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15 Attorneys for Plaintiff LINDE, LLC

16 **UNITED STATES DISTRICT COURT**
 17 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

18 LINDE, LLC,
 19 Plaintiff,
 20 v.
 21 VALLEY PROTEIN, LLC, , and DOES 1
 22 to 10;
 23 Defendants.

Case No.: 1:16-CV-00527-DAD-EPG

**JOINT STATUS REPORT RE
 REQUEST FOR EXTENSION OF
 DISCOVERY DEADLINES AND
 DEADLINE TO FILE DISPOSITIVE
 MOTIONS; DECLARATIONS OF
 COUNSEL IN SUPPORT THEREOF;
 ORDER THEREON**

24 Pursuant to the Court’s Scheduling Order Setting Status Conference,
 25 Plaintiff Linde, LLC (“**Plaintiff**”) and Defendant Valley Protein, LLC (“**Defendant**”)
 26 respectfully submit this Joint Status Report.

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I
REQUESTED EXTENSIONS

	<u>Current Deadline</u>	<u>New Deadline</u>
Non Expert Discovery Cutoff	June 16, 2017	September 15, 2017
Expert Disclosure	July 17, 2017	October 17, 2017
Rebuttal Expert Disclosure	August 17, 2017	November 17, 2017
Expert Discovery Cutoff	September 18, 2017	December 18, 2017
Dispositive Motion Deadline	November 1, 2017	February 2, 2017

II
DISCOVERY TO DATE

Both parties have engaged in initial disclosures and extensive written discovery, with recent requests geared toward the recently filed counterclaim, the allegations contained therein and the affirmative defenses alleged in the answers to the complaint and the counterclaim. Both parties have produced extensive documents related to the various claims and defenses asserted in the matter, which has taken substantial time to review and analyze.

Further, the parties recently participated in nearly a full-day early settlement conference before this court, and have at all times worked cooperatively to streamline discovery and attempt to resolve the dispute without extensive costs in discovery.

III
DISCOVERY TO BE COMPLETED

A. Linde, LLC

Plaintiff is awaiting responses to outstanding written discovery. It agreed to an extension which makes Defendant’s responses due the week of June 26th. After Plaintiff receives and reviews the complete responses to its outstanding written discovery, it needs to depose Defendant’s persons most knowledgeable, Robert Coyle, and Durbin Breckenridge.

1 **B. Valley Protein, LLC**

2 Defendant Valley Protein, LLC has responded to the outstanding
3 discovery requests propounded by Linde, producing an additional 700 documents, on
4 June 23, 2017. Due to the press of business, counsel for Defendant has been unable to
5 set aside the time to complete the necessary depositions in this matter due to his
6 involvement in the negotiation of a settlement of two class action involving nearly 3,500
7 employees that were filed in two separate courts (requiring a motion for consolidation
8 before the California Judicial Council). Counsel has been engaged nearly 24/7 for
9 weeks with these two actions, and only recently has counsel in the class action cases
10 finally agreed to informally consolidate the matters, to collectively settle them and have
11 been preparing the settlement documentation. To compound the issues, Mr. Ryan has
12 multiple parties funding the class action settlement and three additional sets of attorneys
13 with which to coordinate on his end alone. The issues have finally reached a point
14 where Mr. Ryan's schedule is clearing up so that he can turn his attention to other
15 pressing matters, including the instant matter.

16 Valley Protein will need to coordinate the scheduling of the depositions of
17 the person(s) most knowledgeable of Linde, and the deposition of Mike Iannelli and
18 Amanda Guzman. There may be other depositions necessary once testimony has been
19 heard. Mr. Ryan will be out of the office on a long-planned vacation from July 5, 2017
20 through July 22, 2017 and would like to provide dates to opposing counsel that are
21 mutually available for both parties so that the depositions can be taken in an orderly
22 fashion, along with those that Linde will necessarily need to take in the matter. Mr.
23 Ryan respectfully submits that this is good cause for the extensions requested in the
24 prior stipulation filed with the court, and in this joint status report.

25 Dated: June 23, 2017

MOTSCHIEDLER, MICHAELIDES,
WISHON, BREWER & RYAN, LLP

26
27 By: /s/Russell K. Ryan
28 Russell K. Ryan, Attorneys for
Defendant Valley Protein, LLC

1 Dated: June_23, 2017

McGLINCHEY STAFFORD

2 By: /s/Adam S. Hamburg
3 Adam S. Hamburg, Attorneys for
4 Plaintiff Linde, LLC
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DECLARATION OF ADAM HAMBURG

I, Adam Hamburg, declare:

1. I am the attorney of record for the Plaintiff in the above-entitled action. I have prepared this Declaration as evidence in support of the parties' Joint Status Report Re Request for Extension of Discovery Deadlines and Deadline to File Dispositive Motions (the "Joint Report"). The matters set forth herein are true based upon my personal knowledge and, if called to testify in this matter, I could and would competently testify under oath to the facts and circumstances stated herein.

