

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

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

AMENDED DEBTOR’S PLAN COMBINED WITH DISCLOSURE STATEMENT

I. Introduction

Coolwater Estates, LLC. (hereinafter referred to as the “Debtor”), filed a voluntary petition for reorganization under chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) on December 17, 2018.

This *Plan Combined with Disclosure Statement* is provided pursuant to Section 1125 of the Bankruptcy Code to all of the Debtor’s known creditors and other parties in interest in connection with the solicitation of acceptances of the Debtor’s plan of reorganization (the “Plan”). The details of the Plan itself are set out in Section VI of this document. The purpose of the disclosures contained in Sections I through V of this document is to provide you with such information as will enable a hypothetical, reasonable, investor typical of the holders of claims against the Debtor, to make an informed judgment in exercising his, her, or its right either to accept or reject the Plan. In addition to this document, you will be provided with a ballot which you may use to vote your acceptance or rejection of the Plan. That ballot should be completed and returned to the attorneys for the Debtor, so as to be received prior to the deadline stated on the ballot. The notice of the hearing on Confirmation of the Plan will be provided by the Bankruptcy Court. While you are invited to attend the confirmation hearing, you need not be present in order to have your vote counted.

Your acceptance of the Plan is important. In order for the Plan to be deemed “accepted” by the creditors in any given class, at least sixty-six and two-thirds percent (66-2/3%) in amount of allowed Claims and fifty-one percent (51%) in number of allowed Claims voting in that class must accept the Plan. Whether or not you expect to be present at the confirmation hearing, you are urged to fill in, date, sign, and properly mail or email the acceptance form to the attorneys for the Debtor, John Paul Stanford at 2001 Bryan Street, Suite 1800, Dallas, Texas 75201; or email: jstanford@qslwm.com. In the event that the requisite acceptances are not obtained, the Plan may nevertheless be confirmed by the Bankruptcy Court pursuant to the provisions of Section 1129 of the Bankruptcy Code. Those provisions may permit Confirmation in spite of a rejecting class or classes, if the Bankruptcy Court finds that the Plan provides fair and equitable treatment to the rejecting class or classes and meets other tests.

II. Voting on the Plan and Objection

A. Who May Vote

You are entitled to vote on the Plan unless: (1) your claim or interest is Disputed (as defined herein); (2) your class receives no distribution (presumed to reject the Plan); (3) your class is “unimpaired” (presumed to accept the Plan – *See* Section VI (C) to see if your class is impaired or unimpaired); or (4) your claim is unclassified (and thus required by law to be paid in full). If your claim or interest is Disputed then you must file a motion to have it allowed for voting purposes (you must do that soon, so that your motion can be heard before votes are counted. *See* Rule 3018(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

B. How to Vote

Fill out and return the attached ballot (if you are entitled to vote) **by the deadline** and according to the other instructions in the enclosed order regarding voting and procedures.

C. Effect of Vote

The Plan will be confirmed only if (1) it is accepted by each impaired class, or (2) it is accepted by at least one impaired class (without counting votes of “insiders” as defined by Section 101(31) of the Bankruptcy Code and the Bankruptcy Court determines that the Plan is “fair and equitable” as defined in Section 1129(b) of the Bankruptcy Code to all rejecting classes of creditors; and (3) it meets all of the other legal requirements for confirmation. A class of creditors accepts the Plan if a majority in number and at least two-thirds in dollar amount of the claims in that class are timely voted in favor of the Plan. *See* Section 1126(d) of the Bankruptcy Code.

D. Who May Object

Even if you are not entitled to vote, you can object to confirmation of the Plan if you believe that the requirements for Confirmation are not met (and if you are a party in interest in this bankruptcy case). For the deadlines and procedures to object, see the enclosed order.

III. Definitions

As used throughout this document, the following terms shall have the meaning indicated:

1. “Administrative Claim” means an administrative expense or claim described in Section 503 of the Bankruptcy Code and entitled to administrative priority pursuant to Section 507(a)(1) of the Bankruptcy Code, including, but not limited to, Fee Claims.
2. “Allowed Amount” means the amount of any Allowed Claim.
3. “Allowed Claim” means a Claim against the Debtor allowable under the

Bankruptcy Code to the extent that (i) a proof of Claim or request for payment was timely filed or, with leave of the Bankruptcy Court, late filed, and as to which no objection has been timely filed with the Bankruptcy Court or, if filed, is allowed by a Final Order, unless otherwise provided in this Plan or (ii) the Claim is scheduled and not listed as disputed, contingent, or unliquidated, and to which no objection has been timely filed or, if filed, is allowed by a Final Order.

