

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF COLORADO**

In re )  
GRIZZLY CATTLE, LLC, ) Case No. 16-12675-JGR  
EIN: 26-4541586 ) Chapter 11  
Debtor. )

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**DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF REORGANIZATION  
DATED OCTOBER 6, 2017 FILED BY KLOIBER HOLDINGS, LLC AND  
KLOIBER REAL ESTATE HOLDINGS, LLC**

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Dated October 6, 2017.

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## ARTICLE I INTRODUCTION AND BACKGROUND

Proponents and creditors Kloiber Holdings, LLC and Kloiber Real Estate Holdings, LLC hereby submit this Disclosure Statement in accordance with 11 U.S.C. § 1125, for review and consideration in support of the Plan of Reorganization Dated October 6, 2017 proposed by these Proponents and filed with the Bankruptcy Court in the above-captioned proceeding on October 6, 2017. Capitalized terms used in this Disclosure Statement but not otherwise defined herein shall have the meanings ascribed in the Plan.

The following is a general overview only, and is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this Disclosure Statement and the Plan. This Disclosure Statement contains, among other things, descriptions and summaries of the Plan. Certain provisions of the Plan, and thus the descriptions and summaries in this Disclosure Statement, may be the subject of further negotiations and are subject to change. Proponents have reserved the right to amend or modify the Plan consistent with § 1127 of the Bankruptcy Code and Bankruptcy Rule 3019.

The statements below are those of Proponents and based upon their personal knowledge and/or the pleadings filed in the Chapter 11 Case. Proponents assert all statements and the facts presented herein are true and correct.

### 1.1 Background and Relevant History of Grizzly Land

With respect to the Proponents, Kloiber Real Estate Holdings, LLC (“**Kloiber Real Estate**”), is a wholly-owned subsidiary of Kloiber Holdings, LLC. David Kloiber is the manager of both Proponents. Kloiber will be the manager of the Reorganized Debtor after Confirmation of the Plan.

In the Fall of 2008, Kloiber and Dr. Kirk Shiner (“**Shiner**”) agreed to form a cow-calf operation near Walden, Colorado, to be divided into two distinct entities: an entity to own the real property and another entity to operate the ranching business. In March of 2009, Kloiber Real Estate and Sopris, LLC (“**Sopris**”) – an entity owned and controlled by Shiner – formed Grizzly Land to own the real property and Grizzly Cattle to operate the ranch. Kloiber Real Estate and Sopris were the original and only two members of Grizzly Land and Grizzly Cattle.

Kloiber and Shiner each contributed approximately \$1,000,000 for the acquisition of cattle contingent on purchasing the Mountain Meadow Ranch, which was ultimately purchased by Grizzly Land and renamed the Grizzly Ranch. The cattle operation was to be funded by a joint infusion of cash by Sopris, Shiner, Kloiber Real Estate and Kloiber, and through a revolving line of credit established with Rabo. A term loan from Rabo, along with an accompanying down payment, was used to purchase the real estate. Grizzly Cattle operated the ranch since its inception.

In the fall of 2011, Grizzly Cattle sold a significant portion of its cattle herd and paid off the revolving line of credit with Rabo. Around this time, Grizzly Cattle sold some of its other assets as well, including hay and some equipment. In January 2014, the remaining cattle were sold and Grizzly Cattle’s “operations” were mostly wound down.

In 2014, Grizzly Land entered into an agreement with a third-party that allowed the third party's cattle to graze Grizzly Land's pastures during non-winter months. As part of this arrangement, Grizzly Land also provided care for these animals in exchange for monthly pasture and care fees. Grizzly Land entered into similar arrangements with this same third-party during 2015, 2016 and 2017. As a result of these activities, Grizzly Land maintains a small staff of employees to take care of the cattle, perform haying activities and oversee the general ranch operations.

Grizzly Land's property also includes mineral and water rights, which may have significant value. In 2013, Grizzly Land entered into various agreements (including a surface use agreement) with EE3, LLC, whose assets (including the Grizzly Land related assets) were later purchased by SandRidge E&P ("**SandRidge**"). As a result of these agreements, SandRidge has drilled multiple oil wells on the Grizzly Ranch, which has resulted in oil & gas royalties to the Debtor. Further, SandRidge has also purchased significant sums of water from Grizzly Land for its drilling and fracking activities in the general area (including on Grizzly Land's property). This has provided an additional revenue source for Grizzly Land over the last several years. SandRidge exited its own bankruptcy case in the fall of 2016. *See* Bankr. S.D. Tex., Case No. 16-32488. SandRidge continued its drilling activities in the area during 2016; however, it ceased those drilling activities at the end of the year. SandRidge has continued with limited drilling in the area during the second and third quarters of 2017 based upon its capital resources, the price of oil, availability of equipment and crews and other factors. However, SandRidge has recently rejected its exclusive water purchase agreement with Grizzly Land.

## 1.2 Events Leading Up to Chapter 11 Case

Prepetition disputes arose between Grizzly Land, Grizzly Cattle, Sopris, Shiner, Kloiber Real Estate and Kloiber, and these parties engaged in an arbitration proceeding before William G. Meyer, Arbitrator of the Judicial Arbitrator Group, Inc., styled *Kloiber Holdings, LLC and Kloiber Real Estate Holdings, LLC, individually and as a Member of Grizzly Cattle, LLC v. Kirk A. Shiner and Sopris, LLC and Grizzly Land, LLC, v. Daniel Kloiber (Third-Party Respondent)*, JAG Case No. 2013-1415A (the "**Arbitration**"). The Arbitration was stayed as a result of Grizzly Land filing its Chapter 11 Case.

On February 12, 2016, Arbitrator Meyer issued an Interim Arbitration Award ("**Interim Award**"). The Arbitration resulted in the following: a finding for Kloiber Real Estate against Grizzly Land in the amount of \$10,101,857 as of October 1, 2015 with interest accruing at an annual rate of 8% since that date; a finding for Kloiber Real Estate against Shiner and Sopris, jointly and severally, and awarding disgorgement damages of \$2,047,158 including 8% annual interest from February 12, 2016 until paid in full; a finding for Kloiber Real Estate against Shiner and Sopris, jointly and severally, and awarding disgorgement damages of \$259,660.93 relating to the hay profits, with 8% annual interest from February 12, 2016 until paid in full; a finding for Kloiber Real Estate against Shiner and Sopris, jointly and severally, and awarding disgorgement damages of \$226,500 relating to some missing Herefords, with 8% annual interest from February 12, 2016 until paid in full; an award for the Proponents and against Shiner, Sopris and Grizzly Cattle on their counterclaims and third-party complaints; and an award of reasonable costs and attorney fees in favor of Kloiber Real Estate in accordance with Grizzly Land's operating agreement.

Following commencement of the Arbitration, three other litigation proceedings ensued. First, Kloiber Real Estate, Kloiber, Shiner, and Sopris are parties to civil litigation pending before the United States District Court for the District of Colorado, Case No. 1:17-cv-00198. Second, Shiner and Sopris commenced a separate action in Denver County District Court as plaintiffs, naming Kloiber Real Estate and Kloiber as defendants, Case No. 2017 CV 31347. Third, the Proponents and Kloiber initiated a separate action in Larimer County District Court as plaintiffs, naming Shiner, Sopris and others as defendants, Case No. 2013 CV 3084. (collectively, these actions are hereinafter referred to as the “**Court Actions**”).

The Interim Award coupled with the Court Actions were the primary catalysts for Grizzly Land and Grizzly Cattle to seek relief under the Bankruptcy Code.

