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Attorneys for Tomco2 Equipment Co.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

<b>IN RE:</b>	§	
	§	
<b>PILGRIM'S PRIDE CORPORATION, <i>et al.</i>,</b>	§	<b>Case No. 08-45644-dml-11</b>
	§	
<b>Debtors.</b>	§	<b>Jointly Administered</b>

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**TOMCO2 EQUIPMENT CO.'S LIMITED OBJECTION  
TO DEBTORS' NOTICE OF PROPOSED ASSUMPTION  
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES  
PURSUANT TO DEBTORS' JOINT AMENDED PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE (AS MODIFIED)**

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COMES NOW Tomco2 Equipment Co. ("Tomco"), by its attorneys, hereby submits this limited objection (the "Objection") to the proposed assumption of contract. In support of its Objection, Tomco states as follows:

1. On December 1, 2008 (the "Petition Date"), the Debtors commenced these voluntary cases under chapter 11 of the Unites States Bankruptcy Code (the "Bankruptcy Code") in the Unites States Bankruptcy Court for the Northern District of Texas (the "Court").
2. Tomco is a creditor of Debtors pursuant to several contracts (collectively, the "Contracts"). Some of the contracts relate to Debtors acquiring licenses for use of Tomco's

intellectual property and leases of various Tomco equipment. The remaining contracts relate to Debtors' purchases of certain supplies, including chlorine tablets, used with the intellectual property licensed (and equipment leased) to Debtors. All of the contracts relate to Debtors' acquisition of licensing rights of Tomco's intellectual property, lease of equipment from Tomco and/or purchase of necessary supplies for the licensed intellectual property and leased equipment at the following facilities of the Debtors: Live Oak, Florida; Athens, Georgia; Sanford, North Carolina; Natchitoches, Louisiana; Hickory, Kentucky; and Marshville, North Carolina.

3. Tomco timely filed a proof of claim (Claim # 4801) relating to its claims for amounts due by Debtors under the Contracts.

4. On or about April 14, 2009, the Court entered its Order Pursuant to Section 365(a) of the Bankruptcy Code and Bankruptcy Rules 6006 and 9014 Authorizing the Debtors to Reject Certain Executory Contracts and Unexpired Leases (the "Rejection Order") (Dkt. 1471), which effectuated Debtors' rejection of substantially all of the Contracts with Tomco.

5. On or about November 24, 2009, Tomco received a notice (the "Assumption Notice") which purports to assume a contract that (a) is titled "Construction Agreement and General Conditions"; (b) has "Tomco Systems" as a counter-party; and (c) has a cure amount of \$0.00.

6. Upon receipt of the Assumption Notice, Tomco diligently reviewed its records to identify the contract subject to the Assumption Notice, but despite its efforts, Tomco could not identify the contract. Tomco's records suggest that this contract is not one of the Contracts that was previously rejected by the Debtors.

7. Accordingly, on or about November 24, 2009, counsel for Tomco contacted Debtors' law department (Joe Ylitalo) by e-mail and telephone in an attempt to properly identify

the contract subject to the Assumption Notice. Despite Debtors' law departments' efforts, Debtors were unable to identify (and provide details for) the contract subject to the Assumption Notice prior to the December 1, 2009 deadline for this Objection.

8. Tomco files this limited Objection to preserve Tomco's rights.

WHEREFORE, Tomco respectfully requests that the Court enter an order sustaining Tomco's Objection.

This 30th day of November, 2009.

Respectfully submitted,

SEYFARTH SHAW LLP

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COUNSEL FOR TOMCO2 EQUIPMENT CO.

**CERTIFICATE OF SERVICE**

I hereby certify that on November 30, 2009, a true and correct copy of the foregoing was served on all parties receiving electronic notification in these cases from the Court's ECF system and served a copy by Federal Express overnight morning delivery on the following parties:

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