4. “Allowed Unsecured Claims” means all Allowed Claims other than Claims described under Sections 330, 503(b) and 507 of the Code and Allowed Secured Claims.

5. “Assets” means Property of the Estate.

6. “Bankruptcy Code” or “Code” means the United States Bankruptcy Code, Title 11 of the United States Code Section 101 et seq., as amended.

7. “Bankruptcy Court” means the United States Bankruptcy Court for the Northern District of Texas, or such other court that may have jurisdiction with respect to the reorganization of the Debtor pursuant to Chapter 11 of the Bankruptcy Code.

8. “Bar Date” is February 9, 2018, the deadline established by the Bankruptcy Court pursuant to Bankruptcy Rule 3003(c)(3), after which any proof of claim may not be timely filed, except claims held by governmental agencies.

9. “Business Day” shall mean any day that is not a Saturday, Sunday, or one of the legal holidays listed in Bankruptcy Rule 9006(a).

10. “Chapter 5 Claims” means all claims and causes of action arising under Sections 541, 542, 543, 544, 545, 546, 547, 548 and 549 of the Bankruptcy Code.

11. “Claim” shall have the meaning set forth in Bankruptcy Code Section 101(5).

12. “Class” means any class into which Claims are classified pursuant to Section VI (A) of the Plan. Each subclass of a class shall be treated as a separate class.

13. “Confirmation” means the entry by the Bankruptcy Court of the Confirmation Order.

14. “Confirmation Date” means the date on which the Order confirming this Plan is entered.

15. “Confirmation Hearing” means the hearing or hearings held before the Bankruptcy Court in which the Debtor will seek Confirmation of this Plan.

16. “Confirmation Order” means the Order confirming this Plan.

17. “Contested” when used with respect to a Claim, means a Claim against the Debtor

(a) that is listed in the Debtor's Schedules of Assets and Liabilities as disputed, contingent, or unliquidated; (b) that is listed in the Debtor's Schedules of Assets and Liabilities as undisputed, liquidated, and not contingent and as to which a proof of Claim has been filed with the Bankruptcy Court, to the extent the proof of Claim amount exceeds the scheduled amount; (c) that is the subject of a pending action in a forum other than the Bankruptcy Court unless such Claim has been determined by Final Order in such other forum and Allowed by Final Order of the Bankruptcy Court; or (d) as to which an objection has been or may be timely filed and has not been denied by Final Order. To the extent an objection relates to the allowance of only a part of a Claim, such Claim shall be a Contested Claim only to the extent of the objection.

18. "Debtor" means Coolwater Estates, LLC, the Debtor herein.

19. "Disputed Claim" means either (1) a claim which has been objected to by the Debtor; or (2) a claim that is listed on the Debtor's bankruptcy schedules as "disputed, contingent or unliquidated" and such creditor or interest holder has not filed a proof of claim.

20. "Effective Date" means the fifteenth (15th) day after the Confirmation Date.

21. "Fee Claim" means a Claim under Bankruptcy Code Sections 330 or 503 for allowance of compensation and reimbursement of expenses to professionals in the Debtor's Chapter 11 case.

22. "Final Order" means an Order of judgment, entered by the Bankruptcy Court or other court of competent jurisdiction, that has not been amended, modified or reversed and as to which (i) no stay is in effect, (ii) the time to appeal, petition for certiorari, or mover for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing, shall then be pending or (iii) in the event that an appeal, writ of certiorari, reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order may be appealed, or certiorari has been denied, and the time to take further appeal, petition for certiorari or move for reargument or rehearing shall have expired.

23. "Impaired" means the treatment of an Allowed Claim or interest pursuant to the Plan unless, with respect to such Claim or interest, either (i) the Plan leaves unaltered the legal, equitable and contractual rights to which such Claim or interest entitles the holder of such Claim or interest, or (ii) notwithstanding any contractual provision or applicable law that entitles the holder of such Claim or interest to demand or receive accelerated payment of such Claim or interest after occurrence of a default, the Debtor (A) cure any default that occurred before or after the commencement of the Chapter 11 Case on the Petition Date, other than default of the kind specified in Section 365(b)(2) of the Bankruptcy Code; (B) reinstates the maturity of such Claim or interest as such maturity existed before such default; (C) compensates the holder of such Claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; and (D) does not otherwise alter the legal, equitable or contractual rights to which such Claim or Interest entitles the holder of such Claim or interest; or (iii) the Plan provides that on the Effective Date, the holder of such Claim or interest receives, on account of such Claim or interest, cash equal to the Allowed Amount of such Claim or interest.

24. “Lien” means any charge against or interest in property to secure payment of debt or performance of an obligation and includes a judicial lien, security interest, and deed of trust, mortgage and property tax lien.