## **ARTICLE II PROCEEDINGS DURING THE CHAPTER 11 CASE**

### **2.1 Filing of the Voluntary Petition and Other Significant Post-Petition Events.**

Grizzly Cattle filed its voluntary Chapter 11 bankruptcy petition on March 24, 2016. On April 7, 2016, Grizzly Cattle filed other required pleadings including but not limited to its schedules and statement of financial affairs at Docket Nos. 13 through 19. The petition, schedules and statement of financial affairs were not amended. On April 28, 2016, the Bankruptcy Court entered its order approving the employment of counsel for Grizzly Cattle and a prepetition retainer in the amount of \$18,723.00 to Grizzly Cattle’s counsel at Docket No. 58.

As of the Petition Date, Grizzly Cattle’s personal property consisted of \$110 Cash, accounts receivable, five horses, farm and ranch equipment, two trucks and two trailers. *See* Schedule B, at Docket No. 14. Grizzly Cattle did not own any real property.

During the pendency of this Chapter 11 Case, all required monthly operating reports have been filed. Prior to the appointment of the Grizzly Cattle Trustee, Grizzly Cattle filed its required monthly operating reports. *See* Docket Nos. 72 and 97. Following his appointment, the Grizzly Cattle Trustee filed and has continued to file all required monthly operating reports. *See* Docket Nos. 105, 111, 114, 119, 123, 124, 127, 128, 132, 136, 137, 151, 155 and 156. On April 15, 2016, the Bankruptcy Court entered its Bar Date Order at Docket No. 37, establishing June 6, 2016, as the final date for the filing of prepetition proofs of claim and any requests for administrative expenses arising after the Petition Date.

On April 25, 2017, Kloiber Real Estate Holdings, LLC filed a Motion to Appoint a Chapter 11 Trustee, at Docket No. 42. On April 28, 2016, the United States Trustee filed a Motion to Convert Chapter 11 Case or in the Alternative to Appoint a Chapter 11 Trustee, at Docket No. 55. On May 25, 2016, over Grizzly Cattle’s objection, the Court entered an order *inter alia* granting the requests to appoint a chapter 11 trustee and instructing the Office of the United States Trustee to appoint a chapter 11 trustee for Grizzly Cattle. On June 1, 2016, the United States Trustee filed its application, and the Bankruptcy Court entered an order appointing Jared C. Walters as the Grizzly Cattle Trustee on June 2, 2016. Since his appointment, the Grizzly Cattle Trustee has been filing monthly operating reports, and managing the Estate’s Assets.

On March 7, 2017, the Grizzly Cattle Trustee and the Grizzly Land Trustee reached a rental agreement for the Grizzly Land estate's use of Grizzly Cattle equipment. The rental agreement resulted in monthly payments from Grizzly Land to Grizzly Cattle in the aggregate amount of \$35,000. The Bankruptcy Court entered an order approving the equipment rental agreement on March 30, 2017, at Docket No. 134.

Recently, a global settlement was reached, marking the major turning point in both the Grizzly Land and Grizzly Cattle chapter 11 cases. The Proponents' Plan incorporates the terms of that fully executed Settlement Agreement entered into by and between the Proponents, Kloiber, Shiner, Southern Cross Ranches, LLC, Red Grill, LLC, Sopris, Grizzly Land (by and through the Grizzly Land Trustee), and Grizzly Cattle (by and through the Grizzly Cattle Trustee), approved by the Bankruptcy Court on June 14, 2017 at Docket No. 144, a copy of which was previously filed with the Bankruptcy Court in this Chapter 11 Case on May 23, 2017 at Docket No. 139-1. In summary, the material terms of the Settlement Agreement are as follows:

- a. The Grizzly Cattle Unsecured Claim will be consensually released against Grizzly Land under the Plan.
- b. Sopris and Shiner will assign to an entity to be designated by Proponents in their discretion: (i) all membership interests in Grizzly Land and Grizzly Cattle; (ii) the agricultural lease No. 46202 held by Shiner and Kristine Shiner; (iii) certain enumerated personal property; and (iv) certain non-identified interests that have been owned, used, or operated by Grizzly Land or Grizzly Cattle.
- c. Sopris and Shiner will fully and finally resolve, at their sole expense, all of the miscellaneous Claims as particularly identified in the Settlement Agreement. These miscellaneous Claims include the Grizzly Cattle Unsecured Claim.
- d. The Proponents' Claim against Grizzly Cattle will be allowed as follows: Claim No. 4-1 will be allowed in the amount of \$3,500,000. (This Claim is treated under Class 4 of the Plan).
- e. The parties will jointly move to vacate the Interim Award and dismiss the Arbitration with prejudice, along with dismissing the Court Actions with prejudice.
- f. Kloiber Real Estate Holdings, LLC and Dan Kloiber will indemnify and defend Sopris, Shiner and Kristine Shiner against any claim Rabo may assert pursuant to any guaranty.
- g. All parties will be releasing all claims they may hold against each other in connection with this Chapter 11 Case, the Grizzly Land chapter 11 case, the Arbitration and the other pending Court Actions.

The Settlement Agreement fully resolves the Arbitration, the Court Actions, and most claims asserted against the Grizzly Land Estate and the Grizzly Cattle Estate, and has assisted with providing a clear path for Grizzly Land and Grizzly Cattle to reorganize rather than liquidate.

## **ARTICLE III DISCLOSURE, CONFIRMATION AND VOTING ISSUES**

### **3.1 Purpose of this Disclosure Statement**

Bankruptcy Rule 3016(b) requires the filing of a Disclosure Statement. This Disclosure Statement is intended to provide such information as may be material, important and necessary for a reasonable investor typical of the Holders of Impaired Claims to make an informed decision whether to vote in favor of or against the Plan. Thus, this Disclosure Statement sets forth the minimum required information concerning Grizzly Cattle's prepetition operations and financial history, its reasons for seeking Chapter 11 relief, significant events that have occurred during the Chapter 11 Case, the Estate's Assets and relevant financial information. This Disclosure Statement also summarizes the terms and provisions of the Plan, including certain alternatives to the Plan, certain effects of confirmation of the Plan, and the manner in which distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and procedures.

This is a consensual Plan and no votes of Holders of Claims will be solicited with respect to this Plan. Classes 1, 2, 3 and 5 are Unimpaired by the Plan. Under § 1126(f) of the Bankruptcy Code, each Holder of a Claim under the Plan is presumed to have accepted the Plan, and the votes of such Holders will not be solicited.

The only Impaired Class under the Plan is Proponents' Class 4 Allowed Insider Unsecured Claim. Although the Class 4 Claim will be paid in full, such payments will be made over time accruing interest from the Effective Date, and such rate shall be fixed at the annual long-term Applicable Federal Rate (AFR) in place on the Effective Date. With no other Impaired Classes, the Plan may proceed to Confirmation without any solicitation or voting.

**THIS DISCLOSURE STATEMENT CONTAINS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN AND OTHER INFORMATION. WHILE REASONABLE EFFORTS HAVE BEEN MADE TO BE ACCURATE, THERE CAN BE NO REPRESENTATION OR ASSURANCE THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND WITHOUT ERROR. THE DISCLOSURE STATEMENT IS NOT THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE DISCLOSURE STATEMENT AND THE PLAN, THE PLAN WILL CONTROL. EACH HOLDER OF A CLAIM IS URGED TO REVIEW THE PLAN AND THE EXHIBITS TO THIS DISCLOSURE STATEMENT IN THEIR ENTIRETY.**

**FOR A DESCRIPTION OF THE PLAN AND CERTAIN RISKS AND OTHER FACTORS PERTAINING TO THE PLAN AS IT RELATES TO HOLDERS OF CLAIMS AND INTERESTS, SEE "SUMMARY OF THE PLAN," AND "RISK FACTORS," BELOW.**

**THE BANKRUPTCY COURT HAS NOT PASSED ON THE MERITS OF THE PLAN AND HAS NOT CONDUCTED A DETAILED INVESTIGATION INTO THE CONTENTS OF THIS DISCLOSURE STATEMENT.**

**THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTEE OF THE**

**ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH § 1125 OF THE BANKRUPTCY CODE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NON-BANKRUPTCY LAWS. PERSONS OR ENTITIES HOLDING OR TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS AGAINST DEBTOR SHOULD EVALUATE THIS DISCLOSURE STATEMENT IN LIGHT OF THE PURPOSE FOR WHICH IT WAS PREPARED.**

**NO REPRESENTATIONS CONCERNING DEBTOR, ITS BUSINESS OPERATIONS, THE VALUE OF ITS PROPERTY, OR THE VALUE OF BENEFITS OFFERED TO CREDITORS OR OTHER PARTIES IN INTEREST IN CONNECTION WITH THE PLAN ARE AUTHORIZED, OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. YOU SHOULD NOT RELY ON ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR REJECTION OF THE PLAN WHICH ARE CONTRARY TO THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

**NEITHER THE PLAN NOR THE DISCLOSURE STATEMENT HAVE BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON THE FAIRNESS OR MERITS OF THE INFORMATION CONTAINED HEREIN. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.**

**YOU ARE NOT TO CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS LEGAL, TAX OR ACCOUNTING ADVICE BUT SHOULD CONSULT YOUR COUNSEL, ACCOUNTANT AND BUSINESS ADVISORS AS TO LEGAL, TAX AND ACCOUNTING MATTERS CONCERNING THE PLAN.**

### **3.2 Recommendation of Proponents as the Plan Proponents.**

The Proponents are the only Holders of Claims that are Impaired, and no vote may be solicited from Proponents because the Holders of the Allowed Insider Unsecured Claims are Insiders. The Plan provides a 100% return to all creditors on their Allowed Claims. The Plan, as opposed to alternate plans, dismissal of the case or conversion to a chapter 7 liquidation, will permit a quick and orderly distribution of proceeds to creditors holding Allowed Claims. The treatment of creditors under the Plan contemplates a greater recovery than that which is likely to be achieved under other alternatives for reorganization or liquidation of Grizzly Cattle because the Plan will result in payment in full of all Allowed Claims against the Grizzly Cattle Estate. There is no greater outcome for Allowed Claims than to be paid in full.

### **3.3 Voting Requirements**

Generally, Claim and Interest Holders in each Impaired Class of Claims or Interests are entitled to vote as a Class to accept or reject the Plan. However, the only Impaired Class under this Plan is Class 4.

(a) Voting Class.

**There are no Impaired Classes entitled to vote to accept or reject the Plan, and as a result, there are no voting Classes under the Plan.** The only Impaired Class under this Plan is Class 4. The Proponents, as the Holders of the Class 4 Allowed Insider Unsecured Claim, are Insiders and not entitled to vote under § 1129(a)(10) of the Bankruptcy Code. Therefore, there are no Impaired Claims or Interests entitled to vote under this Plan, and no solicitation of votes is required.

(b) Presumed Acceptance of Plan.

All Classes under the Plan are presumed to have accepted the Plan. Holders of Claims in Classes 1, 2, 3 and 5 are Unimpaired under the Plan and, therefore, are conclusively presumed to accept the Plan pursuant to § 1126(f) of the Bankruptcy Code.

3.4 **No Voting Required**

This is a consensual Plan providing for 100% payment in full on account of all Allowed Claims. No ballots, solicitation or voting are required under the Plan.

3.5 **Confirmation Hearing - Rules Governing Objections to Confirmation**

Pursuant to Section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the **Confirmation Hearing is scheduled to commence on \_\_\_\_\_, \_\_\_\_ 2017 at \_\_\_\_\_ .m.** (prevailing Mountain Time), before the Honorable Joseph G. Rosania, in Courtroom D of the United States Bankruptcy Court for the District of Colorado, at the U.S. Customs House, 721 19<sup>th</sup> Street, Denver, Colorado 80202. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court without further notice other than by announcement of the continued date at the Confirmation Hearing or at any subsequent continued Confirmation Hearing.

Objections to confirmation of the Plan are governed by Rule 9014 of the Bankruptcy Rules. Such objections, if any, must be in writing, must provide a statement of proper standing to assert an objection, must provide the name, current address and telephone number of the objecting party and counsel, must set forth with specificity all factual and legal bases for the objection, must specify the amount of such party's Claims or Interests, and must be filed and served so as to be actually received by the Bankruptcy Court and each of the following not later than \_\_\_\_\_, \_\_\_\_ 2017:

To Counsel for the Proponents:

James T. Markus and Matthew T. Faga  
Markus Williams Young & Zimmermann LLC  
1700 Lincoln Street, Suite 4550  
Denver, Colorado 80203



and

Edwin P. Aro  
Arnold & Porter Kaye Scholer, LLP  
370 17<sup>th</sup> Street, Suite 4400  
Denver, CO 80202

To the Office of the United States Trustee:

Office of the United States Trustee  
999 18th Street, Suite 1551  
Denver, Colorado 80202

Pursuant to Bankruptcy Rule 3020(b)(2), the Bankruptcy Court may confirm the Plan without receiving evidence if no objection to confirmation is timely filed.

#### **ARTICLE IV DESCRIPTION OF THE PLAN**

This summary of the Plan is qualified in its entirety by reference to the more detailed information set forth in the Plan. This section generally describes the classification and treatment of Claims and Interests under the Plan. You should, of course, refer to the Plan itself for the operative language with respect to the classification and treatment of your specific Claims and Interests.

##### **4.1 Summary of the Plan**

Holders of Allowed Claims will receive a distribution of 100% in the amount of their Allowed Claims under the Plan. The Plan incorporates the terms of the Settlement Agreement, which resulted in the release and/or withdrawal of certain enumerated Unsecured Claims against Grizzly Cattle. The Plan is consensual, and the most substantial Unsecured Claim against Grizzly Cattle held by Rabo will be repaid in full through the Rabo Exit Facility. The Plan will allow Grizzly Land to emerge from chapter 11 as a successfully reorganized company with ongoing operations.

David Kloiber shall be the successor management and representative of the Reorganized Debtor pursuant to § 1123 of the Bankruptcy Code and shall have all of the rights, powers and standing of a debtor in possession under § 1107 of the Bankruptcy Code, and such other rights, powers and duties incident to causing performance of the Reorganized Debtor's obligations under the Plan as may be necessary. The powers of the Reorganized Debtor are extensive and are detailed in the Plan.

The Bankruptcy Court shall retain broad exclusive jurisdiction after the Effective Date, including jurisdiction to enter such orders as may be necessary or appropriate to implement the provisions of the Plan and resolve disputes arising in connection with the Plan and assets of the Reorganized Debtor.

#### 4.2 Summary of Treatment of Claims and Interests

The following is a summary of the treatment of Claims and Interests under the Plan. A Claim or Interest is placed in a particular Class for purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled. In accordance with the Bankruptcy Code, Allowed Administrative Claims and Allowed Priority Tax Claims have not been classified.

#### 4.3 Treatment of Claims Under the Plan

(a) Unclassified Claims.

i) Administrative Claims.

Subject to the requirements of the Plan, on, or as soon as reasonably practicable after, the latest of: (i) the Effective Date, (ii) the date such Administrative Claim becomes an Allowed Administrative Claim, or (iii) the date such Administrative Claim becomes payable pursuant to any agreement between the Reorganized Debtor and the Holder of such Administrative Claim, each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim: (y) Cash equal to the unpaid portion of such Allowed Administrative Claim; or (z) such other treatment as to which the Reorganized Debtor and such Holder shall have agreed upon in writing.

