i>“Business Day”</i></b>	means any day, except Saturday, Sunday or any day on which banks are generally not open for business in France and in Kansas City, Kansas;

<b><i>“Business Information”</i></b>	means all information and records, disclosed by or on behalf of a Party, wherever located (including accounts, business plans and financial forecasts, Tax records, correspondence, designs, drawings, manuals, specifications, customer, sales and supplier information, technical or commercial expertise, software, formulae, processes, trade secrets, methods, knowledge and know-how) and which (either in their entirety or in the precise configuration or assembly of their components) in each case whether or not recorded, which are relating to the Business and used by the Companies in connection thereof and are not publicly available;
<b><i>“Buyer’s Representations and Warranties”</i></b>	means the representations and warranties of the Buyer set forth in <u>ARTICLE 7</u> ;
<b><i>“Buyer’s Statement”</i></b>	has the meaning given in <u>Article 3.3.1</u> ;
<b><i>“Cash”</i></b>	means the aggregate amount of all cash at hand cash equivalent balances to the extent readily convertible into cash within thirty (30) days at no material cost to the Companies, credit balances on bank and other accounts, term deposits, accrued interests, the amount of any received and unreleased checks, wires, or drafts, <i>SICAVs monétaire, SICAVs de trésorerie</i> and similar accounts or investments of the Companies; Cash shall include (i) prepayment and fee payment not to exceed 2.8 million euros made in connection with the renewal of the lease in relation to a plot of land located in the Port of Dakar, Zone Nord (within customs barrier), close to the LESIEUR warehouse and currently covered by an authorization to occupy the public domain entered into between GMD and the Republic of Senegal, Port Autonome de Dakar) dated as of 4 February 1981 as amended on 5 August 1993; (ii) advances paid; (iii) loans to employees; iv) the mark to market value of any FX, derivative (futures contracts) or interest rate swap instrument to the extent not already included in Current Assets and Current Liabilities; for interpretation purposes of the above definition, the Parties agree that the Cash of the Companies as of October 31, 2017 include the items referred to in Schedule 3.3; For the avoidance of doubt, the amount of Cash may be a negative number;
<b><i>“CFI”</i></b>	means Compagnie Forestière de l’Indénie, a company organized under the laws of the Republic of Ivory Coast, having its offices Zone Portuaire, Rue du Havre, quai n°1, 01 BP 1743, Abidjan 01, Ivory Coast, registered with the Trade and Movable Credit Registry (RCCM) under number CI-ABJ-1962-B-667;
<b><i>“CFI Shares”</i></b>	has the meaning given in the preamble;

<b>“CFI Carve-Out”</b>	means the sale of the CFI Shares in accordance with <u>Article 12.5.1.1</u> ;
<b>“Claim”</b>	has the meaning given in <u>Article 12.5.1</u> ;
<b>“Claim Notice”</b>	has the meaning given in <u>Article 12.5.1</u> ;
<b>“Company” “Companies”</b>	means, collectively, Borisniak, Eurafrique, Sometra, GMD and GMA, and each referred to herein individually as a <b>“Company”</b> ;
<b>“Companies Accounting Principles”</b>	mean for the purposes of the Sellers’ Representations and Warranties and the Guarantors’ Representations and Warranties, and the Completion Accounts, the GAAP applicable in the jurisdiction of incorporation of such Company;
<b>“Completion”</b>	means the completion of the sale and purchase of the Sold Shares pursuant to <u>Article 6</u> ;
<b>“Completion Accounts”</b>	means the aggregate balance sheet of the Companies as at the close of business on the Completion Date and a profit and loss account of the Companies in respect of the period from January 1, 2017 to 31 December 2017 (both dates inclusive, it being specified that 31 December 2017 shall be deemed to end at 11:59 pm Paris time).  The Completion Accounts shall be prepared:  <ul style="list-style-type: none"> <li>(i) adopting the same accounting principles, policies, treatments and categorisations as were used in the preparation of the Accounts, as there applied, including in relation to the exercise of accounting discretion and judgement; and, subject thereto;</li> <li>(ii) in accordance with the Companies Accounting Principles; and</li> <li>(iii) for Borisniak, in accordance with the historic costs accounting principles</li> </ul>
<b>“Completion Date”</b>	has the meaning given in <u>Article 6.1</u> ;
<b>“Completion Payment Amount”</b>	has the meaning given in <u>Article 3.2.1(ii)</u> ;
<b>“Completion Working Capital Statement”</b>	has the meaning ascribed to it in <u>Article 3.3.1</u> ;
<b>“Conditions Precedent”</b>	has the meaning given in <u>Article 4.1</u> ;

**“Control”** has the meaning given in article L. 233-3 I of the French commercial code (*code de commerce*);

**“Current Assets”** means, insofar as they relate to the Business (and excluding in particular the business of trading of sugar operated by Eurafrique), accounts receivable net of any reserves or allowances, inventory net of any reserve or allowances, prepaid expenses and other current receivables, but excluding (a) any prepaid trade payables; (b) deferred Tax assets; (c) receivables from any of the Company’s Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, (d) the specific receivable recorded in relation to the Somadis litigation (e) the mark to market value of any FX, derivative (futures contracts) or interest rate swap instrument to the extent not already included in Cash. The value of accounts receivable included in the Completion Working Capital Statement shall be gross accounts receivable less deductibles, such as sales returns and allowances, rebates (to the extent not included in Net Debt) and discounts, advances received and shall not include any receivables that are not collected within 60 days of the Completion Date and which were not fully provisioned or reserved; for interpretation purposes of the above definition, the Parties agree that Current Assets of the Companies as of October 31, 2017 include the items referred to in Schedule 1.1(iii);

**“Current Liabilities”** means, insofar as they relate to the Business, accounts payable net of advances paid (to the extent not included in Debt), accrued Taxes, deferred Taxes, accrued expenses and other current payables, but excluding Debt, the mark to market value of any FX, derivative (futures contracts) or interest rate swap instrument to the extent not already included in Cash, for interpretation purposes of the above definition, the Parties agree that Current Liabilities of the Companies as of October 31, 2017 include the items referred to in Schedule 1.1(iii);

**“Data Room Information”** means the materials and information made available to the Buyer and/or its Representatives (or some of them) in the electronic data room to which the Buyer and/or all or certain of its Representatives had access from June 14, 2017 to December 17, 2017 and which will be contained in four (4) copies of DVD-Roms, a copy of which will be (i) kept by JCM on behalf of the Sellers, (ii) kept by the Buyer and (iii) two copies of which shall be kept in escrow one by Sellers' adviser and the other by the Buyers' adviser according to a documentary escrow agreement;

***“Debt”***

means the aggregate amount of (i) any borrowings, loans, bonds, facilities, overdraft, presently used lines of credit from or other indebtedness or liabilities to financial institutions either interest bearing or non-interest bearing, including any accrued interest, (ii) intercompany and third-parties financial indebtedness or current accounts or shareholders’ loans and accrued interests thereon due by the Companies to the Sellers or any of their Affiliates, (iii) financial lease obligations and accrued interests thereon, (iv) dividends or other distributions to the Sellers decided or proposed by the board of directors or the general meeting of shareholders of the Companies and outstanding at the Completion Date, (v) employee retirement obligations at 100% of the liability for all employees who are at retirement age and 50% for all employees who have not yet reached retirement age, (vi) Transaction related costs outstanding as at the Completion Date, Transaction Bonuses, retention bonuses, (vii) aged suppliers payable (i.e. suppliers payable that remain unpaid based on contractual payment terms as stated on the invoice or supplier general term of business – more than 60 days), (viii) salaries outstanding and/or employee benefit liabilities recorded on or off balance sheet, including any accrued administrator indemnity or shareholder related payables, (ix) deferred tax payable on MATIF provision (future cash outflows relating to the taxation of deferred gains on the reversal of the MATIF provision), (x) customers advances and guarantees received, (xi) advances paid to suppliers, (xii) any and all customer rebates, (xiii) income Tax liabilities, including a specific deferred tax liability for withholding tax at GMA (xiv) a specific amount equal to 15% of the amount of Cash exceeding EUR 7,000,000 as of the Completion Date; (xv) a specific amount of EUR 12,000,000 for Capex, (xvi) liabilities related to capital expenditures recorded prior to Completion (including capex supplier guarantees), (xvii) the specific provision recorded in respect of the litigation between GMD and Belli Toro farm; (xiii) any other contingencies or provision for risks and charges, including litigation, recorded on the balance sheet which are not addressed in Debt or Current Liabilities and could reasonably be expected to affect cash collection or payment; (xix) capital gain tax on GMA and Borisniak in respect of the CFI Carve-Out calculated on the price specified in Schedule 4.1.1; and, in all circumstances, not to include any item that is a Current Liability, for interpretation purposes of the above definition, the Parties agree that debt and debt like items of the Companies as of October 31, 2017 include the items referred to in Schedule 3.3;

***“Deferred Payment”***

means the sum of 39,551,219 Euros;

<b><i>“Disclosed”</i></b>	means fairly disclosed (with sufficient details to allow a reasonable buyer to evaluate the nature and scope of the matter disclosed) in the Schedules, the Disclosure Letter and the exhibit thereto, and <b><i>“Disclosure”</i></b> shall be construed accordingly;
<b><i>"Disclosures"</i></b>	has the meaning given in <u>Article 11.1</u> ;
<b><i>"Disclosure Letter"</i></b>	means the letter to be delivered by the Guarantors to the Buyer upon execution of this Agreement and containing exceptions to the Guarantors’ Representations and Warranties, as the same may be updated by the Guarantors in accordance with <u>Article 11</u> ;
<b><i>"Dispute"</i></b>	has the meaning given in <u>Article 24.2</u> ;
<b><i>"Dividend Distributions"</i></b>	means the distribution of dividends or distributable reserves by Borisniak, Eurafrique and Sometra to the relevant Sellers to be completed in accordance with <u>Article 4.1.2</u> ;
<b><i>"Earn Out"</i></b>	means the portion of the Purchase Price determined and paid in accordance with <u>Article 3.5</u> ;
<b><i>"Earn Out Consideration"</i></b>	has the meaning ascribed to it in <u>Article 3.5.1</u> ;
<b><i>“Earn Out Period”</i></b>	means the period starting on first day of the fiscal year in which the Completion Date occurs and, subject to exercise of the Sellers’ Option in accordance with <u>Article 3.5</u> , ending on the last day of the fifth fiscal year following Completion; for the avoidance of doubt, the first fiscal year after Completion shall be taken into account as from the first day of such fiscal year, and not only for the period from the Completion Date until the first fiscal year end after Completion;
<b><i>“Earn Out Review Period”</i></b>	has the meaning ascribed to it in <u>Article 3.5.1(iii)</u> ;
<b><i>"EBITDA"</i></b>	has the meaning given in <u>Schedule 3.5</u> ;
<b><i>"EBITDA Statement"</i></b>	has the meaning given in <u>Article 3.5.1(ii)</u> ;
<b><i>“Encumbrances”</i></b>	means any pledge ( <i>nantissement, gage</i> ), guarantee ( <i>sûreté</i> ), mortgage ( <i>hypothèque</i> ), privilege, charge or other rights affecting the ownership or the free disposal (including promises to sell, inalienability agreement, right of first refusal, escrow agreement, retention of title clause), in all cases except however rights legally attached to a certain type of asset, person or operation for which it cannot be legally waived;

<b><i>“Environment”</i></b>	means all or any of the media of air, water, groundwater, land soil, sub-soil, soil, natural resources (wherever occurring) and any living organisms or systems supported by those media and in relation to the media of air and water includes without limitation, the air and water within buildings and the air and water within other natural or man-made structures above or below ground and includes all natural resources and the built environment;
<b><i>“Escrow Agent”</i></b>	means the Paris Bar Escrow Agent;
<b><i>“Eurafrique”</i></b>	means Eurafrique, a company organized under the laws of the Principality of Monaco, having its registered office at 20, avenue de Fontvieille, Monaco, Principality of Monaco, registered with the trade and Industrial Registry under number 60S00909;
<b><i>“Eurafrique Sold Shares”</i></b>	has the meaning given in the preamble;
<b><i>“Exchange Rate”</i></b>	means with respect to a particular currency for a particular day the spot rate of exchange (the closing mid-point) for that currency into Euros (€) on such date as published by Citibank, or where no such rate is published by Citibank in respect of that currency for such date at the rate quoted by xe.com as at the close of business in France as at such date;
<b><i>“Export Controls”</i></b>	has the meaning given in <a href="#">Article 9.8.5</a> ;
<b><i>“Final Net Debt Amount”</i></b>	means the amount of Net Debt as shown in the Net Debt Reconciliation Statement, as determined in accordance with <a href="#">Article 3.3</a> ; for the avoidance of doubt, the Final Net Debt Amount may be a negative number;
<b><i>“Final Working Capital Adjustment Amount”</i></b>	means Final Working Capital Amount minus Reference Working Capital;
<b><i>“Final Working Capital Amount”</i></b>	means the amount of Working Capital shown in the Completion Working Capital Statement, as determined in accordance with <a href="#">Article 3.3</a> and <a href="#">Schedule 3.3</a> ; for the avoidance of doubt, the Final Working Capital Amount may be a negative number;
<b><i>“GAAP”</i></b>	means generally accepted accounting principles under the laws of the relevant jurisdiction;

<b>“GMA”</b>	means Société Les Grands Moulins d’Abidjan, a company organized under the laws of the Republic of Ivory Coast, having its offices Zone Portuaire, Rue du Havre, quai n°1, 01 BP 1743, Abidjan 01, Ivory Coast, registered with the Trade and Movable Credit Registry (RCCM) under number CI-ABJ-1963-B-2798;
<b>“GMA Sold Shares”</b>	has the meaning given in the preamble;
<b>“GMD”</b>	means Les Grands Moulins de Dakar, a company organized under the laws of the Republic of Senegal, having its offices at Avenue Félix Eboué, BP 2068, Dakar, Senegal, registered with the Trade and Movable Credit Registry (RCCM) under number SN-DKR-1951-B-4785;
<b>“GMD Sold Shares”</b>	has the meaning given in the preamble;
<b>“Governmental Authority”</b>	means (i) any government or governmental entity, whether federal, national, state or local (including for the avoidance of doubt regional, departmental and municipal) having administrative, legal, governmental or judicial jurisdiction, including any court, ministry, agency, bureau, “ <i>autorité administrative indépendante</i> ”, and other governmental agency, and (ii) solely for the purposes of <u>Article 9.8.2 to Article 9.8.6</u> , any instrumentality of a government or governmental entity, including, but not limited to state owned enterprises;
<b>“Government Official”</b>	means any person who is a director, officer, official, employee or agent of (1) any Governmental Authority; (2) any public international organization, including, for example, the World Bank; (3) any political party or official thereof; (4) any candidate for political office; (5) any person considered a government official under Applicable Law; and (6) any person acting for or on behalf of any of the foregoing;
<b>"Guarantee"</b>	means any guarantee, indemnity, suretyship, letter of comfort or other assurance, security or right of set-off given or undertaken directly or by way of counter-indemnity by a person to secure or support the obligations (actual or contingent) of any third Party;
<b>“Guarantors’ Knowledge”</b>	means actual or constructive knowledge after due inquiry of any of the Guarantors, in particular – without – limitation by reviewing the Representations and Warranties with the directors and key executives of each of the Companies;
<b>“Guarantors’ Representations and Warranties”</b>	means the representations and warranties of the Guarantors set forth in ARTICLE 9;



<b><i>“Improvement Capex”</i></b>	has the meaning given in <u>Schedule 3.5</u> ;
<b><i>“Indemnity”</i></b>	has the meaning given in <u>Article 12.2</u> ;
<b><i>“Independent Expert”</i></b>	has the meaning given in <u>Article 3.5</u> ;
<b><i>"Initial Purchase Price"</i></b>	277,570,023.51 €;
<b><i>“Intellectual Property Rights”</i></b>	means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reissues, reexaminations, extensions, or restorations of any of the foregoing, and other Governmental Authority issued indicia of invention ownership (including certificates of invention, petty patents, and patent utility models) ("Patents"); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing ("Trademarks"); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing ("Copyrights"); (d) internet domain names, whether or not Trademarks, all associated web addresses, URLs, websites and web pages, and all content and data thereon or relating thereto, whether or not Copyrights; (e) industrial designs, and all Patents, registrations, applications for registration, and renewals thereof; (f) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques, and other confidential and proprietary information and all rights therein (“Trade Secrets”); (g) computer programs, operating systems, applications, firmware, and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation thereof and (h) all other intellectual or industrial property and proprietary rights;
<b><i>"IT System"</i></b>	means any computer hardware, software, operating systems, firmware, networking equipment or other equipment which is reliant on microchip technology used by any the Companies for the purpose of carrying out its business as now carried on;

*“Law”*

means any law, statute, regulation, rule, ordinance, principle of common law, order or decree of any Governmental Authority in force, treaties, conventions and other agreements between states, or between states and supranational bodies, as well as written administrative practices having force of law of any government, governmental department, agency or regulatory body, rules of common law, customary law and equity and all civil and other codes and all other laws of, or having effect in, any jurisdiction from time to time and whether before or after the date of this Agreement where the Company does business or which apply to the Company;

*“Leakage”*

means:

- 1.1.1 any dividend or distribution paid or made by any of the Companies to the Sellers or any of them;
- 1.1.2 any payments made by any of the Companies to (or assets transferred by any of the Companies to, or liabilities assumed by any of the Companies for the benefit of) any Seller or any member of the such Seller's Group other than payments made in the Ordinary Course of Business for goods or services provided at market value;
- 1.1.3 any payments made by any of the Companies to any Seller or any member of such Seller's Group in respect of any share or loan capital or other securities of the Companies being issued, redeemed, purchased or repaid, or any other return of capital;
- 1.1.4 the waiver by any of the Companies of any amount owed to any of the Companies by any Seller or any member of such Seller's Group;
- 1.1.5 any payments made by any of the Companies in respect of costs, fees or expenses incurred by any Seller or any member of such Seller's Group in connection with the sale of the Sold Shares by the relevant Sellers (including any such professional advisers' fees relating to advice given to relevant Seller);
- 1.1.6 the assumption of any liability of any Seller or any member of such Seller's Group by any of the Companies;

- 1.1.7 any gratuitous payment (including any sale or other bonuses) in connection with the sale of the Sold Shares to any corporate officer, employee or consultant by any of the Companies;
- 1.1.8 the creation of any Encumbrances over the assets of any of the Companies in favor of any Seller or any member of such Seller's Group;
- 1.1.9 the payment by any of the Companies of any management, monitoring or other shareholder or corporate officer fees, charges, bonuses or payments of a similar nature on its own behalf or on behalf of any other of the Companies to any person connected to any of them;
- 1.1.10 any transaction entered into by any of the Companies outside the Ordinary Course of Business, or
- 1.1.11 any binding agreement or binding commitment to do any of the things referred to in 1.1.1 to 1.1.10 above;

but excluding Permitted Leakage;

***“Leakage Notice”***

has the meaning ascribed to it in Article 3.3.1;

***“Leases”***

means the leases, commercial leases, long-term leases (*baux emphytéotiques*), construction leases (*baux à construction*) and any other right of occupation for any reason whatsoever to which the Companies are a party and with respect to any Real Estate Properties Leased, other than the Property Financial Leases;

***“Legal Proceedings”***

means any proceeding, suit or judicial action by or before any Governmental Authority, including its tribunals and courts, or by or before any arbitral tribunal or any mediator;

***“Loan”***

has the meaning given in Article 9.7.1;

***“Longstop Date”***

means January 15, 2018;

***“Loss”***

means any and all direct (*prejudice direct*) liabilities, losses, damages, obligations, claims of any kind, demands, judgments, awards, fines, Taxes, fees, penalties, deficiencies, interests, costs, and expenses (including reasonable attorneys' and advisory fees and expenses),

***“Management Accounts”***

means the unaudited financial statements (balance sheet, profit and loss statement), of each of the Companies, excluding Borisniak, up to and including 31 October 2017 which are set out in Schedule 1.1(iii), prepared (i) in accordance with the Companies Accounting Principles by adopting the same accounting principles, policies, treatments and categorisations as were used in the preparation of the audited financial statements for each of the Companies, as there applied, including in relation to the exercise of accounting discretion and judgement; and, subject thereto and (ii) subject to, for each of the Companies, the specific treatments and categorisations referred to in Schedule 1.1(iv);

***“Material Adverse Change”***

means any event, circumstance or change that individually or in the aggregate, has, or reasonably could be expected to have, a material adverse effect on the business results of operations, assets, liabilities, or financial condition of the Companies as a whole; provided, however, that none of the following shall be deemed in and of themselves, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Change:

- (i) directly and exclusively attributable to the announcement or consummation of the Transaction;
- (ii) affecting the industry in which the Companies operate, which would have a disproportionate effect on the Companies;
- (iii) directly and exclusively resulting from the taking of any action contemplated or required by or authorized in accordance with this Agreement;
- (iv) affecting the economy as a whole or the capital markets in general or the markets in which the Companies operate, which would have a disproportionate effect on the Companies;
- (v) the failure of the Companies to meet or achieve the results set forth in any projection or forecast whether internal or published;
- (vii) national or international political or social conditions including the commencement, continuation or escalation of a war, material armed hostilities or other material international or national calamity;

- (viii) any of the matter Disclosed in this Agreement (including any of its Schedules), but only as existing and Disclosed as at the Signature Date and excluding any development or change affecting the fact or circumstance so Disclosed;
- (ix) with respect to which the Buyer has actual knowledge as of the Signature Date;

**"Material Breach"**

means any breach by any of the Guarantors or Mr David Mimran (i) of the provision of Article 17 (*Restrictive Covenants*), Article 18 (*Confidentiality*) and Article 12.5.2 (*Third Party Claim*) or (ii) of any other provision of the Agreement where the amount in dispute between the Guarantors and/or Mr David Mimran and the Buyer exceeds 1,500,000 Euros;

**"Material Contract"**

means any (i) contract or agreement of the Companies that involves expenditures or receipts in excess of 50,000 Euros, and/or (ii) any contract, concession, lease, right to occupy, or other agreement with any Governmental Authority, and/or (iii) contract or agreement of the Companies that has a term in excess of one (1) year and that involves expenditures or receipts in excess of 50,000 Euros for a one (1) year period;

**"Net Debt"**

means, the aggregate amount of Debt minus Cash of the Companies, as calculated using the form attached as Schedule 3.3;

**"Net Debt Reconciliation Statement"**

has the meaning given it in Article 3.3.1;

**"Operating Companies"**

means GMA, GMD, Sometra and Eurafrique;

**"Order"**

means any order, injunction, judgment or arbitration award of any Governmental Authority or any court, tribunal or arbitrator;

**"Ordinary Course of Business"**

means the ordinary and prudent conduct of business, as a *personne raisonnable*, in accordance with past practice;

**"Permitted Leakage"**

means any Leakage listed in Schedule 15;

**"Product Liability"**

has the meaning given it in Section 9.14;

**"Properties"**

means the Real Estate Property Leased and the Real Estate Property Owned;

<b><i>“Property Financial Leases”</i></b>	means any rental agreement giving the lessee the option to acquire a Real Estate Property Leased at an agreed price taking into account the rents paid during the rental period, and with respect to any Real Estate Properties Leased;
<b><i>“Provisional Net Debt Amount”</i></b>	means the amount of (- 15,452,920.94) Euros;
<b><i>“Provisional Working Capital Adjustment Amount”</i></b>	means the amount of 5,119,646.28 Euros
<b><i>“Purchase Price”</i></b>	has the meaning ascribed to it in <u>Article 3.1</u> ;
<b><i>“Real Estate Property Leased”</i></b>	means the properties and property rights (including lands, buildings, fixtures ( <i>immeubles par destination</i> ) and fittings ( <i>immeubles par incorporation</i> )) that each of the Companies is renting or which it enjoys ( <i>jouissance</i> ) pursuant to the Leases or the Property Financial Leases;
<b><i>“Real Estate Properties Owned”</i></b>	has the meaning given in <u>Article 9.5.1.1</u> ;
<b><i>“Reference Working Capital”</i></b>	means the amount of €64,000,000;
<b><i>“Representatives”</i></b>	means, with respect to the Buyer or a Seller, its directors, officers, employees and advisers (whether internal or external), to the extent authorized to represent and/or act on behalf of the Buyer or the applicable Seller in connection with the Transaction;
<b><i>“Restricted Business”</i></b>	means the business of production of flour and animal feed, and of purchasing, selling, trading, importing/exporting of wheat and animal feed material in Senegal and Ivory Coast only, excluding feed milling in the Ivory Coast;
<b><i>“Rules”</i></b>	has the meaning given in <u>Article 24.2</u> ;
<b><i>“Sanctions”</i></b>	has the meaning given in <u>Article 9.8.4</u> ;
<b><i>“Sellers’ Group”</i></b>	means the Sellers, and in relation to an individual ( <i>personne physique</i> ) Seller, (i) a member of that individual’s family (including the individual’s spouse, civil partner, any person with whom the individual lives as a partner in an enduring family relationship, a child or step-child of the individual, a child or step-child of the individual’s partner, or the individual’s parents or grandparents and (ii) any body corporate in respect of which that individual (or any of the persons referred to in (i) above) is interested in 20% or more of the equity share capital or can exercise 20% or more of the voting

rights at a general meeting, and each of their Affiliates, other than the Companies;

- “Sellers’ Representative”** has the meaning given in Article 15.1;
- “Seller Representations and Warranties”** means the representations and warranties of the Sellers set forth in ARTICLE 8;
- “Sellers’ Option”** has the meaning ascribed to it in Article 3.5.3;
- “Senalia”** means Senalia, a company organized under the laws of the France, having its registered office at 26, rue de Varize, Chartres, France;
- “SICA SPR”** Société d'intérêt collectif agricole des Silos Portuaires de Rouen, a subsidiary company of Senalia;
- “Senior Employees”** means the persons listed in Schedule 9.12.1.1 hereto
- “Signature Date”** means the date of signature of this Agreement;
- “Sold Shares”** has the meaning given in the preamble;
- “Sometra”** means Société Méditerranéenne de Transport, a company organized under the laws of the Principality of Monaco, having its registered office at 20, avenue de Fontvieille, Monaco, Principality of Monaco, registered with the trade and Industrial Registry under number 56S00311;
- “Sometra Sold Shares”** has the meaning given in the preamble;
- “Specific Indemnity Items”** has the meaning given in Article 12.2.1;
- “Specific Litigations”** has the meaning given in Article 3.6.2;
- “Take Over Notice”** has the meaning given in Article 12.5.2(iv);
- “Tax Authority”** means a Governmental Authority having jurisdiction over the assessment, determination, collection or imposition of any Tax;
- “Tax” or “Taxes”** means all kind of taxes, whether direct or indirect, and whether levied by reference to income, profits, gains, asset values, turnover, added value or other reference, duties and contributions (including social security contributions), whenever and wherever imposed (whether imposed by way of a withholding or deduction for or on account of tax otherwise), and any related interest or penalties,

imposed by any Governmental Authority;

***“Tax Sharing Agreement”***

means any Tax indemnity agreement, Tax sharing agreement, Tax allocation agreement or similar contract or arrangement, whether written or unwritten (including, without limitation, any such agreement, contract or arrangement included in any purchase or sale agreement, merger agreement, joint venture agreement, or other document), other than agreements, contracts, or arrangements entered into the Ordinary Course of Business the principal purpose of which is unrelated to Tax;

***“Third Party”***

means any person who is not a Party to the Agreement;

***“Third Party Claim”***

has the meaning given in Article 12.5.2;

***“Transaction”***

means the transaction contemplated by this Agreement.

