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Proposed Attorneys for Debtor

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

IN RE: §
§
COOLWATER ESTATES, LLC, § CASE NO. 17-34460-sgj-11
§ (Chapter 11)
DEBTOR §

**MOTION FOR AUTHORITY TO SELL REAL PROPERTY FREE AND CLEAR
OF ALL LIENS, CLAIMS AND ENCUMBRANCES LOCATED AT
12085 COOLWATER CIRCLE, FORNEY, TEXAS**

Notice

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE STREET, ROOM 12A24, DALLAS, TEXAS 75242 BEFORE CLOSE OF BUSINESS ON JANUARY 15, 2018, WHICH IS TWENTY-FOUR DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK, AND A COPY MUST BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE STACEY G.C. JERNIGAN, U.S. BANKRUPTCY JUDGE:

Coolwater Estates, LLC, the chapter 11 debtor-in-possession (the “**Debtor**”) files this Motion for Authority to Sell Real Property Free and Clear of All Liens and Encumbrances Located at 12085 Coolwater Circle, Forney, Texas (“**Motion**”) pursuant to the provisions of 11 U.S.C. §363(f) as follows:

1. On December 1, 2017 (the “**Petition Date**”) the Debtor filed its voluntary petition under chapter 11 of the United States Bankruptcy Code.

2. The Debtor is in possession of its property and is managing its affairs pursuant to 11 U.S.C. §§ 1107 and 1108.

3. The Debtor owns 72.79 acres of real property in Forney, Texas. The property has been developed to sell to potential buyers in subdivided lots to be used to build single family residences. The Debtor has received an offer to sell a single lot out of the 72.79 acres. The Debtor has an offer from Mark Rodriguez and Matt Rodriguez to purchase the lot identified as 12085 Coolwater Circle, Forney Texas 75126 consisting of 3.36 acres (the “**Real Property**”).

4. The following parties assert security interests and/or liens upon the Real Property: Kaufman County Tax Office and Southwest Bank, (the “**Secured Creditors**”).

5. Southwest Bank holds a lien against the full 72.79 acres. Although there is substantial equity in the full 72.79 acres, the sale proceeds from this sale will not pay off the bank debt in full. Accordingly, there is no equity in the Real Property being sold through this motion above the amount of the Secured Creditors’ liens.

6. The Debtor has received an offer from Mark Rodriguez and Matt Rodriguez (“**Buyers**”) to purchase the Real Property for \$120,000.00.

7. The Debtor seeks authority to sell the Real Property to the Buyer for \$120,000. From the gross proceeds, and prior to making payment to the respective Secured Creditors, the Debtor will

pay: i) applicable real estate agent commissions; ii) closing costs; iii) the ad valorem property taxes associated with the Real Property; iv) U.S. Trustee Quarterly Fees and bank fees associated with the sale; and v) the attorney's fees incurred by Debtor's counsel associated with the sale and conveyance of title to the Buyer (collectively referred to as the "*Costs of Sale*").

8. Under the terms sale set forth in the contract, the realtors are to receive a commission of six percent (6%). A three percent (3%) commission is to be paid to the realtor for the Buyers. That realtor's name is Johnathan Finkenbiner with offices at 1417 Fairfield, Forney, Texas 75126. Upon information and belief, Mr. Finkenbiner has no connection to the Debtor, its principals or its creditors other than serving as the agent for the Buyers.

9. A true and correct copy of the sale contract, subject to this court's approval, is attached hereto as Exhibit "A" setting forth all terms and conditions of the sale and is incorporated herein by reference.

10. The Debtor anticipates the quarterly fee to be paid to the U.S. Trustee will increase to \$975 due to the disbursement of the sale proceeds and will incur approximately \$3,500 in attorney fees handling this sale through the bankruptcy court.

11. The Debtor seeks authority to sell the Real Property pursuant to 11 U.S.C. §363(f) on the following terms:

- a. Property to be sold: Real Property (as defined above)
- b. Purchasers: Mark Rodriguez and Matt Rodriguez
- c. Price: \$120,000.00
- d. Terms: Cash to Seller
- e. Release of Liens: Sale free and clear of all liens and encumbrances.

