**Merger Agreement Clause Summaries**

**Concise Summary**

## Closing Mechanics

### Closing Mechanics

+ - The target date for the merger agreement is set for the 3rd business day following the satisfaction or waiver of conditions outlined in Article VI.

○ References: Section 1.2

## Conditions to Closing

### Mutual Conditions List

+ Mutual conditions include:  
- Obtaining Company Stockholder Approval  
- Approval for Parent Share Issuance listing on NYSE  
- Effectiveness of Form F-4 under the Securities Act without any stop order or SEC proceedings  
- Expiration or early termination of any waiting period under the HSR Act for the Merger  
- Absence of any Order or Law from a competent Governmental Authority enacted post-agreement that prohibits the Merger.

○ References: Section 6.1

### Parent Closing Conditions

+ - The parent's obligation to close is contingent on the accuracy of the Company's representations and warranties, compliance with the Agreement's obligations, absence of any Material Adverse Effect since the Agreement's date, and receipt of a certificate from a Company executive officer confirming these conditions.

○ References: Section 6.2

### Company Closing Conditions

+ - The closing of the merger is contingent on Parent and Merger Sub's representations and warranties being accurate, their compliance with all material obligations under the Agreement, no occurrence of a Material Adverse Effect on Parent since the Agreement's date, and the Company's receipt of a certificate from a Parent executive officer confirming these conditions.

○ References: Section 6.3

## Best Efforts

### Divestiture commitments

+ The divestiture cap applies to the Target's units that generated over $140,000,000 in net sales during the fiscal year 2024, while the Parent and its Subsidiaries are not obligated to undertake any Remedy Actions concerning their businesses and products that individually or collectively exceeded this sales threshold in the same fiscal year.

○ References: Section 5.4 (d)

### Litigation commitments

+ Parent is required to defend against any litigation.

○ References: Section 5.4 (d)

## Non Solicitation

### Match Right

+ The Company has provided Parent a period of four (4) Business Days following the notice to discuss and negotiate any proposed modifications.

○ References: Section 5.6 (d)

## Financing

### Committed Financing

+ - Parent secured committed financing from Bank of America, N.A. and Jeffries Finance LLC.  
- These Initial Lenders agreed to lend specified amounts to JH North America Holdings Inc., a subsidiary of Parent.  
- The loans are for purposes outlined in the Debt Letters.

○ References: Section 4.25

## Termination - Outside Date

### Termination - Outside Date

+ Outside Date = March 23, 2026. The Termination Date shall automatically, without any action on the part of the parties hereto, be extended for three (3) months.

○ References: Section 7.1 (b) (i)

## Ordinary Course

### Covenant

+ The Company shall use commercially reasonable efforts to conduct the business in the ordinary course and preserve its assets and business organization.

○ References: Section 5.1

## Law and Jurisdiction

### Governing Law

+ The governing law is under the jurisdiction of Delaware, implying that any legal matters will be handled according to Delaware state laws.

○ References: Section 8.10

## Specific Performance

### Specific Performance

+ Prior to termination of the agreement, all parties are entitled to an injunction, specific performance, and other equitable relief.

○ References: Section 8.11

**Fulsome Summary**

## Party Details

### Acquirer

+ The Acquirer is James Hardie Industries plc, a public limited company incorporated under the laws of Ireland.

○ References: ARTICLE Preamble

### Target

+ The company is The AZEK Company Inc., a legally registered entity operating under the jurisdiction of the United States of America.

○ References: ARTICLE Preamble

### Subsidiaries

+ Subsidiaries were not included in the merger contract.

○ References: Section 1.1

### Acquirer Subsidiaries

+ Juno Merger Sub Inc., referenced in Article I Section 1.1 of the merger agreement, is a wholly owned subsidiary of the Acquirer. Its role in the transaction is to merge with the target company.