2. On August 5, 2016, this Court entered the Scheduling Conference Order, setting certain discovery and dispositive motion deadlines. Plaintiff now wishes to extend those deadlines as more specifically set forth in the Joint Report.

3. Since the initiation of this case, the parties have engaged in extensive written discovery including exchanges of written interrogatories and requests for production of documents. Due to the document driven nature of this case, it was necessary for Plaintiff to propound a second set of written discovery. Plaintiff has provided Defendant with a courtesy extension through the week of June 26th to provide its responses.

4. After completion of written discovery, Plaintiff must depose Defendant's persons most knowledgeable, Robert Coyle, and Durbin Breckenridge. Plaintiff requires sufficient time to review Defendant's written discovery responses to allow for meaningful depositions.

5. Due to the robust exchange of discovery, Plaintiff requires more time to complete discovery to gather all available facts, evaluate the merits of the defenses, prepare dispositive motions, and possibly further explore resolution of this case.

6. In addition to diligently pursuing discovery, the parties have taken steps in exploring settlement such as participating in a day long settlement conference.

DECLARATION OF RUSSELL K. RYAN

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2 1. I am a partner in the law firm of Motschiedler, Michaelides,
3 Wishon, Brewer & Ryan, LLP, and the attorney of record for Valley Protein, LLC
4 (“**Valley Protein**”). I make the following declaration of my own personal knowledge
5 and if called upon to testify, could and would competently testify thereto.

6 2. Both parties have engaged in initial disclosures and extensive
7 written discovery, with recent requests geared toward the recently filed counterclaim,
8 the allegations contained therein and the affirmative defenses alleged in the answers to
9 the complaint and the counterclaim. Both parties have produced extensive documents
10 related to the various claims and defenses asserted in the matter, which has taken
11 substantial time to review and analyze.

12 3. Further, the parties recently participated in nearly a full-day early
13 settlement conference before this court, and have at all times worked cooperatively to
14 streamline discovery and attempt to resolve the dispute without extensive costs in
15 discovery.

16 4. Due to the press of business, I have been unable to complete the
17 necessary depositions in this matter due to my involvement in the negotiation of a
18 settlement of two class action cases involving nearly 3,500 employees that were filed in
19 two separate courts (requiring a motion for consolidation before the California Judicial
20 Council). I have been engaged nearly 24/7 for weeks with these two actions, and only
21 recently has counsel in the class action cases finally agreed to informally consolidate the
22 matters, to collectively settle them and have been preparing the settlement
23 documentation. To compound the issues, I have multiple parties funding the class
24 action settlement and three additional sets of attorneys with which to coordinate on my
25 end alone. The issues have finally reached a point where my schedule is clearing up so
26 that I can turn his attention to other pressing matters, including the instant matter.

27 5. Valley Protein will need to coordinate the scheduling of the
28 depositions of the person(s) most knowledgeable of Linde, and the deposition of Mike

1 Iannelli and Amanda Guzman. There may be other depositions necessary once
2 testimony has been heard. I will be out of the office on a long-planned vacation from
3 July 5, 2017 through July 22, 2017, and would like to provide dates to opposing counsel
4 that are mutually available for both parties so that the depositions can be taken in an
5 orderly fashion, along with those that Linde will necessarily need to take in the matter.
6 I respectfully submit that this is good cause for the extensions requested in the prior
7 stipulation filed with the court, and in this joint status report.

8 I declare under penalty of perjury under the laws of the United States that
9 the foregoing is true and correct.

10 Executed this 23rd day of June 2017 at Fresno, California.

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13 /s/Russell K. Ryan
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ORDER

Based upon the stipulation of the parties and good cause appearing, the Court orders that the discovery and dispositive motion deadlines be extended as follows:

	<u>Current Deadline</u>	<u>New Deadline</u>
Non Expert Discovery Cutoff	June 16, 2017	September 15, 2017
Expert Disclosure	July 17, 2017	October 17, 2017
Rebuttal Expert Disclosure	August 17, 2017	November 17, 2017
Expert Discovery Cutoff	September 18, 2017	December 18, 2017
Dispositive Motion Deadline	November 1, 2017	February 2, 2018
Pretrial Conference	January 8, 2018	June 4, 2018 at 1:30 pm
Jury Trial	March 13, 2018	August 7, 2018 at 1:00 pm

IT IS SO ORDERED.

Dated: June 27, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE