

CORN SEED SETTLEMENT PROGRAM CLAIMS PROCESSING PROCEDURE			
Number	CPP-8	Effective Date	6/16/2020
Subject	Debtor Claimants		

1. Defined Terms. All capitalized terms used and not expressly defined in this Claims Processing Procedure (“CPP”) shall have the meanings attributed to them in the Agrisure Viptera/Duracade Class Settlement Agreement, executed on February 26th, 2018 (“Settlement Agreement”).

2. Purpose of this CPP. The purpose of this CPP is to establish rules for the disposition of claims presented by Class Members who are or were debtors in a bankruptcy proceeding (“Debtor Claimant”). Any claim filed by or on behalf of a Debtor Claimant may be property of the estate in the Class Member’s bankruptcy proceeding under Section 541 of the United States Bankruptcy Code if the bankruptcy proceeding was: (1) filed on or after the start of the Class Period; or (2) filed before the start of the Class Period but was open and was pending at or after the start of the Class Period. *See* 11 U.S.C. § 541. This CPP establishes: (1) the process by which the Claims Administrator will identify Debtor Claimants; (2) the rules that the Claims Administrator will apply when reviewing bankruptcy documents to determine whether a claim is property of the bankruptcy estate; and (3) the rules that the Claims Administrator will apply when authorizing payment to a Debtor Claimant or bankruptcy estate.

3. Identification of Debtor Claimants. The Claims Administrator will consider a Class Member a Debtor Claimant if:

- (a) A Class Member, bankruptcy trustee, or Bankruptcy Court notifies the Claims Administrator that the Class Member is or was a debtor in a bankruptcy proceeding; or
- (b) The Claims Administrator determines or is otherwise made aware at any point during claims processing that the Class Member is or was a debtor in a bankruptcy proceeding.

4. Bankruptcy Review. For each identified Debtor Claimant, the Claims Administrator will withhold payment on the claim. Before payment, the Claims Administrator will complete an independent inquiry for each Debtor Claimant using a third-party source, such as LexisNexis or PACER, to determine: (1) the date the bankruptcy proceeding commenced; (2) the chapter under which the proceeding was filed; (3) the current status or disposition of the bankruptcy proceeding; and (4) if applicable, the date the Bankruptcy Court closed or dismissed the case. Based on the data obtained from the independent inquiry, the Claims Administrator will categorize each proceeding into one of the following five groups:

- (a) Dismissed;

- (b) Closed before the beginning of the Class Period (that is, September 15, 2013);
- (c) Closed but filed before and still pending as of September 15, 2013¹;
- (d) Closed but filed on or after September 15, 2013; or
- (e) Open.

5. Bankruptcy Documents Required. The bankruptcy proceeding documents required (“Bankruptcy Documents”) depend on the bankruptcy proceeding categorization under Section 4 of this CPP.

- (a) For Debtor Claimants in groups 4(a) [Dismissed] and 4(b) [Closed before September 15, 2013], the Claims Administrator will pay the claim without requiring Bankruptcy Documents.
- (b) For Debtor Claimants in group 4(c) [Closed but filed before and still pending as of September 15, 2013], the Claims Administrator does not require before payment any additional Bankruptcy Documents if the proceeding was a Chapter 11, 12, or 13 reorganization for which: (1) more than 180 days have passed after entry of an order of confirmation in the bankruptcy proceeding; and (2) the proceeding is now closed.² Otherwise, the Claims Administrator will require submission of the Bankruptcy Documents identified in Section 6 of this CPP before paying the claim.

¹ Section B.1(c)(3) [Closed but filed before and still pending as of September 15, 2013] does not apply to Chapter 7 Debtor Claimants. Chapter 7 bankruptcies are liquidation proceedings in which the bankruptcy estate includes only the debtor’s pre-petition assets. Because the debtor retains assets acquired post-petition, a claim arising post-petition would not be property of the bankruptcy estate. Pre-petition claims may be property of the bankruptcy estate and are included in Section B.1(c)(4) [Closed but filed on or after September 15, 2013].

