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7 **IN THE UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF ARIZONA**

9

In Re: SOUTHWESTERN STEEL & SUPPLY CO., INC., Debtor,	CHAPTER 11 Case No.: 0:14-bk-06520-BMW REVISED THIRD (FOURTH) AMENDED PLAN OF REORGANIZATION
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15 **SOUTHWESTERN STEEL AND SUPPLY CO., INC'S THIRD AMENDED PLAN OF**
16 **REORGANIZATION DATED December 14, 2017**

17 **ARTICLE I**

18 **DEFINITIONS**

19 “Creditors' Fund” means the loan proceeds realized from Secured Investments Corporation
20 including, which fund is to be established and administered in accordance with the provisions of
21 the Plan.
22

23 “Code” means Title 11 of the United States Code as amended.

24 “Court” means the United States Bankruptcy Court for the District of Arizona in which
25 this case is pending.

26 “Creditors” mean all creditors of the Debtor holding claims for debts, liabilities, demands,
27 or claims of any character whatsoever.
28

1 “Confirmation of the Plan” means the entry by the court of an order confirming the Plan in
2 accordance with Chapter 11.

3
4 “Consummation of Plan” means the accomplishment of all things contained or provided
5 for in this Plan, and the entry of an order finally dismissing this case.

6 “Debtor” means Southwestern Steel & Supply Company, the corporation listed in the
7 caption of the Plan.

8 “Effective Date” means the date on which the order confirming this Plan of Reorganization
9 becomes final and non-appealable.

10 “General Unsecured Claims” mean all claims held by creditors of the Debtor other than
11 Secured Claims and includes claims of secured creditors to the extent that the same are unsecured
12 in part and claims arising out of the rejection of executory contracts or unexpired leases.

13
14 “Lien” means a mortgage, pledge, judgment lien, security interest, charging order, or other
15 charge or encumbrance on the Debtor's property effective under applicable law as of the date of
16 the Debtor's petition for reorganization.

17 “Priority Claim” means the claim of any creditor entitled to priority under Section 507 of
18 the Code.

19
20 “Plan” means this Plan of Reorganization in its present form or as it may be amended or
21 supplemented.

22 “Secured Claim” means all claims secured by liens on the property of the Debtor, which
23 liens are valid, perfected, and enforceable under applicable law; are not subject to avoidance
24 under the Bankruptcy Code or other applicable nonbankruptcy law; and are duly established in
25 this case.

26
27 The Rules of Construction contained in § 102 of the Bankruptcy Code shall apply to the
28 construction of the Plan, and terms that are defined by the Bankruptcy Code shall have that

1 meaning defined by the Bankruptcy Code unless specifically modified herein. All terms not
2 specifically defined by this Plan shall have the meaning designated in the Bankruptcy Code, or, if
3 not defined therein, their ordinary meaning. These definitions are a substantial and operative part
4 of the Plan.
5

6 Secured Claim only to the extent of the validity, perfection, and enforceability of the
7 claimed lien, security interest, or assignment and only to the extent of the value of the interest of
8 the creditor holding such claim against such property of the Debtors.

9 Secured Creditor.

10 This term refers to and means every creditor that holds a Secured Claim in the Bankruptcy
11 Case.
12

13 Subordinated Claim.

14 This term refers to and means any claim judged to be subordinated pursuant to 11 U.S.C.

15 Unsecured Claim.

16 This term refers to and means all claims held by creditors of the Debtors, including
17 deficiency claims, dissolution claims and claims arising out of the rejection of executory
18 contracts, other than Secured Claims, administrative claims, tax claims and equity claims.
19

20 Unsecured Creditor.

21 This term refers to and means the owner or holder of an Unsecured Claim.
22

23 SUMMARY

24 This Third Amended Plan of Reorganization (the "Plan") under chapter 11 of the
25 Bankruptcy Code (the "Code") proposes that Southwestern Steel and Supply Co., Inc. (the
26 "Debtor") shall make a one time payment(in full) to satisfy all allowed claims and administrative
27 expenses from the infusion of a \$300,000.00 super priority loan from Secured Investments
28

1 Corporation, on the effective date of the Plan.

2 This Plan provides for two classes of secured claims; one class of unsecured claims; and
3 one class of equity security holders. This Plan provides for a one time payment(in full) to both
4 secured and unsecured creditors holding allowed claims (on the effective date of the Plan) as
5 referred to in Articles III through VI of this Plan. This Plan also provides for a one time payment
6 (in full) for all administrative expenses.
7

