

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In Re: § Bankruptcy Case  
§  
**CYPRESS ASSOCIATES, INC.** § **17-30491-H1-11**  
§  
Debtor § Chapter 11

**DEBTOR'S AMENDED DISCLOSURE STATEMENT WITH RESPECT TO PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

**CYPRESS ASSOCIATES, INC. DEBTOR IN POSSESSION**

Dated: 10-20-17

/s/ John V. Burger  
**John V. Burger**  
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**YOU MAY OBTAIN A COPY OF THIS DOCUMENT FROM OFFICE OF THE CLERK OF THE U.S. BANKRUPTCY COURT BETWEEN NORMAL BUSINESS HOURS. THE COURT IS LOCATED AT 515 RUSK ST., HOUSTON, TX 77002.**

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**EXHIBITS**

- A. Plan of Reorganization under Chapter 11 of the Bankruptcy Code for Cypress Associates, Inc., Debtor in Possession.
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**AMENDED DISCLOSURE STATEMENT WITH RESPECT TO  
PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE  
FOR CELTIC CYPRESS ASSOCIATES, INC.**

Cypress Associates, Inc., the Debtor and Debtor-in-Possession in the above referenced chapter 11 case (“Debtor”), hereby submits its Debtor’s Amended Disclosure Statement with Respect To Plan of Reorganization Under Chapter 11 of the Bankruptcy Code for Cypress Associates, Inc. (the “Disclosure Statement”), in connection with the solicitation of acceptances of the Plan of Reorganization Under Chapter 11 of the Bankruptcy Code for Cypress Associates, Inc. (the “Plan”) that is attached hereto as Exhibit A.

**I. NOTICE TO HOLDERS OF CLAIMS**

The purpose of this Disclosure Statement is to enable you, as the holder of a claim against the Debtor, to make an informed decision with respect to the Plan prior to exercising your right to accept or reject the Plan.

*Your rights may be affected. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.*

No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any information concerning the Debtor or its business other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor and its estate, other than that contained herein. The sources of the information in this Disclosure Statement are the Debtor and its general partner Ceana, LLC (“Ceana”), the financial documents and tax returns of the Debtor, the historical and projected financial statements of the Debtor, and a liquidation analysis. The accounting method used in this Disclosure Statement and its supporting documents is the cash method of accounting, unless specifically noted. The proposed distributions under the Plan are discussed. The Holders of all Allowed Claims will be paid under the terms of the Plan.

**Purpose of This Document**

This Disclosure Statement describes:

- a. The Debtor and significant events leading up to the bankruptcy case,
- b. How the Plan proposes to treat claims or equity interests of the type you hold (*i.e.*, what you will receive on your claim or equity interest if the plan is confirmed),
- c. Who can vote on or object to the Plan,

- d. What factors the Bankruptcy Court will consider when deciding whether to confirm the Plan,
- e. Why the Debtor believes the Plan is feasible, and how the treatment of your claim or equity interest under the Plan compares to what you would receive on your claim or equity interest in liquidation, and
- f. The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights. The United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court") held a hearing on October 27, 2017, at 11:00 a.m. Central Standard Time in Courtroom 404, United States Courthouse, 515 Rusk Street, 4th Floor, Houston, Texas 77002, to consider conditional approval of the Disclosure Statement. At that hearing, the Bankruptcy Court conditionally approved the Disclosure Statement and set a hearing to consider final approval of the Disclosure Statement and confirmation of the Plan on \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_.m. (the "Hearing"). You have until 12:00 o'clock p.m. (Houston Time) on October 26, 2017, to file a written objection to the Disclosure Statement and Plan. If you file a written objection to the Disclosure Statement and/or Plan, you must also serve a copy of the written objection on counsel for the Debtor, John V. Burger, Burger Law Firm, and your written objection must be received by Mr. Burger on or before \_\_\_\_\_, 2017, at 12:00 p.m. (Houston Time). You may send your written objection to Mr. Burger via hand delivery or mail at Burger Law Firm, 3000 Wesleyan, Suite 305, Houston, TX 77027, via facsimile at (713) 961 4403, or via email at [johnburger@burgerlawfirm.com](mailto:johnburger@burgerlawfirm.com).