25. “Order” means an Order of the Bankruptcy Court.

26. “Petition Date” shall mean December 1, 2017, the date on which the Debtor filed their Chapter 11 Petition herein.

27. “Plan” means this Plan of Reorganization, including any amendments, modifications or corrections made thereto pursuant to the Code.

28. “Priority Tax Claim” means a Claim entitled to priority pursuant to Bankruptcy Code Section 507(a)(8).

29. “Property” means any and all associated tangible and intangible personal property owned by the Debtor.

30. “Pro Rata” shall mean with respect to any holder of a Claim, in the same proportion that the amount of such Claim bears to the aggregate amount of all Claims or all Claims of that Class as the case may be.

31. “QSLWM” shall refer to Quilling, Selander, Lownds, Winslett, & Moser, P.C., Debtor’s bankruptcy counsel.

32. “Real Property” shall refer to three lots located in Willis J. Swift and M. Ferguson subdivisions, Forney, Texas 74.825 acres.

33. “Reorganized Debtor” means the Debtor immediately following Confirmation, as reorganized in accordance with the Plan.

34. “Substantial Consummation” means the date on which allowed unsecured priority creditors receive their first payment under the terms of the Plan.

IV. Disclosure Statement

A. Background of the Debtor

The Debtor is a limited liability corporation organized under the laws of the state of Texas. Ronald Cook is its Manager. The members of the Debtor are Alan Kent Erdman (50%), Ronald Cook (25%) and Vicki Cook (25%). The Debtor was formed on or about November 1, 2013 contemporaneously with the addition of Kent Erdman to the bank note with Southwest Bank. Although Kent Erdman was to have made 50% of the payment on the loan, Ron and Vicki Cook

made 75% of the payments to Southwest Bank and Kent Erdman made approximately the other 25%

B. Events Leading to Bankruptcy

Kent Erdman encountered personal financial and legal difficulties in 2016 and 2017 and abandoned the venture. The Debtor was unable to locate Erdman in 2017 when it made efforts to refinance the bank loan once it had matured. Eventually, the note to Southwest Bank was renewed without Kent Erdman's signature. The Debtor was forced to file for protection from its creditors in order to avoid a foreclosure sale of the Real Property.

The bankruptcy petition was filed on September 1, 2017.

The Debtor remains in the business of developing the Real Property. As of the date of this Plan, the Debtor has a contract to sell the full 74.825 acres of the Real Property and has obtained court authorization to proceed with the sale. The Debtor filed the instant bankruptcy in order to liquidate its assets in an orderly fashion, preserving its full value for the benefit of its creditors.

C. Significant Events Since the filing for Chapter 11

Since the filing of the Chapter 11 case, the Debtor has operated as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. The Debtor has retained QSLWM as its general bankruptcy counsel. The significant events since the filing of the Debtor's case are:

1. The Debtor obtained a buyer for 3.36 acres of land for the sale price of \$120,000, but that sale was never consummated. The Debtor then a filed its Motion for Authority to Sell Real Property Free and Clear of All Liens, Claims and Encumbrances located in Forney, Kaufman County Texas on September 28, 2018 [Docket #60] and obtained an order on October 25, 2018 authorizing the Debtor to proceed with the sale [*Docket No.64*]. The sale closing has been delayed several times but is expected to close prior to confirmation of this Plan.

D. Assets of the Debtor

The Debtor's assets can be described as follows:

1. Real Property.

The Debtor owns three lots located in the Willis J. Swift and M. Ferguson subdivisions in Forney Texas aggregating 74.825 acres. The Debtor has valued the property at \$750,000.

2. Claims.

The Debtor has a claim against Alan Kent Erdman for money owed to the Debtor in the amount of \$46,000.00.

3. Cash.

The Debtor had no cash on the date of bankruptcy.

4. Executory Contracts and Leases.

The Debtor had no executory contracts or unexpired lease on the date of bankruptcy.

E. Liabilities of the Debtor

1. Administrative and Priority Claims:

The Debtor will be liable for certain administrative and priority claims through the Confirmation Date including professional fees to QSLWM. The Debtor estimates that the total legal fees for his chapter 11 case will be approximately \$20,000. Additionally, the Debtor owes quarterly fees to the U.S. Trustee.

Before the Debtor pays any of the administrative expenses of Debtor's counsel, the Bankruptcy Court will have determined the reasonableness of such fees and expenses.

2. Secured Debt:

Simmons Bank holds a first lien on the Real Property and has filed a proof of claim for a secured claim of \$184,628.06. The Debtor also acknowledges that the Kaufman County Tax Assessor as a secured creditor asserts a claim of \$125 and the Forney I.S.D. asserts a secured claim of \$311. Both claims are secured by tax liens on the Real Property.