The anticipated Administrative Claims against the Grizzly Cattle Estate include, but are not limited to, the Grizzly Cattle Trustee, bankruptcy counsel for the Grizzly Cattle Trustee, and tax accountants for the Grizzly Cattle Trustee. The Plan Proponents intend to pay such Administrative Claims based upon the standard hourly rates for services provided in accordance with the adjusted lodestar basis as adopted in the Tenth Circuit.

ii) Fees Due the United States Trustee

As of the date of filing this Disclosure Statement, Grizzly Cattle is current on all United States Trustee fees. To the extent that any fees are due to the United States Trustee pursuant to 28 U.S.C. § 1930 on the Effective Date, such fees shall be paid to the United States Trustee in full in Cash on the Effective Date of the Plan. Any fees which become due to the United States Trustee following the Effective Date shall be paid when such fees are due and payable until the Chapter 11 Case is closed, converted, or dismissed. In addition, the Reorganized Debtor shall comply with its obligations to file post-confirmation reports with the United States Trustee following the Effective Date of this Plan.

iii) Priority Tax Claims.

No Priority Tax Claims have been asserted against Grizzly Cattle. To the extent any exist, on, or as soon as reasonably practicable after, the latest of (i) the Effective Date, (ii) the date such claim becomes an Allowed Priority Tax Claim, or (iii) the date such Allowed Priority Tax Claim becomes payable pursuant to any agreement between the Reorganized Debtor and the Holder of such Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax claim shall receive on account of such Allowed Priority Tax Claim, in full satisfaction, settlement, release

and discharge of and in exchange for such Allowed Tax Claim: (x) Cash equal to the unpaid portion of such Allowed Tax Claim; or (y) such other treatment agreed to by the Allowed Priority Tax Claim Holder and the Reorganized Debtor.

#### 4.4 **Unimpaired Classes of Claims and Interests**

##### (a) **Class 1: Allowed Priority Non-Tax Claims.**

On, or as soon as reasonably practicable after, the latest of (i) the Effective Date, (ii) the date such claim becomes an Allowed Priority Non-Tax Claim, or (iii) the date such Priority Non-Tax Claim becomes payable pursuant to any agreement between the Reorganized Debtor and the Holder of such Priority Non-Tax Claim, each Holder of an Allowed Priority Non-Tax Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Non-Tax Claim: (x) Cash equal to the unpaid portion of such Allowed Priority Non-Tax Claim; or (y) such other treatment as to which the Reorganized Debtor and such Holder shall have agreed upon in writing. The Proponents are unaware of any Priority Non-Tax Claim against Grizzly Land.

##### (b) **Class 2 - Allowed Unsecured Claim of Rabo.**

Rabo is the Holder of an Allowed Unsecured Claim against Grizzly Cattle in connection with the Rabo Credit Facility in the amount of \$10,330,580.70 as of the Petition Date. *See* Proof of Claim No. 2-1. This Claim is Unsecured as to Grizzly Cattle, but secured as to Grizzly Land. Rabo shall (i) retain its Lien against certain Grizzly Land real property; and (ii) shall accrue interest at the applicable rate in the governing loan documents. Under this Plan, the Class 2 Unsecured Claim against Grizzly Cattle shall be paid in full by the Rabo Exit Facility in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Class 2 Unsecured Claim. The Rabo Exit Facility shall be funded on the Effective Date, and the Rabo Exit Facility shall be secured by all assets of Grizzly Land, Grizzly Cattle and/or the Reorganized Debtor.

##### (c) **Class 3 - All Allowed Unsecured Claims.**

On, or as soon as reasonably practicable after, the latest of: (i) the Effective Date; or (ii) the date such Allowed Unsecured Claim becomes payable pursuant to any agreement between the Reorganized Debtor and the Holder of such Unsecured Claim, each Holder of an Allowed Unsecured Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Unsecured Claim: (x) Cash equal to the unpaid portion of such Allowed Unsecured Claim or (y) such other treatment as to which the Reorganized Debtor and such Holder shall have agreed upon in writing. A complete list of the Holders of Allowed Class 3 Claims and the Allowed amounts of such Claims is listed in Section 3.2 of the Plan and Section 8.2 of this Disclosure Statement.

Pursuant to the Settlement Agreement, certain enumerated Unsecured Claims against Grizzly Cattle have been released or withdrawn. To avoid any doubt, the following Persons which previously held alleged Unsecured Claims against Grizzly Cattle are not entitled to any Distribution under this Plan in accordance with the Settlement Agreement: Brownstein Hyatt Farber Schreck, LLP; Hamilton Faatz, PC; Southern Cross Ranches, LLC; and Sopris, LLC. Brownstein Hyatt Farber Schreck, LLP entered into an additional approved by this Court in this

case on July 19, 2017 (Docket No. 153) effectuating the mutual release of claims between this creditor and the Grizzly Cattle estate.

(d) Class 5 – Equity Interests of Kloiber Real Estate Holdings, LLC and Kloiber Enterprises, LLC.

Following the Settlement Agreement, Kloiber Real Estate Holdings LLC (99.5%) and Kloiber Enterprises, LLC (.5%) are the 100% owners of the Equity Interests in Grizzly Cattle. The Holders of the Class 5 Equity Interests shall retain the Equity Interests in Grizzly Cattle, and shall have all powers and rights to, advise or affect the operations of the Reorganized Debtor under the controlling operating agreement, as amended or as may be amended.

4.5 Impaired Classes of Claims and Interests

(a) Class 4 – Allowed Insider Unsecured Claim.

In accordance with the Settlement Agreement, the Holders of Class 4 Allowed Insider Unsecured Claim include the Proponents, Kloiber Holdings LLC and Kloiber Real Estate Holdings, LLC. As defined in the Settlement Agreement, the Proponents are the Holders of the “Attorney Fee Claim” in the Allowed Unsecured amount of \$3,500,000.00. The Class 4 Claim shall accrue interest from the Effective Date, and such rate shall be fixed at the annual long-term Applicable Federal Rate (AFR) in place on the Effective Date. As soon as reasonably practicable after the Effective Date, the Holders of the Allowed Insider Unsecured Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Insider Unsecured Claim: (x) Cash generated from the cash flow of operations of the Grizzly Land (as reorganized) or the disposition of any property of Grizzly Land (as reorganized) equal to the unpaid portion of such Allowed Insider Unsecured Claim or (y) such other treatment as to which the Reorganized Debtor and such Holders shall have agreed upon in writing.

4.6 Description of Certain Other Significant Plan Provisions

(a) Assumption of Certain Executory Contracts and Unexpired Leases

Grizzly Cattle is current on its contract and lease obligations, and counterparties are not entitled to any cure amounts. As of the Confirmation Date, the following executory contracts and unexpired leases shall be assumed by Grizzly Cattle at the stated cure amounts:

<b>Contract/Lease Counterparty</b>	<b>Contract Description</b>	<b>Cure Amount</b>
None	None	\$0.00

The Proponents have reserved all rights to amend this list, as more fully set forth in the Plan. Assumption of any executory contracts or unexpired leases pursuant to the Plan, or as otherwise previously assumed pursuant to § 365 of the Code (after notice, a hearing and an order specifically authorizing assumption) prior to Confirmation of the Plan, shall result in the full

release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assumed and assigned executory contracts and unexpired leases at any time on or before the Effective Date.