8 A disclosure statement that provides more detailed information regarding the Plan and the
9 rights of the creditors and equity security holders has been circulated with this Plan. **Your rights**
10 **may be affected. You should read these papers carefully and discuss them with your**
11 **attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**
12

13 ARTICLE II

14 CLASSIFICATION OF CLAIMS AND INTERESTS

- 15 **2.01 Class 1.** All allowed claims entitled to priority under § 507 of the Code
16 (except administrative expense claims under § 507(a)(2))
- 17 **2.02 Class 2.** The claim of the Internal Revenue Service, to the extent
18 allowed as a secured claim under § 506 of the code
- 19 **2.03 Class 3.** The claim of Toyota Financial, to the extent allowed, as a secured
20 claim under § 506 of the code
- 21 **2.04 Class 4.** All allowed unsecured claims under §502 of the code.
- 22 **2.05 Class 5.** Equity interest of the Debtor.
23
24
25

26 ARTICLE III

27 TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, U.S. TRUSTEE FEES, AND

28 PRIORITY TAX CLAIMS

1 **3.01 Unclassified Claims.** Under section §1123(a)(1), administrative expense claims
2 and priority tax claims are not classified.

3
4 **3.02 Administrative Expense Claims.** Each holder of an administrative expense claim
5 allowed under § 503 of the Code will be paid in full on the effective date of this Plan (as
6 defined in Article VII).

7 **3.03 Priority Tax Claims.** Each holder of a priority tax claim will be paid in full on the
8 effective date of this Plan in a one time payment (as defined in Article VII).

9 **3.04 United States Trust Fees.** All fees required to be paid by 28 U.S.C. § 1930(a)(6)
10 (U.S. Trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or
11 converted to another chapter of the Code. Any U.S. Trustee Fees owed on or before the
12 effective date of this Plan will be paid on the effective date.

13
14 The following General Terms and Provisions shall apply to this Plan.

15 **3.05 Class of Claims and Payment.**

16 There are various classes of claims and interests defined in this Plan. This Plan is intended
17 to deal with all claims against the Debtors of whatever character, whether or not contingent or
18 liquidated, and whether or not allowed by the Court under Section 502(h) of the Code. Only
19 those claims allowed under Section 502(a) of the Code will receive payment under this Plan.

20 **3.06 Time For Filing Claims.**

21 The Court originally set a hearing for September 22, 2016 at 230 N. First Avenue, 3rd
22 Floor, Courtroom 301, to consider the adequacy of the Disclosure Statement and SET THE
23 ENTRY OF AN ORDER APPROVING THE DISCLOSURE STATEMENT AS THE BAR
24 DATE FOR FILING PROOFS OF CLAIM [Docket No. 44] (except for (a) Creditors with
25 Administrative Claims that arise after the Proof of Claims Bar Date, (b) Chapter 11 Professionals,
26 and (c) Creditors holding Claims resulting from the Debtors' post Proof of Claims Bar Date
27
28

1 rejection of unexpired leases or Executory Contracts).

2
3 Claims for Class I Administrative Claims arising prior to the Proof of Claims Bar Date
4 (except for professionals employed pursuant to § 327 of the Bankruptcy Code) shall be filed on or
5 before the Proof of Claims Bar Date. Claims for Class I Administrative Claims arising after the
6 Proof of Claims Bar Date, and claims for professionals employed pursuant to § 327 of the
7 Bankruptcy Code, shall be filed on the first business day that occurs on or after the thirtieth (30th)
8 day after the Effective Date. Applications for Approval of Administrative Claims shall be filed
9 with the Bankruptcy Court with copies served upon counsel for the Debtors. Any holder of a
10 Class I Administrative Claim that fails to timely file a final Application for Approval of
11 Administrative Claim shall be deemed to have waived its claim and the claim will be disallowed.
12

13 Claims arising from the Debtors' rejection of an Executory Contract or unexpired lease that
14 occurs prior to the Claim Bar Date shall be filed on or before the Claim Bar Date. Claims arising
15 from the Debtors' rejection of an Executory Contract or unexpired lease that occurs after the
16 Claim Bar Date shall be filed on the first business day that occurs on or after the thirtieth (30th)
17 day after the Effective Date. Any person or entity asserting a claim arising from the Debtors'
18 rejection of an Executory Contract or unexpired lease that fails to timely file a proof of claim
19 shall be deemed to have waived its claim and the claim will be disallowed.
20