12. Liens that secure amounts owed for year 2018 ad valorem property taxes, including any penalties and interest that may accrue, shall remain attached to the Real Property and become the responsibility of the Buyer. Any remaining 2017 property taxes shall be paid at closing.

13. Any party interested in purchasing the Real Property should contact the undersigned attorney for the Debtor, object to this Motion and appear at any hearing on the Motion and offer an amount in excess of the proposed purchase price.

14. Finally, due to exigent circumstances relating to the need to close this sale so as to stop the accrual of property taxes, the Debtor requests that any order approving this Motion exclude the fourteen day stay provided in Rule 6004(h) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, PREMISES CONSIDERED, Coolwater Estates, LLC respectfully requests that pursuant to the provisions of 11 U.S.C. §363(f) this Court approve the sale of the Real Property to the Buyer on the above terms and that the Debtor be granted such other and further relief to which it is justly entitled.

Respectfully submitted,

QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
(214) 871-2100 (Telephone)
(214) 871-2111 (Telefax)

By: /s/ John Paul Stanford
John Paul Stanford
State Bar No. 19037350

PROPOSED ATTORNEYS FOR
COOLWATER ESTATES, LLC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via regular U.S. mail, postage prepaid, on the 21st of December, 2017, upon all parties on the attached mailing matrix and to the following:

/s/ John Paul Stanford



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-2-2015

AMENDMENT



TO CONTRACT CONCERNING THE PROPERTY AT

12085 Coolwater Cir

Forney

(Street Address and City)

Seller and Buyer amend the contract as follows: (check each applicable box)

- (1) The Sales Price in Paragraph 3 of the contract is:
 - A. Cash portion of Sales Price payable by Buyer at closing \$ _____
 - B. Sum of financing described in the contract..... \$ _____
 - C. Sales Price (Sum of A and B)..... \$ _____
- (2) In addition to any repairs and treatments otherwise required by the contract, Seller, at Seller's expense, shall complete the following repairs and treatments:
- (3) The date in Paragraph 9 of the contract is changed to January 12, 2018.
- (4) The amount in Paragraph 12A(1)(b) of the contract is changed to \$ _____.
- (5) The cost of lender required repairs and treatment, as itemized on the attached list, will be paid as follows: \$ _____ by Seller; \$ _____ by Buyer.
- (6) Buyer has paid Seller an additional Option Fee of \$ _____ for an extension of the unrestricted right to terminate the contract on or before 5:00 p.m. on _____, _____. This additional Option Fee will will not be credited to the Sales Price.
- (7) Buyer waives the unrestricted right to terminate the contract for which the Option Fee was paid.
- (8) The date for Buyer to give written notice to Seller that Buyer cannot obtain Buyer Approval as set forth in the Third Party Financing Addendum is changed to _____, ____.
- (9) **Other Modifications:** (Insert only factual statements and business details applicable to this sale.)

EXECUTED the _____ day of _____, _____. (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer **Mark Rodriguez**

Ronald E. Cook
Seller **Ronald E. Cook**

Buyer **Matt Rodriguez**

Seller

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 39-8. This form replaces TREC No. 39-7.

(TAR-1903)

TREC NO. 39-8



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 11-2-2015

UNIMPROVED PROPERTY CONTRACT
NOTICE: Not For Use For Condominium Transactions

1. **PARTIES:** The parties to this contract are Coolwater Estates, LLC (Seller) and Mark Rodriguez, Matt Rodriguez (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. **PROPERTY:** Lot _____, Block _____, Addition _____, City of W J SWIFT, County of Kaufman, Texas, known as Forney, 12085 Coolwater Cir, 75126 (address/zip code), or as described on attached exhibit together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships (the Property).

3. **SALES PRICE:**
A. Cash portion of Sales Price payable by Buyer at closing. \$ 24,000.00
B. Sum of all financing described in the attached: Third Party Financing Addendum, Loan Assumption Addendum, Seller Financing Addendum. \$ 96,000.00
C. Sales Price(Sum of A and B) \$ 120,000.00

4. **LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: Seller is a licensed realtor

5. **EARNEST MONEY:** Upon execution of contract by all parties, Buyer shall deposit \$ 1,000.00 as earnest money with Ranger Title - Forney as escrow agent, at _____ (address). Buyer shall deposit additional earnest money of \$ _____ with escrow agent within _____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. **TITLE POLICY AND SURVEY:**
A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's Buyer's expense an owner's policy of title insurance (Title Policy) issued by Ranger Title - Forney (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.
(4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: (i) will not be amended or deleted from the title policy; or (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.