(b) Deadline for Filing of Administrative Claims

i) Administrative Claims (other than Professional Fee Claims)

The Administrative Claim Bar Date shall be thirty (30) days after the Effective Date. Any Holder of an Administrative Claim must file an application for allowance and payment of such Administrative Claims not later than thirty (30) days after the Effective Date.

ii) Professional Fee Claims

Any Person who holds, or asserts, an Administrative Claim that is a Professional Fee Claim for services rendered and expenses incurred prior to and including the Confirmation Date, shall be required to file with the Bankruptcy Court and serve, pursuant to Local Bankruptcy Rule 9013-1, on all Persons required to receive notice, a Final Fee Application within thirty (30) days after the Effective Date. Should the Reorganized Debtor object to any Professional Fee Claim within twenty-one (21) days after such Professional Fee Claim is timely filed and served, such Professional Fee Claim shall be resolved by Final Order of the Court. After Court approval by Final Order, the Holder of a Professional Fee Claim shall receive Cash in the amount awarded to such Professionals and Entities at such times and only in accordance with a Final Order entered pursuant to 11 U.S.C. §§ 330, 331, 503(b)(2) through (6), or 1103, as applicable.

iii) Administrative Claim Bar Date

Any Administrative Claim or Professional Fee Claim not filed within the deadlines set forth above shall be forever barred, and the Reorganized Debtor, Grizzly Cattle, and the Estate shall be discharged of any obligation on such Claim.

(c) Retention of Exclusive Jurisdiction

Notwithstanding entry of the Confirmation Order or the Effective Date having occurred, the Plan provides that the Bankruptcy Court, pursuant to 11 U.S.C. § 105(a) and 1142 will retain exclusive jurisdiction to the fullest extent permitted by law.

(d) No Distributions to Contested Claims

No payments or distributions will be made with respect to any portion of a Contested Claim unless and until all objections to such Contested Claim have been determined by a Final Order of the Bankruptcy Court or the Claim otherwise becomes an Allowed Claim. As of the

Effective Date of the Plan, the Reorganized Debtor, shall have the exclusive right to file, serve and prosecute objections to Contested Claims.

**THE PLAN CONTAINS A NUMBER OF OTHER MISCELLANEOUS PROVISIONS NOT SEPARATELY DISCUSSED IN THIS DISCLOSURE STATEMENT, INCLUDING PROVISIONS FOR MODIFICATION OF THE PLAN PURSUANT TO THE BANKRUPTCY CODE AND REVOCATION OR WITHDRAWAL OF THE PLAN. PARTIES ARE REFERRED TO THE PLAN ITSELF FOR DETAILS OF SUCH PROVISIONS.**

## **ARTICLE V IMPLEMENTATION OF PLAN**

### **5.1 Implementation of the Plan**

The Reorganized Debtor will implement and consummate the Plan through the means contemplated by §§ 1123(a)(5)(A)-(C) and/or (E), 1123(b)(3)(A) and (B), 1123(b)(5), and 1142 of the Bankruptcy Code.

### **5.2 Vesting of Assets in Reorganized Debtor.**

Except as specifically provided in the Plan, on the Effective Date, and in accordance with this Plan and §1141(c) of the Bankruptcy Code, all of the Estate Assets and any proceeds thereof shall vest in and be turned over to the Reorganized Debtor as reorganized free and clear of all liens, Claims, Interests and any other rights, obligations, or interests of any Person in, to or upon the Estate Assets (except as otherwise provided in this Plan). On the Effective Date and in accordance with §1123(b)(3)(B) of the Code, the Reorganized Debtor shall retain and may (but is not required to) enforce all Causes of Action. In regard to Causes of Action pending on the Effective Date, the Reorganized Debtor shall be deemed to be substituted as the real party in interest in the name and place of Grizzly Cattle named in such Causes of Action.

### **5.3 Operation of Reorganized Debtor.**

The Reorganized Debtor shall be empowered to take such actions as may be necessary to perform its obligations under this Plan. After the Effective Date, the affairs of the Reorganized Debtor and all assets held or controlled by the Reorganized Debtor shall be managed in accordance with the terms of the Plan. The Reorganized Debtor shall be the representative of Grizzly Cattle's Estate pursuant to § 1123 of the Bankruptcy Code and shall have all of the rights, powers and standing of a debtor in possession under §1107 of the Bankruptcy Code, and such other rights, powers and duties incident to causing performance of Grizzly Cattle's obligations under the Plan as may be necessary.

### **5.4 Post-Confirmation Management.**

Grizzly Cattle is a Colorado limited liability company. In accordance with section 1129(a)(5) of the Bankruptcy Code, after confirmation of the Plan, David Kloiber will serve as the manager of the Reorganized Debtor, in accordance with its existing Operating Agreement, as may be amended. The Reorganized Debtor will continue its operations, subject to adjustment at the sole discretion of the manager of the Reorganized Debtor. The Reorganized Debtor may

retain the Grizzly Land Trustee for property management and/or asset management services, with any such services to be compensated at the Grizzly Land Trustee's standard hourly rates.

5.5 **Management Fees and Costs.**

The Reorganized Debtor shall be entitled to compensate its manager with reasonable compensation for services following Confirmation of the Plan. Funding for such compensation will be derived from the operation of the Reorganized Debtor's business.

5.6 **Distributions**

Distributions shall be made to all Allowed Claims in accordance with the Plan and the Confirmation Order. The Reorganized Debtor or its designee shall serve as the disbursing agent under this Plan and shall make all Distributions provided for under this Plan.

(a) **Contested Claims**

Distributions shall not be made with respect to any Contested Claim. At this time, the Proponents do not anticipate pursuing any objections to claims that may result in Contested Claims, but reserve all rights to do so.

(b) **Subsequent Distribution Dates.**

Unless otherwise directed in a Final Order, the Reorganized Debtor shall make Distributions in Cash or by the Rabo Exit Facility in accordance with the Confirmation Order and the Plan. Any additional distributions would be made periodically to the Holders of Allowed Class 4 Insider Unsecured Claims in Cash as and when the Reorganized Debtor, in its sole and absolute discretion, deems appropriate. The Reorganized Debtor shall use its reasonable and best efforts under the circumstances to make such distribution as expeditiously as prudently possible.

(c) **Unclaimed Distributions.**

Pursuant to § 347(b) of the Bankruptcy Code and the Plan, all unclaimed distributions made under the Plan shall become property of the Reorganized Debtor thirty (30) days after the Reorganized Debtor's attempted distribution has been returned as undeliverable.

(d) **Consensual Release of Grizzly Cattle Unsecured Claim.**

Pursuant to the Settlement Agreement and under the Plan, and with the consent of Grizzly Cattle and the Grizzly Cattle Trustee, the Grizzly Cattle Unsecured Claim against Grizzly Land, which includes any and all Unsecured Claims held by Grizzly Cattle against Grizzly Land, shall be released and forever barred, and Grizzly Land, Grizzly Land as a reorganized debtor, the Grizzly Land Estate and the Proponents shall be discharged of any obligation on such Grizzly Cattle Unsecured Claim.

### 5.7 **Effect of Appeals**

Unless the Confirmation Order is stayed pending appeal, at the option of the Reorganized Debtor, this Plan may be consummated notwithstanding the pendency of an appeal from the Confirmation Order or the timely service of filing a motion under any Federal Rule of Bankruptcy Procedure, including but not limited to Rules 7052, 8002 through 8008, 8015, 9023 or 9024.

### 5.8 **Exemption from Certain Taxes**

Pursuant to § 1146(c) of the Bankruptcy Code, all transactions described in the Plan, and the delivery and recordation of any instrument, under, in furtherance of, or in connection with the Plan shall not be subject to any stamp tax, real estate transfer tax or similar transfer fee or tax.

### 5.9 **Allowance/Disallowance of Claims**

The Plan provides that from and after the Effective Date, the Reorganized Debtor shall have the exclusive authority to investigate, prosecute, file, settle, compromise, withdraw, or litigate to judgment in the Bankruptcy Court or on appeal (or pursuant to a withdrawal of the reference of jurisdiction) any pending objections to or motions to disallow Claims against Grizzly Cattle not resolved by the Settlement Agreement or Final Order prior to the Confirmation Date. After the Confirmation Date, only the Reorganized Debtor shall have the authority to file objections to or motions to disallow Claims filed against Grizzly Cattle, and to settle, compromise, withdraw, or litigate to judgment those objections to Claims. Any post-confirmation objections to or motions to disallow Claims (other than Administrative Claims and Professional Fee Claims) shall be filed with the Court and served upon each Holder of the Claims to which objections are made not later than the Claims Objection Bar Date (one hundred and eighty (180) days after the Effective Date), or such later date as the Court may order with respect to a particular Claim or group of Claims. The resolution of any objection to or motion to disallow a Claim shall be governed by the Bankruptcy Code, the Bankruptcy Rules, the Confirmation Order, the Plan or such other provisions as may be established by the Court. Any Claim as to which an objection to or motion to disallow is not timely filed by the Claims Objection Bar Date shall be deemed an Allowed Claim, unless: (i) an extension of the Claims Objection Bar Date is obtained from the Bankruptcy Court in accordance with Rule 9006 or this Plan or by agreement regarding any particular Claim; or (ii) such Claim is subject to disallowance under §502(d) of the Bankruptcy Code, in which case such Claim shall be deemed disallowed in accordance with §502(d) of the Bankruptcy Code without the need for filing an objection thereto.

### 5.10 **Post Confirmation Reports**

The Reorganized Debtor shall file all post confirmation reports that are required to be filed by the Office of the United States Trustee as soon as practicable after each calendar quarter, and in no event later than thirty (30) days after the end of each quarter.



### 5.11 Amendment of Operating Agreement of Grizzly Cattle

If necessary or as may be required, the Operating Agreement, Articles and/or Bylaws of Grizzly Cattle may be amended at any time within one hundred eighty (180) days after the Effective Date to the extent necessary to effectuate the provisions of the Plan.

## ARTICLE VI STATUS OF CLAIMS AGAINST THE ESTATE

### 6.1 Bar Date for Proofs of Claim

The deadline for filing proofs of claim against Grizzly Cattle is June 6, 2016, and has passed.

### 6.2 Claims Against the Grizzly Land Estate.

#### (a) Allowed Unsecured Claims

A complete summary of all Allowed Class 3 Unsecured Claims against Grizzly Cattle, not previously resolved, released and/or withdrawn pursuant to the Settlement Agreement or otherwise, is as follows:

<b> Holders of Allowed Class 3 Unsecured Claims </b>	<b> Allowed Claim Amount </b>	<b> Basis of Unsecured Claim </b>
Internal Revenue Service	\$9,451.78	Amended Proof of Claim No. 1-2
Ehrhards Keefe Steiner and Hottman P.C.	\$10,776.82	Schedule F
<b>Total Allowed Amount of Class 3 Claims:</b>	<b>\$20,228.60</b>	

A complete summary of all Allowed Class 4 Insider Unsecured Claims against Grizzly Cattle, not released or withdrawn pursuant to the Settlement Agreement or otherwise, is as follows:

<b> Holders of Allowed Class 4 Insider Unsecured Claims </b>	<b> Allowed Claim Amount </b>	<b> Basis of Unsecured Claim </b>
Proponents	\$3,500,000.00	“Attorney Fee Claim” approved in Settlement Agreement
<b>Total Allowed Amount of Class 4 Claims:</b>	<b>\$3,500,000.00</b>	

A complete copy of the Debtor’s Schedules and Statements and the claims register are available for review by any Person at the Bankruptcy Court.

#### (b) Secured Claims

There are no Secured Claims against Grizzly Cattle.

## **ARTICLE VII RISK FACTORS**

### **7.1 Risk Factors**

As with any plan of reorganization or other financial transaction, there are certain risk factors which must be considered. It should be noted that all risk factors cannot be anticipated, that some events will develop in ways that were not foreseen and that many or all of the assumptions that have been used in connection with this Disclosure Statement and the Plan will not be realized exactly as assumed. Under the Plan, some of the principal risks that Holders of Claims should be aware of, in the view the Proponents, are as follows:

#### **(a) Tax Consequences**

The tax consequences of the Plan may vary from the anticipated tax consequences described in Article 12 below.

#### **(b) Possible Adverse Effects from Delay**

Any delays of Confirmation or of the Effective Date could result in, among other things, increased Professional Fee Claims and other Administrative Claims and adverse effects on Grizzly Cattle's available Cash. However, to the extent Cash on hand is insufficient to cover the proposed Distributions under this Plan in full on the Effective Date, Proponents have affirmatively committed to provide additional Capital Contributions to Grizzly Cattle or the Reorganized Debtor as may be necessary to implement the Plan and make the required Distributions in full. Delay could endanger running afoul the milestones set forth in the Cash Collateral Order as amended or extended, thereby jeopardizing the ultimate approval of the Plan by the Bankruptcy Court.

The foregoing risks are inherent in any liquidation, including that by a chapter 7 trustee.

## **ARTICLE VIII ALTERNATIVES TO THE PLAN**

The Bankruptcy Code requires, as a condition to confirmation, that creditors receive on account of their Claims at least as much as they would receive if the case were a case under chapter 7 of the Bankruptcy Code. Because the Plan provides for payment in full of all Allowed Claims and the Distribution of Cash to Holders of Allowed Claims is consistent with the Distribution provisions under chapter 7, the Proponents believe that the Plan clearly meets this test. However, if the Plan is not confirmed or consummated, the alternatives include: (i) conversion to a liquidation under chapter 7 of the Bankruptcy Code; (ii) confirmation of an alternative chapter 11 plan; or (iii) dismissal of the Chapter 11 Case.

### **8.1 Liquidation Under Chapter 7**

If no chapter 11 plan can be confirmed, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code to liquidate the assets of Grizzly Cattle for distribution in accordance with the priorities established by the Bankruptcy Code. Unlike the Proponents' Plan, a chapter 7 case would not yield a 100% distribution to all Allowed Claims and Interests.

The Proponents believe that liquidation under chapter 7 would result in lower distributions being made to creditors than those provided for in the Plan because, among other reasons, (i) additional administrative expenses would be incurred in a chapter 7 liquidation, specifically those of a chapter 7 trustee costs and any costs of counsel and other professionals to the chapter 7 trustee to become familiar with the facts and circumstances of this case and (ii) the additional delay in distributions that would occur if the Chapter 11 Case was converted to a case under chapter 7.

## 8.2 Alternative Plans

Other parties in interest may propose alternative chapter 11 plans. Grizzly Cattle's original plan of reorganization has been abandoned, and the Grizzly Cattle Trustee will withdraw his proposed plan of liquidation, if it has not been withdrawn as of the date of filing this Disclosure Statement. There will be no further alternative plans of reorganization for Grizzly Cattle.

Under the previously proposed Grizzly Cattle Trustee plan of liquidation, all Allowed Claims would not have been paid in full under that plan of liquidation. The Proponents' Plan provides for the payment in full of all Allowed Claims, and allows the Holders of Equity Interests in Grizzly Cattle to retain such Interests. The Proponents believe that no alternative plan could be proposed that would be more beneficial to creditors of Grizzly Cattle than this Plan. Proponents believe that the Plan, as proposed, enables creditors to realize the greatest possible value under the circumstances, and, that as compared to any alternative plan of reorganization, has the greatest chance to be confirmed and consummated in the shortest amount of time and with the least amount of additional expense. Therefore, Proponents do not view the "other plan" option as reasonable, and would further result in additional and unnecessary costs.

In the event another party files and obtains approval of an alternative disclosure statement and solicits votes for an alternative plan, Grizzly Cattle creditors will be served with such documents and will be able to compare the disclosure and plan terms presented by said party with this Disclosure Statement and the Proponents' Plan.