3. Priority Claims:

The Debtor is not aware of any priority claims.

4. Unsecured Debt:

The Debtor listed \$112,542 in general unsecured debt on its bankruptcy schedules; however, of this amount, \$111,008 is owed to Ronald Cook. A claim for \$300 was filed by the Internal Revenue Service.

V. Liquidation Analysis

The Debtor has valued its Real Property at \$750,000 which it believes is its fair market value. While its debts, both secured and unsecured total only \$297,906, the orderly liquidation of the property will provide all creditors with the quickest manner of payment. Under the Debtor's Plan, creditors will be paid 100% of their allowed claim. In a Chapter 7 liquidation, creditors would

not realize the full value of the assets until after the administrative expenses of Chapter 7 are paid in full. Thus, the Debtor's Plan will pay all of its creditors and interest holders quicker and more efficiently than could be realized in a liquidation under Chapter 7 of the Bankruptcy Code. Therefore, the Plan provides for a superior recovery to creditors than does a liquidation under Chapter 7 of the Bankruptcy Code.

The Debtor's Plan, contained in this document, proposes to pay the Simmons Bank and the Kaufman County Tax Assessor and Forney ISD secured claims in full. General unsecured creditors will be paid in full.

VI. Plan of Reorganization

PLAN SUMMARY

The Debtor's plan will provide for the orderly sale of the Real Property. The Debtor has obtained an order from the court to allow for the sale of the Real Property for \$230,000. The sale proceeds will be sufficient to pay the claim of Simmons Bank, now known as Simmons Bank in full. Once Simmons Bank's claim is satisfied, the remaining sale proceeds will be used to pay administrative claims and the unsecured creditors, except that the claim of Ron Cook will be subordinated to the claims of the other unsecured creditors. Any Disputed Claims will be paid if, and when, such claims become an Allowed Claim. Upon the sale of any of the Real Property, an amount sufficient to pay all Disputed Claims will be escrowed with a third-party to be held pending a final order from the court for such claims to be paid. Once all claims have been adjudicated and paid in full, any remaining funds shall be returned to the Debtor.

A. Classification of Claims and Interests

The claims against the Debtor, excluding Administrative Claims are divided into the following classes:

1. Class 1 Claim. The Class 1 Claim consists of the Allowed Secured Claim of Simmons Bank, as successor-in-interest to Southwest Bank. The last payoff provided on the note in September 2018 was \$205,525.
2. Class 2 Claim. The Class 2 Claim consists of the Allowed Secured Claims of the Taxing Authorities. The only know members of this class are the Kaufman County Tax Assessor and the Forney I.S.D.
3. Class 3 Claims. The Class 3 Claims consist of the Allowed General Unsecured Claims in the approximate amount of \$112,542.
4. Class 4 Claim. The Class 4 Claim consists of the Equity Interest of the Debtor.

B. Treatment of Administrative Expense Claims, U.S. Trustee Fees, and Priority Claims.

1. **Unclassified Claims.** In accordance with Section 1123(a)(1) of the Bankruptcy Code, all Claims (except administrative expense claims and priority tax claims) are placed in classes described below for all purposes, including voting on, confirmation of, and distributions under this Plan. Administrative Claims and Allowed Priority Tax Claims have not been classified and put in a class.

2. **Administrative Expense Claims.** Each holder of an administrative expense claim under Section 503 of the Bankruptcy Code will be paid in full on the Effective Date of the Plan, in cash, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.

3. **Priority Claims.** Any holder of a priority claim will be paid in full in the normal course of business of the Debtor pursuant to any applicable statutory or contractual requirement. The only known claimant in this class is the tenant with a claim to its security deposit subject to the terms of its lease with the Debtor.

4. **United States Trustee Fees.** All fees required to be paid by 28 U.S.C. § 1930(a)(6) (U.S. trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or converted to another chapter of the Bankruptcy Code. Any U.S. Trustee Fee owed on or before the Effective Date of the Plan will be paid on the Effective Date.

C. Claims and Interests Impaired Under the Plan

Class 1 and Class 3 Claims are impaired under the Plan, within the meaning of Section 1124 of the Bankruptcy Code. Class 2 and 4 Claims are unimpaired.

D. Treatment of Administrative Claims

1. **Administrative Claims in General.** Each holder of an Administrative Claim shall receive either: (i) with respect to Administrative Claims which are Allowed Claims on the Effective Date, the amount of such holder's Allowed Claim in one cash payment, within 10 days after the Effective Date, from the Debtor; (ii) with respect to Administrative Claims which become Allowed Claims after the Effective Date, the amount of such holder's Allowed Claim, in one cash payment from the Debtor within 10 days after such claim becomes an Allowed Administrative Claim; or (iii) such other treatment agreed upon by the Debtor and such holder.