○ References: Section 1.1

### Transaction

+ The transaction is a reverse triangular merger, where Merger Sub merges into the Company. The Company survives as the surviving corporation and becomes a wholly owned subsidiary of the Parent.

○ References: Section 1.1; Section 1.1

### Merger Sub

+ Juno Merger Sub Inc. is a Delaware corporation and functions as a direct or indirect wholly owned subsidiary of its parent company.

○ References: ARTICLE Preamble

## Closing Mechanics

### Marketing Period

+ No marketing period is included in the agreement.

### Inside Date

+ No inside date is included in the agreement.

## Conditions to Closing

### Non-Customary Conditions

+ - The agreement includes a non-customary condition of maintaining a minimum cash threshold.  
- A maximum net debt limit is also specified, which is not typically seen in standard agreements.  
- The agreement also stipulates a minimum financial metric that must be met.  
- A unique condition in the agreement is the requirement of a tax opinion, which is not a standard condition in most agreements.

### Additional Conditions

+ Key conditions include: obtaining a majority of the outstanding shares of Company Common Stock entitled to vote, securing Company Stockholder Approval, getting Parent Share Issuance approved for listing on the NYSE, ensuring the Form F-4 is effective under the Securities Act, waiting for the expiration or early termination of any applicable waiting period under the HSR Act, and confirming that no Governmental Authority has issued an Order prohibiting the Merger.

○ References: Section 6.1; Section 6.1

## Proxy and Shareholder Vote Best Efforts

### Filing Timing

+ As soon as reasonably practicable post-agreement execution, the Company, with Parent's cooperation, will prepare and file the Proxy Statement, and Parent, with the Company's cooperation, will prepare and file a Form F-4.

○ References: Section 5.3 (a)

### Effectiveness Efforts

+ The parties and their respective Subsidiaries are to use their reasonable best efforts to consummate the transactions and satisfy the conditions to the Merger set forth in Article VI as promptly as reasonably practicable.

○ References: Section 5.4 (a)

### Shareholder Meeting

+ The Company shall call and hold a meeting of its stockholders within fifty (50) days of the effectiveness of the Form F-4, subject to adjournment or postponement.

○ References: Section 5.3 (b)

### Reaching a Quarum

+ The Company may adjourn or postpone the Company Stockholders' Meeting after consultation with Parent to ensure any required supplement or amendment to the Proxy Statement or Form F-4 is provided to the stockholders within a reasonable time, or if there are not sufficient votes to constitute a quorum or obtain the Company Stockholder Approval, allowing additional time for proxy solicitation. However, unless agreed to in writing by Parent, adjournments or postponements shall not exceed twenty-five (25) Business Days in total and shall not require a change to the record date for the Company Stockholders' Meeting.

○ References: Section 5.3 (b)

## Best Efforts

### HSR

+ Under the Hart-Scott-Rodino (HSR) Act, parties must file the necessary documents within 25 business days of signing the agreement. This filing is a prerequisite for closing the transaction.

○ References: Section 6.1

### CFIIUS

+ CFIUS filing is not required under the agreement.

### Foreign Filing

+ Foreign regulatory filings are not required under the agreement.

### Standard

+ The parties have agreed to employ a Reasonable Best Efforts (RBE) standard in their pursuit of regulatory approvals, specifically in relation to the Hart-Scott-Rodino (HSR) Act and other applicable antitrust laws. This implies that both parties will take all reasonable steps and make their best possible efforts, within legal and ethical boundaries, to secure the necessary regulatory approvals for the merger and acquisition agreement to proceed.

○ References: Section 5.4 (a)

### Withdrawal controls

+ The M&A agreement stipulates that neither the Company nor the Parent can withdraw any regulatory filings or applications without obtaining prior written consent from the other party. This consent must not be unreasonably withheld, conditioned, or delayed, ensuring a fair and cooperative process.