## 8.3 Dismissal

An alternative to conversion to a chapter 7 liquidation would be a dismissal of the Chapter 11 Case. If no chapter 11 plan can be confirmed, Grizzly Cattle's bankruptcy case may be dismissed. In such a case, the assets of the Grizzly Cattle Estate would re-vest in Grizzly Cattle, and creditors would be entitled to pursue their Claims against Grizzly Cattle. The Claims would not be paid in full in this scenario because there would be insufficient Cash to repay all Claims in full, no continued operations of Grizzly Cattle to generate additional Cash and no additional Capital Contributions would be made.

## **ARTICLE IX REQUIREMENTS FOR CONFIRMATION**

The Plan places Claims and Interests into various classes. The Bankruptcy Code requires that each claim or interest in a class be "substantially similar" to the other claims or interests in the class. Under the Bankruptcy Code, classes of claims or interests are either "impaired" or "unimpaired." In general, a class is unimpaired if a plan leaves unaltered the legal, equitable or contractual rights to which such claim or interest entitles the Holder of such Claim or Interest.

In order for the Plan to be approved, the Bankruptcy Court requires that each class of impaired claims vote to accept the Plan, except to the extent a “cramdown” is available under Section 1129(b) of the Bankruptcy Code. In a cramdown scenario, the Plan may be confirmed, notwithstanding rejection by one or more impaired classes, if (a) the Plan has been accepted by at least one impaired class, (b) the Plan does not “discriminate unfairly” and is “fair and equitable” as to each non-accepting class, and (c) the other requirements for confirmation are met, as explained in this Disclosure Statement. The cramdown scenario will not apply to the Plan because this Plan is a 100% payment plan to the Holders of Allowed Claims.

The Bankruptcy Code requires, further, that the plan be “feasible” (i.e., that there be a reasonable prospect that confirmation of the Plan is not likely to be followed by a liquidation or the need for further financial reorganization) and that the Plan is in the “best interests” of all impaired creditors and equity security holders (that is, that impaired creditors and equity security holders will receive at least as much under the Plan as they would in a chapter 7 liquidation). To confirm the Plan, the Bankruptcy Court must find all of these conditions are met with respect to the Plan. Thus, even if the Plan is accepted by the required number of votes, the Bankruptcy Court must make independent findings respecting the Plan’s feasibility and whether it satisfies the “best interests” test before the Plan may be confirmed.

In order to confirm the Plan, § 1129 of the Bankruptcy Code requires that the bankruptcy court make a series of findings concerning the Plan and the Proponents, including:

- i) that the Plan has classified Claims and Interests in a permissible manner;
- ii) that the Plan complies with the applicable provisions of the Bankruptcy Code;
- iii) that the Proponents have complied with applicable provisions of the Bankruptcy Code;
- iv) that the Plan has been proposed in good faith and not by any means forbidden by law;
- v) that the disclosure required by § 1125 of the Bankruptcy Code have been made;
- vi) that the Plan has been accepted by the requisite votes of creditors (except to the extent that Confirmation is available under § 1129 (b) of the Bankruptcy Code);
- vii) that the Plan is feasible and that Confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of Grizzly Cattle;
- viii) that the Plan is in the “best interests” of all Holders of Claims or Interests in an Impaired Class by providing the creditors on account of their Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that any such Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in such Classes accepts the Plan;

ix) that all fees and expenses payable under 28 U.S.C. § 1930, as determined by the bankruptcy court at the hearing and Confirmation, have been paid or the Plan provides for the payment of such fees on the Effective Date; and

x) that the Plan provides for the continuation after the Effective Date of all retiree benefits, if any, as defined in § 1114 of the Bankruptcy Code.

Section 1129(b) of the Bankruptcy Code permits the Bankruptcy Court to confirm a Plan of reorganization notwithstanding failure to obtain the requisite acceptance of the Plan for each Impaired Class of Claims or Interests, as long as one Impaired Class accepts the Plan. If the applicable requirements of § 1129(a) of the Bankruptcy Code, other than paragraph 8 thereof, are met with respect to the Plan, Proponents hereby request that the bankruptcy court confirm the Plan under § 1129(b) of the Bankruptcy Code.

The Plan must also be approved, or “confirmed,” by the Bankruptcy Court. To confirm the Plan, the Bankruptcy Court must find all of these conditions listed above are met with respect to the Plan. Thus, even though no voting is required for the Plan, the Bankruptcy Court must make independent findings respecting the Plan’s feasibility and whether it satisfies the “best interests” test before the Plan may be confirmed.

## 9.2 **Best Interests Test.**

The “best interests” test, as set forth in § 1129(a)(7) of the Bankruptcy Code, requires a court to determine either that all members of an Impaired class of Claims or Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would recover under a hypothetical chapter 7 liquidation. The “best interests” test does not apply to the Holders of Unimpaired Claims.

Here, all Classes of Claims that would be entitled to vote are Unimpaired, and the Holders of a Class 1, 2, 3 and 5 Claims and Interests are conclusively presumed to have accepted the Plan pursuant to § 1126(f) of the Bankruptcy Code. Thus, the Plan passes the best interest of creditors test because the Plan results in 100% recovery on account of the Claims.

As of August 31, 2017, Grizzly Cattle is holding \$43,470.47 in Cash. *See* Grizzly Cattle Trustee’s Monthly Operating Report, at Docket No. 156. Pursuant to the Settlement Agreement, most Claims against Grizzly Cattle have been released or withdrawn. Moreover, the Rabo Unsecured Claim will be paid in full with the consensual Rabo Exit Facility, and all other outstanding Allowed Non-Insider Claims will be paid in full in Cash on the Effective Date. To the extent Cash on hand is insufficient to cover the proposed Distributions under the Plan in full on the Effective Date, the Proponents have affirmatively committed to provide additional Capital Contributions as may be necessary to implement the Plan and make the required Distributions in Cash as set forth in the Plan.

To date, Proponents have not identified any other Causes of Action with merit. In any event, the Reorganized Debtor will have the ability to investigate and pursue any and all Causes of Action after its independent review.

In evaluating the Plan, Proponents have considered the alternative of a liquidation under chapter 7 of the Bankruptcy Code and believes that confirmation of the Plan is in the best interests of creditors and interest holders. Proponents believe that the Plan serves to: (i) provide a means for repayment in full of all remaining Claims against Grizzly Cattle; (ii) provide an immediate distribution to creditors in Cash; (iii) save on the additional administrative costs and fees inherent in a chapter 7 scenario; and (iv) fully rehabilitate and reorganize Grizzly Cattle which will emerge as an ongoing operating company - the Reorganized Debtor.

First, a chapter 7 trustee would make all of his or her own decisions with respect to the liquidation of any remaining Causes of Action and distribution of the Estate, the hiring of professionals, the pursuit of any claims or litigation, the payment or objection to Claims, and the distribution of any ultimate dividend. Under the Plan, creditors with Allowed Claims will receive a 100% distribution on account of those Claims on the Effective Date without delay. The confirmation process allows such creditors to examine the Plan and understand the potential recovery for creditors as well as the risks. On the other hand, in a chapter 7 case, the chapter 7 trustee makes all of the decisions as tempered by the Bankruptcy Code regarding liquidation of Grizzly Cattle. No operating company would exist.

Second, the Proponents believe that the Plan serves to provide for a timely distribution to Holders of Allowed Claims. Conversion of this Chapter 11 Case to a chapter 7 case would result in additional and substantial delays by requiring, among other things, the appointment of a new fiduciary, a new 341 meeting of creditors, and a new notice deadline for filing claims. Moreover, in a chapter 7 scenario, Grizzly Cattle would be liquidated, and no company would survive.

Third, the Proponents believe that conversion to a chapter 7 liquidation would result in substantial diminution in the value to be realized by Holders of Allowed Claims because Holders of Allowed Claims and Interests would not receive a 100% distribution on account of their Allowed Claims and Interests, and there would be additional administrative expenses involved in the appointment of a chapter 7 trustee, attorneys, accountants, and other professional persons to assist such trustees. The Plan incorporates the global Settlement Agreement approved by the Bankruptcy Court, provides for a timely and full distribution to all creditors which would not occur in a liquidation under a chapter 7, and paves the way for a reorganized company to emerge from chapter 11, while eliminating the chapter 7 trustee statutory fee and the other additional administrative expenses inherent in a chapter 7.