***“Transaction Accounting Principles”***

means, for the purposes of the calculation of the Earn Out Consideration in accordance with Article 3.5 and Schedule 3.5, the Companies Accounting Principles, as adjusted in accordance with the following provisions: (i) for non-economic items which includes mark to market adjustments for commodity and currency forwards/futures/options and related required reserves caused by mark to market adjustments such as sales contract losses, purchase contract losses, (ii) local rebates are not to be booked as interest and all rebates and early payment discounts are costs (above the line) and (iii) any changes to the Companies Accounting Principles required by local accounting standards subsequent to the date hereof will be disregarded for the EBITDA calculation if such changes are not reflective of operating costs associated with the relevant business. If part of the business of the Companies is carried out by entities not presently part of the Companies and that such entities prepare their accounts under US GAAP, the Buyer will be required for the purpose of the calculation of the Earn Out Consideration to convert such accounts under local GAAP.

For the avoidance of doubt, any recoveries in respect of the provisioned accounts receivables referred to in Article 3.6.1 of the Agreement will be excluded from the EBITDA for the purposes of the Earn Out Consideration;

***“Transaction Documents”***

means this Agreement, the Adjustment Escrow Agreement, the Disclosure Letter, the documents in agreed form and such other agreements, undertakings, guarantees and other documents as are referred to in this Agreement as being required to be signed or entered into for the purposes of effecting, or otherwise in connection with, the transactions contemplated hereby;



**“Value of any Leakage”**

means the aggregate of as the case may be:

- (a) the relevant payments made or payable by any of the Companies;
- (b) the market value of the assets transferred by any of the Companies or over which any Encumbrance is created by any of the Companies less any consideration received for it by such Company from any Seller or person connected to any Seller;
- (c) the amount of the liabilities assumed or incurred by any of the Companies less any value received; and
- (d) the amount of debts waived or to be waived by any of the Companies,

in each case in relation to the Leakage;

**“Working Capital”**

means the aggregate amount of Current Assets minus Current Liabilities for each of the Companies, as calculated using the form attached as Schedule 3.3.

**1.2 Construction**

1.2.1 Definitions given for a term or an expression used in the plural also apply when this term or expression is used in the singular and vice versa. Terms used in the plural apply to the whole as well as to one or more of the relevant individual elements. Reference to one gender includes all gender. Definitions given for certain terms and expressions also apply to the terms and expressions that have the same root and vice versa.

1.2.2 The preamble and the schedules to this Agreement, are incorporated herein by reference and form an integral part hereof.

1.2.3 The table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;

1.2.4 A reference to:

- (i) any **“Party”** shall be construed to include any party to this Agreement as set out at the head of page 1 and its successors in title and permitted assigns;
- (ii) Articles and Schedules are to articles, clauses and schedules of this Agreement and references to paragraphs are references to paragraphs of the relevant Schedule in which they appear;

- (iii) a “*person*” shall be construed so as to include any individual, company, firm, government, state or agency of a state or any association, fund (fonds commun) or partnership or other entity (whether or not they have separate legal personality);
  - (iv) an “*entity*” shall be construed so as to include any entity, wherever and however incorporated or established (for example any association, société en participation, partnership, groupement d’intérêt économique, joint venture, union, company, Governmental Authority, trust or other similar group or organization);
  - (v) “*writing*” or “*written*” includes fax but not email (unless otherwise expressly provided in this Agreement);
  - (vi) any French legal term for any action, remedy, method of judicial proceedings, legal document, legal status, court, official, or any legal concept shall in respect of any jurisdiction other than France be interpreted as what most nearly approximates in that jurisdiction to the French legal term or concept. French terms in italic refer, for avoidance of doubt, to legal terms and concepts existing in France;
  - (vii) unless the context otherwise so requires, a statutory provision shall include such provision as it exists and is construed as of the date of this Agreement;
- 1.2.5 Any words following the terms “*including*”, “*include*”, “*in particular*”, “*for example*” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.6 Any reference in the Agreement to a day or month shall refer to a calendar day or month. Should the concerned deadline expires on a non-Business Day, it will expire the first following Business Day;
- 1.2.7 References to times of the day are to local time in the relevant jurisdiction unless otherwise stated;
- 1.2.8 In any situation where a French translation on the Agreement will be required, the English terms and expressions of the Agreement shall be translated into the most appropriate French term or expression, irrespective of the meaning that such term and expression may have or could be interpreted as a legal concept in a jurisdiction other than France;
- 1.2.9 Reference to a claim or other action “threatened” by or against any person shall mean that a written notice threatening such claim or action has been sent by or to the relevant person, as the case may be;

- 1.2.10 where the English wording of this Agreement is followed by a legal term in the French language set in parenthesis, such French language legal term shall prevail;
- 1.2.11 references to a French legal term or concept shall, in respect of any jurisdiction other than France, be construed as references to the term or concept which most nearly corresponds to it in that jurisdiction;
- 1.2.12 any accounting term not expressly defined in this Agreement shall have the meaning ascribed to it under the relevant GAAP;
- 1.2.13 Where it is necessary to determine whether a monetary limit or threshold set out in Article 12.2.2 has been reached or exceeded (as the case may be) and the value of the relevant claim or any of the relevant claims is expressed in a currency other than Euros, the value of each such claim shall be translated into Euros at the Exchange Rate on the date of receipt by the Sellers of written notification from the Buyer of the existence of such claim.
- 1.2.14 This Agreement has been drafted and negotiated in English. In the event of any conflict or inconsistency between the terms of any French version and the English version of this Agreement, the terms of the English version of this agreement shall govern.

## **ARTICLE 2. TRANSFER OF THE SOLD SHARES**

- 2.1** Subject to the terms and conditions of this Agreement, the Sellers shall sell to the Buyer and the Buyer shall purchase from the Sellers, all the Sold Shares free and clear from any Encumbrance on Completion. The Sold Shares sold by each Seller are indicated opposite of its name as set forth in Schedule C.

To that effect, each Seller individually covenants (*se porte fort*) that it shall validly own the Sold Shares at Completion as indicated opposite of its name as set forth in said Schedule C.

- 2.2** The Parties agree that the transfer of ownership of the Sold Shares shall occur at 23:59 Paris time on the Completion Date, subject to Completion.
- 2.3** As of the Completion Date, the Buyer shall have the full ownership of the Sold Shares together with all the rights attached thereto, including the voting rights. The Buyer shall have the right to all dividends and reserves which could be distributed with respect to the Sold Shares and for which the decision of distribution and/or the payment shall occur after the Completion Date.
- 2.4** Neither the Buyer nor the Sellers shall be obligated to complete the sale and purchase of any of the Sold Shares unless the sale and purchase of all Sold Shares is completed simultaneously.

## ARTICLE 3. PURCHASE PRICE OF THE SOLD SHARES

### 3.1 Determination of the Purchase Price

The consideration to be paid by the Buyer for all the Sold Shares (the “*Purchase Price*”) shall be equal to the sum of:

- 3.1.1 the Initial Purchase Price, as adjusted in accordance with Article 3.3, plus;
- 3.1.2 the Deferred Payment; plus
- 3.1.3 the Earn Out, if any, determined in accordance with the provisions of Article 3.5; plus
- 3.1.4 the Additional Payments, if any, determined in accordance with the provisions of Article 3.6.

The Purchase Price shall be paid in cash and shall be allocated as amongst the Sellers as set out in Schedule 3.1. The Sellers represent that the allocation of the Purchase Price reflected in Schedule 3.1 has been agreed exclusively amongst them and acknowledge and undertake to the Buyer that they shall have no claim against the Buyer in relation to such allocation. The Sellers’ Representative shall indemnify and hold harmless the Buyer from any and all Losses which may arise out of such payments.

### 3.2 Payment of Initial Purchase Price

- 3.2.1 The Initial Purchase Price shall be paid as follows:
  - (i) Up to the Adjustment Escrow Amount, at Completion Date by wire transfer, free of any bank or other charges, to the account of the Escrow Agent details of which are specified in the Adjustment Escrow Agreement, which shall be credited with value date on the Completion Date. The Parties agree that the Adjustment Escrow Amount shall be used for the purposes of the adjustment process as provided in Article 3.3 and shall be released in accordance with such Article 3.3 and the terms of the Adjustment Escrow Agreement;
  - (ii) Up to €267,570,023.51, (the “*Completion Payment Amount*”), at Completion Date by wire transfer, free of any bank or other charges, to the account of the Sellers’ Representative, details of which are specified in Schedule 3.2, which shall be credited with value date on the Completion Date, except with respect to the relevant payments to be made to those of the Sellers identified in Schedule 3.2(ii), which shall be made to the accounts the details of which are specified in Schedule 3.2(ii).

### 3.3 Adjustments to Initial Purchase Price

3.3.1 Within ninety (90) Business Days after the Completion Date, the Buyer shall procure that the Companies prepare in good faith under their sole supervision and control and, when prepared, within the same ninety (90) Business Days period, the Buyer shall deliver to the Seller's Representative a statement (the "**Buyer's Statement**") which shall be final drafts of:

- (i) the Completion Accounts,
- (ii) a detailed statement of the Working Capital of each of the Companies as at the Completion Date, prepared in the form set forth in Schedule 3.3 (the "**Completion Working Capital Statement**")
- (iii) a detailed statement derived therefrom of the Net Debt of each of the Companies as at the Completion Date, prepared in the form set forth in Schedule 3.3 (the "**Net Debt Reconciliation Statement**"), and
- (iv) if applicable (i.e.: if Completion takes place on or after January 1, 2018), a notice of any Leakage occurring between 1 January 2018 and the Completion Date (both inclusive), showing the Value of any such Leakage (the "**Leakage Notice**").

During the above ninety (90)-Business Day period, the Buyer shall closely associate the Sellers' Representative in connection with the preparation, review and audit of the Completion Accounts, and the Sellers' Representative shall cooperate and provide any assistance, information and certification which may be reasonably required by the Buyer in connection with the same.

3.3.2 Unless, within forty-five (45) Business Days after the date on which the Sellers' Representative receives the Buyer's Statement, the Sellers' Representative notifies the Buyer in writing that he disagrees with such statement, the Sellers shall be deemed to have accepted such statement and all items and amounts indicated therein will be final and binding on the Parties.

3.3.3 Within the period of forty-five (45) Business Days referred to in Article 3.3.2 above, the Buyer shall procure that the Companies provide the Sellers' Representative and his advisers with reasonable assistance and access to the books, records, personnel, accounting systems of the Companies and any other relevant information or documents of the Companies which may reasonably be necessary for the Sellers' Representative to review the Completion Accounts, the Completion Working Capital Statement, the Net Debt Reconciliation Statement and (as the case may be) the Leakage Notice. Any dispute with respect to the extent and nature of such access to the books, records, personnel, systems, information or documents shall be referred to the Independent Expert for its determination, whose decision in this respect will be final and binding on the Parties.

- 3.3.4 If, within the period of forty-five (45) Business Days referred to in Article 3.3.2 above, the Sellers' Representative notifies the Buyer in writing and acting in good faith by delivering to Buyer a detailed statement of non-compliance of such drafts that the Buyer's final drafts do not comply with Article 3.3.1, the Sellers' Representative and the Buyer shall negotiate in good faith with a view to reaching agreement upon adjustments to the drafts attached to the Buyers' Statement to meet such objections of the Sellers. Such statement of non-compliance shall describe in reasonable detail the specific items, amounts and basis for such disagreement together with supporting calculations and documentation. Any items and components not specifically included in the detailed statement of non-compliance shall be final and binding on the Parties.
- 3.3.5 In the event that the Sellers' Representative and the Buyer are unable to reach agreement as aforesaid within ten (10) Business Days of the Sellers' Representative giving the notice referred to in Article 3.3.4, any matter in dispute may be referred by the Sellers' Representative or the Buyer to the decision of the Paris office of PwC, or if such firm cannot act as expert in accordance with this Article, any other single independent firm of international accountants to be agreed upon between the Sellers' Representative and the Buyer or, in absence of such agreement, by an expert to be selected, at the request of the Sellers' Representative or the Buyer, by the President of the Tribunal de Commerce de Paris in summary proceedings. Such firm of accountants (the "*Independent Expert*") shall act as a third party expert in accordance with article 1592 of the French civil Code in connection with the giving of a written decision which shall be rendered within thirty (30) Business Days of its appointment and be in English. Only specific items and amounts included in the detailed statement of non-compliance referred to above shall be the subject of the Independent Expert's determination. In giving such decision, the Independent Expert shall state what adjustments (if any) are to be made to each line item of the drafts of the Completion Working Capital Statement, the Net Debt Reconciliation Statement and (as the case may be) the Leakage Notice in order that they shall comply with Articles 3.3.1, 3.3.2, 3.3.3, and their respective definitions.
- 3.3.6 The final drafts of the Completion Accounts, Completion Working Capital Statement, Net Debt Reconciliation Statement and the Leakage Notice agreed or deemed to be agreed by the Sellers or, as the case may be, as adjusted by and the subject of the decision of the Independent Expert shall be final and binding on the Sellers and the Buyer. The Final Working Capital Adjustment Amount and the Final Net Debt Adjustment Amount shall result from such final Completion Accounts, Completion Working Capital Statement and Net Debt Reconciliation Statement and (as the case may be) the Value of any Leakage shall result from such final Leakage Notice.
- 3.3.7 The Sellers and the Buyer shall promptly provide (and shall procure that their respective advisers promptly provide) to one another (and to one another's advisers) and to any Independent Expert such documents and information within their

possession or control (or that of their respective Affiliates) as may be required for the purposes of giving effect to this Article 3.3.

3.3.8 The Independent Expert shall be free to decide on the procedures to be followed in making its determination and may hold meetings at which the Sellers' Representative, the Buyer's Representative and their respective advisers present oral arguments, provided that the *principle of contradictoire* is respected. The fees and expenses of any Independent Expert shall be allocated between the Parties by the Independent Expert in the same proportion that the aggregate amount of the disputed items submitted to the Independent Expert that is unsuccessfully disputed by each such Party bears to the total amount of such disputed items so submitted.

### 3.3.9 Payment of Adjustment Amount

- (i) If the Adjustment Amount is greater than zero (0), then the Adjustment Amount shall be payable by the Buyer to the Sellers;
- (ii) If the Adjustment Amount is less than zero (0), then the Adjustment Amount shall be payable by the Sellers to the Buyer;

and any such payment shall be deemed to be an adjustment to the amount of the Initial Purchase Price.

- (iii) The Adjustment Amount shall be paid in Euros within ten (10) Business Days after the amount finally has been determined in accordance with this Article 3.3, by electronic transfer of immediately available funds:

- if payable to the Sellers, to the Sellers' Representative's account details of which specified in Schedule 3.2, except with respect to the relevant payments to be made to those of the Sellers identified in Schedule 3.2(ii), which shall made to the accounts the details of which are specified in Schedule 3.2(ii) (or to such other bank account the details of which shall be notified by the relevant Seller to the Buyer at least ten (10) Business Days prior to such payment's due date);

- if payable to the Buyer to the following account:

Bank Name: Citibank NA

Sot Code: 185008

Branch Number: 600

Account Name: Merriam Financial Services, Ltd.

Account Number: 11876279

IBAN: GB18CITI18500811876279

Swift: CITIGB2L

Reference: MFSTEUR

- (iv) The Adjustment Amount shall be paid in priority by the Escrow Agent by deduction from the Adjustment Escrow Amount.
- (a) If the Adjustment Amount is greater than zero (0), the Adjustment Escrow Amount shall be released in full to the Sellers and the Buyer shall pay to the Sellers the Adjustment Amount in accordance with paragraph (iii) above;
- (b) If the Adjustment Amount is lower than zero (0),

If the absolute value of the Adjustment Amount is lower than the Adjustment Escrow Amount: The Adjustment Escrow Amount shall be released up to the absolute value of the Adjustment Amount to the Buyer and the remaining amount shall be released to the Sellers;

- If the absolute value of the Adjustment Amount is greater than or equal to the Adjustment Escrow Amount: the Adjustment Escrow Amount shall be released in full to the Buyer and the Sellers shall pay to the Buyer within ten (10) Business Days after the amount finally has been determined in accordance with this Article 3.3, by electronic transfer of immediately available funds, any difference between the absolute value of the Adjustment Amount and the Adjustment Escrow Amount.

#### 3.3.10 Payment of Value of any Leakage

Each of the Sellers covenants to pay the Buyer an amount equal to the Value of any Leakage received by it or any member of such Seller's Group occurring between 1 January 2018 and the Completion Date. The relevant Seller(s) shall pay to the Buyer the Value of any such Leakage within ten (10) Business Days after the Value of any such Leakage has been finally determined in accordance with this Article 3.3, by electronic transfer of immediately available funds, to the account of the Buyer referred to in Article 3.3.9(iii).

### 3.4 Deferred Payment

- 3.4.1 The Deferred Payment shall, subject to the provisions Article 14.2, be paid in full on or before the third (3<sup>rd</sup>) anniversary of the Completion Date by wire transfer, free of any bank or other charges, to the Sellers' Representative's account, details of which are specified in Schedule 3.2 or any other bank account the details of which shall be notified by the Sellers' Representative to the Buyer prior to that date in accordance with Article 20, except with respect to the relevant payments to be made to those of the Sellers identified in Schedule 3.2(ii), which shall be made to the accounts the details of which are specified in Schedule 3.2(ii) (or to such other bank account the details



of which shall be notified by the relevant Seller to the Buyer at least ten (10) Business Days prior to such payment's due date).

3.4.2 The Deferred Payment shall bear interest at an annual rate of 3.25%. The Buyer shall pay within five (5) Business Days following the closure of each calendar year, the interests accrued on the Deferred Payment during the said calendar year.

3.4.3 The right of each Seller with respect to the Deferred Payment and corresponding interests is set forth in Schedule 3.1.

### 3.5 Earn Out

#### 3.5.1 Determination of the Earn Out Consideration

(i) In consideration of the sale of the Sold Shares and in addition to the Initial Purchase Price and the Deferred Payment, the Sellers may be entitled to an additional payment (the "***Earn Out Consideration***"), calculated as follows:

- Should the Average EBITDA be equal to, or less than, 35 million Euros, the Earn Out Consideration shall be equal to zero (0);
- Should the Average EBITDA be equal to, or greater than, 45 million Euros, the Earn Out Consideration shall be equal to 40 million Euros;
- Should the Average EBITDA be greater than 35 but less than 45 million Euros, the Earn Out Consideration shall vary on a linear basis between zero (0) and 40 million Euros in accordance with the following formula (result in Euros):

$$4 * (\text{Average EBITDA} - 35,000,000)$$

(ii) Within ninety (90) Business Days after the end of each fiscal year within the Earn Out Period, the Buyer shall prepare and deliver to the Seller's Representative a statement which sets forth in reasonable detail the EBITDA calculation in the form set forth in Schedule 3.5 and only in respect of the fifth year, the amount of the Average EBITDA and the amount of the corresponding Earn Out Consideration which may be due in respect thereof (the "***EBITDA Statement***").

(iii) Unless, within sixty (60) Business Days after the date on which the Sellers' Representative receives the EBITDA Statement (the "***Earn Out Review Period***"), the Sellers' Representative notifies the Buyer in writing that he disagrees with such statement, the Sellers shall be deemed to have accepted such statement and all items and amounts indicated therein will be final and binding on the Parties.

(iv) During the Earn Out Review Period, the Buyer shall procure that the Companies provide the Sellers' Representative and his advisers with reasonable assistance and access to the books, records, personnel, accounting systems of the Companies and any other relevant information or documents of the Companies which may reasonably be necessary for the

Sellers' Representative to review the calculation of the Average EBITDA and the EBITDA Statement. Any dispute with respect to the extent and nature of such access to the books, records, personnel, systems, information or documents shall be referred to the Independent Expert for its determination, whose decision in this respect will be final and binding on the Parties.

- (v) If, within the Earn Out Review Period, the Seller's Representative, acting in good faith, notifies the Buyer by delivering a statement setting forth in English the Seller's Representative's objections to the EBITDA Statement, the Sellers' Representative and the Buyer shall negotiate in good faith concerning the objections of the Sellers. Such statement of non-compliance shall describe in reasonable detail the specific items, amounts and basis for such disagreement together with supporting calculations and documentation. Any items and components not specifically included in the detailed statement of non-compliance shall be final and binding on the Parties. For the avoidance of doubt, any objection shall be limited to the last EBITDA Statement and shall not relate to any EBITDA Statement delivered for any previous year.
- (vi) In the event that the Sellers' Representative and the Buyer are unable to reach agreement as aforesaid within ten (10) Business Days of the Sellers' Representative giving the notice referred to in Article 3.5.1(v), any matter in dispute may be referred by the Sellers' Representative or the Buyer to the Independent Expert. The provisions of Articles 3.3.5 to 3.3.8 shall apply to the determination of the EBITDA and Average EBITDA *mutatis mutandis*.

### 3.5.2 Payment of the Earn Out Consideration

Subject to the Sellers' Option set forth in Article 3.5.3, the Earn Out Consideration, if due in accordance with Article 3.5.1, shall be paid in Euros by the Buyer to the Sellers within ten (10) Business Days after the EBITDA Statement has become final and binding in accordance with Article 3.5.1. Such amount shall be paid by electronic transfer of immediately available funds, free of any bank or other charges, to the Sellers' Representative's account, details of which are specified in Schedule 3.2 or any other bank account the details of which shall be notified by the Sellers' Representative to the Buyer prior to that date in accordance with Article 20, except with respect to the relevant payments to be made to the Sellers identified in Schedule 3.2(ii) which shall be made to the accounts the details of which are specified in Schedule 3.2(ii) (or to such other bank account the details of which shall be notified by the relevant Seller to the Buyer at least ten (10) Business Days prior to such payment's due date).

The right of each Seller with respect to the Earn Out Consideration is set forth in Schedule 3.1.

### 3.5.3 Sellers' Option

Provided that no Material Breach has occurred, within thirty (30) Business Days after receipt of the EBITDA Statement for the fifth year following Completion, the Sellers shall be entitled, at their own option pursuant to written notice given by the Sellers' Representatives to the Buyer (the "**Sellers' Option**"), to extend the Earn Out Period by one (1) additional fiscal year. The Buyer shall thus deliver to the Seller's Representative an additional EBITDA Statement within ninety (90) Business Days after the last day of the sixth fiscal year following Completion Date together with a recalculated Average EBITDA.

The Sellers Representatives shall have the right to exercise the Sellers' Option for each of the next two (2) following fiscal years after exercise of the Sellers' Option pursuant to this Article 3.5.3 and there shall be no Sellers' Option after that for the eighth fiscal year following Completion. The provisions of the preceding paragraph shall apply mutatis mutandis.

## 3.6 Additional Payments

If applicable, the Buyer shall pay to the Sellers the additional payments required to be made pursuant to Article 3.6.1 and Article 3.6.2 below, which shall be part of the Purchase Price in accordance with Article 3.1 (the "**Additional Payments**"):

### 3.6.1 Provisioned accounts receivable of the Companies

If during the three (3) fiscal years following Completion (including the fiscal year during which Completion occurs), any of the Companies recovers an amount corresponding to the payment of the accounts receivable identified in Schedule 3.6.1, an amount corresponding to fifty (50) percent of the amount recovered by the concerned Company shall be paid by the Buyer to the Sellers as an additional part of the Purchase Price, provided that new accounts receivables are paid off before application to the bad debts.