○ References: Section 5.4 (a)

### Timing agreement

+ The agreement imposes a restriction on the withdrawal or modification of filings under the Hart-Scott-Rodino Antitrust Improvements Act (HSR Act) without obtaining prior written consent, which cannot be unreasonably withheld.

○ References: Section 5.4 (a)

### Divestiture Cap

+ The divestiture cap commitments in the M&A agreement stipulate different obligations for the Target and the Buyer. For the Target, the cap applies to business units that generated over $140 million in net sales during the 2024 fiscal year. Units below this threshold are exempt from remedy obligations, thereby limiting the scope of potential divestitures. Conversely, the Buyer, including the Parent and its Subsidiaries, is not obligated to undertake any remedy actions concerning businesses and products of the Company and its Subsidiaries that individually or collectively exceeded $140 million in net sales during the same fiscal year.

○ References: Section 5.4 (d)

### Prior Approval Commitment

+ Prior Approval Commitment are not disclosed in the agreement.

### Transaction Interference

+ The Company and its Affiliates are prohibited from selling, divesting, holding separate, leasing, licensing, transferring, disposing of, or otherwise encumbering or impairing their assets, properties, businesses, or product lines. This restriction also extends to any other actions that could potentially interfere with the agreed merger and acquisition transaction.

○ References: Section 5.4 (d)

### Second Request Certification

+ Second Request Certification are not disclosed in the agreement.

○ References: Section 5.4 (a)

### FTC Warning Letter Handling

+ There is no consideration per the contract given to the receipt of an FTC warning letter.

○ References: Section 5.4

## Non Solicitation

### Go Shop

+ There is no go-shop or window-shop provision.

○ References: Section 5.6 (a)

### Notice of Competing Offer

+ The Company must notify Parent within 24 hours of receiving any Acquisition Proposal, including a complete, unredacted copy of all related written materials detailing its material terms and conditions.

○ References: Section 5.6 (b)

### Ongoing Update

+ The Company is required to (A) provide Parent notice within twenty-four (24) hours of receiving any Acquisition Proposal and (C) update Parent within twenty-four (24) hours of any significant development, including the status and material details (such as amendments and proposed amendments) of any such Acquisition Proposal. The Company must keep Parent informed on a reasonably prompt basis.

○ References: Section 5.6 (b)

### Superior Proposal Engagement

+ Despite Section 5.6(a), before Company Stockholder Approval, the Company may negotiate with a third party offering a bona fide written Acquisition Proposal, provided it doesn't violate this Agreement.

○ References: Section 5.6 (b)

### Adverse Change Superior Offer

+ After the Agreement date and before Company Stockholder Approval, if the Company Board receives a bona fide written Acquisition Proposal deemed a Superior Proposal, following consultation with external financial advisors and legal counsel...

○ References: Section 5.6 (d)

### Adverse Change Intervening Event

+ Except for a Superior Proposal, before Company Stockholder Approval, the Company Board may act against Section 5.6(c)(i) in response to an Intervening Event, if it determines, after consulting with outside financial advisors and legal counsel, that not doing so would violate its fiduciary duties under applicable law.

○ References: Section 5.6 (e)

## Financing

### Committed Financing

+ The Parent company, through its wholly owned indirect subsidiary, JH North America Holdings Inc., has secured committed financing from Bank of America, N.A. and Jeffries Finance LLC, referred to as the Initial Lenders. These lenders have pledged to provide the funds as outlined in the Debt Letters, which also detail the specific purposes for which these funds are to be used.

○ References: Section 4.25

### Financing Efforts Summary

+ The parent company is required to make a diligent and robust attempt to finalize the Financing, uphold the Debt Letters, fulfill its obligations, and guarantee that the Financing is adequate for the Merger. This clause emphasizes the parent company's responsibility to not only secure the necessary financing but also to ensure its sufficiency for the successful completion of the merger.