B. **COMMITMENT:** Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If, due to factors beyond Seller's control, the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. **SURVEY:** The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)
 (1) Within 20 days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property

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Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date. If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's Buyer's expense no later than 3 days prior to Closing Date.

- (2) Within _____ days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
 - (3) Within _____ days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.
- D. OBJECTIONS: Buyer may object in writing to (i) defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; or disclosed in the Commitment other than items 6A(1) through (8) above; (ii) any portion of the Property lying in a special flood hazard area (Zone V or A) as shown on the current Federal Emergency Management Agency map; or (iii) any exceptions which prohibit the following use or activity:

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.

E. TITLE NOTICES:

- (1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2 in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association should be used.

- (3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in

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the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

- (6) **PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER:** Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.
- (7) **PUBLIC IMPROVEMENT DISTRICTS:** If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.
- (8) **TEXAS AGRICULTURAL DEVELOPMENT DISTRICT:** The Property is is not located in a Texas Agricultural Development District. For additional information, contact the Texas Department of Agriculture.
- (9) **TRANSFER FEES:** If the Property is subject to a private transfer fee obligation, §5.205, Property Code requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.
- (10) **PROPANE GAS SYSTEM SERVICE AREA:** If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.
- (11) **NOTICE OF WATER LEVEL FLUCTUATIONS:** If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

NOTICE: Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

B. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7B (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(Check one box only)

- (1) Buyer accepts the Property As Is.
- (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

C. COMPLETION OF REPAIRS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed, by persons who are licensed to

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provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days, if necessary, for Seller to complete repairs and treatments.

D. **ENVIRONMENTAL MATTERS:** Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

E. **SELLER'S DISCLOSURES:** Except as otherwise disclosed in this contract, Seller has no knowledge of the following:

- (1) any flooding of the Property which has had a material adverse effect on the use of the Property;
- (2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;
- (3) any environmental hazards that materially and adversely affect the Property;
- (4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
- (5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or
- (6) any threatened or endangered species or their habitat affecting the Property.

8. **BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

9. **CLOSING:**

A. The closing of the sale will be on or before November 20, 2017, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
- (2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
- (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
- (4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

10. **POSSESSION:**

A. **Buyer's Possession:** Seller shall deliver to Buyer possession of the Property in its present or required condition upon closing and funding.

B. **Leases:**

- (1) After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
- (2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.

11. **SPECIAL PROVISIONS:** (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)

Home to be at least 4000 square feet minimum on one level

12. **SETTLEMENT AND OTHER EXPENSES:**

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed \$ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

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- (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.
- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.
- 13. PRORATIONS AND ROLLBACK TAXES:**
- A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Assessments are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.
- 14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
- 15. DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
- 16. MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
- 17. ATTORNEY'S FEES:** A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
- 18. ESCROW:**
- A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.
- B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.
- C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide

Contract Concerning 12085 Coolwater Cir Forney, 75126 Page 6 of 8 11-2-2015
 (Address of Property)

a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money.

- D. **DAMAGES:** Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- E. **NOTICES:** Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:

To Seller at:

Phone: (214)837-4618

Phone: _____

Fax: _____

Fax: _____

E-mail: markrodriguez@deloitte.com

E-mail: _____

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Third Party Financing Addendum | <input type="checkbox"/> Addendum for Coastal Area Property |
| <input type="checkbox"/> Seller Financing Addendum | <input type="checkbox"/> Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum |
| <input type="checkbox"/> Addendum for Property Subject to Mandatory Membership in a Property Owners Association | <input type="checkbox"/> Addendum for Property Located Seaward of the Gulf Intracoastal Waterway |
| <input type="checkbox"/> Buyer's Temporary Residential Lease | <input type="checkbox"/> Addendum for Sale of Other Property by Buyer |
| <input type="checkbox"/> Seller's Temporary Residential Lease | <input type="checkbox"/> Addendum for Property in a Propane Gas System Service Area |
| <input type="checkbox"/> Addendum for Reservation of Oil, Gas and Other Minerals | <input type="checkbox"/> Other (list): _____ |
| <input type="checkbox"/> Addendum for "Back-Up" Contract | |