To that effect, within ninety (90) Business Days after the end of each concerned fiscal year, the Buyer shall prepare and deliver to the Seller's Representative a statement which sets forth in reasonable detail in respect of each accounts receivable referred to in Schedule 3.6.1, the amounts recovered for the concerned fiscal year and the calculation the amount due and payable to the Sellers as Additional Payment. The Buyer shall procure that the Companies provide the Sellers' Representative and his advisers with reasonable assistance and access to the books, records, personnel, accounting systems of the Companies and any other relevant information or documents of the Companies which may reasonably be necessary for the Sellers' Representative to review the calculation.

In the event that the Sellers' Representative and the Buyer are unable to reach agreement as aforesaid within ten (10) Business Days of the Sellers' Representative giving the statement referred to above, any matter in dispute may be referred by the Sellers' Representative or the Buyer to the Independent Expert. The provisions of Articles 3.3.5 to 3.3.8 shall apply to the determination of the corresponding Additional Payment *mutatis mutandis*.

The Additional Payment shall be paid in Euros by the Buyer to the Sellers within ten (10) Business Days after the amount has become final and binding, by agreement between the Parties or after determination by the Independent Expert in accordance with the above. Such amount shall be paid by electronic transfer of immediately available funds, free of any bank or other charges, to the Sellers' Representative's account, details of which are specified in Schedule 3.2 or any other bank account the details of which shall be notified by the Sellers' Representative to the Buyer prior to that date in accordance with Article 20, except with respect to the relevant payments to be made to those of the Sellers identified in Schedule 3.2(ii), which shall be made to the accounts the details of which are specified in Schedule 3.2(ii) (or to such other bank account the details of which shall be notified by the relevant Seller to the Buyer at least ten (10) Business Days prior to such payment's due date).

The allocation of the Additional Payment as amongst the Sellers is set forth in Schedule 3.1.

### 3.6.2 Specific Litigations

With respect to the litigations referred to in Schedule 3.6.2 (the "*Specific Litigations*"), the Buyer shall pay to the Guarantors, an amount equal to any sums effectively received by the relevant Company pursuant to a final and non-appealable judgment or a valid and binding settlement agreement relating to any such Specific Litigation (after deduction of (i) any Tax due by the relevant Company as a result of the receipt of such amounts and (ii) if applicable, any amount paid by the Companies pursuant to such final and non-appealable judgment or a valid and binding settlement agreement).

The Specific Litigations shall be conducted in accordance with Article 12.5.2 and the Guarantors shall be deemed to have issued a Take Over Notice in respect of the Specific Litigations.

Any Additional Payment which may be required to be made pursuant to this Article 3.6.2 shall be paid in Euros by the Buyer to the Guarantors' within ten (10) Business Days after the amount in respect of the Specific Litigation has been paid to the relevant Company. Such amount shall be paid by electronic transfer of immediately available funds, free of any bank or other charges, to the Sellers' Representative's account, details of which are specified in Schedule 3.2 or any other bank account the details of which shall be notified by the Sellers' Representative to the Buyer prior to that date in accordance with Article 20.

The allocation as amongst the Guarantors of any Additional Payments which may be required to be made pursuant to this Article 3.6.2 is set forth in Schedule 3.1.

## ARTICLE 4. CONDITIONS PRECEDENT

### 4.1 Conditions Precedent

The respective obligations of the Buyer to consummate the Transaction are subject to the satisfaction of each of the following conditions precedent (the “*Conditions Precedent*”):

- 4.1.1 Completion of the CFI Carve-Out in accordance with the terms of Schedule 4.1.1;
- 4.1.2 Completion of the Dividend Distributions in accordance with the terms of Schedule 4.1.2;
- 4.1.3 Renewal, on identical terms, of the office space lease in Monaco pursuant to:
  - (i) a lease agreement between Sometra and SOCIETE AGRICOLE AFRICAINE “S.A.A.” “*société civile particulière monégasque*” in relation to premises located Bâtiment “Le Coronado” 20 avenue de Fontvieille – MC 98013 Monaco, 2<sup>nd</sup> floor, lots no. 104 and 105 – bureaux no. 3, 9, 10, 15, 16, 20, and
  - (ii) a lease agreement between Eurafrique and SOCIETE AGRICOLE AFRICAINE “S.A.A.” “*société civile particulière monégasque*” in relation to premises located Bâtiment “Le Coronado” 20 avenue de Fontvieille – MC 98013 Monaco, 2<sup>nd</sup> floor, lots no. 104 and 105 – bureaux no. 1, 2, 11, 12, 13, 14, 17, 18, 19, 21;
- 4.1.4 Renewal of the leases concerning the plot of land located in the Port of Dakar (magasin n°1 and magasin n°2) currently covered by an authorization to occupy the public domain entered into between GMD and the Republic of Senegal, *Port Autonome de Dakar*, and extension of the surface of the land leased in the Port area by 10,000 square meters, for a duration of at least 20 years at market rates;
- 4.1.5 No Material Adverse Change has occurred and is continuing.
- 4.1.6 No material breach of any of the Warranties has occurred and is continuing.

4.2 The Guarantors will use their reasonable endeavours to fulfil or procure the fulfilment of the Conditions Precedent as soon as practicable after the date of this Agreement, and the Sellers and the Buyer will notify each other upon becoming aware of the satisfaction of such Conditions Precedent. In particular, the Guarantors shall take the actions necessary or appropriate under Applicable Laws to: (i) file any request with complete supporting documentation, (ii) promptly supply any additional document or information required or requested and (iii) promptly resolve any objection asserted.

4.3 Each of the Conditions Precedent may be waived in writing by the Buyer. A waiver of a Condition Precedent is only effective to the extent specifically set out in that waiver.

- 4.4** The Guarantors, on the one hand, and the Buyer, on the other hand, undertakes to disclose in writing to the other anything which will or may prevent the Conditions Precedent from being satisfied immediately upon becoming aware thereof.
- 4.5** If the Conditions Precedent are not satisfied in full at the latest on the Longstop Date, the Agreement shall automatically terminate with immediate effect without any indemnity whatsoever (i) except for any provision of this Agreement that expressly or by implication is intended to come into force or continue in force on or after termination of this Agreement (including Article 15 and Articles 18 to 26) each of which shall remain in full force and (ii) provided the Parties have complied with their obligations pursuant to the Agreement prior to this termination.

#### **ARTICLE 5. CONDUCT OF THE BUSINESS UNTIL THE COMPLETION DATE**

Between the Signature Date and the Completion Date (inclusive):

- 5.1** The Guarantors shall allow the Buyer, its employees, agents and representatives, upon reasonable notice, access to the books and records, and the Guarantors agree to supply or procure the supply of any information reasonably requested by the Buyer relating to the Companies and their assets, liabilities, and business, provided, that such procurement does not incur unreasonable cost to the Guarantors or the Companies.
- 5.2** Each Seller shall not allow or procure any act or omission before Completion which would make the Sellers' Representations and Warranties false, inaccurate or misleading.
- 5.3** The Guarantors shall procure that the business of the Companies is operated in the Ordinary Course of Business, and that the Buyer is kept fully and promptly informed of all material matters relating to the assets, liabilities and business of the Companies.
- 5.4** Without limiting the generality of Article 5.3, until Completion, the Guarantors agree to procure that none of the matters below is done by any of the Companies without the prior written consent of the Buyer which consent shall not be unreasonably withheld:
- 5.4.1 alteration of its articles of association or any other document establishing, evidencing or relating to the its constitution or operation;
  - 5.4.2 alteration of the nature or scope of its business;
  - 5.4.3 entering into contracts or commitments or doing anything which (i) is out of the Ordinary Course of Business or (ii) materially affects its assets or liabilities or its ability to carry on its business;
  - 5.4.4 entering into any agreement or arrangement or permitting any action whereby another entity becomes its subsidiary;
  - 5.4.5 issuing any share or loan capital;

- 5.4.6 hiring any employee with annual compensation in excess of fifty thousand Euro (€50,000) or the equivalent of such amount in another currency;
- 5.4.7 entering into any transaction other than on arm's length terms and for full and proper consideration;
- 5.4.8 acquiring (whether by one transaction or a series of transactions) the whole or a substantial part or material part of the business or assets of another person;
- 5.4.9 disposing (whether by one transaction or a series of transactions) and whether or not in the Ordinary Course of Business, the whole or any substantial or material part of its business or assets;
- 5.4.10 incurring any loans, borrowings or other form of funding or financial facility or assistance, or enter into any foreign exchange contracts, interest rate swaps, guarantees or agreements relating to derivatives other than in the Ordinary Course of Business;
- 5.4.11 granting any loans (including shareholder loans) or other financial facilities or assistance to or any guarantees or indemnities for the benefit of any person or creator allow to subsist any Encumbrance over the whole or any part of its assets;
- 5.4.12 entering into any joint venture, partnership or agreement or arrangement for the sharing of profits or assets;
- 5.4.13 commencing, compromising or discontinuing any legal or arbitration proceedings (other than routine debt collection);
- 5.4.14 prematurely repaying or prepaying any loans, borrowings or other financial facilities or assistance made available to it;
- 5.4.15 declaring, making or paying any dividend or distribution;
- 5.4.16 making or permitting any amendment, variation deletion, addition, renewal or extension to or of, or terminating or give notice or intimation of termination of, any material contract or arrangement, or breach or failing to comply with the terms of any material contract or arrangement; or
- 5.4.17 making or permitting any amendment, variation deletion, addition, renewal or extension to or of, or terminating or give notice or intimation of termination of, any material contract, authorization or right, or breach or failing to comply with the terms of any material contract, authorization or right.
- 5.4.18 Entering into any contract for the forward purchase or delivery of bulk agricultural commodities.

For the avoidance of doubt, the approval of the Buyer is deemed given as regards the actions to be carried out prior to Completion by any of the Companies pursuant to this Agreement, i.e. the CFI Carve Out and the Dividend Distribution.

## **ARTICLE 6. COMPLETION OF THE SALE**

### **6.1 Date and Place**

- 6.1.1 Subject to the satisfaction of the Conditions Precedent, Completion shall occur on a date agreed between the Parties (the “**Completion Date**”) within fifteen (15) days following the date of satisfaction of the last satisfied Conditions Precedent and shall take place at ReedSmith offices, 112 avenue Kleber, 75016 Paris, France.
- 6.1.2 Neither Party shall be obliged to deliver the documents or take the other steps required from it in accordance with Article 6.2 unless the other Party is simultaneously ready and able to deliver the documents or take the other steps required from it in accordance with Article 6.2. As a consequence, if one of these actions is not taken, even partially, by the relevant Party, the other Party, so long as it is ready, willing and able to perform its obligations, shall be entitled to refuse to proceed with the actions to which it is bound, and shall incur no liability vis-à-vis the other Party in connection with such refusal and without prejudice of its right to seek and obtain from the defaulting Party any remedy.

### **6.2 Completion matters**

- 6.2.1 On the Completion Date, the Sellers (for each Seller, to the extent it has the power to do so) shall deliver, or procure delivery of the following documents to the Buyer or its Representatives or take, or cause the Companies to take, the following actions:
- (i) originals of the resignations letters of the Companies’ officers and directors (with – as regards Borisniak - signatures duly authenticated by Notary Public and legalized by apostille), referred in Schedule 6.2.1(i) with effect on Completion and asking the relevant officer or director to duly waive the benefit of any prior resignation notice period;
  - (ii) minutes of the decisions of the relevant corporate bodies deciding the appointment of new officers and directors, whom shall be designated by the Buyer to the Sellers at the latest fifteen (15) days prior to Completion Date, to replace the resigning officers and directors referred to in (i) above;
  - (iii) With respect to the Eurafrique Sold Shares and the Sometra Sold Shares: (a) share transfer orders (*ordres de mouvement*) duly completed and executed in favor of the Buyer and (b) the share transfer register and share certificates of each of the Eurafrique and Sometra;
  - (iv) With respect to the GMA Sold Shares: (a) share transfer orders (*ordres de mouvement*) duly completed and executed in favour of the Buyer, (b) the share



transfer register and shares certificates of GMA and (c) share transfer agreement for the purpose of the registration with the tax administration

- (v) With respect to the GMD Sold Shares: (a) share transfer orders (*ordres de mouvement*) duly completed and executed in favour of the Buyer, (b) the share transfer register and share certificates of GMD and (c) share transfer agreement for the purpose of the registration with the tax administration and (d) originals of the minutes of the meeting of the board of directors approving the transfer of the GMD Sold Shares to the Buyer;
- (vi) With respect to the Borisniak Sold Shares: (a) the original share certificates evidencing ownership of the Borisniak Sold Shares by the Seller together with a duly executed share transfer form of such shares in the name of the Buyer; (b) the minute books of Borisniak, including the register of shareholders of Borisniak; (c) original or certified copy of the public deed duly recorded in the Panamanian Public Registry, or legally valid confirmation, in any case, of the revocation of any and all powers of attorneys or authorizations to act for or on behalf of Borisniak conferred upon any employees, directors or third parties therein; (d) original or certified copy of the certificate of existence of Borisniak, issued by the Panamanian Public Registry and dated as of a date not more than fifteen (15) calendar days prior to the Completion Date; (e) certificate of good standing of Borisniak which accredit that the company is current on the payment of their obligations with the national treasury, by means of an original document, simple copy, or digital copy of the certificate of good standing issued by the Directorate-General of Revenue (DGI) of the Ministry of Economy and Finance of Panama; and (f) the resolutions of the shareholders or the board of directors of Borisniak authorizing the actions taken in connection with the Transaction by Borisniak, including, without limitation the transfer of the Sold Shares owned by Borisniak to Buyer; and, the authorization of an director or officer of Borisniak or other authorized individual to effect the transfer or endorsement of such Sold Shares to the Buyer, and the execution of any Transaction Document to which Borisniak is a party.
- (vii) Deliver to the Buyer evidence of completion of (i) the CFI Carve-Out and (ii) the Dividend Distributions;
- (viii) Deliver to the Buyer evidence of renewal of the leases referred to in Article 4.1.4;
- (ix) Deliver to the Buyer the financial statements, tax returns and any dividend resolutions passed by each of the Companies with respect to the five fiscal years preceding the date hereof (2017 included);
- (x) Deliver to the Buyer evidence of termination of the brokerage agreement between GMD and CAVPA dated 22 November 2010;

- (xi) Deliver to the Buyer evidence of termination of the cash pooling agreement between GMA and Miminvest;
- (xii) Deliver to the Buyer releases in the form attached as Schedule 6.2.1(xii); and
- (xiii) If applicable, deliver to the Buyer an updated version of the Disclosure Letter, up-to-date as at the Completion Date, in accordance with the provisions of Article 11;
- (xiv) The four (4) DVD-Roms containing the Data Room Information.

6.2.2 On the Completion Date, the Buyer shall deliver, or procure delivery of the following documents to the Sellers or Sellers' Representatives or take the following actions:

- (i) Pay the Completion Payment Amount in accordance with Article 3.2.1(ii) and provide to the Sellers copy of the related SWIFT certifying the wire transfer of the Completion Payment Amount to the relevant accounts as set forth in Article 3.2(ii);
- (ii) Make the payment of the Adjustment Escrow Amount to the Escrow Agent;
- (iii) Deliver to the Sellers' Representative duly signed originals of the Adjustment Escrow Agreement.

### 6.3 Indivisibility

All the Completion steps listed under Articles 6.2.1 and 6.2.2 will be deemed to be achieved simultaneously and, in particular, no delivery of documents or payments provided for under those Articles 6.2.1 and 6.2.2 will be deemed achieved before all the operations, payments and delivery of documents provided for under those Articles 6.2.1 and 6.2.2 are completed (unless specific waiver granted by the benefitting Party).

## ARTICLE 7. REPRESENTATIONS AND WARRANTIES OF THE BUYER AND SEABOARD

Subject to the terms and conditions of this Agreement, the Buyer and Seaboard make the Buyer's Representations and Warranties set forth in this Article 7 to the benefit of the Sellers, as of the Signature Date and such Buyer's Representations and Warranties shall remain true and correct as of Completion Date, except for such Buyer's Representations and Warranties expressed to be made as of a specific date which shall only be true and correct as of such date.

Each of the Buyer's Representations and Warranties is given on the basis that it will remain true and accurate in all respects up to and including Completion and the Buyer and Seaboard undertakes to forthwith disclose in writing to the Sellers any matter or thing which may arise or become known to the Buyer or Seaboard after the date of this Agreement and before Completion which is inconsistent with any of the Buyer's Representations and Warranties.

## **7.1 Existence – Incorporation**

The Buyer is a limited liability company duly incorporated and validly existing under the laws of Bermuda.

Seaboard is a corporation duly incorporated and validly existing under the laws of the state of Delaware (United States of America).

## **7.2 Authority and capacity**

7.2.1 Each of the Buyer and Seaboard has the requisite power and authority to enter into the Transaction Documents and to perform the obligations to which it is bound under the Transaction Documents, and has obtained all necessary consents and authorizations to enter into and perform the Transaction Documents.

7.2.2 Each of the Transaction Documents, upon execution by the Buyer and/or Seaboard, will constitute for the Buyer and Seaboard valid and binding obligations enforceable against them in accordance with its terms.

7.2.3 Each of the Buyer and Seaboard is not insolvent, nor subject to any bankruptcy, insolvency, amicable or similar proceedings under Applicable Laws.

## **7.3 Absence of violation**

The execution and the performance by the Buyer and Seaboard of the Transaction Documents shall not constitute a violation of, or a default under, or conflict with (i) any term or provision of the respective articles of association (*statuts*) of the Buyer or Seaboard, (ii) any contract to which the Buyer or Seaboard is a party, (iii) any Order applicable to the Buyer or Seaboard or by which the Buyer or Seaboard or any of their properties and assets are bound, or (iv) any Applicable Law.

## **7.4 Governmental consents**

The execution and the performance by the Buyer and Seaboard of the Transaction Documents do not, and will not require any consent, approval, authorization or other action by, filing with or notification to any Governmental Authority in the United States.

## **7.5 Financing**

The Buyer and Seaboard has, and will have access to all available funding or other financing as necessary to ensure that all amounts payable or that may become payable pursuant to this Agreement in relation to the Purchase Price are paid on the date they become due and payable.

## **7.6 Acknowledgement**

The Buyer and Seaboard acknowledge that they have, together with their Representatives, or through certain of their Representatives, carried out their own independent investigations on

the business, finance, legal and tax affairs of the Companies, on the basis of the Data Room Information.

The Buyer and Seaboard hereby confirm that, as at the date of this Agreement, they do not have actual knowledge of any fact or circumstance which would entitle the Buyer to make a Claim against the Sellers and/or the Guarantors pursuant to Article 12.

For the avoidance of doubt, the provisions of this Article 7.6 shall not affect the liability of the Sellers and/or the Guarantors in respect of any claim made pursuant to Article ARTICLE 12.2.

## **ARTICLE 8. GENERAL REPRESENTATIONS AND WARRANTIES OF THE SELLERS**

Subject to the terms and conditions of this Agreement, each of the Sellers makes the Sellers' Representations and Warranties set forth in this Article 8 to the benefit of the Buyer, as of the Signature Date and such Sellers' Representations and Warranties shall remain true and correct as of Completion Date, except for such Sellers' Representations and Warranties expressed to be made as of a specific date which shall only be true and correct as of such date. Such Sellers' Representations and Warranties are only given by each Seller as far as it is concerned and with respect to the Sold Shares it owns.

Each of the Sellers' Representations and Warranties is given on the basis that it will remain true and accurate in all respects up to and including Completion and each of the Sellers undertakes to forthwith disclose in writing to the Buyer any matter or thing which may arise or become known to it after the date of this Agreement and before Completion which is inconsistent with any of the Sellers' Representations and Warranties it has given.

### **8.1 Authority and capacity**

8.1.1 Each of the Sellers has the requisite capacity, power and authority to enter into this Agreement and any other agreement or document entered into pursuant to this Agreement and to perform the obligations to which it is bound under this Agreement and any other agreement or document entered into pursuant to this Agreement, and has obtained all necessary consents and authorizations required to be obtained by it to enter into and perform this Agreement and any other agreement or document entered into pursuant to this Agreement.

8.1.2 This Agreement, upon execution by each of the Sellers, will constitute for it valid and binding obligations, enforceable against it in accordance with its terms.

8.1.3 Each of the Sellers, as applicable, is not insolvent, nor subject to any bankruptcy, insolvency, amicable or similar proceedings under Applicable Laws

### **8.2 Absence of violation**

The execution and the performance by each of the Sellers of this Agreement and the Transaction Documents and any other agreement entered into pursuant to this Agreement shall not constitute a violation of, or a default under, or conflict with (i) any term or provision of the

articles of association (*statuts*) of such Seller which is a legal moral entity, (ii) any contract or debt instrument to which the concerned Seller is a party, (iii) any Order applicable to the concerned Seller or by which the concerned Seller or any of its properties and assets is bound, or (iv) any Applicable Law.

### **8.3 Governmental consents**

The execution and the performance by each of the Seller of this Agreement the Transaction Documents and any other agreement entered into pursuant to this Agreement do not and will not require any consent, approval, authorization or order of, action by, filing with or notification to any Governmental Authority.

### **8.4 Ownership of the Sold Shares**

8.4.1 Each of the Sellers is on the Signature Date and shall be, on the Completion Date, the sole owner of the Sold Shares it owns according to the allotment provided in Schedule C. Each Sold Share is fully paid-up and validly issued and is free from any Encumbrances.

8.4.2 No Seller is party to any option, warrant, purchase right or other contract or commitment that requires it to sell, transfer or otherwise dispose of any capital stock of the Companies.

8.4.3 There is no dispute concerning the title of each Seller to its Sold Shares or its ability to sell the same and no other person has claimed to have title to the same or to be entitled to any interest therein. Each Seller is not engaged in any litigation, arbitration or other proceedings in any way relating to its title to the Sold Shares. To each of the Sellers' knowledge, there are no circumstances likely to give rise to any of the matters referred to in this paragraph 8.4.4.

### **8.5 Insolvency**

None of the Sellers is insolvent, or subject to any bankruptcy, insolvency, amicable or similar proceedings under Applicable Laws.

## **ARTICLE 9. REPRESENTATIONS AND WARRANTIES OF THE GUARANTORS WITH RESPECT TO THE COMPANIES**

Subject to the terms and conditions of this Agreement, each of the Guarantors makes the Guarantors' Representations and Warranties set forth in this Article 9 to the benefit of the Buyer, as of the Signature Date and such Guarantors' Representations and Warranties shall remain true and correct as of the Completion Date, except for such Guarantors' Representations and Warranties expressed to be made as of a specific date which shall only be true and correct as of such date.

Each of the Representations and Warranties is given on the basis that it will remain true and accurate in all respects up to and including Completion, and each of the Guarantors undertakes

to forthwith disclose in writing to the Buyer any matter or thing which may arise or become known to the Guarantors after the date of this Agreement and before Completion which is inconsistent with any of the Representations and Warranties, in an updated version of the Disclosure Letter to be prepared in accordance with the provisions of Article 11.

## **9.1 The Companies – Capitalization**

- 9.1.1 Each of the Companies is validly incorporated and registered, and validly exists in accordance with the Applicable Laws and its constitutive documents. The copies of the constitutional documents and articles of incorporation/by-Laws of the Companies contained in Exhibit 9.1.1 of the Disclosure Letter are true and complete and incorporate all amendments made or approved on or prior to the date of this Agreement.
- 9.1.2 Each of the Companies is not insolvent, nor subject to any bankruptcy, insolvency, amicable or similar proceedings under Applicable Laws. The Companies are able to meet their liabilities when they become due out of their available assets. The Companies are not the subject of any insolvency proceedings in any jurisdiction. No seizure or freezing order of any kind has been made in relation to any assets of the Companies by any Court or other competent authority. The Companies have not been a party to any transaction which could be set aside in liquidation or insolvency proceedings. The Companies have not made or proposed any arrangement or composition with their creditors or any class of their creditors.
- 9.1.3 Borisniak has a share capital divided into 9,000 shares. Borisniak has not issued any other security and notably any stock option, warrant (*bon de souscription*), convertible bond that gives a right to subscribe and, generally, any security which gives right via conversion, exchange, redemption or in any other manner to the allocation of part of Borisniak's capital. There are no outstanding authorities or unimplemented decisions or right to require Borisniak to issue any such warrants, options, bonds or other securities. The Borisniak Sold Shares shall represent on Completion Date 100% of the issued share capital and voting rights of Borisniak.
- 9.1.4 Eurafrigue has a share capital divided into 20,800 shares. Eurafrigue has not issued any other security and notably any stock option, warrant (*bon de souscription*), convertible bond that gives a right to subscribe and, generally, any security which gives right via conversion, exchange, redemption or in any other manner to the allocation of part of Eurafrigue's capital. In addition, there are no outstanding authorities or unimplemented decisions or right to require Eurafrigue to issue any such warrants, options, bonds or other securities. The Eurafrigue Sold Shares shall represent on Completion Date 98.67% of the issued share capital and voting rights of Eurafrigue.
- 9.1.5 Sometra has a share capital divided into 20,800 shares. Sometra has not issued any other security and notably any stock option, warrant (*bon de souscription*), convertible bond that gives a right to subscribe and, generally, any security which gives right via conversion, exchange, redemption or in any other manner to the

allocation of part of Sometra's capital. There are no outstanding authorities or unimplemented decisions or right to require Sometra to issue any such warrants, options, bonds or other securities. The Sometra Sold Shares shall represent on Completion Date 98.65% of the issued share capital and voting rights of Sometra.