² For these Debtor Claimants, even if the claim were part of the bankruptcy estate, there may be no way for the Bankruptcy Court or Trustee now to pursue the claim. The Bankruptcy Court may revoke a confirmation order only: (1) within 180 days; (2) based on a finding of fraud; and (3) if it can adequately protect any entity acquiring rights in good faith reliance on the confirmation order. *See* 11 U.S.C. §§ 1144, 1230, and 1330. Courts strictly enforce the 180-day limit, even if the underlying fraud is not discovered until after the expiration of that period. *See Haskell v. Goldman, Sachs & Co. (In re Genesis Health Ventures, Inc.)*, 340 B.R. 729, 733 (D. Del. 2006); *see also United States v. State St. Bank & Trust Co.*, 520 B.R. 29, 76 (Bankr. D. Del. 2014). Additionally, while Federal Rule of Civil Procedure 60(b) provides a one-year period to seek relief from a final order or judgment, this is limited by Federal Rule of Bankruptcy Procedure 9024, which expressly provides that any request to revoke a confirmation order must be made in accordance with 11 U.S.C. §§ 1144, 1230, or 1330, respectively, and, thus, within 180 days after entry of the confirmation order.

- (c) For Debtor Claimants in groups 4(d) [Closed but filed on or after September 15, 2013] and 4(e) [Open], the Claims Administrator will require submission of the Bankruptcy Documents identified in Section 6 of this CPP before paying the claim.

6. *Acceptable Bankruptcy Documents.* For the Debtor Claimants required to provide Bankruptcy Documents, the Claims Administrator will accept the following when determining whether a claim is property of the estate, and if so, to whom to issue payment:

- (a) An Order from the Bankruptcy Court that:
 - (1) Approves the settlement and payment of the claim; and
 - (2) Identifies the person or persons to whom payment is to be made; or
- (b) An Order from the Bankruptcy Court, letter, or email from the Bankruptcy Trustee, or other official bankruptcy documents stating that:
 - (1) The claim is not property of the bankruptcy estate;
 - (2) The claim was disclaimed, abandoned, or exempted in the bankruptcy proceeding;
 - (3) The Bankruptcy Trustee does not intend to pursue the claim as a potential asset of the bankruptcy estate; or
 - (4) The Class Period began after the entry of a Discharge Order in the case.

7. *Notices.* The Claims Administrator will issue any notices relevant to the claim to the Bankruptcy Trustee and Law Firm that represents the Debtor Claimant, if applicable, to notify them of any required Bankruptcy Documents and the status of the claim in the Settlement Program. The Claims Administrator will post these notices on the Portal and send the notices to the Bankruptcy Trustee by mail or email.

8. *Payments.* The Claims Administrator will pay a claim only when the Debtor Claimant and/or Bankruptcy Trustee satisfies all applicable document requirements in Sections 5. The Claims Administrator will review all documents submitted by the Debtor Claimant and Bankruptcy Trustee to determine whether the Debtor Claimant has satisfied these requirements. This review (“Bankruptcy Review”) also records any necessary Alternate Payee data.

- (a) If the claim was disclaimed, abandoned, or exempted in the bankruptcy proceeding or the Bankruptcy Trustee will not pursue the claim as a potential asset of the bankruptcy estate, the Claims Administrator will pay the claim in the same manner as if the Class Member were not a Debtor Claimant.

- (b) If the claim is property of the bankruptcy estate, after receiving documents satisfying the requirements in Sections 5, we pay the person and/or entity indicated as the proper payee(s) in the Order. If the Order does not contain language indicating the proper payee, we will require payment instructions and a Form W-9 from the Bankruptcy Trustee before issuing payment.

If the claim is property of the bankruptcy estate, if we must pay all or part of the award to an Alternate Payee, we use the Alternate Payee data from the Bankruptcy Review instead of the payment instructions provided by the lawyer or Class Member. Otherwise, the same payment requirements apply to the Bankruptcy Trustee as apply to all other Class Members.

9. *Duration of this CPP.* This CPP shall apply to all Class Members and may be modified, overruled, replaced, or terminated by Order of the United States District Court for the District of Kansas.