2. **Fee Claims.** Each professional person whose retention with respect to the Debtor's case has been approved by the Bankruptcy Court or who holds, or asserts, an Administrative Claim that is a Fee Claim shall be required to file with the Bankruptcy Court a final fee application within sixty (60) days after the Effective Date and to serve notice thereof on all parties entitled to such notice. The failure to file timely any such application as required shall result in the Fee Claim being forever barred and discharged. A Fee Claim, with respect to which a Fee Application has been properly filed, shall become an Administrative Claim only to the extent allowed by Final Order. Fee Claims shall be paid either: (i) with respect to Fee Claims which are Allowed Claims on the Effective Date, the amount of such holder's Allowed Claim in one cash payment, within 10

days after the Effective Date, from the Debtor; (ii) with respect to Fee Claims which become Allowed Claims after the Effective Date, the amount of such holder's Allowed Claim, in one cash payment from the Debtor within 10 days after such claim becomes an Allowed Fee Claim; or (iii) such other treatment agreed upon by the Debtor and such holder.

3. Administrative Claims Bar Date. Any other person or Entity who claims to hold an Administrative Claim (other than a Fee Claim) shall be required to file with the Bankruptcy Court an application within sixty (60) days after the Effective Date and to serve notice thereof on all parties entitled to such notice. The failure to file timely the application as required under this Section VI(D)(3) of this Plan shall result in the Claim being forever barred and discharged. An Administrative Claim with respect to which an application has been properly filed and to which no timely objection has been filed or an objection has been filed but overruled by the Bankruptcy Court, shall become an Allowed Administrative Claim to the extent such claim is allowed by Final Order.

4. Quarterly Fees. All fees payable under 28 U.S.C. § 1930 shall be paid in full on the Effective Date or as they come due. Quarterly fees shall continue to accrue until the bankruptcy case is closed.

E. Treatment of Claims and Interests Under the Plan

All Claims and Interests classified under the Plan shall be treated and paid as follows:

1. Class 1 Claim (Simmons Bank). The Class 1 Claim is impaired and is entitled to vote on the Plan. The claim of Simmons Bank results from a note and first lien deed of trust, secured by the Real Property. The note has matured. The legal, equitable and contractual rights of Simmons Bank shall remain unchanged with respect to the Real Property. Simmons Bank shall be paid in full all amounts owed under its note upon the sale of the Real Property. The Class 1 Claimant shall retain its lien on the Real Property until paid in full.

2. Class 2 Claim (Kaufman County Tax Assessor and Forney I.S.D.). The Class 2 Claims are unimpaired and are not entitled to vote on the Plan. The Class 2 Claimants shall be paid in the normal course by the Debtor in accordance with the local statutory requirements for doing so.

3. Class 3 Claims (General Unsecured Claims). Claims in Class 3 (approximately \$112,542) will be paid the total amount upon the sale of the Real Property after the Class 1 Claimant has been paid in full. Also, the unsecured claim of Ron Cook shall be subordinated to the other Class 3 claimants. Class 3 Claims are Impaired and entitled to vote on the Plan.

4. Class 4 Claims (Equity Interest). The Class 4 Claims shall retain their membership interest in the Debtor. The Class 4 will not be entitled to a distribution until all Administrative Claims and those claims in Class 1-3 have been satisfied pursuant to the terms of the Plan. For purposes of distribution to Class 4, a claim will be deemed satisfied once such claim is either paid

in full or sufficient funds have been escrowed to allow for payment of all Disputed or Contested Claims. The Class 4 Claim is not entitled to vote.

F. Means for Implementation of the Plan

The Debtor intends to make the payments required under the Plan from the following sources:

1. Sale of the Real Property. The Debtor anticipates that it will be able to sell the Real Property for an amount in excess of all of the claims (both undisputed and disputed) in the case to allow for payment of all claims in full. Any sale of the Real Property will be obtained through a separate motion for an order from the bankruptcy court authorizing the sale. The motion to sell and subsequent order will provide for the satisfaction of all closing costs associated with the sale, including the payment of the applicable realtor's commission. All Allowed Secured Claims shall be paid at closing by the closing agent. Funds in an amount equivalent to all Disputed Claims and Contested Claims, into the IOLTA trust account of the Debtor's Counsel to be held pending the final resolution of all Disputed Claims. The firm may seek an order from the bankruptcy court authorizing distribution of the funds. The bankruptcy court may be closed in the interim period between the sale of the Real Property and the ultimate distribution of the funds. In such event, a motion to reopen the case must be filed.