- 9.1.6 GMA has a share capital divided into 326,769 shares. GMA has not issued any other security and notably any stock option, warrant (*bon de souscription*), convertible bond or that gives a right to subscribe and, generally, any security which gives right via conversion, exchange, redemption or in any other manner to the allocation of part of GMA's capital. There are no outstanding authorities or unimplemented decisions or right to require GMA to issue any such warrants, options, bonds or other securities. The GMA Sold Shares shall represent on Completion Date 1.20% of the share capital of GMA. Borisniak shall be on Completion Date the sole owner of 317,140 shares of GMA representing 97.05% of the issued share capital and voting rights of GMA, free from any Encumbrances.
- 9.1.7 GMD has a share capital divided into 236,000 ordinary shares. GMD has not issued any other security and notably any stock option, warrant (*bon de souscription*), convertible bond or that gives a right to subscribe and, generally, any security which gives right via conversion, exchange, redemption or in any other manner to the allocation of part of GMD's capital. There are no outstanding authorities or unimplemented decisions or right to require GMD to issue any such warrants, options, bonds or other securities. The GMD Sold Shares shall represent on Completion Date 1.01% of the share capital of GMD. Borisniak shall be on Completion Date the sole owner of 233,596 shares of GMD representing 98.98% of the issued share capital and voting rights of GMD, free from any Encumbrances. GMD has issued 10,000 beneficiary shares (parts bénéficiaires) giving rights to dividends only as set forth in the articles of association/by-laws of GMD as disclosed in Exhibit 9.1.1 of the Disclosure Letter. The 42 beneficiary shares included in the GMD Sold Shares represent together with the beneficiary shares of GMD held by Borisniak 100% of the beneficiary shares issued by GMD.
- 9.1.8 No person has the right (whether exercisable now or in the future and whether contingent or not) to require the issue, sale, transfer or conversion of any share or loan capital of any of the Companies under any option or other agreement (including conversion rights and rights of pre-emption).
- 9.1.9 There exist no agreements, arrangements or understandings of any kind between the shareholders of any of the Companies or any Company relating to or affecting their rights as shareholders of the Companies or relating to the management of the Companies, other than the Companies' constitutional documents of which copies are set forth in Exhibit 9.1.1 of the Disclosure Letter. Subject to the provisions of the articles of association/by-laws of the Companies, the transfer of shares in the Companies is not subject to any pre-emption right or other similar restriction or requirement. No right to receive dividends in respect of shares in the Companies has been transferred, assigned or mortgaged.

9.1.10 All decisions made by the Companies' corporate bodies since their creation, were validly made and are enforceable as against third parties and the Companies' shareholders.

9.1.11 No order has been made or proceedings commenced or resolution passed for the winding up or liquidation of the Companies and no meeting has been convened for the purpose of winding up any of the Companies.

9.1.12 Except as Disclosed in Exhibit 9.1.12 of the Disclosure Letter, the Companies have no other bank or post office accounts, nor any other signing authorities in place within the Companies.

## **9.2 Shareholdings**

Save for the ownership of shareholdings identified in Article 9.1 and the shareholdings disclosed in Section 9.2 of the Disclosure Letter, none of the Companies own any other share capital or voting right interest in any entity.

None of GMA and GMD have any outstanding obligations nor any liability (whether actual or contingent) in relation to the divestiture by GMD of its stake in Mimran Natural Resources and/or by GMA of its stake in Miminvest.

## **9.3 Accounts**

9.3.1 The Accounts (a) have been prepared in accordance with the Companies Accounting Principles and the accounting conventions, policies, principles and practices (including methods of valuation) and all items included in them are the same as those adopted in preparing the audited accounts of each of the Companies for its three preceding accounting reference periods. The Guarantors have delivered true, correct and complete copies of the Accounts to Buyer. The Accounts (i) have been prepared in accordance with GAAP, and (ii) present fairly the financial condition, results of operations, statements of cash flow and changes in shareholder equity of each company, in each case as at the dates and for the relevant periods indicated in accordance with GAAP applied on a consistent basis through the periods covered thereby.

9.3.2 Each Company, except Borisniak, maintains internal controls over financial reporting that provide reasonable assurance that: (i) receipts and expenditures are made, and access to each Company's assets are permitted only in accordance with management's authorization; (ii) each Company's books and records accurately and fairly reflect in reasonable detail the transactions and dispositions of the assets of such Company; (iii) the reporting of the assets of each Company is compared with existing assets at regular intervals; and (iv) transactions are recorded as necessary to permit preparation of financial statements of each Company in accordance with local GAAP and to maintain accountability for the assets of such Company.



- 9.3.3 Except as set forth on Section 9.3.3 of the Disclosure Letter, no Company has any liabilities of any kind whatsoever whether accrued, contingent, absolute, determined, determinable or otherwise, except as and to the extent (A) adequately reflected or reserved against in the Accounts (or described in the notes thereto), (B) set forth or reflected in the Disclosure Letter hereto, or (C) incurred in the Ordinary Course of Business consistent with past practice since the Accounts Date.
- 9.3.4 No Company has made or had made on its behalf any payment not reflected in the Accounts.
- 9.3.5 Since the Accounts Date, except as set forth on Section 9.3.5 of the Disclosure Letter, the Companies have carried on their business in the Ordinary Course of Business. In particular, none of the Companies has:
- (i) passed any resolution of either of its shareholders nor amended its bylaws or constitutional documents;
  - (ii) agreed to acquire any business as a going concern;
  - (iii) disposed of any of its material assets except in the Ordinary Course of Business at the full market values of the assets concerned;
  - (iv) incurred any capital commitment for an amount greater than 30,000 Euros;
  - (v) agreed to purchase stocks materially above prevailing market price or under materially different practice of such company prior to the Accounts Date;
  - (vi) entered into any transaction or incurred any liabilities (actual or contingent) or made any payment not provided for in the Accounts except, in each case, in the Ordinary Course of Business;
  - (vii) ceased to deal with any customer or supplier which, in either of the two financial periods ending on the Accounts Date, accounted for five per cent or more of (for a customer) the sales made by any of the Companies or (for a supplier) the goods or services supplied to the company;
  - (viii) changed its accounting methods and practices;
  - (ix) interrupted or altered the nature, scope or manner of their business;
  - (x) borrowed or raised any money or taken any financial facility where the amount borrowed or capable of being borrowed exceeds € 20,000, otherwise than in accordance with financial facilities or overdrafts entered into prior to the Accounts Date;
  - (xi) issued or agreed to be issued any share or loan capital or any type of securities giving access to the Companies' capital nor granted any Encumbrance over or in respect of any of their assets;

- (xii) repaid in whole or part or has become liable to repay any loan or share capital;
- (xiii) declared made or paid any dividend or other distribution (including any payment treated as a distribution for Tax purposes) except as provided in the Accounts;
- (xiv) made any loans or waived or cancelled any debts due to them other than in the Ordinary Course of Business nor become owed any monies as a result of any one off or regular, non-trading activity or other than in the Ordinary Course of Business;
- (xv) ceased or been deemed to cease to be a member of any group or associated with any other company for the purposes of Tax; or
- (xvi) acquired from or supplied to the company assets, goods, services or business facilities (including loans, guarantees, letting, hiring or licensing of any tangible or intangible property) for a consideration which is treated for the purposes of Tax as less or greater than the actual consideration.

## **9.4 Assets**

- 9.4.1 Each of the Companies has good and valid title to all assets free and clear from any Encumbrances, whether personal or real, tangible or intangible, reflected in the Accounts, subject only to purchases and disposals in the Ordinary Course of Business since the Accounts Date. All fixed assets acquired by each of the Companies since the Accounts Date (other than those subsequently disposed of in the Ordinary Course of Business) are legally owned by the concerned Company free from any Encumbrances.
- 9.4.2 The assets, owned or leased by each of the Companies, to which the concerned Company has a contractual right (written or oral) comprise all the assets that are necessary to carry on the business of the concerned Company in the manner in which it is presently conducted. All assets (excluding the Properties and the Intellectual Property Rights) used in connection with the business of each Company belong to the company free from any lease, rental, hire or hire purchase agreement, agreement for payment on deferred terms, conditional sale agreement or bill of sale and there are no agreements or arrangements restricting the freedom of the concerned Company to use or dispose of any of those assets as it thinks fit.
- 9.4.3 The Companies have not acquired or agreed to acquire any material asset on terms that property therein does not pass until full payment is made.
- 9.4.4 Except as, and to the extent, set forth on the Disclosure Letter, all of the buildings, structures, machinery, equipment (including vehicles), furniture and fixtures of the Companies are in reasonable operating condition and repair and of an appropriate character for use in the Ordinary Course of Business.
- 9.4.5 All inventory of the Companies is of a quality and quantity usable and saleable in the Ordinary Course of Business of the concerned Company and the values at which such

inventories are carried on the books and records of such Company reflect accurately the normal inventory valuation policy of the Companies and are in accordance with applicable GAAP.

- 9.4.6 The accounts receivable of each of the Companies, as shown on the Management Accounts of the concerned Company as of the date of such Management Accounts, have arisen in the ordinary course of business, represent valid obligations owed to the concerned Company and are recorded as accounts receivable on the books of the concerned Company in accordance with the principles used for the preparation of the Management Accounts as set forth in Schedule 1.1(iv).

## 9.5 Real estate

To the Guarantors' Knowledge, present use, operation, and occupancy of the Properties, complies in all material respect with all Applicable Laws and private restrictions which are applicable thereto or to the use and/or operation thereof, regarding the operations of the Companies' businesses. None of the Companies is a party to, and, to Guarantors' Knowledge, no Company is currently threatened with, any legal action or other proceeding before any Governmental Authority relating to or affecting the Properties or any portion thereof. No Company has been charged with, and the Companies are not under investigation regarding, any violation of any law or administrative regulation, federal, state or local concerning the Properties. There are no ongoing, or to Guarantors' Knowledge, imminent, governmental investigations of any of the Companies pursuant to any Applicable Laws with respect to the Properties. There is no condemnation, expropriation or other proceeding in eminent domain, pending or, to the Guarantors' Knowledge, threatened, affecting any of the Properties or any portion thereof or interest therein.

There are no taxes, assessments, fees, charges or similar costs or expenses imposed by any Governmental Authority, association or other entity having jurisdiction over the Properties with respect to any portion thereof which are delinquent. There is no pending or, to the Guarantors' knowledge, threatened increase or special assessment or reassessment of any such matter for any of the Properties.

### 9.5.1 Real Estate Properties Owned

- 9.5.1.1 The Companies have good and marketable titles that have been duly published by the competent land and charges registry to each of the properties referred to in Section 9.5.1.1 of the Disclosure Letter (the "***Real Estate Properties Owned***") (*Conservation des hypothèques*) or any foreign equivalent.

- 9.5.1.2 The Real Estate Properties Owned are free from all Encumbrances, except for Encumbrances or similar obligations resulting from the applicable town-planning regulations or that do not significantly restrict the current use of such Real Estate Properties Owned.

### 9.5.2 Real Estate Properties Leased

- 9.5.2.1 Section 9.5.2.1 of the Disclosure Letter sets forth a complete list of the Real Estate Property Leased by the Companies. Each Lease and Financial Property Lease is the binding obligation of the concerned Company that is a party thereto and enforceable in accordance with its terms.
- 9.5.2.2 None of the Companies has received any notification concerning the termination, modification or cancellation of a Lease or a Property Financial Lease or relating to an increase in the rent, charges or late payment interests. No lessor of a Real Estate Property Leased may currently request the termination or cancellation of any Lease or Property Financial Lease as a result of an act or omission of the concerned Company prior to the Completion Date. There is no dispute between any Company and a landlord arising out of any of the Leases or Property Financial Leases. The Companies are up to date with payments of rent, property taxes, ancillary expenses and charges, guarantee deposits and all obligations arising under such leases.
- 9.5.3 None of the Companies owns, uses or occupies or has any interest in any land and/or buildings other than the Real Estate Properties Owned and the Real Estate Property Leased.
- 9.5.4 Neither the Guarantors nor the Companies have received any notice that the Properties are subject to any preliminary measures with a view to expropriation, requisitioning or pre-emption rights, or to any legal or administrative procedures, and are not aware of any fact event or circumstance which may result in such expropriation, requisitioning or pre-emption rights. To the Guarantors' Knowledge there is no action for revocation, avoidance, rescission or reconveyance.
- 9.5.5 The Properties and their use comply with any easements. To the Guarantors' Knowledge, no violation by the relevant owner of the Properties of any easement affecting the use or the occupancy of the Properties exists and no written notice of such violation has been received by any of the Companies from any person entitled to enforce the same.
- 9.5.6 The buildings on the Properties and all technical, hygiene and safety equipment in relation to such buildings have been constructed and are compliant, in all material respects, with all Applicable Laws in relation to technical, hygiene and safety equipment. The Companies have complied with any order or request from the health and safety authorities to comply with any Applicable Laws.

## **9.6 Intellectual Property Rights – IT systems**

- 9.6.1 All Intellectual Property Rights used by each of the Companies are either owned, or used under valid agreements, by the concerned Company. Exhibit 9.6.1 of the Disclosure Letter contains a list of all Intellectual Property Rights owned or used by the Companies with an indication of the nature of the Companies' title to use such Intellectual Property Rights. The Intellectual Property Rights used by the Companies are valid and subsisting and the Guarantors do not know of, or of any basis for, any

claim for revocation, amendment, opposition or rectification or any challenge to ownership or entitlement in respect of any of the Intellectual Property Rights (due to non-payment of renewal or other fees or for any other reason).

- 9.6.2 The Companies are not infringing and have never infringed the Intellectual Property Rights of any third party, and none of the Companies has received written notice of any legal proceedings, instituted against it in relation to any third party Intellectual Property Rights regarding the alleged infringement or misappropriation of any such Intellectual Property Rights by the concerned Company.
- 9.6.3 The Intellectual Property Rights are free of any Encumbrances and, more generally, no third party is entitled in writing to use the Intellectual Property Rights.
- 9.6.4 The Companies comply with the terms of any license agreement relating to the use of any Intellectual Property Right as licensee. The Companies have not granted any license or other right to third parties relating to the Intellectual Property Rights owned or used by them.
- 9.6.5 The Companies own or license all Intellectual Property Rights relating to products manufactured by them or on their behalf or used by them in connection with their business, in each case free from Encumbrances.
- 9.6.6 A list of all the agreements required to use, support, maintain and/or develop all components of the IT Systems (including all licences, development agreements, website design agreement, software maintenance and support agreements, hardware maintenance agreements, source code escrow agreements and disaster recovery agreements) is contained in Exhibit 9.6.6 of the Disclosure Letter.
- 9.6.7 The Companies have not breached any of their respective obligations under any of the agreements referred to in paragraph 9.6.6, those agreements all remain in full force and effect as at the date of this Agreement and no notice has been served by any person to terminate any of those agreements.
- 9.6.8 The Companies comply with their obligations under the Applicable data protection Laws. In particular, it has carried out all personal data processing declarations declared to the relevant authority. To the Guarantors' Knowledge there are no outstanding complaints, Legal Proceedings in respect of the processing of the personal data by the Companies.

## **9.7 Debts**

- 9.7.1 A list of the loans and advances and credits of any form taken out by each of the Companies is set out in Section 9.7 of the Disclosure Letter (the "**Loans**") with an indication of the amount borrowed, remaining due, the due date and the Encumbrances granted in order to guarantee the correct performance by the concerned Company of its obligations in this respect.

- 9.7.2 With the exception of the Loans, the Companies have not incurred any other loans and/or advances. The Companies are not in default under the terms of any Loans and no circumstances have arisen which could entitle a lender to the company (other than on normal overdraft facility) to call in whole or any part of the Loans or enforce any security.
- 9.7.3 There are no loans or other forms of Debt between the Companies and any officers, directors or employees.
- 9.7.4 None of the Companies has given any Guarantee in relation to any obligation for or under any agreement with any person to secure the obligation of another person, except as listed on Section 9.7 of the Disclosure Letter.
- 9.7.5 None of the Companies entered into any agreement for the postponement of debt (or regulating the priority of any security for debt) or for lien or set-off except as fairly shown in the Accounts.
- 9.7.6 The Companies have not been granted nor applied for any grant or subsidy or similar payment.

## **9.8 Litigation – Compliance with Laws --- Permits and licenses**

- 9.8.1 The Companies, excluding Borisniak, have at all times conducted their business and continue to conduct their business in all material respects in accordance with all Applicable Laws of each jurisdiction in which they have an establishment or conduct any business, or are otherwise subject to the jurisdiction of a Governmental Authority. Borisniak has never had any business activity and has at all times complied in all respects with all Applicable Laws (including, without limitations, any filing or accounting requirements).
- 9.8.2 Neither the Companies, nor any of the Companies, the Guarantors, their family members, nor any Third Party acting on the behalf of, or at the direction of, any of the forgoing, has directly or indirectly paid, offered, given, promised to pay, or authorized or caused the payment of any money or anything of value, including, without limitation, any fees, gifts, travel expenses, entertainment or donations, to a Government Official or their family members or close associates, or any other person or entity at the suggestion, request, direction or for the benefit of any Government Official, for purposes of influencing official actions or decisions or securing any improper advantage in order to obtain or retain business for the benefit of the Companies, including, without limitation, any bribes, rebates, payoffs, influence payments, kickbacks, or other similar unlawful payments. No portion of the funds provided under this Agreement will be used directly or indirectly for any unlawful payment or transfer of anything of value to a Government Official.

- 9.8.3 The Companies, the Guarantors, their family members and any Third Party acting on the behalf of, or at the direction of, any of the forgoing, have not engaged in any conduct in violation of the Foreign Corrupt Practices Act or any Anti-Corruption Laws.
- 9.8.4 Neither the Companies, the Guarantors, their family members nor any Third Party acting on behalf of, or at the direction of, any of the forgoing (1) is or has been designated for sanctions or debarment by any Government Authority, including, but not limited to the various sanctions programs administered by the Office of Foreign Assets Control, or similar sanctions under the authority of the European Union, its Member States, or the United Nations or any agency or entity thereof (hereinafter referred to collectively as “*Sanctions*”); (2) is or has engaged directly or indirectly in any business or activities in violation of Sanctions, including, but not limited to, prohibitions on trade with Cuba, Iran, North Korea, Sudan, Syria, and the Crimea Region of Ukraine, and prohibitions on dealings involving the property or interests in property of persons who have been designated for Sanctions; (3) is or has engaged directly or indirectly in any business or activities in violation of any anti-money laundering Laws; or (3) is or is acting on behalf of, at the direction of, or for the benefit of, and Government Official.
- 9.8.5 The Companies are not in violation of any Laws regulating the import or export of items (hereinafter referred to as “*Export Controls*”).
- 9.8.6 Neither the Companies, the Guarantors, their family members nor any Third Party acting on behalf of, or at the direction of, any of the forgoing, is or has been subject to any prosecution, indictment, conviction, investigation, or allegation of any violation of Sanctions, Anti-Corruption Laws, Export Controls, or anti-money laundering laws.
- 9.8.7 The Guarantors shall reasonably cooperate with the Buyers in regard to any matter, dispute or controversy related to this Agreement generally or the representations contained in Articles 9.8.2-9.8.6, including, but not limited to, any investigation by a Government Authority or review, audit, or investigation conducted by Buyers or its representatives or agents. Such obligation shall continue after the Completion Date to the extent permissible under Applicable Law.
- 9.8.8 Except as set forth in Section 9.8.8(i) of the Disclosure Letter, the Companies are not engaged in any Legal Proceedings and no litigation or arbitration, administrative or criminal proceedings are threatened by or against the Companies and to the Guarantors' Knowledge, there are no facts likely to give rise to any such litigation or arbitration, administrative or criminal proceedings. The Companies have not been a party to any undertaking or assurance given to any Governmental Authority or the subject of any injunction which is still in force or any unsatisfied judgement or arbitral award. Save as disclosed in Section 9.8.8(ii) of the Disclosure Letter, the Companies have not, during the fiscal years 2015, 2016 and 2017 until the date of

this Agreement, been the subject of any investigation, enquiry or Legal Proceedings by any Governmental Authority.

- 9.8.9 The Companies have all material licenses, permits or other authorizations of Governmental Authorities necessary for the production and sale of its products and all other material licenses, permits or other authorizations of Governmental Authorities necessary for the conduct of the business of each Company, based on past and current operations. A copy of all such licenses, permits or other authorizations is attached as Exhibit 9.8.9 of the Disclosure Letter.

## **9.9 Contracts**

- 9.9.1 Each of the Companies is not in default nor, to the Guarantors' Knowledge, any other party thereto, and no event has occurred which, with passage of time or the giving of notice, or both, will constitute a default on the part of the Companies, in any respect under any agreement, contract, document, indenture, or other instrument to which any Company is a party or by which any Company is bound, the result of which would have a material adverse effect upon the concerned Company.

- 9.9.2 Each Material Contract is referenced in the Disclosure Letter and included in Exhibit 9.9.2 of the Disclosure Letter.

- 9.9.3 Except as set forth in Exhibit 9.9.2 of the Disclosure Letter, none of the Companies has entered into any Material Contract pursuant to which the other party has a right to terminate or renegotiate the Material Contract because of the change of Control of the concerned Company. The consummation of the Transaction will not give rise to any violation or any default or event or condition which, after notice or lapse of time or both, would constitute a default under any Material Contract

- 9.9.4 Each Material Contract with customers and sellers is valid and binding on the Companies in accordance with its terms and is in full force and effect.

None of the Companies nor, to the Guarantors' Knowledge, any other party thereto has provided or received any notice of an intention to terminate or modify any Material Contract.

- 9.9.5 Except as set forth in Section 9.9.5 of the Disclosure Letter, the Companies are not a party to any joint venture, consortium or partnership arrangement or agreement (including any limited partnership) or a member of any unincorporated association or arrangement for sharing income, profits, losses or expenses.

- 9.9.6 None of the Companies is party to any contract containing provisions which in any way restrict the Companies' freedom to carry on the whole or any part of their business.



## **9.10 Insurance policies**

- 9.10.1 A summary of all current insurance and indemnity policies by which each of the Companies is covered is set out in Exhibit 9.10.1 of the Disclosure Letter.
- 9.10.2 The policies set out in Exhibit 9.10.1 of the Disclosure Letter are taken out from reputed insurance companies contain terms and conditions, including policy limits and deductible, that are typical and customary for persons like the Companies, and are currently applicable, for which the premiums owed have been paid. No act, omission, misrepresentation or non-disclosure by or on behalf of the company has occurred which makes any of those policies voidable, nor to the Guarantors' Knowledge have any circumstances arisen which would render any of these policies void or unenforceable for illegality or otherwise, nor has there been any breach of the terms, conditions or warranties of any of those policies which would entitle the relevant insurer to decline to pay all or any part of any claim made under those policies.
- 9.10.3 Details of all claims made during the period of two years preceding the date of this Agreement are set out in Exhibit 9.10.3 of the Disclosure Letter.
- 9.10.4 Except as set forth in Exhibit 9.10.4 of the Disclosure Letter, no claim is outstanding under the above policies.

## **9.11 Taxes**

- 9.11.1 Each of the Companies has filed, or caused to be filed, within legal or regulatory deadlines and with the competent authorities, all Tax returns relating to all Taxes that it was required to file prior to the date hereof. Each one of such returns was true, complete and accurate. All Taxes due according to such returns have been paid when due. All appropriate accruals for the 2017 tax year are accurately provided for in the Accounts up to Completion. None of the Companies is subject to any audit, verification, investigation or inspection by the Tax Authority.
- 9.11.2 Save for losses which are recognized for Tax purposes and except as disclosed in Section 9.11.2 of the Disclosure Letter, the Company pays Tax on its income profits or gains at the standard full rate applicable to all companies resident in the jurisdiction where the Company is incorporated and the Company has not paid, or made a claim (nor is it entitled to claim) to pay, Tax at a reduced rate whether by reason of the level of its income, profits or gains or otherwise.
- 9.11.3 Notice has been duly and properly given to the relevant Tax Authority of all claims for or (as the case may be) disclaimers of elections or surrenders in respect of relief assumed to have been made for the purposes of the Accounts and there are no claims, disclaimers, elections or surrenders the time limit for the making or doing of which expires within three months after the date of this Agreement.

- 9.11.4 The Companies have made all deductions and withholdings in respect of, or on account of, any Tax from any payments made by them which they are obliged or entitled to make and (to the extent required to do so) have accounted in full to the relevant Tax Authority for all amounts so deducted or withheld.
- 9.11.5 Each of the Companies have not, in the period of three years ending on the date of this Agreement, been party to any non-arm's length transaction concluded with any of the Sellers.
- 9.11.6 Except as disclosed in Section 9.11.6 of the Disclosure Letter, none of the Companies has ever been resident outside the jurisdiction in which it is incorporated for the purposes of any Tax Law. None of the Companies have (nor have had) any branch, agent or permanent establishment outside the jurisdiction in which it is incorporated.
- 9.11.7 None of the Sellers obtained their Sold Shares through a bonus scheme/employee scheme or otherwise as compensation for their employment in the Companies.
- 9.11.8 Except as disclosure in Section 9.11.8 of the Disclosure Letter, each of the Companies have not established (nor are any of them a participant in) any bonus, share option, profit related pay or other scheme or arrangement, whether or not approved by any Tax Authority, for the benefit of its current or former officers or employees or any of them.
- 9.11.9 Tax Sharing Agreements. None of the Companies (i) is a party to, is bound by, or has any obligation under, any Tax Sharing Agreement, or (ii) has any liability or obligation (for Taxes or otherwise) to any person as a result of, or pursuant to, any such Tax Sharing Agreement.
- 9.11.10 Except as disclosed in Section 9.11.10 of the Disclosure Letter, none of the Companies (i) is a party to, is bound by, or has any obligation under, any closing or similar agreement, Tax abatement or similar agreement or any other agreements with any Tax Authority with respect to any period for which the statute of limitations has not expired or (ii) has any liability or obligation (for Taxes or otherwise) to any Person as a result of, or pursuant to, any such agreement.
- 9.11.11 There are no liens for Taxes on the assets of the Companies.