21 **3.07 Claim Dispute Resolution.**

22 On or before the sixtieth (60th) day after the Effective Date, the Debtors and/or any party
23 in interest may file with the Bankruptcy Court, serving a copy upon counsel for the Debtors, an
24 objection to any Application for Approval of Administrative Claim, proof of claim or proof of
25 interest filed, or deemed filed herein. No claim will be an Allowed Claim until timely filed
26 objections to its allowance are resolved. The Court shall resolve all objections at a separate
27 hearing or hearings. Any claims not timely filed or allowed shall be discharged by the
28

1 Confirmation Order.

2
3 Only Allowed Claims and interests will receive a distribution from Debtors' bankruptcy
4 estate. The Debtors have the right to object to any claim where it appears that there is some
5 dispute with regard to the claim or interest as filed. Unless deemed filed pursuant to
6 Fed.R.Bankr.P. 3003(b), the failure to timely file a proof of claim or interest will result in
7 disallowance of the claim or interest.

8 **3.08 Executory Contracts.**

9 Prior to the Confirmation Date of the Plan, the Debtors will have filed motions to assume
10 or reject all executory contracts. Any executory contract(s) not sought to be assumed prior to the
11 Confirmation Date of the Plan will be deemed to have been rejected.
12

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14 **ARTICLE IV**

15 **TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN**

16 **4.01 Claims and interests shall be treated as follows under this Plan:**

17

18 Class	Impairment	Treatment
19 Class 1-Priority Claims (Yuma County Treasurer)	Impaired	As allowed, paid in full
20 Class 2 – Secured Claim of Internal Revenue Service	Impaired	As allowed, paid in full
21 Class 3 – Secured Claim of Toyota Financial	Impaired	As allowed, paid in full
22 Class 4 – General Unsecured Creditors	Impaired	As allowed, paid in full, with 4% post petition interest
23 Class 5 – Equity Security 24 Holders of the Debtor	Impaired	25 Class 5 is impaired by this 26 Plan. Holders of this class 27 will not receive distribution 28 under Classes 1-4 which have been paid pursuant to

		the Plan.
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In accordance with Bankruptcy Code § 1122, all claims or interests against the Debtors

and/or Estate of the Debtors are classified below:

4.1 Class I - Administrative Claims.

Class I consists of the allowed Administrative Claims for actual and necessary costs and expenses of administration entitled to priority under Sections 503(b) and 507(a)(1) of the Bankruptcy Code. This class includes, without limitation, post-petition tax claims, the Debtors'

attorneys' fees, approved accounting fees, and fees due the United States Trustee, if any.

4.2 Class II – Priority Claims.

Class II consists of all Claims which are entitled to priority treatment pursuant to 11 U.S.C. § 507(a). The Debtors do not believe that there are any Class II Claims.

4.3 Class III – Secured Claims.

Class III consists of various sub-classes of asserted secured creditor claims. Each holder of a Secured Claim in Class III is considered to be in its own separate subclass within Class III,

and each such subclass is deemed to be a separate Class for purposes of the Plan.

4.3.1 Class III(a) – Secured Claim of Marsha Bryan.

Class III(a) consists of the Allowed Secured Claim of Marsha Bryan relating to her secured claim encumbering the Lot (365 Quartzsite Blvd.).

4.3.2 Class III(b) – Secured Claim of AEA Federal Credit Union.

Class III(b) consists of the Allowed Secured Claim of AEA Federal Credit Union

1 (“AEA”) relating to its secured claim encumbering the Debtors’ 2006 Coachman
2 Freelanders

3 Motorhome (“Coachman”).

4 **4.3.3 Class III(c) - Secured Claim of Walter and Lois Goin.**

5 Class III(c) consists of the Allowed Secured Claim of the Goins relating to their
6 secured claim encumbering the Main Street Property.

7 **4.3.4 Class III(d) – Secured Claim of Chop, LLC.**

8 Class III(d) consists of the Allowed Secured Claim of Chop, LLC relating to its
9 secured claim encumbering 480 Quartzsite Property.

10 **4.3.5 Class III(e) – Secured Claim of Ditech Financial LLC fka Green Tree
11 Servicing LLC (successor in interest to CitiMortgage, Inc.)**

12 Class III(e) consists of the Allowed Secured Claim of Ditech Financial LLC fka
13 Green Tree Servicing LLC (“Ditech”) relating to its secured claim encumbering Blythe
14 Property.