The Debtor shall be permitted to seek to refinance the Real Property instead of selling the property. In the event of refinancing the Real Property, the Debtor shall obtain sufficient funds or line of credit in order to pay all claims to be satisfied by the Plan.

Until such time as the Real Property is sold or refinanced, the Debtor shall be required to stay current on all required taxes and insurance on the Real Property. The Debtor shall give notice to all Secured Creditors with an interest in the Real Property (Allowed and Disputed) in the event that the Debtor goes into default on the timely payment of the above required payments.

The Debtor is prohibited from taking any action not specified in the Plan with respect to the Real Property that is not considered in the ordinary course of business without prior written consent of the Secured Creditors with an interest in the Real Property (Allowed or Disputed). If the Secured Creditors refuse to grant authorization for the requested activity, the Debtor may seek authorization from the Court upon notice to creditors.

The Debtor shall file postconfirmation quarterly operating reports and shall pay postconfirmation United States Trustee fees until the case is dismissed, converted or closed.

2. Debtor's Current Monthly Income. Until such time as the Debtor is able to consummate a sale of any of the Real Property, the Debtor's members shall be responsible for paying the required taxes and insurance as such obligations become due.

G. Feasibility of the Plan

The Debtor believes that the Plan is feasible and can be satisfied from sale of the Real Property.

H. Provisions Regarding Distributions and Objections to Claims

1. No Distribution Pending Allowance or Estimation of Claims. No payments or distributions shall be made with respect to all or any portion of a Contested Claim of Disputed Claim unless and until such Claim becomes an Allowed Claim or Allowed Interest, as determined by Final Order. No holder of a Claim shall be entitled to any payment under the Plan if such holder has retained property of the estate.

2. Objections to Claims. Any party authorized by the Bankruptcy Code may object to the allowance of prepetition Claims at any time prior to sixty (60) days after the Effective Date or, as to Claims based upon the Debtor rejection pursuant to this Plan of an executory contract or unexpired lease, at any time prior to thirty (30) days after the filing of any such rejection Claim. All Contested Claims shall be litigated to Final Order; *provided, however,* that the Reorganized Debtor may compromise and settle any Contested Claim, subject to the approval of the Bankruptcy Court. Notwithstanding the foregoing, a person who is found to have received a voidable transfer shall have thirty (30) days following the date upon which the order ruling that such transfer is avoidable becomes a Final Order in which to file a Claim in the amount of such avoided transfer.

3. Suspension of payments on Disputed Claims. If any Claim has been objected to within the time required, the Debtor shall segregate and set aside, from the funds on hand for distribution to the claimant's class, funds sufficient to satisfy the payment otherwise due on the Claim according to the provisions of the Plan. In the event that the claim objection is overruled or a dispute is resolved favorably to the party asserting the Claim, then the funds shall be paid to the creditor in accordance with applicable class provisions. In the event that the disputed Claim is disallowed, the funds segregated in deference to the Claim shall be disbursed to other parties in interest, according to the applicable provisions of the Plan.

I. Executory Contracts

1. Assumption of Unexpired Leases. The Debtor is not a party to any prepetition unexpired leases are executory contracts not set forth above.

J. Default

No default in the performance of this Plan shall automatically result in the termination of the Plan or constitute a revocation of the Order Confirming the Plan. In the event that any party in interest believes that the Debtor is in default of any requirement of this Plan, such party or its attorney shall provide written notice of such claimed default to the Debtor and his counsel prior to filing a motion with the Bankruptcy Court regarding the alleged noncompliance with the terms of the Plan, or to otherwise seek Bankruptcy Court enforcement of the terms of this Plan.

X. Reservation of Claims

1. Reservation of Claims and Causes of Action. Any and all claims, causes of action, cross claims, or counterclaims held or assertable by the Debtor, including but not limited to: (i) any claim or cause of action under a policy of liability insurance or otherwise; (ii) the Avoidance Actions; and (iii) any and all claims, causes of action, counterclaims, demands, controversies, against third parties on account of costs, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, liabilities, objections, and executions of any nature, type, or description which the Debtor has or may come to have, including, but not limited to, negligence, gross negligence, usury, fraud, deceit, misrepresentation, conspiracy, unconscionability, duress, economic duress, defamation, control, interference with contractual and business relationships, conflicts of interest, misuse of insider information, concealment, disclosure, secrecy, misuse of collateral, wrongful release of collateral, failure to inspect, environmental due diligence, negligent loan processing and administration, wrongful setoff, violations of statutes and regulations of governmental entities, instrumentalities and agencies (both civil and criminal), racketeering activities, securities and antitrust violations, tying arrangements, deceptive trade practices, breach or abuse of fiduciary duty, breach of any alleged special relationship, course of conduct or dealing, obligation of fair dealing, obligation of good faith, whether or not in connection with or related to this Plan, at law or in equity, in contract or in tort, or otherwise, known or unknown, suspected or unsuspected, are hereby preserved and retained for enforcement by the Debtor as of the Confirmation Date. It is the intent of the Debtor that this reservation of claims shall be as broad as permitted by applicable law and shall include all claims, whether or not disclosed in the Debtor's schedules.