## 9.12 Senior Employees

### 9.12.1 Senior Employees

9.12.1.1 Exhibit 9.12.1.1 of the Disclosure Letter lists all Senior Employees and the Company employing them, and such list indicates the names, dates of birth, salaries (including bonuses and benefits), severance payments and other termination indemnities which may apply in respect of each of them, location per site and dates of commencement of employment.

9.12.1.2 No material change has been made in the rate of remuneration or the benefits (including pension benefits) or in the other terms of engagement of any Senior Employee since the Accounts Date.

9.12.1.3 No Senior Employee has been given written notice of termination of his/her employment and nor has a Senior Employee given written notice to terminate his/her employment.

### 9.12.2 Disputes

9.12.2.1 There are no Legal Proceedings pending against any of the Companies by any Governmental Authority responsible for the enforcement of Laws relating to employment, hours of work or occupational safety and health.

9.12.2.2 There have been no strikes or industrial action short of strike action (official or unofficial) by any of the employees of the Companies during the period of three years immediately preceding the date of this Agreement, and no such actions are presently occurring within the Companies.

9.12.3 Except as set forth in Exhibit 9.12.3 of the Disclosure Letter, there is no claim, demand or liability outstanding or threatened against any of the Companies on the part of any person who has been or is its corporate officer or employee (or the beneficiary of any such person).

9.12.4 Within a period of one year preceding the date of this Agreement none of the Companies has:

- (i) implemented collective redundancy program with respect to their employees;
- (ii) been a party to any transfer of business as a going concern nor any outsourcing measures; or
- (iii) been a party to any agreement or arrangement with and entered into consultations or negotiations with any trade union or employee representative which is or are not required by Law or by the applicable collective bargaining agreement.

- 9.12.5 Except as set forth in Exhibit 9.12.5 of the Disclosure Letter, there is no customary practice, unilateral undertaking, plan, scheme and commitment within the Companies.
- 9.12.6 The Companies have at all times complied in all material respects with all applicable employment Laws and in particular, but without limitation, those concerning the appointment, meetings and functions of employees representatives (center works council, works council, safety and health council, etc) and or trade union organisations (notably their statutory obligations to inform and consult appropriate representatives and to negotiate with union representatives as required by Applicable Law), those relating to health and safety at work, those relating to remuneration, working time regulations (including overtime and work on Sundays), fixed-term (including recourse to), part-time or temporary contracts, training programs, benefits, seniority agreement and short-time and unemployment.
- 9.12.7 The Companies have proceeded with all required registration with the competent authorities as regard collective agreement or any profit sharing scheme and such schemes complied in all material respects with relevant Applicable Laws and benefit from any relevant tax and social security exemption or advantages.
- 9.12.8 Save as required by the Applicable Laws, the applicable collective bargaining agreement and except as set forth in Section 9.12.8 of the Disclosure Letter, none of the Companies are not under any liability or obligation or party to any ex-gratia arrangements or promise to pay pensions, gratuities, retirement benefits, medical benefits post retirement or the like to any of their employees or former employees nor are they under any liability (actual or contingent) to pay or secure (other than by payment of employers' contributions under social security legislation), any pension or other benefit on retirement, death or disability or on the attainment of a specified age or on the completion of a specified number of years of service. No change has been made to the existing insurance, pension or providence companies in the year preceding the date of this Agreement.
- 9.12.9 The Companies have paid all contributions (meaning any mandatory or voluntary social security charges, contributions, unemployment insurance, health insurance and retirement contribution schemes under Applicable Laws) payable and due for any salary, remuneration in kind, bonus, or under any retirement and benefit plans, and have complied with Applicable Laws in this regard in all material respects.

### **9.13 Relationship with the Sellers**

At the Completion Date there will not be any outstanding indebtedness, Debt or other liability (actual or contingent) owing by any of the Companies to the Guarantors or any related persons of the Guarantors as referred to in the Sellers' Group definition, any director or officer of any of the Companies, nor will there any indebtedness, Debt or other liability (actual or contingent) owing to the Companies by any such person. To the Guarantors' Knowledge, there will not be any outstanding indebtedness, Debt or other liability (actual or contingent) owing by any of the Companies to the other Sellers, or any member of such Sellers' Group, nor will there be any indebtedness, Debt or other liability (actual or contingent) owing to the Companies by any such person.

### **9.14 Defective products**

- 9.14.1 The Companies have not sold or supplied products or services which are, or were, or will become, in any material respect faulty or defective or which do not comply in any material respect with any warranties or representations expressed or implied made by any of the Companies or with all applicable regulations, standards and requirements in respect thereof.
- 9.14.2 There is no claim in respect of Product Liability outstanding or threatened against any of the Companies in relation to their business and to the Guarantors' Knowledge, there are no circumstances which are likely to give rise to any such claim. For this purpose "***Product Liability***" means a liability arising out of death, personal injury or damage to property caused by a defective product or defective services sold, supplied or provided by the Companies in the course of their business on or during the twenty (20) year period preceding the date of this Agreement.

### **9.15 Environment**

- 9.15.1 The Companies comply and have at all times complied in all material respect with all Applicable environmental Laws.
- 9.15.2 No environmental claim is pending or has been made or, to the Guarantors' Knowledge, threatened against the Companies or any of its present corporate officers or senior employees in their capacity as such or any occupier of any property at any time owned or leased by the Companies.
- 9.15.3 Except as set forth in Section 9.15.3 of the Disclosure Letter, The Guarantors and the Companies are not aware of the performance of any environmental audit by any relevant Governmental Authority concerning the Properties.
- 9.15.4 No hazardous material has been deposited, disposed of, kept, treated, imported, exported, transported, processed, manufactured, used, collected, sorted or produced at any time, or is present in the Environment (whether or not on property owned, leased, occupied or controlled by any Company) in circumstances which could result in any claim against the Companies or which would entitle any relevant

Governmental Authority to bring any claim against any of the Companies or which would have a material adverse effect on the use or value of any Property.

#### **9.16 Other**

No representation or warranty by Guarantors in this Agreement or any Schedules to this Agreement contains, or will contain as of Completion, any untrue statement of a material fact, or omits to state a material fact, necessary to make the statements herein or therein, in light of the circumstances in which they are made, not misleading. The Guarantors have not made any untrue statement of material fact or omitted to state a material fact necessary to prevent the statements made herein misleading.

### **ARTICLE 10. NO OTHER REPRESENTATIONS OR WARRANTIES**

**10.1** Except for the Sellers' Representations and Warranties and the Guarantors' Representations and Warranties, neither the Sellers (including for avoidance of doubt the Guarantors), nor their Affiliates, nor any other person makes any other express or implied representation or warranty with respect to the Companies or the Transaction.

**10.2** Except for the Sellers' Representation and Warranties and the Guarantors' Representations and Warranties, the Sellers (including for avoidance of doubt the Guarantors) and the Guarantors make no representation or warranty as to the accuracy or completeness of any projections, forecast, estimates, business plans, budgets made, communicated, or furnished (orally or in writing) to the Buyer or its Affiliates or Representatives by any of the Sellers (including for the avoidance of doubt the Guarantors), the Companies or their Representatives.

### **ARTICLE 11. DISCLOSURES**

**11.1** Notwithstanding any other provision to the contrary in this Agreement, the Sellers' Representations and Warranties and Guarantors' Representations and Warranties are expressly made to the Buyer subject to any fact, matter or circumstance Disclosed in (i) this Agreement, including its Schedules, (ii) the Accounts, and (iii) the Disclosure Letter, consequently, the Sellers (including for avoidance of doubt the Guarantors) shall have no liability for any breach of any such Sellers' Representations and Warranties and Guarantors' Representations and Warranties and no claim for indemnification shall be brought against the Sellers (including for avoidance of doubt the Guarantors) by the Buyer on the basis of facts, matters or circumstances which are Disclosed therein (the "**Disclosures**"). Each of the Sellers (including for avoidance of doubt the Guarantors) undertakes to (i) inform the Buyer as soon as reasonably practicable of any fact, event or circumstance of which it may become aware between the date of the Agreement and the Completion Date, which may constitute a breach of any of its Sellers' Representations and Warranties and/or, for the Guarantors for any of the Guarantors' Representations and Warranties, and (ii) keep the Buyer informed of any material development in relation to such fact, event or circumstance. If applicable, the Guarantors shall deliver to the Buyer at Completion an updated version of the Disclosure Letter.

**11.2** The Buyer acknowledges and agrees that notwithstanding that the matters set out in the Schedules hereto are disclosed against the particular Sellers' Representations and Warranties

and Guarantors' Representations and Warranties against which they are referenced, such specific Disclosures have, for convenience, been set out against those numbered clauses of the Sellers' Representations and Warranties and Guarantors' Representations and Warranties to which they most obviously related. Any such specific Disclosure nevertheless shall apply to all Sellers' Representations and Warranties and Guarantors' Representations and Warranties to which it is or may be reasonably related and shall constitute Disclosure for the purposes of any Representations and Warranties.

## **ARTICLE 12. INDEMNIFICATION OF THE BUYER AND THE COMPANIES**

### **12.1 Indemnification Principles**

12.1.1 Subject to and in accordance with the conditions and limits specified hereunder:

- (i) Each of the Sellers undertakes to indemnify the Buyer for any Loss incurred by the Buyer and/or the Companies which arise out of, or relate to, any of each Sellers' Representations and Warranties given by the concerned Seller and Guarantor being false, inaccurate or misleading;
- (ii) the Guarantors undertake to indemnify the Buyer for any Loss incurred by the Buyer and/or the Companies which arise out of, or relate to, any of the Guarantors' Representations and Warranties being false, inaccurate or misleading;

provided that the facts, matters or circumstance giving rise to the Loss have their origin before the Completion Date.

12.1.2 In the event that, within the framework of any claim in Tax matters against any of the Companies, the Guarantors were to choose to solicit a respite of payment (*sursis au paiement*) of any sums claimed by the authorities concerned, the Buyer shall not be entitled to counter such respite.

12.1.3 To be validly made, any Claim shall be made in accordance with the provisions of this Agreement.

For the avoidance of doubt, the determination of a Loss excludes:

- (i) a loss of an opportunity (*perte de chance*),
- (ii) the application of any multiple to any accounting value or other valuation methodology which may be implicit in the Purchase Price, and
- (iii) any indirect loss and/or unpredictable (*imprévisible*) loss, provided, however, including any Taxes arising from the payment for the indemnification of such Loss.

12.1.4 The Sellers or the Guarantors shall not be liable under this Article 12 in respect of any liability which is contingent unless and until such contingent liability becomes an actual liability.

12.1.5 The Guarantors shall not be liable under this ARTICLE 12 in respect of any Loss incurred by any Company if it is no longer Controlled by the Buyer.

12.1.6 The Guarantors' obligations pursuant to this ARTICLE 12 shall automatically terminate in case of a change of Control of the Buyer, except for a change of Control at the level of Seaboard.

## 12.2 Specific Indemnities

12.2.1 The Guarantors undertake to indemnify the Buyer for any Loss incurred by the Buyer and/or any of the Companies which arise out of, or relate to, any of the items set forth in Schedule 12.2.1 (the "*Specific Indemnity Items*").

12.2.2 It is expressly agreed that (i) none of the Disclosures shall be effective in relation to any of the Specific Indemnities and (ii) the de minimis and deductible set forth in Articles 12.3.2(v) and 12.3.2(vi) shall not apply to claims under this Article 12.2.

## 12.3 Determination of the Indemnity amount

The indemnity amount payable by the Sellers or the Guarantors to the Buyer (the "*Indemnity*") in respect of a Loss shall be equal to the amount of such Loss, calculated as specified in Article 12.3.1 hereunder, subject to the restrictions and exclusions set forth in Article 12.3.2 hereunder.

12.3.1 In calculating the amount of the Indemnity, the following shall be deducted from the Loss:

- (i) the amount of any provision or reserve booked in the Accounts in connection with the specific fact matter or circumstance giving rise to such Loss;
- (ii) the amount of any insurance proceeds or any other third-party indemnification covering such Loss and which is received by the Buyer or the concerned company, net of taxes on such recovery;
- (iii) the amount equal to any Tax benefit (including a tax reduction or an increase of carried back or forward Tax losses) actually realized and attributable to the fact, matter or circumstance giving rise to such Loss and which benefits to the Buyer or the concerned Company; and
- (iv) any amount that has been already been taken into account in the determination of the Purchase Price.



### 12.3.2 Restrictions and exclusions

- (i) The Loss shall have been actually suffered or incurred by the Companies or the Buyer. If the Loss involves a payment, the Loss shall only be indemnifiable once the disbursement has occurred, and further to justification of such disbursement;
- (ii) The consequences from any Tax reassessment whose effect would merely be a shift of Tax from a fiscal year to another, or that would give rise to a Tax credit or to a right to a deduction or charge, will be within the scope of the Indemnity under Article 12 only to the extent of any penalties or late payment interest incurred by the concerned company; any increased liability to value added tax will not be taken into account where such value added tax can be deducted or recovered from third parties;
- (iii) The Buyer shall not be entitled to make any Claim in respect of any Loss or any part thereof, and shall not be indemnified in respect of any such Loss or any part thereof, arising from or caused by the passing of, or any change (even with a retroactive effect) in, any Law (including the accounting principles) or administrative practice after the Signature Date, including (without prejudice to the generality of the foregoing) any increase in the Tax rates, any imposition of Tax or any withdrawal of Tax relief.
- (iv) If the same facts, matters or circumstances give rise to the inaccuracy of more than one of the Sellers' Representations and Warranties or Guarantors' Representations and Warranties, such facts, matters or circumstances shall give rise to a full single indemnification. The Buyer shall not be entitled to recover from the Guarantors under this Agreement or otherwise, more than once in respect of the same Loss, and accordingly the Sellers or the Guarantors shall not be liable under this Agreement if and to the extent that the Loss is or has been or may be recovered under any ground other than under this Agreement.
- (v) *De minimis*: Subject to the provisions of Article 12.2.2 and Article 12.3.3, the Guarantors shall not be liable under Article 12 for any single Loss which is less than EUR seventy-five thousand (EUR 75,000), provided that series of claims directly related to the same fact or event shall be taken into account collectively and not individually.
- (vi) *Deductible (franchise)*: Subject to the provisions of Article 12.2.2 and Article 12.3.3, the Guarantors shall not be liable under this Agreement in respect of any Claim unless and to the extent that the aggregate amount for which the Sellers or the Guarantor would be liable under this Agreement in respect of all Claims (not including, for the avoidance of doubt, those Claims the amount of which does not reach the above de minimis) exceeds EUR one million five hundred thousand (EUR 1,500,000), in which event only such aggregate amount in excess of such deductible may be indemnified by the Guarantor.

(vii) Cap: Subject to the following, the aggregate amount of the Indemnities for which the Guarantors could be liable pursuant to this Article 12 shall not exceed an amount equal to:

- EUR forty-five million (EUR 45,000,000) as regards Claims relating to any of the Guarantors' Representations and Warranties other than (i) those set forth in Article 9.11 and/or (ii) any of the Specific Indemnities;
- EUR sixty million (EUR 60,000,000) as regards Claims relating to any of the Guarantors' Representations and Warranties set forth in Article 9.11 and/or any of the Specific Indemnities

provided that such cap shall not be cumulative with the cap set forth above, i.e.: if the total amount of the Indemnities (including any Indemnities payable in respect of any Specific Indemnity items pursuant to Article 12.2) payable by the Guarantors reach 45,000,000 Euros, the Buyer shall be entitled to make a Claim only with respect to the Specific Indemnities and up to an amount of Specific Indemnities of 15,000,000 Euros;

(viii) The amount of the Loss suffered by a Company shall be calculated pro rata to the amount of the Company's shareholding owned, directly or indirectly, by the Buyer in the said Company's capital (to the extent such shareholding does not exceed the shareholding sold by the Sellers to the Buyer pursuant to the Transaction).

12.3.3 For the avoidance of doubt, none of the limitations set forth in this Article 12 shall apply in case of (i) fraud or willful misconduct of the Guarantors vis-à-vis the Buyer in connection with the Transaction, or (ii) breach or inaccuracy of any of the Sellers' Representations and Warranties.

12.3.4 If any of the elements identified under Article 12.2 that are used to compute the amount of Losses is finally determined or known after that the Sellers or the Guarantors made a payment under their indemnification obligation pursuant to this Agreement, the Buyer shall pay or cause that the relevant company pays to the Sellers or the Guarantors an amount that shall be equal to the difference between the amount paid by the Sellers or the Guarantors and the amount that should have been paid, should such elements have been known at the date of such payment by the Sellers or the Guarantors. Such re-payment shall occur within a fifteen (15) Business Days period following the date on which such elements are finally determined or known.

## 12.4 Qualification

Notwithstanding the use of the term “indemnification” herein with respect to the Sellers or Guarantors’ obligations under this Article 12, the Parties hereby agree that the Indemnity paid by the Sellers or the Guarantors under this Article 12 shall be deemed to constitute a reduction to the Purchase Price and agree to treat any such payment as such for all tax, accounting and financial reporting purposes, being specified that the Parties expressly waive any rights, remedies or actions they may have to use such provision to challenge the validity of the transaction contemplated hereby on the basis of non-determination of the Purchase Price.

## 12.5 Implementation of the Indemnity obligation

### 12.5.1 Claim – Claim Notice

If the Buyer or a Company becomes aware of any fact, matter or circumstance that may give rise to a claim against the Sellers or the Guarantors under Article 12 (the “*Claim*”), notice of that fact, matter or circumstance shall be given to the Sellers or the Guarantors as soon as possible, and in any event within twenty (20) Business Days at the latest or, unless the circumstances warrant a shorter prior notice, immediately after the Buyer or the company became aware of such fact, matter or circumstance (the “*Claim Notice*”), provided that the Buyer’s failure to notify the Sellers or the Guarantors within such time limit will not relieve the Sellers nor the Guarantors of any liability it may have to the Buyer unless and only to the extent that such failure to notify results in the Sellers’ or the Guarantors’ liability to the Buyer being increased.

The Claim Notice must specify in reasonable detail (i) the Representations and Warranties or covenant or agreement which are alleged to have been false, inaccurate, or misleading or breached, (ii) the fact, matter or circumstance which gives rise to the Claim, (iii) the nature of the alleged Loss and (iv) the amount claimed in respect thereof setting forth the Buyer’s calculation of the alleged Loss (such amount shall be provided as soon as it is determined if not known at the time of the Claim Notice).

Any claim for indemnification pursuant to Article 12 notified by the Buyer shall be deemed to have been irrevocably accepted without qualification or reserve by the Sellers/Guarantors unless, within thirty (30) Business Days of receiving the Buyer’s notice, the Sellers have given written notice to the Buyer that they contest the claim, such notice containing in reasonable detail an explanation of the basis upon which the Sellers/Guarantors’ contestation is based and being accompanied by copies of any documentation upon which the Sellers/Guarantors’ contestation is based. In such a case, the Sellers/Guarantors and the Buyer shall attempt in good faith to reach an agreement with respect to the validity of such Claim and the amount of the corresponding Loss or indemnification. If no such agreement can be reached after good faith negotiations within a period of thirty (30) Business Days following the receipt by the Buyer of the written objection of the Sellers/Guarantors relating to the relevant Claim Notice, then the dispute shall be settled in accordance with the provisions of Article 25 (Governing Law and Disputes).

### 12.5.2 Third Party Claim

If the Claim originates from a claim by a Third Party (the “*Third Party Claim*”), then:

- (i) no admission of liability (whether express or implied, including by way of inaction to make counterclaims or make any appeal or use any recourse) shall be made by or on behalf of the Buyer or any of the Companies, and the claim shall not be disposed of or settled without the prior written consent of the Sellers or the Guarantors (such consent not to be unreasonably withheld or delayed);
- (ii) provided that the Third Party Claim (i) relates to a matter which would entitle the Buyer to make a Claim in relation to a breach of Article 9.11 and/or under Article 12.2, and/or (ii) was initiated by a Governmental Authority in Senegal, Ivory Coast or Monaco (as the case may be), the Guarantors may elect to conduct the defense of the Third Party Claim; provided further that in the event that at any point in time (including after the Sellers have issued a Take Over notice as provided in (iv) below), the Third Party Claim involves application of Anti-Corruption Laws, the Take over Notice shall be deemed to have been cancelled and the Sellers shall no longer be entitled to conduct the defense of the Third Party Claim;
- (iii) if the Sellers or the Guarantors have not elected to conduct the defense of the Third Party Claim in accordance with paragraph (iv) below, the Buyer shall conduct, and shall procure that the concerned Company conducts, the defense of the Third Party Claim diligently and in good faith using all means and defenses available to it. Upon the Sellers or Guarantors’ request, the Buyer shall give, and shall procure that the relevant Company gives, to the Sellers or the Guarantors and their advisers the opportunity to comment with respect to the defense of the Third Party Claim and shall act in accordance with the Sellers or Guarantors’ reasonable requests with respect to the conduct of the defense of the claim;
- (iv) provided that the conditions set forth in (ii) above are met, at the option and upon notice (a “*Take Over Notice*”) of the Guarantors, the Buyer shall permit the Guarantors to assume the defense of any Third Party Claim and any litigation or proceeding resulting therefrom notably by causing the relevant Company to retain lawyers and other professional advisers and act as per the Sellers or Guarantors’ instructions as far as the defense of such Third Party Claim is concerned, and to take such action as the Guarantors’ shall deem reasonably necessary to avoid, dispute, deny, defend, resist, appeal, compromise or contest such claim or liability (including, without limitation, making counterclaims or other claims against third party), provided that the Buyer may participate in such defense at the Buyer’s expense by being given the opportunity to comment with respect to the defense of the Third Party Claim.

The Parties agree that a Take Over Notice shall not be effective unless at the time of giving it Guarantors admit liability to indemnify the Buyer hereunder with respect to the Third Party Claim (subject always to the terms and

conditions of this Agreement). For avoidance of doubt, the acceptance by the Guarantors of their liability to indemnify the Buyer in respect of a Third Party Claim shall not include acceptance of the Third Party Claim.

- (v) The Party which assumes the defense of any Third Party Claim shall:
  - (a) permit the other Party's Representative and his/its advisers timely and reasonable access during normal office hours to relevant employees, premises, documents and records (including the right to take copies (subject, as regards the Sellers/Guarantors, to signature of appropriate confidentiality agreements) at such Party's expense of such documents and records) for the purposes of investigating the Third Party Claim and enabling the other Party to take any action permitted by this Article 12;
  - (b) keep the other Party promptly and effectively informed of all material developments in relation to the Third Party Claim and consult with the other Party's Representative concerning any material decisions required or proposed to be made in relation to the Third Party Claim, and take into account the other Party's Representative's comments and observations in relation to the conduct of the Third Party Claim to the extent possible having regard to the corporate interest (*intérêt social*) of the Companies and/or the Buyer; and
  - (c) act effectively, in a timely manner and in defending the Third Party Claim.

## **12.6 Inspection Rights**

Upon the Sellers or Guarantors' reasonable request, the Buyer shall allow, and shall procure that the relevant company allows, the Sellers or the Guarantors and their accountants and professional advisers to investigate the fact, matter or circumstance alleged to give rise to a Claim hereunder and whether and to what extent any amount is payable in respect of such Claim, and the Buyer shall give, and shall procure that the relevant company gives, all such information and assistance, including reasonable access to premises and personnel during normal business hours, and the right to examine and copy or photograph any assets, accounts, documents and records, as the Sellers or the Guarantors or their accountants or professional advisers may reasonably request, all at the sole cost and expense of Sellers and/or Guarantors. The Sellers and the Guarantors agree to keep all such information confidential and only to use it for the purpose of the Claim.

The Guarantors and the Buyer agree to provide to the other all such information and documents (other than those which are the subject of attorney-client or other applicable privilege) as are within their possession and control and that of their respective Affiliates and as are relevant to each Claim with a view to using their respective reasonable efforts to achieve a mutually satisfactory resolution thereof.

## 12.7 Indemnity payment

The Indemnity shall be paid in full by the Sellers or the Guarantors to the Buyer within thirty (30) days following the date when the amount of the Indemnity shall have been finally determined pursuant to either an amicable settlement between the Buyer and the Sellers or the Guarantors or a definitive award pronounced in accordance with Article 25. For avoidance of doubt, the Indemnity shall be paid net of any withholdings taxes imposed to the Sellers or the Guarantors in respect of the payment of the Indemnity and to be paid by them.

If the Sellers or the Guarantors pays an amount in discharge of any Claim under this Agreement and the Buyer or the concerned Company subsequently recovers (whether by payment, discount, credit, relief or otherwise) from a third party an amount in respect of the same Loss (including, for the avoidance of doubt, insurance receipt), the Buyer shall promptly pay on behalf of itself or of the concerned Company, as the case may be, to the Sellers or the Guarantors the amount so recovered (up to the amount previously paid by the Sellers or the Guarantors to the Buyer).