At the Hearing, the Bankruptcy Court will determine whether this Disclosure Statement contains information, of a kind and in sufficient detail, adequate to enable the holders of claims against the Debtor to make an informed judgment with respect to acceptance or rejection of the Plan. THE BANKRUPTCY COURT'S CONDITIONAL APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

You should read this Disclosure Statement in its entirety prior to voting on the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any information concerning the Debtor or his business other than the information contained in this Disclosure Statement. You should not rely on any information relating to the Debtor and its estate, other than that contained herein. Objections to approval of the Disclosure Statement and to confirmation of the Plan are governed by Bankruptcy Rule 9014.

UNLESS AN OBJECTION TO APPROVAL OF THE DISCLOSURE STATEMENT AND/OR TO CONFIRMATION OF THE PLAN IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.



The Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement made at Hearing or any adjournment thereof. A ballot to be used for voting to accept or reject the plan together with postage paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT. As indicated above, the Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the plan must be received by the Debtor's counsel served via fax, electronic mail, mail or hand delivery, and received by counsel for the Debtor no later than 12:00 p.m. (Houston Time) on \_\_\_\_\_, 2017, at the following address(s):

Burger Law Firm  
3000 Wesleyan, Suite 305  
Houston, TX 77027  
Tel: (713) 960 9696  
Fax: (713) 961 4403  
Email: [johnburger@burgerlawfirm.com](mailto:johnburger@burgerlawfirm.com)

YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS/FAX NO./EMAIL ADDRESS AFTER 12:00 P.M. (HOUSTON TIME) ON \_\_\_\_\_, 2017.

## II. GENERAL INFORMATION ABOUT THE DEBTOR

### A. Description and History of the Debtor's Business.

The Debtor is a corporation duly incorporated under the laws of the State of Texas and is in good standing with the State of Texas. The Debtor owns and operates an insurance brokerage located at 11720 Katy Freeway, Suite 1600, Houston, TX 77079. The Debtor was formed on February 12, 2009. It offers a variety of insurance products including health, life, and well-being policies underwritten by Philadelphia American Life Insurance Company/New Era Life Insurance Company ("PALIC"). Debtor leased its office space from PALIC on a month-to-month basis. Barry Glenn is the sole shareholder, officer and director the Debtor.

Debtor generates approximately \$100,000.00 in commissions from the sale of insurance products; however, as PALIC is the underwriter, it has been withholding fifty (50%) percent of the commissions, which it has been applying to the Rising Star loan. The remaining payments due to Debtor are approximately \$50,000.00. Debtor's monthly operations are covered by commissions paid to it under the insurance policies underwritten by PALIC. According to the Commission Assignment Agreement, PALIC asserts a right to the present and future commissions Debtor generates.

Debtor is affiliated with the following entities:

- a. *Cypress Associates Administrators, LLC*, a Texas limited liability company

established in January, 2014. Barry Glenn is the sole shareholder, officer and director. This entity served as the administrator of the insurance products offered by the Debtor. It performed the functions of receiving insurance claims, processing claims, and recommending payment of benefits due under the insurance policies. The entity ceased operating in May 2016.

b. *Healthquest Insurance Services, LLC*, a Texas limited liability company. Barry Glenn is the sole shareholder, officer and director. Healthquest was intended to served as the marketing branch of the Debtor. Healthquest never transacted business and has no assets. Healthquest attempted to register its trademarks but another entity had already obtained its rights to the name. Consequently, the primary purpose of the entity was defeated by the existence of another entity.

c. *Bene\*Fit Insurance Services, LLC*, a Texas limited liability company. Barry Glenn is the sole shareholder, officer and director. This entity is the marketing and sale arm of the new Bene\*Fit insurance products. This entity is not a licensed broker and cannot receive commissions from the sale of insurance products; the Debtor is the only licensed insurance broker.

d. *Bene\*Fit Administrators, LLC*, a Texas limited liability company. Barry Glenn is the sole shareholder, officer and director. This entity handles the administration of all of the insurance programs including defined benefit plans and the Bene\*Fit program. This entity is not licensed; it strictly provides administrative services for the products.

e. *Bene\*Fit Wellness, LLC*, a Texas limited liability company. Barry Glenn is the sole shareholder, officer and director. This entity houses the wellness coaches, for client company employees. The wellness program provides services such as lifestyle coaching, nutrition, dietary services, and other services to enrolled participants.