15 **4.3.6 Class III(f) – Secured Claim of Specialized Loan Servicing and The
16 Bank of New York Mellon.**

17 Class III(f) consists of the Allowed Secured Claim of Specialized Loan
18 Servicing, LLC (“SLS”) and The Bank of New York Mellon (“BONYM”) relating to its
19 second-priority, secured claim encumbering Blythe Property.

20 **4.3.7 Class III(g) – Secured Claim of Ally Financial.**

21 Class III(g) consists of the Allowed Secured Claim of Ally Financial (“Ally”)
22 relating to its secured claim encumbering the 2011 Chevrolet Traverse (“Traverse”).

23 **4.4 Class IV – General Unsecured Creditors.**

24 Class IV consists of all Allowed Unsecured Claims that are not entitled to classification
25
26
27
28

1 in any other class of claims, including unsecured deficiency claims of any secured creditors
2 of
3

4 5 6 **ARTICLE V**

7 **ALLOWANCE AND DISALLOWANCE OF CLAIMS**

8 5.01 Disputed Claim. A disputed claim is a claim that has not been allowed or disallowed
9 by a final non-appealable order, and as to which either: (i) a proof of claim has been filed or
10 deemed filed, and the Debtor or another party in interest has filed an objection; or (ii) no proof of
11 claim has been filed, and the Debtor has scheduled such claim as disputed, contingent, or
12 unliquidated.
13

14 5.02 Delay of Distribution on a Disputed Claim. No Distribution will be made on account
15 of a disputed claim unless such claim is allowed by a final non-appealable order.
16

17 5.03 Settlement of Disputed Claims. The Debtor will have the power and authority to
18 settle and compromise a disputed claim with Court approval, and compliance with Rule 9019 of
19 the Federal Rules of Bankruptcy Procedure.
20

21 **ARTICLE VI**

22 **PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

23 6.01 Assumed Leases. The Debtor is unaware of any executory contracts and/or
24 unexpired leases between Debtor and any third-parties, and therefore does not assume any
25 leases.
26

27 6.02 Rejected Leases. The Debtor will be conclusively deemed to have rejected all
28 executory contracts and/or unexpired leases not expressly assumed under section 6.01
above or before the date of the order confirming this Plan or upon the effective date of this

1 Plan. A proof of a claim arising from the rejection of an executory contract or unexpired
2 lease under this section must be filed no later than 30 days after the date of the order
3 confirming this Plan.
4

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6 **ARTICLE VII**

7 **MEANS FOR IMPLEMENTATION OF THE PLAN**

8 7.01. Means of Funding. Debtor has obtained super priority financing for a \$300,000.00
9 loan to allow Debtor to make a one time payment to satisfy all allowed claims and administrative
10 expenses as set forth in Articles III and IV under the Plan. Pending court approval of this
11 financing, Debtor will make a one time, payment in full, on the effective date of the Plan, for all
12 allowed claims.
13

14 7.02 Officers or Directors of Reorganized Debtor. John T. Beltran shall serve as President
15 of the reorganized Debtor.

16 7.03 Creditor's Fund. The Loan Proceeds will be deposited in a Trust account bearing
17 the name of Southwestern Steel & Supply and Law Office of Phil Hineman, P.C., as attorney for
18 the debtor-in-possession. On the Effective date of the Plan, all funds existing in the Creditors'
19 Fund will be disbursed and the interests of each class as above defined will be satisfied as set
20 forth in Articles III and IV.
21

22 the Debtors.

23 **ARTICLE V - PLAN IMPLEMENTATION**

24 The Plan will be implemented upon entry of an order by the Bankruptcy Court
25 confirming the Plan. Upon the Effective Date, or at such other time as specifically
26 provided for
27

28 in this Plan, creditors holding Allowed Claims will receive the treatment provided for in

1 the

2 Plan. Creditors must hold Allowed Claims before they will be entitled to the treatment
3 provided

4 in the Plan.

5 The Plan will be funded by the Debtors' cash on hand, post-petition income, the
6 liquidation of certain non-exempt assets, and post-confirmation income. Unless a party in
7 interest objects to the Debtors' estimate of value of any asset prior to confirmation of the
8 Plan,
9

10 the value of the assets set forth in the Plan, as amended, shall be determinative.
11

12 **ARTICLE VII - VOTING PROCEDURE**

13 Creditors will vote to accept or reject this Plan. THIS PLAN CANNOT BE
14 CONFIRMED IF THE PLAN DOES NOT RECEIVE AT LEAST TWO-THIRDS (2/3)

15 IN

16 AMOUNT AND MORE THAN ONE-HALF (1/2) IN NUMBER OF ALLOWED CLAIMS
17 VOTING IN EACH IMPAIRED CLASS, provided, however, if the requisite acceptances

18 are

19 not obtained from one or more impaired classes, the Court may nonetheless confirm the
20 Proponent's Plan pursuant to 11 U.S.C. § 1129(b) if one impaired class accepts the Plan

21 and the

22 Court finds that the Debtors' Plan provides, among other things, fair and equitable
23 treatment of

24 the classes rejecting the Plan and that creditors receive as much or more under the Plan

25 than
26
27
28

1 they would receive in a Chapter 7 liquidation.