## 12.8 Duration of the liability of the Sellers and the Guarantors

The Sellers (including for avoidance of doubt the Guarantors) shall not be liable under Article 12 in respect of any Claim unless such Claim is notified in writing by the Buyer to the Sellers' Representative (including for avoidance of doubt the Guarantors):

- (i) in the case of a claim resulting from the inaccuracy of the Sellers' Representations and Warranties, at the latest thirty (30) Business Days following the expiration of the statutory limitation period;
- (ii) in the case of a claim resulting from the inaccuracy of the Guarantors' Representations and Warranties contained in Article 9.11, at the latest on January 31, 2021;
- (iii) in the case of a claim resulting from the inaccuracy of the Guarantors' Representations and Warranties contained in Articles 9.8.2 to 9.8.6 and/or in the case of a claim under Article 12.2.1 (except for claim under Article 12.2.1(vi)), at the latest thirty (30) Business Days following the expiration of the applicable statutory limitation period;
- (iv) in the case of a claim under Article 12.2.1(vi), at the latest December 31, 2025; and
- (v) in all other cases, no later than 24 months as from the Completion Date;

provided that any Claim shall (if it has not been previously satisfied, settled or withdrawn) be deemed to be withdrawn twelve (12) months after the date on which the Claim Notice was notified to the concerned Sellers or the Guarantors unless Legal Proceedings in respect of it (i) have been commenced by being issued and served and (ii) are being pursued with reasonable diligence.

## **12.9 Mitigation of Loss**

The Buyer shall take and shall procure that the concerned Company takes all reasonable steps and gives all reasonable assistance to avoid or mitigate any Loss which in the absence of mitigation might give rise to a liability in respect of any Claim (e.g., initiating a claim under any applicable insurance policy).

## **12.10 Exclusivity of Remedy**

The indemnification provided for under this ARTICLE 12 shall be the exclusive remedy of the Buyer against the Sellers and the Guarantors in respect of any breach of the Representations and Warranties. To the fullest extent permitted by Applicable Law, the Buyer hereby waives the benefit of any warranties generally available to purchasers under applicable Law and any other claims, causes of actions or other rights it may have, including any rights to the rescission (nullité) and the only such remedy of the Buyer shall be damages for breach of this Agreement. Nothing in this clause shall limit the Buyer's right to seek and obtain indemnification on account of the Sellers' fraudulent or criminal acts or omissions, or intentional misconduct.

## **ARTICLE 13. OTHER COVENANTS AND COOPERATION**

### **13.1 Access to information and records after Completion**

In the event that the Sellers or any members of the Sellers' group is subject to any investigation by or demand from authorities (whether governmental or otherwise, whether relating to Tax matters or otherwise) or involved in any claim or proceedings related to their ownership of the Companies, the Buyer shall, at the reasonable request of the Sellers or such members of the Sellers' group and at their sole cost and expenses grant access to the Sellers or such members of the Sellers' group, and shall procure that the Companies grant access to the Sellers or such members of the Sellers' group to, and solely to the extent required for the purposes of such investigation or demand from authorities, provide copies of, their respective books and records for periods prior to and including the Completion, provided however that any such access shall be granted during normal business hours, shall not unreasonably interfere with the operations of the Companies as may be then conducted.

### **13.2 Directors of the Companies**

The Buyer shall not, and shall cause the Companies not to, claim against any former or current director or member of any management board of the Companies, who is also Guarantor or Seller (including those resigning on the Completion Date) with respect to any management decisions adopted by the Companies prior to the Completion Date or otherwise seek the liability of any such director or member of any management board in that respect and, to the extent any such claim is made or liability is sought, shall indemnify and hold harmless any such director or member of any management board harmless against the consequences of any such claim or liability.

The Buyer shall procure that the corporate formalities relating to the resignations referred to in Article 7.2.1(i) be carried out as soon as reasonably practicable after the Completion Date.

The former and current directors or members of any management or supervisory board of the Companies are expressly intended as third party beneficiaries of this provision of the Agreement.

### **13.3 Assignment of non-disclosure agreements**

The Sellers shall cause a Seller or its agents, shareholders, Affiliates, or representatives to assign and transfer to the Buyer, all of the Sellers' rights in, under, and to all benefits and privileges accruing to the Sellers under any non-disclosure agreement (or similar agreement) entered into by the Sellers in relation to the Transaction contemplated herein with any potential buyer or any of its advisors or finance provider, to the extent such non-disclosure agreement or similar agreement is assignable in accordance with its terms and conditions.

### **13.4 Litigation with Senalia**

The Guarantors shall assist the Buyer and the Companies with a view to attempting to settle the existing Legal Proceedings with Senalia and obtaining confirmation of the validity of the option of Eurafrique to acquire shares in SICA SPR for one (1.00) Euro. For avoidance of doubt, the Buyer acknowledges that this matter is subject to a Legal Proceeding and there is no certainty whatsoever that any settlement, including as described above, may be achieved.

### **13.5 Transfer pricing documentation for GMD and GMA**

The Guarantors shall cause GMA and GMD, as from the date of execution of this Agreement, to initiate before Completion, the preparation of appropriate transfer pricing documentation as required by Applicable Laws. To the extent that such appropriate transfer pricing documentation has not been finalized prior to Completion, the Guarantors shall, following Completion, continue to assist the Buyer, GMD and GMA in order to finalize such documentation as soon as reasonably practicable.

### **13.6 Use of Groupe Mimran trademarks**

The Guarantors, acting in their own name and on behalf of any of their Affiliates, hereby expressly authorize the Companies to use strictly in the course of their business the trademarks and logo "GROUPE MIMRAN", registered with AIPO under number n° 3201401099 and 3201401100, for no additional consideration, and for a duration of twenty-four (24) months following Completion.



### **13.7 Further Assurances**

Each of the Parties shall, at its own cost, execute or, so far as is within its power, procure that any relevant third Party shall execute all such documents and/or do or, so far as each is able, procure the doing of such reasonable acts and things as the other Parties shall after Completion reasonably require in order to give effect to this Agreement and any documents entered into under it and to give to the Buyer the full benefit of all the provisions of this Agreement.

### **13.8 Breach of Agreement Covenants**

Each of the Sellers shall indemnify the Buyer and the Companies for any Loss incurred by the Buyer which arises out of, or relates to, a breach of any of its the covenants from this ARTICLE 13 (for avoidance of doubt, this shall not apply to a breach of the Sellers' Representations and Warranties or a breach of the Guarantors' Representations and Warranties for which article 12 shall apply exclusively). The Buyer shall indemnify the Sellers for any Loss incurred by the Sellers which arises out of, or relates to, a breach of any of its covenants from this Agreement.

## **ARTICLE 14. SECURITY FOR THE SELLERS' AND GUARANTORS' OBLIGATIONS**

### **14.1 Set-off**

Until payment of the principal amount of the Deferred Payment has become due pursuant to Article 3.4.1, the Buyer shall be entitled to (i) suspend payment of the Deferred Payment and (ii) upon any amount payable by the Sellers to the Buyer pursuant to this Agreement becoming due and payable (*certain, liquide et exigible*), to set-off such amount against any part of the Purchase Price which has become due and payable (*certain, liquide et exigible*) by the Buyer to the Sellers.

**14.2** In the event that, as at the date on which the principal amount of the Deferred Payment becomes due pursuant to Article 3.4.1, Claims remain pending and have not yet been finally settled, the Buyer shall deduct from the Deferred Payment an amount equal to the aggregate amount of all pending Claims, and shall pay such amount onto an escrow account with the Escrow Agent, as security for the payment of such pending Claims. The Buyer and those of the Sellers who are party to such pending Claims shall then execute an escrow agreement in the form attached as Schedule 14.2.

## **ARTICLE 15. SELLERS' REPRESENTATIVE**

### **15.1 Appointment of the Sellers' Representative**

The Sellers and the Guarantors hereby appoint and empower JCM, who accepts such appointment, as agent (*mandataire*) of the Sellers and of the Guarantors (the "***Sellers' Representative***") to act individually, under and in connection with this Agreement, in the name and on behalf of each Seller or Guarantor, including to negotiate and agree the terms of any

amendment thereof and to execute such amendment. This mandate is granted to the Sellers' Representative free of charge and irrevocably, in the joint interest (*intérêt commun*) of the Parties with a view to ensuring that this Agreement is duly performed for its duration.

## **15.2 Role of the Sellers' Representative**

Only the Sellers' Representative shall be entitled to make any request, election, proposal or consent to be made on behalf of the Sellers or the Guarantors to the Buyer. The Buyer is thus entitled at its sole discretion to only take into account notices, including requests, elections, proposal or consent issued by the Sellers Representative in accordance with Articles 3 and 12 of this Agreement and any the service of any notice or other communication from the Sellers Representative to the Buyer shall be irrevocably binding on each of the Sellers or the Guarantors.

The Sellers Representative shall be the only valid recipient of any and all notices served by the Buyer or other communication made by the Buyer in connection with this Agreement for and on behalf of the Sellers or the Guarantors. The service of any notice or other communication on the Sellers' Representative shall be deemed to have been made simultaneously to or by each of the Sellers or the Guarantors and shall constitute valid service thereof.

- 15.3** Should JCM be unable to perform his obligations as Sellers' Representative for any reason whatsoever, he shall be automatically replaced by Mr. David Mimran, which is already accepted and acknowledged by the other Sellers and the Guarantors without any additional formality or conformation of appointment. Mr David Mimran shall notify the Buyer of such replacement and shall act as Sellers' Representative in accordance with this Article 15.

For the avoidance of doubt, the Buyer shall not be bound or deemed to be bound by any separate agreement or arrangement between the Sellers to which the Buyer is not a party.

## **ARTICLE 16. SEABOARD GUARANTEE**

Seaboard hereby guarantees the performance by the Buyer of its obligations under this Agreement and shall therefore be jointly (*solidairement*) liable of the Buyer vis-à-vis the Sellers in case of a breach by the Buyer of such obligations, including but not limited to the obligations referred to in Articles 3.2 (*Initial Purchase Price*), 3.4 (*Deferred Payment*), 3.5 (*Earn Out*) and 3.6.

## **ARTICLE 17. RESTRICTIVE COVENANTS**

- 17.1** In order to protect the value of the Sold Shares and the Business Information: Each of the Guarantors and Mr. David Mimran covenants with the Buyer that without the prior consent in writing of the Buyer (which consent shall not be unreasonably withheld) he shall not directly or indirectly, whether himself, or by his agents and whether on its own behalf or on behalf of any other person, firm or company or otherwise, for the period of three (3) years from the Completion Date:

17.1.1 directly or indirectly carry on, be employed or otherwise engaged, concerned or interested in any capacity (whether or not for reward) in, provide any technical, commercial or professional advice to, invest in, acquire more than 1% interest in, or in any way assist any business which is or is about to be involved in the Restricted Business; this shall not apply to marketable securities investment or acquisition.

17.1.2 in relation to the Restricted Business, solicit or canvass, accept orders from or otherwise deal with any person who:

- was a customer of the Companies at any time during the twenty four (24) months prior to the Completion Date; or
- at the Completion Date was in the process of negotiating or contemplating doing business with the Companies;

and with whom such Seller had personal dealings in the course of the Companies' business;

17.1.3 solicit or entice away or attempt to solicit or entice away from the Companies any corporate officer or senior manager employed or otherwise engaged by the Companies on the Completion Date other than (i) except for Mr. N'Diaye, (ii) for positions in businesses which do not compete with the Restricted Business (nor plan, with the assistance of any such non-executives, to so compete) and (iii) by placement of routine, non-targeted employment, advertisements in local and national media;

17.1.4 other than Mr. N'Diaye, employ directly or indirectly any corporate officer, manager or senior employee of the Companies employed or otherwise engaged by the on the Completion Date, whether or not that person would commit any breach of any employment contract by leaving the employment of the Companies; or

17.1.5 other than Mr. N'Diaye, employ or otherwise engage any person who at the Completion Date or during the preceding twelve months was employed or otherwise engaged by the Companies and who as a result is or is reasonably likely to be in possession of any Business Information.

**17.2** Each of the Guarantors and Mr. David Mimran covenants with the Buyer that it shall not directly or indirectly:

17.2.1 (subject to Article 17.3) in the course of carrying on any trade or business, claim, represent or otherwise indicate any ongoing association with the Companies or, for the purpose of obtaining or retaining any business or custom which may compete with the Companies' business, claim, represent the company; or

17.2.2 interfere or seek to interfere with, or with the continuance of, the supply of goods or services to or by the Companies (or the terms of any such supply); or

17.2.3 (subject to Article 17.3) without the consent of the Companies or the Buyer use, whether on its own behalf or on behalf of any third Party, or disclose to any third Party, any Business Information.

**17.3** Each Seller agrees and covenants that it will not at any time, make, publish, or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning the Buyer, any of the Companies or their respective businesses, or any of its employees, officers, and existing and prospective customers, supplier, and other associated third parties.

**17.4** The restrictions in Article 17.2.3 shall not apply:

17.4.1 to any Business Information which is in or becomes part of the public domain, other than through a breach of the obligations of confidentiality set out in this Agreement; or

17.4.2 to any Seller to the extent that it is required to disclose Business Information by any Applicable Law (including the regulations of any securities exchange or other Relevant Authority to which it is subject).

**17.5** Each Seller agrees with the Buyer that the covenants in Articles 17.1, 17.2 and 17.3 inclusive:

17.5.1 are reasonable and necessary for the protection of the value of the Sold Shares and the Group and that having regard to that fact those covenants do not work harshly on it; and

17.5.2 are given to induce the Buyer to enter into this Agreement and in consideration of it doing so.

## **ARTICLE 18. CONFIDENTIALITY**

**18.1** This Agreement, its existence and content, the transaction contemplated hereby, and any of the envisaged terms thereof are confidential. Accordingly, none of the Parties shall disclose, or permit to be disclosed, the existence, status or contents of their discussions, this Agreement, or any other agreements related to such transaction, except with the prior written consent of the other Parties.

**18.2** Notwithstanding the above, each Party is authorized to disclose the Agreement and the agreements contemplated thereby or their content:

- (i) To its employees, directors or officers, to the employees, directors or officers of its Affiliates, or to its advisors or its financing counterparts provided that these persons are themselves bound to the provisions of this article or by a similar confidentiality undertaking, or to its statutory auditor;

- (ii) To the extent required by any Law, including market securities Law, or Order; in this event, the relevant Party shall (i) limit such disclosure to the extent strictly required, (ii) notify the other Parties in advance of such disclosure and (iii) consult with the other Parties as to the timing, form and content of such disclosure, in each case to the extent legally permissible;
- (iii) For the purpose of obtaining their performance, including, but not limited to, in connection with an arbitration carried out in accordance with Article 25.

**18.3** This article shall remain in force for a period of five (5) years as from the date hereof.

**ARTICLE 19. NOTICES**

**19.1** Any notice or other communication to be served under or in connection with the Agreement shall be made in written (i) by hand delivery, (ii) by express international courier (DHL or equivalent) or (iii) by email confirmed by express international courier (DHL or equivalent) and will be considered valid and effective (x) at the date of its actual receipt (in case of hand delivery), (y) on signature of a delivery receipt in case of express international courier, unless such delivery occurs on a non-Business Day, in the case of which it will be considered valid and effective on the next following Business Day or (z) on signature of a delivery receipt of the confirming express international courier, unless such delivery occurs on a non-Business Day, in the case of which it will be considered valid and effective on the next following Business Day, in case of an email:

<u>To Seaboard:</u>	Name:	Seaboard Corporation
	Address:	9000 W. 67 <sup>th</sup> Street, Merriam, KS 66202, USA

To the attention of: President, SOTG

<u>With copy to:</u>	Seaboard Corporation
Address:	9000 W. 67 <sup>th</sup> Street, Merriam, KS 66202

To the attention of: SOTG General Counsel

To the Buyer                      Name:                      Seaboard Overseas Limited  
Address:                      Rose House, 3<sup>rd</sup> Floor 51-59 Circular  
Road Douglas, IM1 1AZ

To the attention of:              President, SOTG

With copy to:                      Seaboard Overseas Limited  
Address:                      Rose House, 3<sup>rd</sup> Floor 51-59 Circular  
Road Douglas, IM1 1AZ

To the attention of:              SOTG General Counsel

To the                      Name:                      Jean-Claude Mimran, acting as Mimran  
Sellers/Guarantors:              Representative  
Address:                      Le Chalet, Promenade 54,  
Gstaad 3780, Switzerland

With copy to:                      Stehlin & Associes  
48 avenue Victor Hugo  
75116 Paris, France

To the attention of:              Marc Pierre Stehlin and Rasseck  
Bourgi

Each Party may notify to the other, in accordance with the provisions of this Article 20, any other addresses or other or additional beneficiary to which notifications or communication shall be served.

**ARTICLE 20.              MISCELLANEOUS**

**20.1** If any provision herein, or if the performance of such provision, is held unenforceable, void or illegal by a competent judicial or administrative authority, this provision shall be deemed non-written and non-applicable to such circumstance, and the other provisions of this Agreement shall not be affected or impaired thereby.

In such case, to the extent feasible, the Parties shall negotiate in good faith, without delay, a substitute valid, legal and enforceable provision to replace the unenforceable, void or illegal provision that has the same or the most similar economical effect than the original provision.

**20.2** No variation of this Agreement shall be effective unless in writing and signed by each of the Parties.

- 20.3** This Agreement shall be binding upon and inure for the benefit of the successors of the Parties but shall not be assignable (including by way of merger, winding up, split off, or universal transfer of assets), except (i) as permitted in Article 20.4 or (ii) with prior written consent of the other Parties. Successors of the Parties shall be automatically bound by the Agreement, in accordance with article 877 of the French Civil code.
- 20.4** The Buyer may, after Completion, assign its rights and obligations under this Agreement, in whole or in part, to any Affiliate of Seaboard to whom the entire share capital of any of the Companies is transferred, subject to a (i) prior notification to the Sellers, at least fifteen (15) Business Days prior to such assignment and (ii) undertaking of the Buyer to remain jointly and severally liable (*responsable conjoint et solidaire*) of the assignee's obligations resulting from this Agreement. For avoidance of doubt, Article 12.1.6 shall apply to such Affiliate.
- 20.5** No failure or delay on the part of any Party in exercising any right under this Agreement shall operate as a waiver thereof. No renouncement by any Party to seek damages for any prejudice incurred as consequence of a breach by the other Party of its obligations hereunder shall operate as a renouncement in connection with any preceding or succeeding breach by the said Party of its obligations.

## **ARTICLE 21. SPECIFIC PERFORMANCE**

- 21.1** Notwithstanding anything to the contrary in this Agreement, each Party expressly acknowledges and agrees that the other Parties may seek specific performance in the event of a breach by a Party of its obligations and in particular by the Buyers of their obligation to purchase the Sold Shares under this Agreement, in accordance with the provisions of article 1221 of the French Civil Code. Each Party further acknowledges and agrees that such specific performance would not constitute a manifest disproportion (*disproportion manifeste*) within the meaning of article 1221 of the French *Civil Code*.
- 21.2** Notwithstanding anything to the contrary in this Agreement, each Party expressly acknowledges that the provisions of article 1186 alinéa 2 of the French Civil Code shall not apply to it with respect to its obligations under this Agreement and that it shall not be entitled to make any claim under article 1186 alinéa 2 of the French Civil Code in case of voidness (*disparition*) of any other agreement or contract.
- 21.3** Notwithstanding anything to the contrary in this Agreement, the Buyer expressly acknowledges that it shall not be entitled to ask for a reduction of the Purchase Price under article 1217 or article 1223 of the French Civil Code.

## **ARTICLE 22. UNFORESEEABILITY**

- 22.1** Each Party hereby acknowledges that the provisions of article 1195 of the French Civil Code shall not apply to it with respect to its obligations under this Agreement and that it shall not be entitled to make any claim under article 1195 of the French Civil Code including, but not limited to, in case of fluctuation of interest rates or market conditions.

**22.2** Each Party further acknowledges, after due consideration, that there are no circumstances that cannot be foreseen at the time this Agreement is entered into which could make the performance of its obligations excessively onerous and each Party agrees to bear its own risks in relation thereto.

### **ARTICLE 23. ADVISERS**

The Parties declare they were advised by their own lawyers or advisers and have therefore been able to independently assess the scope of their rights and obligations under this Agreement and had the opportunity to negotiate all terms of this Agreement. Consequently, no adviser or lawyer shall be deemed to be the sole drafter (*rédacteur unique*) on behalf of all the Parties and the Parties acknowledge and agree that this Agreement shall not be deemed a contract of adhesion (*contrat d'adhésion*) within the meaning of article 1110 of the French Civil Code.

### **ARTICLE 24. GOVERNING LAW - DISPUTES**

**24.1** The Agreement shall be exclusively governed by and construed in accordance with the Laws of France (*droit français*).

**24.2** Any conflict or dispute arises among any of the Parties with regard to the interpretation, execution, non-compliance, existence, validity or termination of this Agreement (the "*Dispute*") shall be referred to and finally resolved exclusively by arbitration. Arbitration proceedings shall be conducted by an arbitral tribunal of three arbitrators, in English, in Paris and in accordance with the Rules of Arbitration of the International Chamber of Commerce in force as of March 1, 2017 (the "*Rules*"), which Rules are deemed to be incorporated by reference into this clause.

**24.3** The arbitration panel will consist of three arbitrators. The demanding Party/ies shall nominate one (1) arbitrator and the defending Party/ies shall nominate 1 (one) arbitrator. The third arbitrator shall be appointed by the two above arbitrators, within 30 (thirty) days from the nomination of the second arbitrator and serve as the chairman of the arbitral tribunal. If either Party fails to appoint its arbitrator, or if the two arbitrators appointed by the Parties fail to reach an agreement concerning the nomination of the third arbitrator within the 30-day period set forth above, the appointment of missing arbitrator(s) shall be made in accordance with the Rules.

**24.4** The costs and expenses incurred by the prevailing Party (including but not limited to reasonable attorney fees) in connection with any Dispute referred to arbitration under this Agreement shall be borne by the Party or Parties against whom the definitive award is made, subject to the powers of the arbitral tribunal to decide otherwise.

**24.5** Any award rendered by the arbitral tribunal pursuant to this Article 25 shall be final and binding on the Parties and the Parties agree that the tribunal award may be enforced against the Parties or their assets, wherever they may be found. The Parties hereby waive any right to apply to any court of law or other judicial authority for appealing against, requesting the cancellation or setting aside of, or otherwise challenging the arbitral award (including any corresponding exequatur order), insofar as such waiver may validly be made.



**ARTICLE 25. SINGLE AGREEMENT**

This Agreement (including its schedules thereto and the documents referred to in it) contains the entire agreement and undertaking between the Parties relating to the subject matter of this Agreement and supersedes any previous discussions, correspondence, negotiations, drafts, agreements, promises, assurances, warranties, representations and understandings between them, written or not, in relation to the matters dealt with this Agreement.

**ARTICLE 26. COSTS AND EXPENSES**

- 26.1** Whether or not the Transaction is consummated, except as may otherwise be expressly provided herein, each Party shall each bear its own expenses (including those of their respective Representatives and Advisers) (incurred in connection with the negotiation, preparation and signing of this Agreement and the consummation of the Transaction.
- 26.2** Notwithstanding the paragraph above, the Parties agree that any registration tax provided under Applicable Laws be borne by the Buyer.

...