These entities are collectively referred to as the "Bene\*Fit Group". The Bene\*Fit Group was formed in 2016, beginning in May of that year. The Bene\*Fit Group provides different services and insurance products than those offered by the Debtor. For instance, the Debtor's primary underwriter of insurance policies in PALIC; the Bene\*Fit group, however, offers products through insurance carriers such as Unam, Boston Mutual, and others. The Bene\*Fit Group also offers health and wellness plans which provide policy holders with an ability to assess their general health and well being to maximize benefits under insurance plans.

#### **B. Insiders of the Debtor.**

As stated, Barry Glenn is the sole shareholder, officer and director of the Debtor. He is also the sole shareholder and director of the affiliated entities. While the Bene\*Fit Group is wholly owned by Mr. Glenn, there is no cross-over between the Debtor and the Bene\*Fit Group, primarily because the Bene\*Fit Groups offers and administers different insurance products. The Bene\*Fit Group did occupy the same commercial lease space as the Debtor. Bene\*Fit Group's proportionate share for occupying the leased premises is estimated to be \$55,466.56, for use of the space from August 2016 to the Petition Date.



### **C. Management of the Debtor Before and During the Bankruptcy.**

At the time of filing, the Debtor was managed by Mr. Glenn. Mr. Glenn, as sole shareholder and director, provides the day-to-day management of the Debtor. Mr. Glenn oversees the management team consisting of Krystle Meltzer, and David Summerlin. The Debtor maintains a staff of three (3) full-time employees to handle the daily affairs; from time to time, Debtor shared employees with the Bene\*Fit Group. However, that arrangement has ceased since the filing of the Chapter 11 Bankruptcy Case. Bene\*Fit Group's proportionate share for occupying the leased premises is estimated to be \$55,466.56. for use of the space from August 2016 to the Petition Date.

### **D. Events Leading to Chapter 11 Filing.**

The events leading to the Debtor's Chapter 11 filing go back to 2014, when the Debtor was approached by Rising Star Management Group ("RSMG" or "Rising Star") to participate in a Marketing and Production Agreement (the "Marketing Agreement"). Under the Marketing Agreement, PALIC agreed to advance Debtor's costs associated with that agreement. The Marketing Agreement was not executed until February 23, 2015. The Marketing Agreement contained four main components:

- a. An Agency and Sponsorship Agreement, whereby Rising Star agreed to act as the exclusive agency of record for Debtor in the 2014 and 2015 NASCAR Sprint Cup Series (the "Racing Program") and the NASCAR Nationwide and Camping World Truck series, to place sponsorships for Debtor in the Racing Program;
- b. PALIC agreed to advance the amount of \$2,649,999.96 to Debtor, payable to Rising Star, for advertisement and sponsorship placement of Debtor's branding;
- c. A Personal guarantee and Right of Offset, executed by Barry Glenn, as Debtor's president. The Right of Offset grants PALIC a security interest and contractual right of offset against any commissions, monies, or accounts, whether individual or otherwise, in which Glenn may have an interest, present or future, for any and all obligations of the Debtor, and
- d. A Commission Assignment Agreement, in which Debtor granted PALIC a security interest in and assigned to PALIC all commissions, whether weekly, initial or renewal, earned by Debtor, including its employees or agents, from the marketing and/or issuance of any insurance product offered by PALIC or any other insurance company.

According to the Promissory Note, Debtor was to pay PALIC 11 monthly payments of \$100,000.00, commencing on May 1, 2015, and one final payment of \$1,637,994.48, payable on April 31, 2016. Pursuant to the Marketing Agreement, PALIC advanced the amount of \$1,104,166.65 to Rising Star; PALIC did not advance the full amount of \$2,649,999.96 to Rising Star, though. PALIC has been offsetting Debtor's rights to insurance commissions. To date of

filing, PALIC had offset \$832,441.93 against the amounts it advanced to Rising Star. Upon information and belief, PALIC was owed approximately \$271,724.72 on the petition date from the amounts it advanced to Rising Star; Debtor has reduced that amount by \$50,500.00. That amount has been reduced by PALIC's post-petition offset of commissions as allowed by the Bankruptcy Court's cash collateral orders. As of July 26, 2017, PALIC is owed \$182,968.85 with the accrued interest.