2. Return of Fraudulent Transfers. Any creditor determined to have received a transfer that is voidable pursuant to Sections 544, 547, 548, 549, and/or 550 of the Bankruptcy Code or any other applicable law shall be required to remit to the Debtor the determined amount of the avoided transfer prior to receiving any distribution.

XI. Effect of Confirmation, Discharge, Releases and Injunction

1. Vesting of Property. On the Effective Date of the Plan all property of the Estate shall vest in the reorganized Debtor pursuant to Sections 1141(b) and (c) of the Bankruptcy Code, free and clear of all claims and interests except as otherwise provided in this Plan. This Plan will evidence the release of any and all Liens or encumbrances against all property dealt with by the Plan, unless such Lien or encumbrance is specifically retained in the Plan.

2. Plan Creates New Obligations. Except as otherwise provided in the Plan, (1) the payment terms promised in the Plan constitute new contractual obligations that replace any payment terms that existed prior to the Effective Date, and (2) all rights obligation other than those new payment terms continue to apply.

3. Legal Binding Effect. The provisions of this Plan shall: (i) bind all holders of Claims and interests, whether or not they accept this Plan; and (ii) except with respect to Allowed Claims, discharge the Debtor from all Claims, claims, debts, and liabilities, including without

limitation, any Claims, claims, debts, and liabilities of a kind specified in Sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, that arose, or have been asserted against, the Debtor at any time before the entry of the Confirmation Order or that arise from any pre-Confirmation conduct of the Debtor whether or not the Claims, claims, debts, and liabilities are known or knowable by the Claimant.

4. Satisfaction of Claims and Interests. Except as otherwise provided by the Plan, the consideration distributed under the Plan shall be in complete satisfaction of all Claims of any Creditor, including Claims arising prior to the Effective Date.

5. Injunction or Stay. Except as otherwise expressly provided in the Plan, so long as the Debtor complies with the provisions of the Plan and no default has occurred under this Plan, the automatic stay of Section 362 of the Bankruptcy Code shall remain in full force and effect and all persons or entities who have held, hold or may hold Claims against the Debtor along with their respective present and former employees, agents, officers, directors, principals and affiliates, are stayed and enjoined under Sections 105 and 362 of the Bankruptcy Code, from and after the Effective Date, from taking any action against the Debtor, the Reorganized Debtor, the Bankruptcy Estate, or any of their Property, with respect to such Claim (other than actions brought to enforce any rights or obligations under the Plan). The injunction provided by this paragraph shall not affect the appeal rights of any creditor in any appellate court.

XII. Miscellaneous Provisions

1. Request for Relief Under Section 1129(b) (Cramdown). In the event any Impaired Class of Claims or Interests shall fail to accept this Plan in accordance with Section 1129(a) of the Bankruptcy Code, the Debtor requests that the Bankruptcy Court confirm this Plan in accordance with the provisions of Section 1129(b) of the Bankruptcy Code.

2. Prepayment. Any claim may be prepaid at any time, without penalty.

3. Tax Issues. The federal income tax effects on holders of claims will vary depending on how the holder has treated its claim for tax purposes. For example, if the holder has a basis in its debt claim and is paid an amount less than its basis, the holder may be entitled to a federal income tax deduction for its loss. This will depend on the holder's own tax characteristics and cannot be assured. Conversely, if the holder has no basis in its debt claim, the holder may recognize income for federal income tax purposes based on payments under the plan. Because each holder's federal income tax situation may vary, you are urged to consult your own tax advisors to determine the federal income tax effect of the plan on you.

4. Headings. All headings utilized in this Plan are for convenience and reference only, and shall not constitute a part of this Plan for any other purpose.

5. Due Authorization. Each and every Claimant who elects to participate in the distributions provided for herein warrants that such Claimant is authorized to accept, in consideration of such Claim against the Debtor, the distributions provided for in this Plan and that

there are not outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by such Claimant under this Plan.

6. Further Assurances and Authorizations. The Debtor shall seek such orders, judgments, injunctions, and rulings that may be required to carry out further the intentions and purposes, and to give full effect to the provisions of, this Plan.