2 **ARTICLE VIII**

3 **BINDING EFFECT OF PLAN**

4 The provisions of this Plan shall bind the Debtors and any person or entity holding a claim
5 against the Debtors and their Estate, whether asserted or non-asserted, and any person asserting
6 an interest in the Debtors, whether or not a claim or interest of such person or entity arose before
7 or after the respective filing dates or the Effective Date, whether or not the claim or interest is
8 impaired under the Plan, and whether or not such person or entity has accepted the Plan.
9

10 **ARTICLE IX**

11 **EFFECT OF CONFIRMATION**

12 Except as otherwise provided herein, the rights afforded in the Plan shall be in exchange
13 for, and in complete satisfaction and release of, all claims against the Debtors of any nature
14 whatsoever. All holders of claims against the Debtors shall be precluded from asserting against
15 the Debtors, the Estate, or the assets or properties of the Debtors or the Estate any other or further
16 claim based upon any omission, transaction or other activity of any kind or nature that occurred
17 prior to the Effective Date. This release shall be effective as to each claim, regardless of whether
18 the claim is listed on the Debtors' Statements or Schedules filed in these Chapter 11 proceedings,
19 whether a proof of claim was filed, whether such proof of claim was withdrawn, whether the
20 claim is an Allowed Claim, in whole or in part, or whether the holder of the claim votes to accept
21 or reject this Plan. Upon the Effective Date, all the property of the Debtors will

22 vest in the Debtors, which, subject to the obligations set forth in this Plan, may utilize the
23 property free of any burdens of the Bankruptcy Code and without need to obtain Court
24 approval
25

26 of its actions. This release is not a discharge and the Debtors is entitled to a discharge only
27
28

1 as

2 permitted by 11 U.S.C. § 1141(d)(2) and (5).

3
4 **ARTICLE VIII**

5 **GENERAL PROVISIONS**

6 8.01 Effective Date of Plan. The effective date of this Plan is the first business day
7 following the date that is fourteen days after the entry of the order of confirmation. If, however, a
8 stay of the confirmation order is in effect on that date, the effective date will be the first business
9 day after the date on which the stay of the confirmation order expires or is otherwise terminated.

10 8.02 Severability. If any provision in this Plan is determined to be unenforceable, the
11 determination will in no way limit or affect the enforceability and operative effect of any other
12 provision of this Plan.

13 8.03 Binding Effect. The rights and obligations of any entity named or referred to in
14 this Plan will be binding upon, and will inure to the benefit of the successors or assigns of such
15 entity.
16

17 The provisions of this Plan shall bind the Debtors and any person or entity holding a
18 claim against the Debtors and their Estate, whether asserted or non-asserted, and any
19 person
20

21 asserting an interest in the Debtors, whether or not a claim or interest of such person or
22 entity

23 arose before or after the respective filing dates or the Effective Date, whether or not the
24 claim or

25 interest is impaired under the Plan, and whether or not such person or entity has accepted

26 the

27 Plan.
28

1 8.04 Captions. The headings contained in this Plan are for convenience of reference
2 only and do not affect the meaning or interpretation of this Plan.
3

4 8.05 Controlling Effect. Unless a rule of law or procedure is supplied by federal law
5 (including the Code or the Federal Rules of Bankruptcy Procedure), the laws of the State of
6 Arizona govern this Plan and any agreements, documents, and instruments executed in
7 connection with this Plan, except as otherwise provided in this Plan.