A dispute arose between Debtor and Rising Star over the value of the agency and sponsorship agreement. Rising Star filed suit in Iowa state court against Debtor to recover the full amount due and owing under the Marketing Agreement. The case was assigned Case No. LACL133432, and was filed in the Polk County District Court of Iowa. On or about January 29, 2016, Debtor and Rising Star entered into a settlement agreement and confession of judgment whereby Debtor agreed to pay Rising Star the principal amount of \$1,556,708.35 in monthly installments of \$250,000.00. Payments were made until April, 2016, when Debtor defaulted on the payments. Between February, 2016 and April, 2016, Debtor paid Rising Star \$250,000.00. Rising Star asserts that these payments were properly credited.

Rising Star domesticated its judgment in Texas on or about June 17, 2016, in 190<sup>th</sup> Judicial District Court of Harris County, Texas, and is pending under Case No. 2016-41514. On or about January 19, 2017, Rising Star moved for, and was granted, application for the appointment of a receiver. On June 22, 2016, Rising Star also garnished funds in the Debtor's bank at Bank of America, N.A., in the amount of \$19,055.27; Rising Star garnished another bank account at Bank of America, N.A., freezing the amount of \$30,039.97 on July 13, 2016, totaling \$50,039.97. Rising Star asserts that the total amount garnished was \$49,004.97 and that these payments were properly credited. In addition Bank of American has frozen an account belong to an entity related to the Debtor in the name of Cypress Associate Administrators, which held the sum of \$62,463.67 of funds that did not belong to the Debtor and in which the Debtor had no claims or rights thereto. Those funds are no longer frozen.

On January 31, 2017, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

### **III. DEBTOR'S CHAPTER 11 CASE**

#### **A. General Case History.**

On January 31, 2017, May 17, 2016, the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code. On that date, the Debtor also filed an emergency motion for use of cash collateral, and related applications to employ counsel. The Debtor has been authorized to use cash collateral in the amounts set forth in the Court's interim and final cash collateral orders. Credit Human Federal Credit Union filed a motion to lift the automatic stay as to its collateral and an agreed order conditioning the automatic stay was entered by the Court on April 11, 2017. Rising Star took a Rule 2004 Examination of the Debtor on May 5, 2017.



## B. Claims Objections.

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V and Article VII of the Plan. The Debtor has not yet seen any proofs of claims filed and so as of the date of this Disclosure Statement there are no claims objections on file.

Debtor has listed a total of claims of approximately \$2,565,249.00, consisting of secured, priority and unsecured claims.

### i. Secured Claims.

Secured claims owed are approximately \$114,000.00 as the petition date, consisting of the following creditors:

1. Ally Financial Services Inc., which asserts a claim in the amount of \$5,000.00, secured by a 2010 Lexus GS 350. This vehicle is driven by Mr. Glenn. This claim is current and is paid in accordance with the terms of the contract. **Since the date of filing, this debt has been paid in full.**
2. First Service Credit Union, which asserts a claim in the amount of \$50,000.00, secured by a 2015 GMC Denali. This vehicle is driven by Mr. Glenn. This claim is current and is paid in accordance with the terms of the contract. This claim is being paid by Bene\*Fit Administrators, which will continue making the payments until the lien is paid in full.
3. Credit Human Federal Credit Union, formerly known as San Antonio Federal Credit Union, which asserts a claim in the amount of \$28,000.00, secured by a 2013 Porsche Panamera. This vehicle is driven by Mr. Glenn. This claim is current and is paid in accordance with the terms of the contract. This claim is being paid by Bene\*Fit Administrators, which will continue making the payments until the lien is paid in full.
4. Toyota Financial Services, which asserts a claim in the amount of \$31,110.00, secured by a 2014 Toyota FJ Cruiser. This vehicle is driven by an employee and is payroll deducted from the wages. This claim is current and is paid in accordance with the terms of the contract. **Since the date of filing, this debt has been paid in full and the title released to the Debtor, which the Debtor has transmitted to its former employee.**
5. Debtor filed a motion to use cash collateral out of an abundance of caution because of the rights of recoupment or setoff PALIC has under the insurance policies. PALIC has a right to offset fees, commissions, and other charges from insurance policies.