Done in fifteen (15) original copies

On December 22, 2017

[SIGNATURES ON THE LAST PAGE]

## SIGNATURES

/s/ Jean-Claude Mimran  
Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mr. Robert Mimran  
Represented by Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mr. Patrick Mimran  
Represented by Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mr. David Mimran  
Represented by Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mr. Nachson Mimran  
Represented by Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mr. Gerard Pastorelli  
Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mrs. Jeanne Mimran  
Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mrs. Margarita Gelis Lamarque  
Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mayfair Global Securities Inc.  
Represented by Mr. Jean-Claude Mimran:

/s/ Jean-Claude Mimran  
The succession of Mr. Emile Mimran  
Represented by Mr. Jean-Claude Mimran:

/s/ Jean-Claude Mimran  
Mr. Michel Castres Saint Martin  
Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran  
Mrs. Nicole Prada  
Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran

Mr. Michel Seh

Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran

Mrs. Eva d'Aillieres

Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran

Catherine de Kersabiec

Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran

Mrs. Marie Castres Saint Martin

Represented by Mr. Jean-Claude Mimran

/s/ Jean-Claude Mimran

Heritiers Bloch (Mrs. Frederique Bloch,  
Ms. Desiree Bloch, Ms. Deborah Bloch and  
Ms. Delphine Bloch Mr. David Bloch)

Represented by Mr. Jean-Claude Mimran

/s/ Steven J. Bresky

Seaboard Overseas Limited

Represented by:

Name: Steven J. Bresky

Title: President

/s/ Steven J. Bresky

Seaboard Corporation

Represented by:

Name: Steven J. Bresky

Title: Chairman, CEO and President

SUBSIDIARIES OF THE REGISTRANT	NAMES UNDER WHICH SUBSIDIARIES DO BUSINESS	STATE OR OTHER JURISDICTION OF INCORPORATION
All Staple Food, S.A.	ASTA Food	Republic of Congo
Africa Poultry Development Limited*	Same	Mauritius
Agencias Generales Conaven, C.A.	Conaven	Venezuela
Agencia Maritima del Istmo, S.A.	Same	Costa Rica
Akdeniz Yaglari Sanayi ve Ticaret A.S.*	Same	Turkey
Alconoa S.R.L.	Same	Argentina
Bag Yagları Sanayi ve Ticaret A.S.*	Same	Turkey
Bagin Yag Sanayi Tesisleri Imalat ve Isletmeciligi Ticaret A.S.*	Same	Turkey
BB Colorado Holdings LLC	Same	Colorado
Beira Grain Terminal, S.A.	Same	Mozambique
Belarina Alimentos S.A.	Same	Brazil
BINA Congo Limited*	Same	Bermuda
Bolux Group (Proprietary) Limited*	Same	Botswana
Borisniak Corp	Same	Panama
Butterball, LLC*	Same	North Carolina
Cape Fear Railways, Inc.	Same	North Carolina
Caravel Holdings LLC	Same	Delaware
Cayman Freight Shipping Services, Ltd.*	Same	Cayman Islands
Chestnut Hill Farms Honduras, S. de R.L. de C.V.	Same	Honduras
Compania Industrial de Productos Agropecuarios S.A.*	CIPA	Colombia
ContiLatin del Peru S.A.*	Same	Peru
Corporacion Alto Valle, S.A.S.	ALVASA	Dominican Republic
Daily's Premium Meats, LLC*	Same	Delaware
Dalian Sino Fortune Trading Co., Ltd.	Same	China
Delta Packaging Company Ltd.*	Same	Nigeria
Ecuador Holdings, Ltd*	Same	Bermuda
Eurafrique	Same	Monaco
Eurogerm South Africa (Pty) Ltd.*	Same	Republic of South Africa
Fairfield Rice Inc.*	Same	Guyana
Fill-More Seeds Inc.	Same	Saskatchewan
Flour Mills of Ghana Limited	Same	Ghana
Franquicias Azucareras S.A.*	Same	Argentina
Gambia Milling Corporation Limited*	Same	The Gambia
Glorigde Bakery (PTY) Limited*	Same	Republic of South Africa
High Plains Bioenergy, LLC	Same	Oklahoma
High Plains Transport LLC	Same	Oklahoma
HPB Biodiesel Inc.	Same	Oklahoma
HPB - St. Joe Biodiesel LLC	Same	Missouri
H and O Shipping Limited <sup>1</sup>	Same	Liberia

SUBSIDIARIES OF THE REGISTRANT	NAMES UNDER WHICH SUBSIDIARIES DO BUSINESS	STATE OR OTHER JURISDICTION OF INCORPORATION
I.A.G. (Zambia) Limited	Same	Zambia
Ingenio Y Refineria San Martin del Tabacal S.R.L.	Tabacal	Argentina
InterAfrica Grains Ltd.	Same	Bermuda
InterAfrica Grains (Proprietary) Limited	Same	Republic of South Africa
Interra International, LLC*	Same	Delaware
Interra International Mexico, S. de R.L. de C.V.	Same	Mexico
Inversiones y Servicios Diversos, S.A.	INVERSA	Guatemala
Jacintoport International LLC	Same	Texas
Jamaica Grains and Cereals Limited*	Same	Jamaica
JP LP, LLC	Same	Delaware
Kingston Wharves Limited*	Same	Jamaica
La Compania de Electricidad de San Pedro de Macoris*	CESPM	Cayman Islands
Lafito Industrial Free Zone, S.A.*	Same	Haiti
Lafito Logistics Holding Ltd.*	Same	Bahamas
Les Grands Moulins d'Abidjan	Same	Ivory Coast
Les Grands Moulins de Dakar	Same	Senegal
Les Moulins d'Haiti S.E.M.*	Same	Haiti
Lesotho Flour Mills Limited*	Same	Lesotho
Life Flour Mill Limited.*	Same	Nigeria
Maple Creek Farms, LLC	Same	Kansas
Merriam Financial Services, Ltd.	Same	Bermuda
Merriam International Finance B.V.	Same	The Netherlands
Minoterie de Matadi, S.A.*	Midema	Democratic Republic of Congo
Minoterie du Congo S.A.	Minoco	Republic of Congo
Mission Insurance Corporation	Same	Oklahoma
Mission Funding, L.L.C.	Same	Delaware
Moderna Alimentos, S.A.*	Same	Ecuador
Molinos Champion, S.A.*	MOCHASA	Ecuador
Mount Dora Farms de Honduras, S.R.L.	Same	Honduras
Mount Dora Farms Inc.	Same	Florida
National Milling Company of Guyana, Inc.	Namilco	Guyana
National Milling Corporation Limited	Same	Zambia
PAMSA Uruguay*	Same	Uruguay
Paramount Mills (Propriety) Limited*	Same	Republic of South Africa
Plum Grove Pty Ltd.*	Same	Australia
Port Lafito, S.A.*	Same	Haiti
Productores de Alcoholes y Melaza S.A.*	PAMSA	Argentina
PS International Canada Corp.	Same	Nova Scotia
PS International, LLC	Same	Delaware
PS International S.A.	Same	Argentina
Rafael del Castillo & Cia. S.A.*	Molinos Tres Castillos	Colombia

SUBSIDIARIES OF THE REGISTRANT	NAMES UNDER WHICH SUBSIDIARIES DO BUSINESS	STATE OR OTHER JURISDICTION OF INCORPORATION
Representaciones Maritimas y Aereas, S.A.	REMARSA	Guatemala
RussellStone Protein (Pty) Ltd.*	Same	Republic of South Africa
SB Cayman Holdings Ltd.	Same	Cayman Islands
SBD Power Holdings Ltd.	Same	Cayman Islands
Sea Cargo, S.A.	Same	Panama
Seaboard Bulk Services, Ltd.	Same	Bermuda
Seaboard de Colombia, S.A.	Same	Colombia
Seaboard de Mexico USA LLC <sup>2</sup>	Same	Delaware
Seaboard de Nicaragua, S.A.	Same	Nicaragua
Seaboard Farms of Athens, Inc.	Same	Kansas
Seaboard Farms of Elberton, Inc.	Same	Kansas
Seaboard Foods LLC	Same	Oklahoma
Seaboard Foods of Iowa, LLC	Same	Delaware
Seaboard Foods of Missouri, Inc.	Same	Missouri
Seaboard Freight & Shipping Jamaica Limited	Same	Jamaica
Seaboard Ghana Ltd.	Same	Bermuda
Seaboard Guyana Ltd.	Same	Bermuda
Seaboard Honduras, S. de R.L. de C.V.	Same	Honduras
Seaboard Marine Bahamas, Ltd.	Same	Bahamas
Seaboard Marine of Haiti S.A.	Same	Haiti
Seaboard Marine of Florida, Inc.	Same	Florida
Seaboard Marine Ltd. <sup>3</sup>	Same	Liberia
Seaboard Marine (Trinidad) Limited	Same	Trinidad
Seaboard Minoco Ltd.	Same	Bermuda
Seaboard MOZ Limited	Same	Bermuda
Seaboard Overseas Colombia Limitada	Same	Colombia
Seaboard Overseas (IOM) Ltd.	Same	Isle of Man
Seaboard Overseas (Kenya) Limited	Same	Kenya
Seaboard Overseas Limited	Same	Bermuda
Seaboard Overseas Management Company, Ltd.	Same	Bermuda
Seaboard Overseas Singapore Pte. Ltd.	Same	Singapore
Seaboard Overseas Trading and Shipping (PTY) Ltd.	Same	Republic of South Africa
Seaboard Power Management Inc.	Same	Florida
Seaboard Solutions de Honduras, S.de R.L.	Same	Honduras
Seaboard Solutions, Inc.	Same	Delaware
Seaboard Solutions of Haiti S.A.	Same	Haiti
Seaboard Special Crops India Private Limited	Same	India
Seaboard Trading and Shipping, Ltd.	Same	Kansas
Seaboard Transport Canada, Inc.	Same	Delaware
Seaboard Transport LLC	Same	Oklahoma

SUBSIDIARIES OF THE REGISTRANT	NAMES UNDER WHICH SUBSIDIARIES DO BUSINESS	STATE OR OTHER JURISDICTION OF INCORPORATION
Seaboard Triumph Foods, LLC*	Same	Delaware
Seaboard Zambia Ltd.	Same	Bermuda
Seaboard Zambia Milling Holdings Ltd.	Same	Bahamas
SEADOM, S.A.S.	Same	Dominican Republic
SeaFin Holdings Limited	Same	Bermuda
SeaGrain Company	Same	Nova Scotia
SeaMaritima, S.A. de C.V.	Same	Mexico
SeaRice Caribbean Inc.	Same	Guyana
SeaRice Limited	Same	Bermuda
Secuador Limited	Same	Bermuda
Sermarin Servicios Maritimos Intermodales, C.A.	Same	Venezuela
Shawnee Funding, Limited Partnership	Same	Delaware
Shawnee GP LLC	Same	Delaware
Shawnee Leasing LLC	Same	Oklahoma
Shawnee LP LLC	Same	Delaware
Shilton Limited	Same	Cayman Islands
Societe Africaine de Developpement Industrielle Alimentaire*	SADIA	Democratic Republic of Congo
Societe Mediterranee de Transport	Same	Monaco
SSI Ocean Services, Inc.	Same	Florida
Stewart Southern Railway Inc.*	Same	Saskatchewan
T-S Shared Operations, LLC*	Same	Missouri
TFL Life Foods Limited	Same	Nigeria
Transcontinental Capital Corp. (Bermuda) Ltd.	TCCB	Bermuda
Unga Holdings Limited*	Same	Kenya
United African Grain Limited	Same	Zambia
United African Grain (IOM) Limited	Same	Isle of Man
Zalar Holding S.A.*	Same	Morocco
Zenith Investment Limited*	Same	Nigeria

<sup>1.</sup> Owns nine foreign ship holding company subsidiaries

<sup>2.</sup> Owns three Mexican incorporated subsidiaries

<sup>3.</sup> Owns four foreign ship holding company subsidiaries

\* Represents a non-controlled, non-consolidated affiliate.

CERTIFICATIONS

I, Steven J. Bresky, certify that:

1. I have reviewed this annual report on Form 10-K of Seaboard Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: February 21, 2018

/s/ Steven J. Bresky

Steven J. Bresky, President and Chief Executive Officer



CERTIFICATIONS

I, Robert L. Steer, certify that:

1. I have reviewed this annual report on Form 10-K of Seaboard Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: February 21, 2018

/s/ Robert L. Steer  
Robert L. Steer, Executive Vice President,  
Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION. 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the filing of the annual report on Form 10-K for the fiscal year ended December 31, 2017 (the Report) by Seaboard Corporation (the Company), the undersigned, as the Chief Executive Officer of the Company, hereby certifies pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 21, 2018

/s/ Steven J. Bresky

Steven J. Bresky, President and Chief Executive Officer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION. 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the filing of the annual report on Form 10-K for the fiscal year ended December 31, 2017 (the Report) by Seaboard Corporation (the Company), the undersigned, as the Chief Financial Officer of the Company, hereby certifies pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 21, 2018

/s/ Robert L. Steer  
Robert L. Steer, Executive Vice President,  
Chief Financial Officer

**BUTTERBALL, LLC**

Financial Statements

December 31, 2017 and January 1, 2017

(With Independent Auditors' Report Thereon)

## Independent Auditors' Report

The Board of Directors  
Butterball, LLC:

We have audited the accompanying financial statements of Butterball, LLC, which comprise the balance sheets as of December 31, 2017 and January 1, 2017, and the related statements of comprehensive income (loss), members' equity, and cash flows for each of the years ended December 31, 2017, January 1, 2017 and January 3, 2016, and the related notes to the financial statements.

### *Management's Responsibility for the Financial Statements*

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

### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Butterball, LLC as of December 31, 2017 and January 1, 2017, and the results of its operations and its cash flows for each of the years ended December 31, 2017, January 1, 2017 and January 3, 2016, in accordance with U.S. generally accepted accounting principles.

KPMG LLP

Kansas City, Missouri  
February 9, 2018

**BUTTERBALL, LLC**

Balance Sheets

(In thousands)

	<u>December 31,</u> <u>2017</u>	<u>January 1,</u> <u>2017</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 1	145,433
Accounts receivable, less allowance for doubtful accounts of \$1,986 and \$1,990 at December 31, 2017 and January 1, 2017, respectively	90,346	100,442
Other receivables	6,430	7,756
Inventories, net	343,977	328,322
Other current assets	9,726	9,380
Total current assets	<u>450,480</u>	<u>591,333</u>
Net property, plant and equipment	337,933	353,172
Other assets:		
Trade names	111,000	111,000
Goodwill	73,667	73,667
Intangible assets with finite lives, net	880	3,205
Other assets	24,896	21,247
Total other assets	<u>210,443</u>	<u>209,119</u>
Total assets	<u>\$ 998,856</u>	<u>1,153,624</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities:		
Accounts payable	\$ 74,025	86,659
Accrued expenses	72,385	83,040
Revolving line of credit	33,000	20,000
Current maturities of long-term debt	3,565	3,605
Current maturities of Member notes payable	4,284	161,422
Total current liabilities	<u>187,259</u>	<u>354,726</u>
Long-term debt, less current maturities	194,338	147,405
Notes payable – Member, net of debt discount	—	7,531
Pension plan liability, net	196	2,544
Other liabilities	18,224	16,760
Total liabilities	<u>400,017</u>	<u>528,966</u>
Members' equity:		
Members' equity	603,244	631,090
Accumulated other comprehensive loss	(4,405)	(6,432)
Total Members' equity	<u>598,839</u>	<u>624,658</u>
Total liabilities and Members' equity	<u>\$ 998,856</u>	<u>1,153,624</u>

See accompanying notes to financial statements.

**BUTTERBALL, LLC**

Statements of Comprehensive Income (Loss)

(In thousands)

	Year ended		
	December 31, 2017	January 1, 2017	January 3, 2016
Net sales	\$ 1,669,944	1,812,654	1,901,805
Cost of goods sold	1,508,412	1,531,303	1,557,401
Gross profit	161,532	281,351	344,404
Selling and marketing expenses	61,681	67,674	62,993
General and administrative expenses	50,927	51,374	50,406
Impairment of fixed and intangible assets	28,364	—	—
Closure and restructuring expenses	6,342	—	—
Operating income	14,218	162,303	231,005
Net finance expense	5,499	1,978	8,643
Related party finance expense	20,390	21,887	27,088
Other income	(3,327)	(163)	(33)
Net income (loss)	(8,344)	138,601	195,307
Other comprehensive (loss) income:			
Unrecognized actuarial (loss) gain of defined benefit plan, net of amounts included in net periodic benefit (income) cost	2,027	(1,008)	16
Comprehensive income (loss)	<u>\$ (6,317)</u>	<u>137,593</u>	<u>195,323</u>

See accompanying notes to financial statements.

**BUTTERBALL, LLC**  
**Statements of Members' Equity**  
(In thousands)

	<b>Members' equity</b>	<b>Accumulated other comprehensive income (loss)</b>	<b>Total</b>
Members' equity – December 28, 2014	\$ 479,224	(5,440)	473,784
Distributions to members	(122,995)	—	(122,995)
Net income	195,307	—	195,307
Unrecognized actuarial gain of defined benefit plan	—	16	16
Members' equity – January 3, 2016	551,536	(5,424)	546,112
Distributions to members	(59,047)	—	(59,047)
Net income	138,601	—	138,601
Unrecognized actuarial loss of defined benefit plan	—	(1,008)	(1,008)
Members' equity – January 1, 2017	631,090	(6,432)	624,658
Distributions to members	(19,502)	—	(19,502)
Net loss	(8,344)	—	(8,344)
Unrecognized actuarial gain of defined benefit plan	—	2,027	2,027
Members' equity – December 31, 2017	<u>\$ 603,244</u>	<u>(4,405)</u>	<u>598,839</u>

See accompanying notes to financial statements.



**BUTTERBALL, LLC**

Statements of Cash Flows

(In thousands)

	Year ended		
	December 31, 2017	January 1, 2017	January 3, 2016
<b>Cash flows from operating activities:</b>			
Net income (loss)	\$ (8,344)	138,601	195,307
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation	41,810	39,042	36,695
Amortization	3,005	4,841	4,815
Loss on disposition of property, plant and equipment	66	273	180
Paid-in-kind interest and accretion on Member notes payable	2,829	3,014	17,148
Impairment of fixed and intangible assets	28,364	—	—
Changes in operating assets and liabilities, net of acquisition:			
Accounts receivable	10,096	(7,353)	23,000
Inventories	(15,505)	(50,187)	(14)
Other current assets	980	4,000	(7,675)
Other assets	(3,649)	(2,842)	(1,844)
Accounts payable	(12,613)	18,483	(7,970)
Accrued expenses	(10,866)	(5,309)	22,015
Other liabilities	1,396	(221)	(7,261)
Net cash provided by operating activities	<u>37,569</u>	<u>142,342</u>	<u>274,396</u>
<b>Cash flows from investing activities:</b>			
Proceeds from sale of property, plant and equipment	3,411	45	297
Purchases of property, plant and equipment	(57,533)	(57,961)	(83,969)
Acquisition of business	—	(15,724)	—
Net cash used in investing activities	<u>(54,122)</u>	<u>(73,640)</u>	<u>(83,672)</u>
<b>Cash flows from financing activities:</b>			
Borrowings on revolving line of credit	108,000	61,563	—
Payments on revolving line of credit	(95,000)	(41,563)	(24,000)
Proceeds of long-term debt	50,000	—	—
Payments of long-term debt	(4,470)	(45,621)	(6,771)
Debt issuance costs	(409)	(923)	—
Payments of notes payable – Member	(167,498)	—	(74)
Distributions to Members	(19,502)	(59,047)	(122,995)
Net cash used in financing activities	<u>(128,879)</u>	<u>(85,591)</u>	<u>(153,840)</u>
Net (decrease) increase in cash and cash equivalents	(145,432)	(16,889)	36,884
Cash and cash equivalents – beginning of year	145,433	162,322	125,438
Cash and cash equivalents – end of year	<u>\$ 1</u>	<u>145,433</u>	<u>162,322</u>
<b>Supplementary disclosure of cash flow information:</b>			
Cash paid during the year for interest	\$ 20,555	21,851	14,624

See accompanying notes to financial statements.

## BUTTERBALL, LLC

Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

### (1) Summary of Significant Accounting Policies

#### *(a) Description of Business and Basis of Presentation*

Butterball, LLC (Butterball or the Company) is a limited liability company organized in the State of North Carolina. Tracing its roots back to 1954 and headquartered in Garner, North Carolina, Butterball is a vertically integrated producer, processor, and marketer of branded and nonbranded turkey products. From six facilities located across the United States, the Company produces a diverse portfolio of premium, value-added and commodity turkey products that are distributed through retail, food service, industrial, and international channels.

The Company is operated as a joint venture between Maxwell Farms, LLC (50% ownership position and an affiliate of Goldsboro Milling Company (Maxwell)), and BB Kansas Holdings, Inc. (50% ownership position and an affiliate of Seaboard Corporation (Seaboard)), together, the Members.

Butterball prepares its financial statements in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP), which require management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and disclosure of contingent assets and liabilities. The estimates and assumptions used in the accompanying financial statements are based upon management's evaluation of the relevant facts and circumstances as of the date of the financial statements. Actual results may differ from the estimates and assumptions used in preparing the accompanying financial statements, and such differences could be material.

#### *(b) Business Environment*

Integrated turkey processors operate in an environment where in the commodity nature of both their products for sale and primary raw materials cause sales prices and purchase costs to fluctuate, often on a short-term basis, due to the worldwide supply and demand situation for those commodities. Supply and demand factors for their products for sale and the supply and demand factors for their primary raw materials correlate to a degree, but are not the same, thereby causing margins between sales price and production costs to increase, decrease, or invert, often on a short-term basis.

#### *(c) Fiscal Year*

The Company follows a 52/53-week fiscal year that ends the Sunday closest to December 31st. The fiscal periods reflected in the accompanying financial statements consist of the periods January 2, 2017 to December 31, 2017, January 4, 2016 to January 1, 2017, both 52-week fiscal years, and December 29, 2014 to January 3, 2016, a 53-week fiscal year.

#### *(d) Cash Equivalents*

For purposes of the statement of cash flows, the Company considers all instruments purchased with an original maturity of three months or less to be cash equivalents.

**BUTTERBALL, LLC**

Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

***(e) Accounts Receivable***

Accounts receivable consist of credit extended to the Company's customers in the normal course of business and are reported net of an allowance for doubtful accounts. The Company reviews its customer accounts on a periodic basis and records bad debt expense for specific amounts that the Company evaluates as uncollectible. Past due status is determined based upon contractual terms. Amounts are written off at the point when collection attempts have been exhausted. Management uses judgment in estimating uncollectible amounts, considering such factors as current economic conditions and historic and anticipated customer performance. In addition, if needed, the Company provides an allowance for potentially uncollectible amounts that have not been specifically identified. While management believes the Company's processes effectively address its exposure to doubtful accounts, changes in economic, industry or specific customer conditions may require adjustment to the allowance recorded by the Company. Management has included amounts believed to be uncollectible, as well as short pays and unforeseen deductions incurred in the normal course of business, in the allowance for doubtful accounts.

***(f) Inventories***

Processed meat inventories (finished goods) are stated at the lower of actual cost or net realizable value. Live turkey inventory is valued at the total cost accumulated on the flock as of the end of the fiscal year. Accumulated cost includes poult cost, feed, supplies and other costs related to individual flocks. Feed and feed ingredient inventories, supplies and other materials are stated at the lower of weighted average cost or net realizable value.

***(g) Property, Plant and Equipment***

Property, plant and equipment are stated at cost. Depreciation is calculated using the straight-line method over the useful lives of the assets. Gains and losses from sale of property, plant and equipment are included in cost of sales.

The estimated useful lives are as follows:

Site improvements	10–25 years
Buildings	15–40 years
Water utility systems	10–20 years
Equipment	1–15 years
Furniture, fixtures and office equipment	1–10 years
Vehicles	1–5 years

***(h) Long-Lived Assets***

The Company reviews the carrying value of long-lived assets for impairment whenever triggering events or changes in circumstances indicate that the carrying amount of any asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If a triggering event or changes in circumstances occur, the impairment to be recognized is measured by the excess of the carrying amount over the fair value of the assets. As discussed in Footnote 14, the Company's announced plan to shut down its

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

Montgomery, Illinois, further processing facility was a triggering event for evaluation of the related long-term assets. No other triggering events were noted during the year.

#### *(i) Goodwill and Other Intangible Assets*

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a transaction accounted for as a business combination. The fair value of identifiable intangible assets is estimated based upon discounted future cash flow projections. The Butterball trade names are not amortized because the Company expects the cash flows from these intangible assets to continue indefinitely. Grower relationship assets are amortized over 10 years.

Goodwill and the Butterball trade names are tested for impairment annually or sooner if impairment indicators arise. This determination consists of first assessing qualitative factors to determine the existence of events and circumstances that would indicate the likelihood of the carrying amount of assets exceeding its fair value. If such events or circumstances are determined to exist, the Company determines the fair value and compares it to its carrying amount. If the carrying amount exceeds its fair value, an impairment loss is recognized for any excess carrying amount of goodwill or the indefinite-lived trade names over the implied value.

Intangible assets with finite lives are amortized using the straight-line method over their estimated useful lives. When indicators of impairment are present, they are reviewed for recoverability using estimated future undiscounted cash flows related to those assets. The Company has determined that no impairment existed at December 31, 2017 or January 1, 2017 for its non-amortizing intangible asset or goodwill. The Company uses the fourth quarter of its fiscal year to perform its annual impairment review of goodwill and trade names.

#### *(j) Debt Issuance Costs*

The Company adopted Accounting Standards Update (ASU) 2015-03, *Interest-Imputation of Interest* (Subtopic 835-30), during the period ended January 1, 2017. As a result, debt issuance costs are classified within the debt balance they pertain to, and are being amortized as additional interest expense over the life of the underlying debt using the straight-line method, which the Company believes approximates the effective interest method. Amortization of debt issuance costs was \$1,813, \$1,978 and \$1,952 for the years ended December 31, 2017, January 1, 2017, and January 3, 2016, respectively.

#### *(k) Derivative Financial Instruments*

The Company enters into interest rate swap contracts to manage its exposure to fluctuations in interest rates and raw materials commodity hedges to manage the changes in commodity prices. The Company has not designated the contracts as an accounting "hedge". Accordingly, these contracts are measured at fair value with the resulting gain or loss recognized in net finance expense (for interest rate swap contracts) and cost of goods sold (for raw materials commodity hedges) in the accompanying statements of comprehensive income (loss).

During 2013, the Company entered into a series of 5-7 year interest rate swap agreements with a total notional amount of \$150,000 to effectively fix the interest rate at 1.38% on a portion of its floating rate indebtedness which had prescribed a variable interest rate formula based on the one-month London Interbank Offered Rate (LIBOR). During 2016, the Company entered into a series of 5-7 year forward-starting interest rate swap agreements with a total notional amount of \$75,000 to effectively fix the interest rate at 1.49%. These new swap agreements have terms similar to those for the other interest rate exchange agreements referred to above.

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

At December 31, 2017 and January 1, 2017, the fair market value of the interest rate swaps were assets of \$3,847 and \$2,895, respectively.

The Company has entered into multiple raw materials commodity future contracts. At December 31, 2017 and January 1, 2017, the fair market value of these contracts were assets of \$790 and \$2,304, respectively.

#### *(l) Income Taxes*

The Company is not subject to federal or certain state income taxes; however, the Company is required to make periodic tax distributions for its Members based on the highest tax rate between the Members. The Company's net income or loss is reported on the Members' federal income tax returns. The Company is subject to certain state taxes primarily consisting of gross margin tax and commercial activity, and records these within general and administrative expenses. The Company records unrecognized tax liabilities for known or anticipated tax issues based on its analysis of whether, and the extent to which, additional taxes will be due. The Company accrues interest and penalties related to unrecognized tax liabilities as accrued expenses and recognizes the related expense as tax expense included in general and administrative expenses.

#### *(m) Revenue Recognition*

The Company recognizes revenue when delivery has occurred or services have been rendered; persuasive evidence of an agreement exists; the Company's price to the buyer is fixed or determinable; and collection on transaction is reasonably assured.