8 **ARTICLE IX**

9 **DISCHARGE**

10 9.01 Discharge. On the confirmation date of this Plan, the debtor will be discharged from
11 any debt that arose before confirmation of this Plan, subject to the occurrence of the effective
12 date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor will not be
13 discharged of any debt: (i) imposed by this Plan; (ii) of a kind specified in § 1141(d)(6)(A) if a
14 timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy
15 Procedure; or (iii) of a kind specified in § 1141(d)(6)(B).
16

17 **ARTICLE X - MODIFICATION OF PLAN**

18 This Plan may be modified in accordance with the provisions of the Bankruptcy Code
19 and Chapter 11 as follows:
20

21 **10.1 Pre-Confirmation.**

22 In accordance with § 1127(a) of the Bankruptcy Code, the modification of the Plan may
23 be proposed in writing by the Proponent at any time before its Confirmation, provided that the
24 Plan, as thus modified, meets the requirements of §§ 1122 and 1123 of the Code, and the
25 Proponents comply with § 1125 of the Code.
26

27 **10.2 Post-Confirmation.**

28 In accordance with § 1127(b) of the Bankruptcy Code, the Plan also may be modified at

1 any time after its Confirmation and before its substantial consummation. In accordance with
2 Code § 1127(e), the Plan may be modified at any time after confirmation of the Plan but before
3 the completion of payments under the Plan, whether or not the Plan has been substantially
4

5
6 **ARTICLE XI.**

7 **RETENTION OF JURISDICTION**

8 The Court will retain jurisdiction of this case after Confirmation, until all payments and
9 distributions called for under the Plan have been made, and until the Consummation of Plan, with
10 respect to the following matters:
11

12 A. To enable any party in interest to consummate any and all proceedings that it may bring
13 prior to confirmation;

14 B. To hear and determine all claims, including claims arising from the rejection of any
15 executory contract or unexpired lease and any objections which may be made;

16 C. To liquidate or estimate damages or determine the manner and time for such liquidation
17 or estimation in connection with any contingent or unliquidated claim;

18 D. To adjudicate all claims to any lien on any property of the Debtor or any proceeds of
19 such property;

20 E. To adjudicate all claims or controversies arising during the pendency of the Chapter 11
21 case;

22 F. To allow or disallow any claim; and

23 G. To make such order as are necessary or appropriate to carry out the provisions of the
24 Plan.
25

26
27
28 **ARTICLE XII - RETENTION AND PROSECUTION OF CLAIMS**

1 12.1 Preservation of Debtors' Claims, Demands, and Causes of Action.

2 In accordance with Bankruptcy Code Section 1123(b)(3), all of the Debtors' claims and
3 causes of action will survive the entry of the Confirmation Order and the Effective Date;

4 they

5 will not be discharged by the Plan; and they will become and remain assets of the

6 reorganized

7 Debtors after the Effective Date.

8 12.2 Procedure for Determination of Claims.

9 12.2.1 Objections to Claims.

10 Except as to any Claim that has been Allowed prior to the Effective Date, no

11 later than on the sixtieth (60th) day after the Effective Date, the Debtors or any party in

12 interest

13 may object to the allowance of any Claim against the Debtors or seek estimation thereof on

14 any

15 Claim (including any Claim amounts stated in the Plan).

16 12.2.2 Disputed Claims.

17 No payments or other distributions will be made to holders of Disputed Claims

18 unless and until such Claims are Allowed Claims pursuant to a Final Order. If a Disputed

19 Claim is not an Allowed Claim by or on the Effective Date or when payment is otherwise

20 due

21 under the Plan, payment of the Disputed Claim will be made when it becomes an Allowed

22 Claim after the Effective Date or as otherwise specifically provided in the Plan.

23 **12.2.3 Treatment of Contingent Claims.**

24 Until such time as a contingent Claim or a contingent portion of an Allowed

1 Claim becomes fixed or absolute or is Disallowed, such Claim will be treated as a
2 Disputed
3 Claim for all purposes related to distributions under the Plan. The holder of a contingent
4 Claim
5 will only be entitled to a distribution under the Plan when and if such contingent Claim
6 becomes
7 an Allowed Claim.
8

9 **12.3 Administrative Claims Bar Date.**

10 Administrative expense proofs of claim requesting payment of administrative costs and
11 expenses incurred prior to the Effective Date pursuant to §§ 507(a)(1) and 503(b) of the
12 Bankruptcy Code (except for professionals employed pursuant to § 327 of the Bankruptcy
13 Code) must be served and filed with the Bankruptcy Court no later than thirty (30) days
14 after
15 the Effective Date; provided, however, that proofs of claim will not be required with
16 respect to
17 any unpaid post-petition operating expenses incurred in the normal course of the Debtors'
18 business prior to the Effective Date. Any such Claim that is not served and filed within this
19 time period will be forever barred. Any Claims for fees, costs, and expenses incurred by
20 any
21 Chapter 11 Professionals after the Confirmation Date will be paid in the ordinary course of
22 the
23 Debtors' and reorganized Debtors' business.
24
25
26

27 **ARTICLE XIV - GENERAL PROVISIONS**

28 **14.1 Extension of Payment Dates.**

1 If any payment date falls due on any day that is not a Business Day, then such due date
2 will be extended to the next Business Day.