The products Debtor executes with its customers provide for the payment of the policy premiums to PALIC, which receives the payments and offsets its charges and other costs, and the remits fifty (50%) percent of the remaining premiums to Debtor. The right of recoupment and/or setoff, and the fact that PALIC receives the payments of policy premiums, gives PALIC a possessory interest in the funds. Additionally, PALIC was offsetting other fees and costs against the funds it advanced to effectuate the Marketing Agreement with Rising Star. The Court has entered an order authorizing use of cash collateral and has granted PALIC replacement liens on the funds.

ii. Priority/Tax Claims.

Debtor listed approximately \$167,000.00 in pre-petition payroll obligations owed to the Internal Revenue Service ("IRS"). This debt arises from 2011 and 2012 when payroll taxes were not paid to the IRS as required by the Internal Revenue Code. Prior to filing, the Debtor had established a payment program whereby it paid the IRS \$3,400 per month toward that obligation. Since filing, the Court has authorized the Debtor to continue paying its payroll tax debt as a component of the cash collateral order. Debtor does not owe any current IRS tax liabilities; Debtor does not owe any state employment/payroll obligations.

iii. General Unsecured Claims.

Debtor scheduled approximately \$2,284,000.00; total unsecured claims filed are \$1,450,173.27. The Deadline to file proofs of claim, established by the Bankruptcy Court, was June 19, 2017, consisting of three main claims:

1. New Era Life Insurance Company, for delinquent pre-petition rents owed in the amount of \$172,562.63 without the accrued interest and late fees. New Era is a division of PALIC, and because Debtor provided PALIC's insurance products to its customers and subscribers, New Era allowed Debtor to remain in the premises even though the rental arrearage was significant. Bene\*Fit Group's proportionate share of this unpaid rent is estimated to be \$55,466.56, for use of the space from August 2016 to the Petition Date.
2. PALIC, in the amount of approximately \$219,000.00 after payments credits, and offsets have been given since the petition date, arising out of the Rising Star marketing program. As of August 23, 2017, the loan balance is \$182,968.85 with the accrued interest.
3. Rising Star, which asserts that it is owed \$1,367,819.68 from the marketing program. Cypress paid \$150,000.00 in pre-petition payments in early 2016 and RSMG garnished \$50,039 in June and July of 2016. RSMG filed its proof of claim on June 16, 2017.

### **C. Current and Historical Financial Conditions.**

The Debtor's income/revenue has always been associated with the sale of insurance products. Debtor's primary financial issue involved the Rising Star debt. Debtor generates approximately \$100,000.00 per month from the policy premiums. While Debtor believes that the historical average is accurate, its proposed plan is based upon a conservative estimate of \$70,000 in receivables per month, which accounts for the uncertainty of insurance policy renewals which may not occur. Debtor remits \$15,000.00 per month as adequate protection. This leaves Debtor will approximately \$55,000.00. These sums are subject to the Cash Collateral Order.

In 2015, the Debtor's federal income tax return reflects gross receipts of \$5,349,959. After deductions and expenses, the Debtor reported a total of \$5,349,959.00 in gross revenue income. The 2016 tax return has not been prepared at this point; however, the 2016 profit and loss statement shows gross profit of \$3,460,827.00 expenses of \$1,558,647, for a gross profit of \$1,081,574.

Debtor sustained a significant decline in profits in 2015 and 2016, in part, due to litigation involved in the Marketing Agreement, where Debtor devoted significant resources to the prosecution of the litigation. Based on Debtor's history, it believes that, without having to prosecute the litigation, Debtor can do what it was designed to do, which is broker and administer health and wellness products to its customers.

### **D. Assets of the Debtor.**

The Debtor's assets are listed on Schedule B of the Debtor's Schedules, which reflect a value of approximately \$412,747.00. The Debtor does not have an interest in any real property. The Debtor had a leasehold interest in commercial real space located at 11720 Katy Freeway, Suite 1600, Houston, TX 77079. However, since the date of filing the Debtor vacated the premises and is now located at 10713 W. Sam Houston Parkway N, Ste 100, Houston, TX 77064.