#### *(n) Advertising*

The Company expenses the cost of advertising as incurred. Advertising expense was \$29,802, \$31,827 and \$26,719, respectively, for the years ended December 31, 2017, January 1, 2017 and January 3, 2016.

#### *(o) Shipping and Handling*

All shipping and handling costs are included in cost of goods sold in the accompanying statements of comprehensive income (loss).

#### *(p) Fair Value of Financial Instruments*

Fair value is a market-based measurement, not an entity-specific measurement. Therefore, a fair value measurement is determined based on the assumptions that market participants would use in pricing the asset or liability. As a basis for considering market participant assumptions in fair value measurements, the Company uses a fair value hierarchy that distinguishes between market participant assumptions based on market data obtained from sources independent of the reporting entity (observable inputs that are classified within Levels 1 and 2 of the hierarchy) and the reporting entity's own assumptions about market participant assumptions (unobservable inputs classified within Level 3 of the hierarchy). The three levels of inputs used to measure fair value are as follows:

- Level 1 – Quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access.

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

- Level 2 – Inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3 – Unobservable inputs for the asset or liability, which are typically based on the Company's own assumptions, as there is little, if any, related market activity.

For certain classes of the Company's financial instruments, the carrying amounts approximate fair value due to their short-term nature. These instruments include cash and cash equivalents, accounts receivable, accounts payable and accrued expenses. See note 12 for fair value measurements of other classes of financial instruments made on a recurring and nonrecurring basis.

#### *(q) Recently Issued Account Standards Adopted*

On December 31, 2017, the Company early adopted guidance to simplify the test for goodwill impairment by eliminating Step 2 from the goodwill impairment test. Under Step 2, an entity had to perform procedures to determine the fair value at the impairment testing date of its assets and liabilities (including unrecognized assets and liabilities) following the procedure that would be required in determining fair value of assets acquired and liabilities assumed in a business combination. Instead, under the new guidance, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. The adoption of this new guidance did not have a material impact on the Company's financial position or net earnings.

#### *(r) Recently Issued Accounting Standards Not Yet Adopted*

In May 2014, the Financial Accounting Standards Board (FASB) issued guidance to develop a single, comprehensive revenue recognition model for all contracts with customers. This guidance requires an entity to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods and services. This guidance supersedes nearly all existing revenue recognition guidance under GAAP. The Company will adopt this guidance on December 31, 2018, using the cumulative effect transition method, where any cumulative effect of initially adopting the guidance is recognized at the date of adoption. The Company is evaluating the impact this new guidance will have on its financial statements.

In February 2016, the FASB issued guidance that a lessee should record a right-of-use (ROU) asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The recognition, measurement, and presentation of expenses and cash flows arising from a financing lease have not significantly changed from the previous guidance. For operating leases, a lessee is required to: (1) recognize a ROU asset and a lease liability, initially measured at the present value of the lease payments, in the balance sheet, (2) recognize a single lease cost, calculated so that the cost of the lease is allocated over the lease term on a generally straight-line basis and (3) classify all cash payments within operating activities in the statement of cash flows. The Company will adopt this guidance on December 30, 2019. In transition, lessees are required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach, which includes a number of optional practical expedients that entities may elect to apply. The Company is in the preliminary stages of the assessment of the effect the guidance will have on its existing accounting policies and the financial statements, but expects there will be an increase in assets and liabilities on

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

the balance sheets at adoption due to the recording of right-of-use assets and corresponding lease liabilities, which may be material. Refer to note 11 for information about the Company's lease obligations.

In August 2016, the FASB issued guidance which addresses how certain cash receipts and cash payments are presented and classified in the statement of cash flows under Topic 230, Statement of Cash Flow, and Other Topics. The Company will adopt this guidance on January 1, 2018, and believes the adoption of this guidance will not have a material impact on its financial position or net earnings.

In March 2017, the FASB issued guidance that will require the service cost component of net periodic benefit cost to be presented in the same income statement line item as other employee compensation costs arising from services rendered during the period. Only the service cost component will be eligible for capitalization in inventory. The other components of net periodic benefit cost will be presented outside of operating income and will not be capitalizable. The Company will adopt this guidance on January 1, 2018, and believes the adoption of this guidance will not have a material impact on its financial position or net earnings.

#### (2) Inventories

Inventories consist of the following:

	December 31, 2017	January 1, 2017
Live birds, feed and feed ingredients	\$ 145,387	143,864
Finished goods	170,055	156,066
Materials and supplies	28,535	28,392
	<u>\$ 343,977</u>	<u>328,322</u>

#### (3) Property, Plant, and Equipment

Property, plant, and equipment consists of the following:

	December 31, 2017	January 1, 2017
Land	\$ 21,321	22,365
Site improvements	14,896	14,089
Buildings	150,796	177,597
Water utility systems	4,147	3,305
Equipment	247,023	232,514
Furniture, fixtures and office equipment	17,231	16,112
Vehicles	11,224	10,781
Construction in progress	68,754	61,395
	<u>535,392</u>	<u>538,158</u>
Held for sale, net	47,062	8,909
Accumulated depreciation & impairment	<u>(244,521)</u>	<u>(193,895)</u>
Net property, plant and equipment	<u>\$ 337,933</u>	<u>353,172</u>

Depreciation expense for the years ended, December 31, 2017 January 1, 2017 and January 3, 2016 was \$41,810, \$39,042 and \$36,695, respectively.

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

Fixed asset impairment expense, which was triggered by the Montgomery, Illinois, further processing facility closure, for the year ended December 31, 2017 was \$27,231.

On June 12, 2017, the Company and Marion County, Arkansas, executed an Industrial Revenue Bond (“IRB”) agreement to finance the Company’s construction of its new feed mill in Yellville, Arkansas. As the Company will be both the sole investor and obligor in the transaction, the IRB was not included in the financial statements due to the existing right of offset in accordance with FASB ASC 210-20-45. The gross asset investment and bond liability was \$2,439 as of December 31, 2017.

#### (4) Acquisitions

Effective December 30, 2016, the Company purchased a feed mill operation in Farmville, North Carolina from a Member for total cash consideration of \$15,724. The mill is intended to supply feed for the Company’s turkey growing operations in the area. The purchase price allocation resulted in \$14,731 allocated to property, plant and equipment and \$993 allocated to inventories. No material intangible assets were identified.

#### (5) Intangible Assets

Intangible assets subject to amortization were as follows:

	December 31, 2017		
	Gross cost	Accumulated amortization and impairment	Net carrying value
Grower relationships	\$ 2,400	1,520	880
Customer lists	11,500	11,500	—
Trade name-Gusto	3,000	3,000	—
	<u>\$ 16,900</u>	<u>16,020</u>	<u>880</u>

  

	January 1, 2017		
	Gross cost	Accumulated amortization	Net carrying value
Grower relationships	\$ 2,400	1,280	1,120
Customer lists	11,500	10,015	1,485
Trade name-Gusto	3,000	2,400	600
	<u>\$ 16,900</u>	<u>13,695</u>	<u>3,205</u>

Amortization expense in the accompanying statements of comprehensive income (loss) for the years ended December 31, 2017, January 1, 2017 and January 3, 2016 was \$1,192, \$2,863 and \$2,863, respectively.

Intangible impairment expense, which was triggered upon the closure of the Montgomery, Illinois, further processing facility, in the accompanying statements of comprehensive income (loss) for the year ended December 31, 2017 was \$1,133 due to the write-off of customer relationships.



**BUTTERBALL, LLC**

Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

Future amortization expense of finite-lived intangible assets is estimated as follows:

2018	\$ 240
2019	240
2020	240
2021	160
	<u>\$ 880</u>

**(6) Other Assets**

Other assets consists of the following:

	December 31, 2017	January 1, 2017
Deferred compensation program assets	\$ 14,883	13,436
Other	10,013	7,811
	<u>\$ 24,896</u>	<u>21,247</u>

**(7) Accrued Expenses**

Accrued expenses consists of the following:

	December 31, 2017	January 1, 2017
Employee-related accruals	\$ 33,733	43,758
Sales promotion reserves	29,264	30,161
Other	9,388	9,121
	<u>\$ 72,385</u>	<u>83,040</u>

**(8) Notes Payable – Member**

Notes payable – Member consists of the following:

	December 31, 2017	January 1, 2017
Subordinated note, net of debt discount	\$ —	97,171
Accrued payment-in-kind interest	—	64,251
Real estate loan	4,284	7,531
	4,284	168,953
Less current maturities	(4,284)	(161,422)
Total Member notes payable, less current maturities	<u>\$ —</u>	<u>7,531</u>

The Company had a subordinated note agreement with Seaboard with an original principal amount of \$100 million. As additional consideration for this note, the Company issued Seaboard detachable warrants exercisable for 5% of the issued and outstanding units (currently 50 units are available for issue, 950 units are outstanding) of the Company for an exercise price of \$0.01 per unit (effectively \$0.50 for the 50 units). The units associated with these warrants have identical rights of the remaining units, with the exception that the

## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

December 31, 2017 and January 1, 2017

(In thousands)

warrants do not carry any voting rights, however, in the event of acquisition, sale or other similar transaction, these warrants will be granted full Member unit rights. These warrants met the criteria for in-substance units and have been accounted for as a portion of contributed capital in Members' equity. The Company maintains the option to re-purchase these units at fair value. These warrants were valued at \$10,586 at the date of the issuance.

As a result of the fair value allocated to the warrants, the note was valued initially at \$89,414. At inception, the note contained a stated interest rate of 15%, with 10% to be accrued as payment in-kind (PIK) payable at maturity, and the remaining 5% to be paid every six months. In January, 2016, the Company amended both its subordinated debt and warrant agreements with Seaboard. The amended debt agreement reduced the stated interest rate to 10%, with all interest incurred after the amendment date paid every six months. All other terms under the note agreement remained similar. Upon maturity of the note agreement on December 6, 2017, the Company remitted to Seaboard \$170,596, representing \$164,251 of principal and accumulated PIK interest, and \$6,345 of other accumulated interest.

The revised warrant agreement delays exercise of the warrants held by Seaboard until after December 31, 2018, while extending the period to exercise until December 31, 2025. The revision in the warrant terms did not result in any significant valuation change to the Company from its original issuance value. For the years ended December 31, 2017, January 1, 2017 and January 3, 2016 the Company incurred interest expense on this note totaling \$18,083, \$19,346 and \$24,775, respectively.

During 2011, the Company entered into a real estate loan agreement with Seaboard. Under the terms of this agreement, the Company makes principal payments against the loan as the parcels of underlying real estate are sold, with any remaining balance on the loan maturing July 31, 2018. Under this arrangement, the Company incurred interest of \$986, \$1,146 and \$1,098 for the years ended December 31, 2017, January 1, 2017 and January 3, 2016 respectively. For the year ended December 31, 2017, repayments from the proceeds of these real estate parcel sales totaled \$3,248.

**BUTTERBALL, LLC**

Notes to Consolidated Financial Statements

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(In thousands)

**(9) Debt**

Long-term debt consists of the following:

	December 31, 2017	January 1, 2017
Note payable due to banks, maturing July 22, 2021, with interest payable monthly at LIBOR plus 175 basis points (3.32% at December 31, 2017) and varies based on certain performance criteria, secured by substantially all assets, excluding accounts receivable, of the Company	\$ 143,318	145,136
Note payable due to banks, maturing July 22, 2021, with interest payable monthly at LIBOR plus 150 basis points (2.96% at December 31, 2017) and varies based on certain performance criteria, secured by substantially all assets, excluding accounts receivable, of the Company	50,000	—
Acquisition note payable, maturing August 29, 2021, with interest payable annually at Prime minus 2% (2.50% at December 31, 2017)	6,438	8,089
Note payable due to municipalities, extinguished on June 10, 2017, with interest payable monthly at 1%	—	1,042
Unamortized debt issuance costs	(1,853)	(3,257)
	197,903	151,010
Less current maturities	3,565	3,605
Total long-term debt, less current maturities	\$ 194,338	147,405

Aggregate maturities of long-term debt are as follows:

2018	\$ 3,565
2019	3,565
2020	3,565
2021	189,061
	\$ 199,756

Effective July 2016, the Company entered into a new credit facility, consisting of one term loan with an original balance of \$145,500, and a revolving line of credit of \$225,000. In conjunction with a subsequent amendment dated December 13, 2017, the Company closed on an additional \$50,000 tranche of term loan, with the same maturity date as its prior term loan tranche. The amendment also removes the Company's accounts receivable as pledged collateral for all borrowings. The outstanding balance on the revolving credit facility was \$33,000, and the availability under the line of credit was \$186,195 at December 31, 2017. The revolving line of credit balance bears interest at LIBOR plus an amount based on certain performance criteria (currently 162 basis points), for a rate of 3.14% at December 31, 2017. The maturity date is July 22, 2021.

The credit facility contains financial covenants including total debt to capitalization ratio and fixed charge coverage ratio. The Company was in compliance with all covenants at December 31, 2017 and January 1, 2017.

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(In thousands)

#### (10) Transactions with Members

The Company purchases finished feed, feed ingredients, and raw materials from its Members. The cost of materials purchased from companies affiliated with the Members was \$181,347, \$221,407, and \$229,217 for the periods ended December 31, 2017, January 1, 2017, and January 3, 2016, respectively.

The Company also sells finished feed to companies affiliated with one of its Members. Sales of finished feed for the year ended December 31, 2017 was \$16,248.

At December 31, 2017, the Company had a due to and due from balance with Members of \$2,049 and \$287, respectively.

As discussed in note 4, the Company acquired a feed mill operation in December 2016 from a Member.

#### (11) Commitments and Contingencies

- a. Operating lease and rent expenses were \$9,798, \$8,134 and \$7,898 for the years ended December 31, 2017, January 1, 2017, and January 3, 2016, respectively. As of December 31, 2017, minimum rent payments under noncancelable operating leases for real estate, machinery and equipment are summarized as follows:

	<b>Lease commitments</b>
2018	\$ 8,100
2019	4,948
2020	3,588
2021	2,589
2022	1,991
Thereafter	10,908
	<u>\$ 32,124</u>

- b. The Company enters into third-party contracts for the purchase of poults, the supply of grain and other feed ingredients, and various critical supplies and services utilized in its live and processing operations. Commitment amounts listed in the table below are based on projected market prices and usage expectations as of December 31, 2017, and are summarized as follows:

	<b>Purchase commitments</b>
2018	\$ 139,489
2019	33,547
2020	28,486
2021	27,409
2022	3,980
Thereafter	405
	<u>\$ 233,316</u>

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- c. The Company maintains self-insurance programs for health care and workers' compensation coverages. The Company is liable for health care claims up to \$500 each year per plan participant and workers' compensation claims up to \$750 to \$1,000 per occurrence, depending on state law. Self-insurance costs are accrued based upon the aggregate of recognized liabilities for claims reported but not yet paid, and estimated liabilities for claims incurred but not yet reported. The accompanying statements of comprehensive income (loss) include expenses relating to health care self-insurance plans of \$40,500, \$41,463, and \$38,122 for the years ended December 31, 2017, January 1, 2017 and January 3, 2016, respectively. A letter of credit in the amount of \$5,353 has been issued as security for the workers' compensation program.
- d. The Company, from time to time, is involved in lawsuits which occur in the normal course of business. Management intends to vigorously defend these actions when they occur and believes no material losses will occur.

**(12) Retirement Plans**

- a. The Company has a defined benefit pension plan that was frozen effective January 15, 2006. The Company has historically based pension contributions on minimum funding standards to avoid the Pension Benefit Guaranty Corporation (PBGC) variable rate premiums established by the Employee Retirement Income Security Act (ERISA) of 1974. For the year ended January 1, 2017, the Company made a deductible contribution of \$2,350, principally to avoid future PBGC variable rate premiums established pursuant to the ERISA. The Company did not make a contribution for the year ended December 31, 2017 and does not anticipate making any contributions to the plan during fiscal year 2018.

The future benefit payments expected to be paid to plan participants are as follows:

2018	\$	1,565
2019		1,650
2020		1,737
2021		1,822
2022		1,918
Thereafter		36,275
	\$	<u>44,967</u>

Balances in accumulated other comprehensive loss are as follows:

	December 31, 2017	January 1, 2017
Unrecognized actuarial loss	\$ (4,404)	(6,432)

The Company expects to recognize no accumulated other comprehensive loss into net periodic benefit cost in fiscal year 2018.

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(In thousands)

The following table presents a reconciliation of the beginning and ending balances of the benefit obligation, fair value of plan assets and the funded status of the aforementioned pension plan to the net amounts measured and recognized in the balance sheet.

	<b>December 31, 2017</b>	<b>January 1, 2017</b>
<b>Change in benefit obligation:</b>		
Benefit obligation – beginning of year	\$ 42,772	40,822
Interest cost	1,723	1,747
Actuarial loss	1,619	1,348
Benefits paid	(1,147)	(1,145)
Benefit obligation – end of year	<u>44,967</u>	<u>42,772</u>
<b>Change in plan assets:</b>		
Fair value of plan assets – beginning of year	40,228	36,416
Actual return on plan assets	5,690	2,607
Employer contributions	—	2,350
Benefits paid	(1,147)	(1,145)
Fair value of plan assets – end of year	<u>44,771</u>	<u>40,228</u>
Funded status	<u>(196)</u>	<u>(2,544)</u>
Net liability recognized in the balance sheet	<u>\$ (196)</u>	<u>(2,544)</u>

Components of net periodic income are:

	<b>Year ended</b>		
	<b>December 31, 2017</b>	<b>January 1, 2017</b>	<b>January 3, 2016</b>
Interest cost on projected benefit obligation	\$ 1,723	1,747	1,697
Expected return on assets	(2,270)	(2,403)	(2,342)
Net amortization loss	227	136	111
Total periodic pension income	<u>\$ (320)</u>	<u>(520)</u>	<u>(534)</u>

The following are accounting assumptions used to determine benefit obligations and net periodic benefit costs:

	<b>Benefit obligations year ended</b>		<b>Benefit costs year ended</b>	
	<b>December 31, 2017</b>	<b>January 1, 2017</b>	<b>December 31, 2017</b>	<b>January 1, 2017</b>
Discount rate	3.6 %	4.1 %	4.1 %	4.4 %
Expected long-term rate of return on assets	5.8	6.5	5.8	6.5

The Company's expected long-term return on plan assets assumption is based on a periodic review and modeling of the plan's asset allocation and liability structure over a long-term horizon. The expected long-term rate of return on assets was selected from within the reasonable range of rates determined by (a) historical real returns, net of inflation, for the asset classes covered by the investment policy, and (b) projections of inflation over the long-term period during which benefits are payable to plan participants.

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The plan provides for investments in various investment securities which, in general, are exposed to various risks, such as interest rate, credit and overall market volatility risk. The Company is guided by an investment committee whose primary focus is to minimize the volatility of the funding ratio by aligning the plan assets with its liabilities in terms of how they both respond to interest rate changes, in order to achieve a satisfactory rate of return based on the long-term asset allocation profile to adequately fund the plan's benefit obligations, while incurring an acceptable pension cost to the Company.

The Company's defined benefit pension plan weighted average asset allocations by asset category are as follows:

	December 31, 2017		January 1, 2017	
	Market value	Percent	Market value	Percent
Mutual funds	\$ 42,030	93.8 %	\$ 37,677	93.7 %
Annuities	2,534	5.7	2,218	5.5
Principal cash	207	0.5	333	0.8
	<u>\$ 44,771</u>	<u>100.0 %</u>	<u>\$ 40,228</u>	<u>100.0 %</u>

The Company's target allocation by asset category is as follows:

Asset category	Range
Fixed income funds	25–85%
Equity mutual funds	15–75%
Other	0–20%
Cash	0–5%

- b. In 2004, the Company established a nonqualified deferred compensation plan for certain management personnel whereby eligible participants were able to contribute a portion of their annual compensation to the plan. The liabilities of the plan consist of the amounts deferred by the participants together with investment earnings from the participants' investment allocations.

While funding of the plan is not required, the Company has chosen to establish a Rabbi Trust whereby the Company sets aside assets for the plan, thus providing the participants with some level of security. At December 31, 2017 and January 1, 2017, the liability related to this plan was approximately \$4,967 and \$3,996 respectively, while the assets of the Rabbi Trust consisted of mutual funds and cash and cash equivalents of approximately \$4,967 and \$4,020, respectively. The assets are reported in other assets and the liability is included in other liabilities on the accompanying balance sheets.

- c. In 2007, the Company established a nonqualified deferred compensation plan for certain members of management. The Company may make discretionary contributions to the plan. Participants begin vesting in the assets of the plan after one year. Plan participants who were members at the time of ownership change are 100% vested. At December 31, 2017 and January 1, 2017, the liability related to this plan was approximately \$10,274 and \$9,299, respectively. Assets of the plan held in a Rabbi Trust consist of life insurance policies with face amounts of approximately \$21,800, and cash values of approximately \$9,917 and \$9,416 held in underlying investments of various mutual funds, at December 31, 2017 and January 1,

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(In thousands)

2017, respectively. The assets are reported in other assets and the liability is included in other liabilities on the accompanying balance sheets.

- d. The Company sponsors defined contribution benefit plans (401(k) plans) covering substantially all employees meeting eligibility requirements. The Company's contributions vary depending on the plan, but are based primarily on each participant's level of contribution and cannot exceed the maximum allowable for tax purposes. Total contributions were \$4,053, \$3,808 and \$3,066 for the years ended December 31, 2017, January 1, 2017 and January 3, 2016, respectively.

The Company adopted guidance beginning January 1, 2017 which eliminates the requirement to categorize investments in the fair value hierarchy if their fair value is measured at net asset value per share (or its equivalent) using the practical expedient. The fair value tables below reflect the adoption of this standard.

The tables below detail by level, within the fair value hierarchy, the pension and deferred compensation assets at fair value as of December 31, 2017 and January 1, 2017:

	Quoted prices in active markets for identical assets (Level 1)	Other observable inputs (Level 2)	Unobservable inputs (Level 3)	Total
<b>December 31, 2017:</b>				
Pension plan assets:				
Cash	\$ 207	—	—	207
Annuities	—	—	2,534	2,534
Investments measured at net asset value	—	—	—	42,030
Deferred compensation assets:				
Cash	385	—	—	385
Investments measured at net asset value	—	—	—	14,884
Total assets at fair value	<u>\$ 592</u>	<u>—</u>	<u>2,534</u>	<u>60,040</u>

	Quoted prices in active markets for identical assets (Level 1)	Other observable inputs (Level 2)	Unobservable inputs (Level 3)	Total
<b>January 1, 2017:</b>				
Pension plan assets:				
Cash	\$ 333	—	—	333
Annuities	—	—	2,218	2,218
Investments measured at net asset value	—	—	—	37,677
Deferred compensation assets:				
Cash	46	—	—	46
Investments measured at net asset value	—	—	—	13,391
Total assets at fair value	<u>\$ 379</u>	<u>—</u>	<u>2,218</u>	<u>53,665</u>

The change in Level 3 investments is due to net appreciation of underlying annuity investments of \$316.



## BUTTERBALL, LLC

### Notes to Consolidated Financial Statements

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#### (13) Concentrations of Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of trade receivables with a variety of customers, cash investments and other short-term investments deposited with financial institutions. The Company generally does not require collateral from its customers. Such credit risk is considered by management to be limited due to the Company's broad customer base and its customers' financial resources.

During the years ended December 31, 2017 and January 1, 2017 and at various times throughout these years, the Company maintained cash balances with financial institutions in excess of amounts that are federally insured. Due to the financial stability of the financial institution where cash and cash equivalents are held, management believes the risk of loss of amounts in excess of these insured amounts is remote.

The Company has certain customers whose net sales represented 10% or more of the Company's total sales, or whose accounts receivable balances individually represented 10% or more of the Company's total accounts receivable, detailed as follows:

- For the year ended December 31, 2017, two customers accounted for 21% of net sales. No other customers accounted for more than 10% of net sales for the period.
- For the year ended January 1, 2017, 11% of net sales were attributable to a single customer. No other customer accounted for more than 10% of net sales for the period.
- At December 31, 2017, two customers account for 21% of accounts receivable.

At December 31, 2017 approximately 15% of the Company's employees were covered by collective bargaining agreements. None of the Company's union contracts expire within the next twelve months.

#### (14) Plant Closure

Effective June 30, 2017, the Company closed its Montgomery, Illinois, further processing facility. Prior to closure, the facility produced cooked and semi-cooked pork products, dark turkey log further processed items, as well as a portion of the Company's total turkey bacon. Besides operating at a lower than ideal capacity, the operation was plagued by intense competitive pressure for its non-branded pork business, a higher than optimal cost structure, and a difficult transition of the turkey bacon products. With the shutdown of the plant, the Company no longer produces any pork products. The Company determined that the disposal does not meet the definition of discontinued operation in accordance with FASB ASC 205-20 as the closure did not have major effects on the entities operations and financial results. As of December 31, 2017, the Company believes it has realized all material costs associated with the plant closure. Total plant closure costs were \$34,706, representing \$28,364 of fixed asset and intangible asset impairment, and \$6,342 of closure and restructuring expenses, including severance, employee termination costs, and inventory write-downs.

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**(15) Subsequent Events**

The Company evaluated the events and transactions subsequent to its December 31, 2017 balance sheet date and, in accordance with FASB ASC 855-10-50, *Subsequent Events*, determined there were no significant events to report through February 9, 2018, which is the date the Company issued its financial statements, except as follows:

On January 19, 2018, the Company completed the sale of the Montgomery, Illinois, further processing facility for a total cash sales price of \$16,850, resulting in no additional impairment. The building and machinery were held for sale at December 31, 2017.