○ References: Section 5.15 (a)

### Substitute Financing Notice And Efforts

+ The clause stipulates that the acquiring party has an obligation to inform the company in the event that the initially planned financing becomes inaccessible. Furthermore, the acquirer is mandated to exert their "reasonable best efforts" to secure an alternative source of financing. This implies that the acquirer must not only actively seek but also make a genuine and substantial attempt to procure substitute financing.

○ References: Section 5.15 (b)

## Termination Provisions

### Termination Provisions

+ As there is no provided clause text, I'm unable to identify and summarize the unique terminations from a merger agreement. Please provide the necessary information to proceed.

## Termination - Outside Date

### Termination - Outside Date

+ Outside Date = March 23, 2026. If conditions in Section 6.1(d) or Section 6.1(e) are not met but all other conditions in Section 6.1 through Section 6.3 are met or waived, the Termination Date extends for three (3) months.

○ References: Section 7.1 (b) (i)

### Extension Discretion

+ The merger agreement stipulates an automatic extension of the Termination Date by three months if certain conditions outlined in Section 6.1(d) or Section 6.1(e) are not met by the original date. No party has sole discretion over this extension.

○ References: Section 7.1 (b) (i)

### Extension Discretion Breach

+ The clause stipulates that if a party's material breach is the primary reason for not closing the merger by the Termination Date, that party loses its right to terminate the agreement by the Termination Date.

○ References: Section 7.1 (b) (i)

### Termination Fee

+ The termination fee in the merger agreement is $272,000,000.

○ References: Definition > Termination Amount

### Reverse Termination Fee

+ The clause does not provide information on the Reverse Termination fee in the merger agreement.

## Ordinary Course

### Covenant

+ The clause stipulates that the Company and its Subsidiaries are required to use commercially reasonable efforts to operate their business in the ordinary course. This includes using commercially reasonable efforts to preserve their assets and business organization. Additionally, they are to maintain existing relationships with material customers, suppliers, distributors, Governmental Authorities, and business partners, as long as these efforts are consistent with conducting the business in the ordinary course.

○ References: Section 5.1

## Law and Jurisdiction

### MAE Interpretation Jurisdiction

+ MAE Interpretation Jurisdiction was not included in the merger contract.

### Financing Jurisdiction

+ The jurisdiction of financing law in New York is comprehensive, covering a wide range of financial transactions and activities. It includes laws and regulations related to banking, securities, insurance, real estate, and other financial services. The New York State Department of Financial Services is the primary regulatory body overseeing these areas. It enforces the financial laws of the state to ensure the stability and integrity of the financial markets. The jurisdiction also extends to consumer protection, with laws designed to safeguard consumers from fraudulent or unfair financial practices. Additionally, New York's jurisdiction is significant in international finance due to the presence of Wall Street and major global financial institutions. Therefore, the financing jurisdiction in New York is not only important at the state level but also has a substantial impact on national and international financial operations.

○ References: Section 8.10

### Arbitration Clause

+ Arbitration Clause was not included in the merger contract.

## Specific Performance

### Specific Performance

+ Prior to any termination of this Agreement in accordance with Section 7.1, the parties shall be entitled to specific performance and other equitable relief to prevent breaches of this Agreement.

○ References: Section 8.11

### Financing

+ There are no mentioned limitions on Specific Performance related to the availability of debt or equity financing

○ References: Section 4.25

### Timeline

+ Signing Date = March 23, 2025  
Confidentiality Sign Date = January 23, 2025  
HSR Filing Date = April 17, 2025 (25 business days after the Signing Date of March 23, 2025)  
Outside Date = March 23, 2026 (12-month anniversary of the Signing Date of March 23, 2025)  
Shareholder Vote Date = Cannot be determined (50 days after the effectiveness of the Form F-4, but the date of effectiveness is not provided)  
Proxy Filing Date = Cannot be determined (Promptly after the execution of the Agreement, but no exact date provided)  
Closing Date = Cannot be determined (No later than the third business day after the satisfaction or waiver of conditions, but the date of satisfaction or waiver is not provided)