The Debtor had approximately \$115,846.00 in cash on the date of filing; however, some of the funds on deposit with Bank of America, N.A., had been garnished by Rising Star. Debtor owns furniture and fixtures listed in items 38 through 41 of the Debtor's Schedule B, including office fixtures listed in item 40 of Schedule B, office equipment listed in item 41 of Schedule B, and machinery, fixtures and other equipment listed in item 50 of Schedule B. Those property values are listed in Schedule B. The Debtor owns interest in insurance policy premiums of approximately \$100,000.00 per month, consisting of new policy premium payments and renewals; however, new policy premiums account for the bulk of Debtor's monthly revenue. According to the August 2017 Monthly Operating Report (Docket No. 69), the Debtor currently has approximately \$325,700.00 in cash on hand.

Item 47 of Debtor's Schedule B reflects interests in four (4) motor vehicles titled in Debtor's name. Debtor is a co-borrower on those vehicle obligations, but pursuant to the Court's cash collateral orders, the monthly payments owed are not paid directly by Debtor as a function of its monthly operating budget; the payments are made from other sources that is not from the Debtor.



Item 47 of Debtor's Schedule B reflects interests in state insurance broker licenses in several states where Debtor operates its business. These licenses are required by state laws and are specific to the Debtor. They do not have a market value as they are not assignable or transferable to any other person or entity.

Item 71 of the Debtor's Schedules reflects an interest in a promissory note owed to Debtor, with an amount owed of approximately \$4,300.00 on a 2012 Hyundai Sonata. This note is from a former employee for whom Debtor had purchased a motor vehicle as a part of her compensation. When she left Debtor's employment, Debtor paid off the remaining balance owed to the finance company and the former employee pays Debtor. Debtor holds the title to the vehicle. The payments were current on the Petition Date, and the former employee has continue to pay on this note. Once the balance is paid, Debtor will release the title to the former employee.

In Item 74 of Debtor's Schedule B, Debtor reflects a counter-claim Debtor has against Rising Star for payments, credits, and offsets Debtor believes it has against Rising Star's judgment. As noted above, Rising Star sued Debtor and a consent judgment was entered into in January 2016. Debtor agreed to make payments of \$225,000.00 per month, but defaulted on those payments. Rising Star filed a second lawsuit in Iowa state court alleging breach of contract, fraud, and misrepresentation. Rising Star filed claims against Mr. Glenn in the second lawsuit; Debtor may have a counter-claim in that case asserting, among other things, claims of breach of contract, fraud, and fraudulent inducement against Rising Star. Establishing a value of this claim is difficult considering the nature of Rising Star's judgment against Debtor, and the relative merits of the claims and causes of action Debtor has against Rising Star. To the extent that the Debtor has a counter-claim against Rising Star, that matter may be resolved in the course of a claim objection in this case.

Item 77 of Debtor's Schedule B reflects interests in four (4) items of property, which have been discussed already. These property rights include payments on the 2012 Hyundai note; the interest in the insurance policies; an agency agreement with New Era Life Insurance Company, and a sponsorship of a 401k defined benefits plan Debtor established for its employees. The defined benefits plan does not require Debtor to make employer-based contributions. These items do not have any intrinsic value other than what has already been discussed.

#### **E. Executory Contracts and Unexpired Leases.**

##### **1. Commercial Lease Space.**

As stated above, Debtor had an expired, month-to-month leasehold interest in the commercial property located at 11720 Katy Freeway, Suite 1600, Houston, TX 77079 as a subtenant of New Era Life Insurance Company. Debtor's plan will reject that lease. Debtor has vacated the premises and shares space with the Bene\*Fit Group located at 10713 W. Sam Houston Parkway N, Ste 100, Houston, TX 77064. Debtor is not a party to the new lease and anticipates that it will pay monthly rent in the amount of \$4,000.00. Bene-Fit Administrators will be the primary tenant; Debtor will share approximately twenty-five percent (25%) of the rental space.

2. Insurance Policies Underwritten by PALIC.

Debtor's primary source of revenue is derived from the issuance of life, health, and well-being insurance policies underwritten by PALIC. These policies generate approximately \$100,000.00 per month and are vital to Debtor's ability to reorganize its financial affairs. Debtor will assume those contracts in the Plan.