3
4 **14.2 Notices.**

5 Any notice required or permitted to be provided under the Plan will be in writing and
6 served by regular postage prepaid first-class mail, hand-delivery, facsimile, or e-mail.

7 **14.3 Default.**

8 If the Debtors are unable to perform the terms and conditions of the Plan, then they will be
9 in default. Any creditor may seek to enforce the Plan and bring a motion to convert or
10 dismiss the
11

12 case under Section 1112(b), after the Plan is confirmed, if there is a default in performing
13 under the

14 Plan, or for other administrative deficiencies. Before doing so, the creditor must provide
15 notice to

16 the Debtors specifying the nature of the alleged default and a thirty (30) day period to cure
17 the

18 default. Any notice must be in writing and sent via certified mail to the Debtors at the
19 address on
20

21 file with the Clerk of this Court and with a copy sent via certified mail to:

22 Phil Hineman

23 LAW OFFICE OF PHIL HINEMAN, P.C.

24 220 S. Second Avenue

25 Yuma, Arizona 85364

26
27 In the event the Court orders the case converted to Chapter 7 after the Plan is confirmed,
28 then all

1 property that had been property of the Chapter 11 estate, and that has not been disbursed
2 pursuant
3 to the Plan, including specifically all causes of action or claims for preference, recovery of
4 transferred assets, or damages will revert in the Chapter 7 estate, and the automatic stay
5 will be
6 reimposed upon the re-vested property only to the extent that relief from stay was not
7 previously
8 granted by the Court during the case.

9 **14.4 Closing of the Case.**

10 At such time as the Plan has been fully administered (*i.e.*, when the Plan has been
11 substantially consummated), the reorganized Debtors will file an application for Final
12 Order
13 showing that the Plan has been fully administered.

14 **14.5 Exculpation and Limitation of Liability.**

15 Neither the Debtors, nor any of their respective present or former officers, directors,
16 employees, advisors, attorneys, or agents will have or incur any liability to any holder of a
17 Claim or Equity Interest, or any other party-in-interest, or any of their respective agents,
18 employees, representatives, financial advisors, attorneys, or affiliates, or any of their
19 successors
20

21 or assigns, for any act or omission in connection with, relating to, or arising out of the
22 Chapter
23

24 11 Case, the extension of credit to the Debtors during the Chapter 11 Case pursuant to
25 debtorin-
26 possession financing or the use of cash collateral, efforts to obtain confirmation of the
27
28

1 Plan,

2 the consummation of the Plan, or the administration of the Plan or the property to be
3 distributed

4 under the Plan, whether now known or hereafter discovered, except for their gross
5 negligence;

6 willful, wanton, or intentional misconduct; or breaches of their fiduciary duties.

7
8 **14.6 General Injunction.**

9 Except as otherwise expressly provided in this Plan, the Confirmation Order shall
10 provide, among other things, that all parties-in-interest who have held, hold, or may hold

11 Claims

12 are permanently enjoined on and after the Effective Date from: (a) commencing or
13 continuing in

14 any manner any action or other proceeding of any kind with respect to any such Claim
15 against

16 the Debtors or any successor-in-interest of the Debtors, against property of the Debtors, or
17 against property of any successor-in-interest of the Debtors; (b) the enforcement,
18 attachment,

19 collection, or recovery by any manner or means of any judgment, award, decree, or order
20 against the Debtors or any successor-in-interest of the Debtors, property of the Debtors, or
21 against property of any successor-in-interest of the Debtors with respect to any such Claim;

22 (c)

23 creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or any
24 successor-in-interest of the Debtors, against property of the Debtors, or against property of
25 any
26
27
28

1 successor-in-interest of the Debtors with respect to any such Claim; (d) from asserting any
2 setoff, right of subrogation, or recoupment of any kind against any obligation due the
3 Debtors or
4 any successor-in-interest of the Debtors, against property of the Debtors, or against
5 property of
6 any successor-in-interest of the Debtors, with respect to any such Claim; (e) conducting
7 any
8 form of discovery from the Debtors with respect to any such Claim, or any
9 successor-in-interest
10 of the Debtors; and/or (f) harassing the Debtors or any successor-in-interest of the Debtors.