MR

MR

RC

Contract Concerning 12085 Coolwater Cir Forney, 75126 Page 7 of 8 11-2-2015
(Address of Property)

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller \$ _____ (Option Fee) within 3 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the effective date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee will will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____ Seller's Attorney is: _____

Phone: _____ Phone: _____

Fax: _____ Fax: _____

E-mail: _____ E-mail: _____

EXECUTED the 26th day of October, 2017 (EFFECTIVE DATE).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

DocuSigned by:
Mark Rodriguez
Buyer
Mark Rodriguez

Ron Cook
Seller
Coolwater Estates, LLC

DocuSigned by:
Matt Rodriguez
Buyer
Matt Rodriguez

Vicki Cook
Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (<http://www.trec.texas.gov>) TREC NO. 9-12. This form replaces TREC NO. 9-11.

Contract Concerning 12085 Coolwater Cir Forney, 75126 Page 8 of 8 11-2-2015
 (Address of Property)

BROKER INFORMATION

(Print name(s) only. Do not sign)

Exalt Realty, LLC 0598488 Re/Max Platinum 0488919
 Other Broker Firm License No. Listing Broker Firm License No.

represents Buyer only as Buyer's agent represents Seller and Buyer as an intermediary
 Seller as Listing Broker's subagent Seller only as Seller's agent

Jonathan Finkenbiner 0553363 Vicki Cook 0289628
 Associate's Name License No. Listing Associate's Name License No.

Licensed Supervisor of Associate License No. Licensed Supervisor of Listing Associate License No.

1417 Fairfield

Other Broker's Address Fax Suite 175 205 E. Hwy. 80
 Listing Broker's Office Address Fax

Forney TX 75126 Forney TX 75126
 City State Zip City State Zip

jfinkenbiner@sbcglobal.net (469)556-8392 vickicook@remax.net (972)679-5118
 Associate's Email Address Phone Listing Associate's Email Address Phone

Selling Associate's Name License No.

Licensed Supervisor of Selling Associate License No.

Selling Associate's Office Address Fax

City State Zip

Selling Associate's Email Address Phone

Listing Broker has agreed to pay Other Broker 3.000% of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay other Broker from Listing Broker's fee at closing.

OPTION FEE RECEIPT

Receipt of \$ _____ (Option Fee) in the form of _____ is acknowledged.

 Seller or Listing Broker Date

CONTRACT AND EARNEST MONEY RECEIPT

Receipt of Contract and \$ _____ Earnest Money in the form of _____
 is acknowledged.

Escrow Agent: _____ Date: _____

By: _____

 Email Address

 Address Phone: _____

 City State Zip Fax: _____

11-2-2015



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

THIRD PARTY FINANCING ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

12085 Coolwater Cir

Forney

(Street Address and City)

A. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer's lender. (Check applicable boxes):

- 1. **Conventional Financing:**
 - (a) A first mortgage loan in the principal amount of \$ 96,000.00 (excluding any financed PMI premium), due in full in 30 year(s), with interest not to exceed 5.000 % per annum for the first 30 year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed 1.000 % of the loan.
 - (b) A second mortgage loan in the principal amount of \$ _____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan.
- 2. **Texas Veterans Loan:** A loan(s) from the Texas Veterans Land Board of \$ _____ for a period in the total amount of _____ years at the interest rate established by the Texas Veterans Land Board.
- 3. **FHA Insured Financing:** A Section _____ FHA insured loan of not less than \$ _____ (excluding any financed MIP), amortizable monthly for not less than _____ years, with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan.
- 4. **VA Guaranteed Financing:** A VA guaranteed loan of not less than \$ _____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan.
- 5. **USDA Guaranteed Financing:** A USDA-guaranteed loan of not less than \$ _____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan.
- 6. **Reverse Mortgage Financing:** A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of \$ _____ (excluding any financed PMI premium or other costs), with interest not to exceed _____ % per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan. The reverse mortgage loan will will not be an FHA insured loan.

Initialed for identification by Buyer [Initials] and Seller [Signature]

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(Address of Property)

B. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Buyer Approval and Property Approval are obtained.