### 9.3 **Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires a finding that confirmation is not likely to be followed by a liquidation or need for further financial reorganization. The Plan is feasible as it allows Grizzly Cattle to restructure its debt, reorganize the company, and repay its creditors in full.

Determining feasibility of the Plan requires an analysis of Grizzly Cattle's ability to pay the Distribution funds immediately due on the Effective Date of the Plan. It is undisputed that the Proponents have sufficient Cash to cover all Allowed Claims against Grizzly Cattle in full. Notwithstanding the Proponents ability to pay all Allowed Claims in full, Claims will be paid from Cash on hand, and to the extent Cash on hand is insufficient to cover the proposed

Distributions under the Plan in full on the Effective Date, the Proponents have affirmatively committed to provide additional Capital Contributions as may be necessary to implement the Plan and make the required Distributions in Cash as set forth in the Plan. As set forth in the Plan, the Rabo Unsecured Claim will be repaid in full with the Rabo Exit Facility.

Accordingly, the Proponents believe the Plan is feasible in that it is a self-funded and managed reorganization of all the Assets of the Estate, so it will not be followed by a liquidation or need for further financial reorganization.

## **ARTICLE X TAX CONSEQUENCES**

THIS DISCLOSURE STATEMENT DOES NOT ADDRESS THE PARTICULAR FEDERAL INCOME TAX CONSEQUENCES THAT MAY BE RELEVANT TO TAXPAYERS UNDER THE FEDERAL INCOME TAX LAWS, NOR DOES IT DISCUSS ANY ASPECT OF FEDERAL, STATE, LOCAL OR FOREIGN TAX LAWS THAT MAY BE APPLICABLE TO PARTICULAR TAXPAYERS. THE TAX CONSEQUENCES TO HOLDERS OF CLAIMS AND INTERESTS, INCLUDING THE AVAILABILITY OF DEDUCTIONS FOR WORTHLESS DEBT OR WORTHLESS EQUITY, IF ANY, MAY VARY BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. EACH CREDITOR AND EQUITY HOLDER TREATED BY THE PLAN IS STRONGLY URGED TO CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL OR FOREIGN TAX CONSEQUENCES OF THE PLAN.

Holders of Claims are encouraged to seek their own tax counsel, however, it is not anticipated that distributions from the Reorganized Debtor to Holders of Allowed Claims will have any tax impact on such Holders because distributions received will merely be re-paid debt that is owed to them.

### **10.1 Certain Federal Income Tax Consequences**

The summary description of certain income tax consequences of the Plan is provided below does not purport to address all of the federal income tax consequences that may be applicable to Grizzly Cattle, the Proponents or to any particular Holder in light of such Holder's own individual circumstances. This summary does not address the federal income tax consequences of the Plan to Holders of Claims or Interests that may be subject to special rules, such as foreign persons, S corporations, insurance companies, financial institutions, regulated investment companies, broker-dealers and tax-exempt organizations. This summary does not discuss foreign, state, local, estate or gift tax consequences of the Plan, nor does it discuss federal income tax consequences to a Holder of Claims or Interests being satisfied in full or otherwise Unimpaired under the Plan or not receiving any recovery under the Plan. No opinion of counsel or rulings or determinations of the IRS or any other tax authorities have been sought or obtained with respect to any tax consequences of the Plan. The discussion below is not binding upon the IRS or such other authorities. Proponents are not making any representations regarding the particular tax consequences of the confirmation and consummation of the Plan as to the Holder of any Claim or Interests, and are not rendering any form of legal opinion as to such tax consequences.

The discussion of federal income tax consequences below is based on the Internal Revenue Code of 1986, as amended (the “**Internal Revenue Code**”), the Treasury Regulations promulgated thereunder, judicial decisions, and published positions of the IRS and other applicable authorities, all as in effect on the date hereof and all of which is subject to change, e.g., legislative, judicial or administrative changes - possibly with retroactive effect.

## 10.2 Consequences to Holders of Certain Allowed Claims

### (a) Distribution in Discharge of Accrued Unpaid Interest

Pursuant to the Plan, a distribution received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest. However, there is no assurance that the IRS would respect such allocation for federal income tax purposes. In general, to the extent that an amount received by a Holder of debt is received in satisfaction of interest that accrued during its holding period, such amount will be taxable to the Holder as interest income if not previously included in the Holder’s gross income. Conversely, a Holder generally recognizes a deductible loss to the extent that it does not receive payment of interest that has previously been included in its income. Holders of Claims are urged to consult with their tax advisors regarding the allocation of consideration and deductibility of unpaid interest.

### (b) Information Reporting and Withholding

All distributions to Holders of Allowed Claims under the Plan are subject to any applicable withholding tax requirements. Under federal income tax law, interest, dividends, and other reportable payments, may, under certain circumstances, be subject to “backup withholding,” at a rate provided by the Internal Revenue Code. Backup withholding generally applies if the Holder (a) fails to furnish its social security number or other taxpayer identification number (“**TIN**”), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons may be exempt from backup withholding, including, and in certain circumstances, corporations and financial institutions.

**IRS Circular 230 Disclaimer: The discussion of tax consequences in this communication is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer (i) for the purpose of avoiding tax penalties that may be imposed on the recipient or any other taxpayer, or (ii) in promoting, marketing or recommending to another party any transaction addressed herein.**

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. HOLDERS OF CLAIMS OR INTERESTS ARE STRONGLY ENCOURAGED TO CONSULT THEIR TAX



ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND ANY APPLICABLE FOREIGN, INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

#### **ARTICLE XI DISCHARGE**

As set forth in the Plan, and pursuant to § 1141(d) of the Bankruptcy Code, Grizzly Cattle shall receive a discharge effective as of the Effective Date.

#### **ARTICLE XII FINAL DECREE**

As soon as reasonably practicable after the distribution to creditors under the Plan, Proponents anticipate that the Reorganized Debtor will request and receive a Final Decree from the Bankruptcy Court pursuant to § 350 of the Bankruptcy Code, Rule 3022 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 3022-1.

#### **ARTICLE XIII CONCLUSION AND RECOMMENDATION**

The Proponents conclude that there can be no greater recovery by creditors than the proposed 100% distribution on account of their Allowed Claims under the Plan. The Proponents submit that the Plan complies in all respects with chapter 11 of the Bankruptcy Code, is fair and equitable, feasible, and provides for a full, immediate and certain return to creditors, which would not be achieved under any other reasonable alternative. All Holders of Allowed Non-Insider Claims, and the Equity Interests, are conclusively presumed to have accepted the Plan pursuant to § 1126(f) of the Bankruptcy Code because all Allowed Claims will be paid in full as set forth in the Plan. Other than the Class 4 Insider Unsecured Claim of the Proponents, all Allowed Claims will be paid in full on or shortly after the Effective Date. Therefore, the Proponents recommend supporting the confirmation of the Plan.

#### **ARTICLE XIV LIST OF EXHIBITS**

Exhibit 1: Grizzly Cattle's most recently filed Monthly Operating Report.

Dated this 6<sup>th</sup> day of October, 2017. SUBMITTED BY PROPONENTS:

KLOIBER HOLDINGS, LLC



By \_\_\_\_\_  
David Kloiber, Manager of its manager  
For Kloiber Holdings, LLC

and

KLOIBER REAL ESTATE HOLDINGS, LLC



By \_\_\_\_\_  
David Kloiber, Manager of its manager  
For Kloiber Real Estate Holdings, LLC

APPROVED AS TO FORM:

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