13 **14.7 Interest.**

14 Whenever interest is to be computed under the Plan, interest will be simple interest and
15 not compounded. Unless otherwise specifically provided for in the Plan or the

16 **Confirmation**

17 Order, post-petition interest shall not accrue or be paid on Claims, and no holder of a
18 Claim will
19 be entitled to interest accruing on or after the applicable Petition Date on any Claim.

21 **14.8 Additional Assurances.**

22 The Debtors and any party-in-interest holding Claims herein will execute such other
23 further documents as are necessary to implement any of the provisions of the Plan.

24 **14.9 Confirmation by Non-Acceptance Method.**

25 The Debtors hereby request, if necessary, confirmation of the Plan pursuant to § 1129(b)
26 of the Bankruptcy Code with respect to any impaired Class of Claims that does not vote to
27 accept the Plan.
28

1 **14.10 Vesting.**

2 As of the Effective Date of the Plan, the reorganized Debtors shall retain and be vested
3 with all of the assets of the Estate. All assets retained shall be free and clear of all liens,
4 claims,
5 and interest of creditors and parties-in-interest, except as specifically provided in this Plan.

6 **14.11 Successors and Assigns.**

7 The rights and obligations of any Creditor or other party-in-interest referred to in the
8 Plan will be binding upon, and will inure to the benefit of, the successors, assigns, heirs,
9 devises, executors, and personal representatives of such Creditor or party-in-interest.
10

11 **14.12 Withdrawal of Plan.**

12 The Plan may be withdrawn or revoked by the Debtors at any time before entry of the
13 Confirmation Order.
14

15 **14.13 Severability and Reformation.**

16 It is the intention of Debtors to comply fully with the Bankruptcy Code and applicable
17 non-bankruptcy law in proposing the Plan. Therefore, if any provision of the Plan is
18 determined
19 by the Bankruptcy Court to be contrary to the Bankruptcy Code or applicable
20 non-bankruptcy
21 law, that provision will be deemed severed and automatically deleted from the Plan, if it
22 cannot
23 be reformed or the provision or its interpretation will be deemed reformed to ensure
24 compliance; provided, however, that nothing contained in this paragraph will prevent the
25 Debtors from modifying the Plan in any manner whatsoever in accordance with and as set
26 forth
27

1 in the Plan. Pursuant to any ruling by the Bankruptcy Court regarding the subject matter of
2 this

3 paragraph, any such severance or reformation will be stated specifically in the
4 Confirmation

5 Order, which then will control notwithstanding any contrary or inconsistent provisions of
6 the
7 Plan.

8
9 **14.14 Prohibition Against Prepayment Penalties.**

10 If the reorganized Debtors so choose, in their sole and absolute discretion, to prepay any
11 obligation on which deferred payments are provided for under the Plan, the reorganized
12 Debtors

13 will not be liable or subject to the assessment of any prepayment penalty thereon unless
14 otherwise ordered by the Bankruptcy Court.

15
16 **14.15 Payment of Statutory Fees and Filing of Quarterly Reports.**

17 All fees payable pursuant to 28 U.S.C. § 1980, as determined by the Bankruptcy Court
18 at or in conjunction with the Confirmation Hearing, will be paid on or before the Effective
19 Date

20 and, thereafter, in accordance with applicable bankruptcy law. All quarterly reports of
21 disbursements required to be filed by applicable bankruptcy law will be filed in accordance
22 with
23 applicable bankruptcy law.
24

25
26 **14.16 Governing Law.**

27 Except to the extent that the Bankruptcy Code is applicable, the rights and obligations
28 arising under this Plan shall be governed by, construed, and enforced in accordance with,

1 and

2 subject to, the laws of the State of Arizona, excluding any laws that result in the
3 application of
4 the laws of another jurisdiction.
5

6 **14.17 Special Tax Issues.**

7 The issuance, transfer, or exchange of a security as defined under the Bankruptcy Code
8 or applicable law, or the making or delivery of any instrument of transfer under this Plan,
9 shall

10 not be taxed under any state or local law imposing a stamp tax or similar tax as provided in

11 §

12 1146 of the Bankruptcy Code.

13 **14.18 Conflicts Between Plan and Confirmation Order.**

14 In the event the terms of this Plan and the Confirmation Order conflict, the terms of the
15 Confirmation Order shall govern.
16
17

18
19 Respectfully submitted this 14TH day of December, 2017

20
21 LAW OFFICE OF PHIL HINEMAN, P.C.

22 /s/ Phil Hineman
23 PHIL HINEMAN
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