1. Buyer Approval:

This contract is subject to Buyer obtaining Buyer Approval. If Buyer cannot obtain Buyer Approval, Buyer may give written notice to Seller within 25 days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the contract shall no longer be subject to the Buyer obtaining Buyer Approval. Buyer Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history.

This contract is not subject to Buyer obtaining Buyer Approval.

2. Property Approval: Property Approval will be deemed to have been obtained when the Property has satisfied lender's underwriting requirements for the loan, including but not limited to appraisal, insurability, and lender required repairs. If Property Approval is not obtained, Buyer may terminate this contract by giving notice to Seller before closing and the earnest money will be refunded to Buyer.

3. Time is of the essence for this paragraph and strict compliance with the time for performance is required.

C. SECURITY: Each note for the financing described above must be secured by vendor's and deed of trust liens.

D. FHA/VA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____; or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs.

(1) The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.

(2) If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.

(3) If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Prices, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

E. AUTHORIZATION TO RELEASE INFORMATION:

(1) Buyer authorizes Buyer's lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.

(2) Seller and Buyer authorize Buyer's lender, title company, and escrow agent to disclose and furnish a copy of the closing disclosures provided in relation to the closing of this sale to the parties' respective brokers and sales agents identified on the last page of the contract.

Mark Rodriguez 10/24/2017
BUYER MATT RODRIGUEZ 10/24/2017
BUYER MATT RODRIGUEZ

Ron Cook
Seller Coolwater Estates, LLC
Ticki Cook
Seller

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC No. 40-7. This form replaces TREC No. 40-6.

Label Matrix for local noticing
 0539-3
 Case 17-34460-sgj11
 Northern District of Texas
 Dallas
 Thu Dec 21 14:52:02 CST 2017

Coolwater Estates, LLC
 12112 Coolwater Circle
 Forney, TX 75126-7252

Forney ISD
 % Perdue Brandon Fielder Et Al
 500 E. Border Street
 Suite 640
 Arlington, TX 76010-7457

Kaufman County
 Linebarger Goggan Blair & Sampson, LLP
 c/o Elizabeth Weller
 2777 N Stemmons Frwy Ste 1000
 Dallas, TX 75201 U.S. 75207-2328

Southwest Bank
 c/o Matthew T. Taplett, Esq.
 500 W.7th St. #600
 Fort Worth, TX 76102-4751

1100 Commerce Street
 Room 1254
 Dallas, TX 75242-1305

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 c/o Perdue Brandon Fielder et al
 500 East Border Street, Suite 640
 Arlington, TX 76010-7457

Friesland Law Firm, PLLC
 c/o T. Craig Friesland
 700 Central Expressway South, Ste. 100
 Allen, TX 75013-8100

Internal Revenue Service
 PO Box 7346
 Philadelphia, PA 19101-7346

Kaufman County
 Linebarger Goggan Blair & Sampson, LLP
 c/o Laurie A Spindler
 2777 N Stemmons Frwy Ste 1000
 Dallas, Texas 75207-2328

Kaufman County Tax Assessor
 100 N. Washington
 Kaufman, TX 75142-2051

Pope, Hardwicke, Christie, et al
 Attn: Matthew T. Taplett
 500 West 7th Street, Suite 600
 Fort Worth, TX 76102-4995

Ronald Cook
 12112 Coolwater Circle
 Forney, TX 75126-7252

Southwest Bank
 c/o Jerry Hendrix
 PO Box 962020
 Fort Worth, TX 76162-2020

Tracy Adkins, CPA, P.C.
 2144 N. Belt Line Road, Suite H
 Mesquite, TX 75150-5860

U.S. Attorney
 Office of the U.S. Attorney
 3rd Floor, 1100 Commerce Street
 Dallas, TX 75242

U.S. Trustee
 1100 Commerce Street, Room 9C60
 Dallas, TX 75242-0996

United States Trustee
 1100 Commerce Street
 Room 976
 Dallas, TX 75242-0996

Christopher J. Moser
 QuillingSelander Lownds Winslett & Moser
 2001 Bryan Street, Suite 1800
 Dallas, TX 75201-3070

John Paul Stanford
 Quilling, Selander, Lownds, et al
 2001 Bryan St., Suite 1800
 Dallas, TX 75201-3071

End of Label Matrix
 Mailable recipients 19
 Bypassed recipients 0
 Total 19