7. Applicable Law. Except to the extent that the Bankruptcy Code or other federal law is applicable, the rights, duties, and obligations arising under this Plan shall be governed by and construed and enforced in accordance with the internal laws of the State of Texas without reference to the laws of other jurisdictions.

8. No Interest. Except as expressly stated in this Plan, or allowed by the Bankruptcy Court, no interest, penalty, or late charge is to be Allowed on any Claim subsequent to the Petition Date.

9. Post-Confirmation Actions. After Confirmation, the Reorganized Debtor may, with the approval of the Bankruptcy Court, and so long as it does not materially or adversely affect the interests of the Creditors, remedy any defect or omission, or reconcile any inconsistencies in the Plan or in the Confirmation Order, in such manner as may be necessary to carry out the purposes and effect of the Plan.

10. Notices of Default. Notwithstanding anything contained herein to the contrary, no Claimant shall have the right to exercise any rights under the Plan until the Debtor fails to cure any default within 14 days of receipt of written notice of such default to the Debtor and the undersigned counsel.

11. Notices. All notices, requests, elections, or demands in connection with the Plan shall be in writing and shall be deemed to have been given when received or, if mailed, 5 days after the date of mailing provided such writing shall have been sent by registered or certified mail, postage prepaid, return receipt requested.

12. Payment Dates. Whenever any payment or distribution to be made under the Plan shall be due on a day other than a Business Day, such payment or distribution shall instead be made, without interest, on the next Business Day, except as may be provided in negotiable instruments requiring such payments.

13. DeMinimis Distribution. No single distribution payment of less than \$5.00 shall be required to be made to any holder of an Allowed Claim. Rather, any such de-minimis distribution amount shall be held by the Debtor, added to the amount of the next distribution, and remitted to the holder of the Allowed Claim upon reaching a total greater than \$5.00.

XIII. Modification of the Plan

1. Prior to Confirmation. The Debtor may modify this Plan at any time prior to Confirmation, provided the modification complies with the requirements of Sections 1122, 1123 and 1127 of the Bankruptcy Code. Upon the filing of any such modifications with the Bankruptcy Court, the Plan, as modified, becomes the Plan.

2. After Confirmation. The Debtor may modify the Plan at any time after Confirmation, upon compliance with Section 1127 of the Bankruptcy Code. The Debtor or his attorney shall provide notice of any such proposed modification to all creditors and other parties in interest in these Chapter 11 proceedings. If, in the opinion of the Bankruptcy Court, the modification does not materially and adversely affect the interest of the creditors, the Bankruptcy Court may modify the Plan without notice to creditors, or may modify the Plan upon notice only to those creditors that the Bankruptcy Court deems to be materially and adversely affected.

XIV. Retention of Jurisdiction

The Bankruptcy Court shall retain jurisdiction over this Chapter 11 case after Confirmation of the Plan to the fullest extent provided for, or allowed, under the Bankruptcy Code and other applicable law. Specifically, but not by way of limitation, the Bankruptcy Court shall retain jurisdiction for the following purposes:

- (a) to consider and effect any modification of this Plan under Section 1127 of the Bankruptcy Code;
- (b) to hear and determine all controversies, suits and disputes that arise in connection with the interpretation, implementation, effectuation, consummation or enforcement of this Plan;
- (c) to hear and determine all requests for compensation and/or reimbursement of expenses for the period commencing on the Petition Date through the Confirmation Date;
- (d) to hear and determine all objections to Claims and Interests, and to determine the appropriate classification of any Claim or Interest, and other controversies, suits and disputes that may be pending at or initiated after the Confirmation Date, except as provided in the Confirmation Order;
- (e) to hear and determine all causes of action;
- (f) to consider and act on such other matters consistent with this Plan as may be provided in the Confirmation Order;
- (g) to make such orders as are necessary and appropriate to carry out and implement the provisions of this Plan; including to effect the further assurances provided in this Plan;

- (h) to approve the reasonableness of any payments made or to be made, within the meaning of Section 1129(a)(4) of the Bankruptcy Code;
- (i) to exercise the jurisdiction granted pursuant to Sections 505(a) and (b) of the Bankruptcy Code to determine any and all federal, state, Commonwealth, local and foreign tax liabilities of, and any and all refunds of such taxes paid by the Debtor;
- (j) to hear and determine any issues or matters in connection with any property not timely claimed as provided in this Plan; and
- (k) to determine any and all motions, applications, adversary proceedings and contested matters whether pending in the Case as of the Effective Date or brought subsequently by the Debtor.

Nothing contained herein shall be construed so as to limit the rights of the Debtor to commence or prosecute any claim in any court of competent jurisdiction.

DATED this 17th day of December, 2018.

Coolwater Estates, LLC

By: /s/ Ronald Cook
Ronald Cook
Manager

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