David W. Parham (15459500)
BAKER & McKENZIE LLP
2001 Ross Avenue
2300 Trammell Crow Center
Dallas, Texas 75201
Telephone No.: (214) 978-3034
Facsimile No.: (214) 978-3099

Gary T. Holtzer (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone No.: (212) 310-8000
Facsimile No.: (212) 310-8007

Martin A. Sosland (18855645)
Stephan A. Youngman (22226600)
WEIL, GOTSHAL & MANGES LLP
200 Crescent Court, Suite 300
Dallas, Texas 75201
Telephone No.: (214) 746-7700
Facsimile No.: (214) 746-7777

Attorneys for Debtors and
Debtors in Possession

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

In re:	§	
	§	**Case No. 08-45664 (DML)**
Pilgrim's Pride Corporation, *et al.*	§	
	§	**Chapter 11**
Debtors.	§	
	§	**Jointly Administered**
	§	
	§	

DEBTORS' MOTION TO AMEND AND ASSUME
FARM CREDIT LEASING SERVICES CORPORATION LEASES

TO THE HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE:

Pilgrim's Pride Corporation ("PPC") and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors")[1] file this Motion (the "Motion") and respectfully represent in support thereof:

Background

1. On December 1, 2008 (the "Commencement Date"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code") in the Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the "Bankruptcy Court"). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Pilgrim's Pride Business

3. PPC, together with its debtor and non-debtor subsidiaries (collectively, "Pilgrim's Pride"), has one of the best brand names in the chicken industry. It is one of the largest producers of chicken in the United States and the second-largest producer in Mexico. Pilgrim's Pride has operations throughout the continental United States, Puerto Rico, and Mexico. Based on the total annual chicken production in 2007 in the United States, the Debtors estimate that Pilgrim's Pride has the highest market share in the United States. Formed in 1946 as a retail feed store partnership between Lonnie A. "Bo" Pilgrim and his brother, Aubrey E. Pilgrim, PPC has been a publicly traded company since 1986.

Jurisdiction and Venue

4. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this

[1] The Debtors are Pilgrim's Pride Corporation, PFS Distribution Company, PPC Transportation Company, To-Ricos Ltd, To-Ricos Distribution, Ltd., Pilgrim's Pride Corporation of West Virginia, Inc., and PPC Marketing, Ltd.

Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

5. Pursuant to section 365 of the Bankruptcy Code, the Debtors seek an order (i) approving the Amendments (as defined below) to the Farm Credit Leases and Schedules (as defined below), and (ii) approving the Debtors' assumption of the Farm Credit Leases and Schedules, as amended.

The Farm Credit Leases and Schedules

6. Prior to the Commencement Date, PPC and Farm Credit Leasing Services Corporation ("Farm Credit," and together with PPC, the "Parties") entered into, or are parties by assignment to, various lease agreements and schedules (the "Farm Credit Leases and Schedules") pursuant to which Farm Credit leased various equipment to PPC. The equipment consists of important and necessary processing and transportation equipment. The Farm Credit Leases and Schedules are vital to the Debtors' business. The Farm Credit Leases and Schedules are the product of a longstanding relationship between PPC and Farm Credit. A suitable alternative is not available.

7. PPC did not make certain postpetition payments due and owing under the Farm Credit Leases and Schedules (hereinafter, collectively, the "Postpetition Missed Payments").

8. The Debtors and Farm Credit have entered into a proposal letter, which is attached as **Exhibit A**, subject to Bankruptcy Court approval and the execution of a final definitive agreement, to amend the Farm Credit Leases and Schedules and for PPC to assume the Farm Credit Leases and Schedules, as amended, which proposal letter provides in part as follows (in summary, the "Amendments"):

- The Farm Credit Leases and Schedules will be assumed, as amended;

- The Postpetition Missed Payments will be placed to the end of the Farm Credit Leases and Schedules by extending the term accordingly (approximately 2-3 months);

- Farm Credit will maintain its current return on each Farm Credit Leases and Schedules resulting in a slight increase to monthly rental payments;

- For any Farm Credit Lease and Schedule that has matured or is due to mature by 12/31/2009, PPC will buy-out the lease schedule based upon the calculated buy-out amount per the lease schedules;

- All unpaid property tax will be paid at closing;

- All other defaults must be paid upon assumption;

- The transaction must close, the court order approving assumption entered, and the Farm Credit Leases and Schedules assumed on or before December 31, 2009;

- The Debtors will release Farm Credit from all claims and causes of action related to the Farm Credit Leases and Schedules and lease transactions, and all claims and causes of action arising under the Bankruptcy Code.

This summary is subject to and qualified by the terms of the proposal letter.

Argument

9. Section 365 allows the debtor in possession to maximize the value of a debtor's estate by assuming executory contracts or unexpired leases that benefit the estate and by rejecting those that do not. *In re Nat'l Gypsum Co.*, 208 F.3d 498, 505 (5th Cir. 2000). Section 365 of the Bankruptcy Code provides as follows:

> (a) Except as provided in…subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.
>
> (b)(1) If there has been a default in an executory contract or unexpired lease of the debt the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee:
>
> > (A) cures, or provides adequate assurance that the trustee will promptly cure such default;

> (B) compensates or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and
>
> (C) provides adequate assurance of future performance under such contract or lease….

See 11 U.S.C. §§ 365(a),(b)(1). Accordingly, section 365 authorizes the proposed assumption of the Farm Credit Leases and Schedules, provided that any defaults are cured, and adequate assurance of future performance is provided to Farm Credit. Pursuant to the Amendments, the Debtors and Farm Credit have agreed to amend and assume the Farm Credit Leases Schedules with a cure amount to be determined prior to a hearing on this Motion in the terms outlined in **Exhibit A**.

10. The words "adequate assurance of future performance" must be given a "practical, pragmatic construction" in light of the proposed assumption. *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985); *see also Tex. Health Enter. Inc. v. Lytle Nursing Home (In re Texas Health Enter. Inc.)*, 72 Fed. Appx. 122, 126 (5th Cir. 2003); *In re PRK Enter., Inc.*, 235 B.R. 597, 603 (Bankr. E.D. Tex. 1999).

11. Due to the Amendments, the Debtors are prepared to give adequate assurance that payments on the Farm Credit Leases and Schedules will be timely. The Debtors and Farm Credit have engaged in fair, arms-length negotiations which have resulted in these extensions that the Debtors will be able to pay and which Farm Credit is willing to accept. The assumption of the Farm Credit Leases and Schedules as modified will benefit the Debtors' estates by allowing the Debtors to extend the Farm Credit Leases and Schedules and the payments related thereto.

Notice

12. Notice of this Motion has been provided to: (i) the Office of the United States

Trustee; (ii) counsel to the statutory committees appointed in these chapter 11 cases; (iii) counsel to the Debtors' prepetition secured lenders; (iv) counsel to the Agent to the Debtors' postpetition lenders; (v) counsel to Farm Credit; and (vi) all parties on the Master Service List filed with this Court (collectively, the "Notice Parties"). The Debtors submit that no other or further notice need be provided.

No Previous Request

13. No previous request for the relief sought herein has been made by the Debtors with respect to this or any other court.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other further relief as it deems just and proper.

Dated: December 7, 2009
Fort Worth, Texas

/s/David W. Parham
David W. Parham (15459500)
BAKER & McKENZIE LLP
2001 Ross Avenue
2300 Trammell Crow Center
Dallas, Texas 75201
Telephone No.: (214) 978-3034
Facsimile No.: (214) 978-3099

-and-

Martin A. Sosland (18855645)
Stephen A. Youngman (22226600)
WEIL, GOTSHAL & MANGES LLP
200 Crescent Court, Suite 300
Dallas, Texas 75201
Telephone: (214) 746-7700
Facsimile: (214) 746-7777

-and-

Gary T. Holtzer (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors and
Debtors in Possession