**IV. SUMMARY OF THE PLAN OF REORGANIZATION  
AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

**A. What is the Purpose of the Plan?**

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

**B. Impaired Claims and Equity Interests and Their Treatment.**

The Debtor's Plan provides for five (5) classes of claims and interests. There is a class for the secured claim of First Bank, a class for unsecured priority claims, a class for the general unsecured claims, a class for general *de minimus* unsecured claims, and a class for the holders of equity interests in the Debtor. This Plan also provides for the payment of administrative, priority claims. The classification of those classes and their treatment is detailed below.

The Debtor anticipates having fees due to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6). Those fees will be paid on the Effective Date. The Debtor also anticipates having certain other administrative expense claims of its professionals, such as the Burger Law Firm, general counsel to the Debtor, and accountants to the Debtor. Those administrative expense claims will be paid in cash, in full on the Effective Date, or as agreed to between the Debtor and the administrative claimant.

**1. Classification of Claims.**

The classes of claims that will be treated in the Plan are as follows:

Class 1. This class consists of the allowed claims of creditors asserting liens on motor vehicles as set forth above. These claims will be paid according to the terms of the respective contracts and the creditors asserting liens on the collateral will retain their liens. This class also includes PALIC's possessory interest in the income generated by the execution of new, as well as the payment of renewal, policies.

Class 2. This class consists of all allowed, unsecured priority claims. The Debtor anticipates having Allowed Claims for taxes by governmental entities. Priority tax claims are



unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. This class should consist of certain allowed tax claims of the Debtor, specifically claims of the Department of the Treasury - the Internal Revenue Service (primarily for employer-employee trust fund liabilities), the Texas Comptroller and the State of Texas for any franchise taxes due.

Class 3. This class consists of all allowed, general unsecured claims. The Debtor anticipates that this class will consist of the New Era Life Insurance Company rent defaults, Rising Star's judgment, and any allowed general unsecured claims.

Class 4. This class consists of all allowed, *de minimus* unsecured claims. This class shall consist of all trade creditors whose claims are in an allowed amount of \$500.00 or less.

Class 5. This class consists of all allowed, equity holders of the Debtor.

## **2. Treatment of Claims by Class.**

### **a. Non-Classified Claims.**

Claims and interests shall be treated as follows under this Plan. Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class. One category of such claims are fees owed to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6). All fees required to be paid by 28 U.S.C. § 1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid.

To the extent there are such fees due and owing on the confirmation date, such fees will be paid in cash in full on the Effective Date. Other U.S. Trustee Fees incurred after the confirmation date will be paid timely until the case is closed. Another form of administrative expenses are costs or expenses of administering the Debtor's chapter 11 case, which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment. Holders of these other forms of allowed administrative expense claims shall be paid in cash, in full, on the Effective Date, or as agreed between the Debtor and such holder of administrative expense claim.

### **b. Classified Claims.**

The Debtor will treat the holders of allowed claims and interests in Classes 1 – 5 as follows:

Class 1 Claim: PALIC's allowed Class 1 Claim shall be paid in equal monthly installments over a period of eighteen (18) months, with interest at 4.0% per annum, with the first payment due on the Distribution Date, in accordance with the terms of the Cash Collateral Order.



All holders of claims secured by automobiles shall be paid in accordance with the terms of their respective contracts and said creditors shall retain the liens on their respective collateral.

**Class 2 Claims:** Holders of allowed, unsecured priority claims shall receive equal monthly payments, plus twelve (12%) percent interest per annum, in cash for a period of five (5) years from the Petition Date, with the first payment due on the Distribution Date, in accordance with the terms of the Cash Collateral Order. Upon information and belief, the IRS secured claim arising out of pre-petition payroll tax debts will be reduced by \$30,000.00, by the sale of non-estate assets belonging to Barry Glenn, the Debtor's principal shareholder, against whom the IRS has assessed the personal liability.

**Class 3 Claims:** Holders of Allowed Class 3 Claims shall be paid one hundred (100%) percent of the Allowed Amount of each Holder's Class 3 Claim plus interest at 4.0% per annum in cash, in equal monthly installments over a period of sixty (60) months, with the first payment due on the Distribution Date.

**Class 4 Claims:** Holders of Allowed Class 4 Claims shall be paid one hundred (100%) of the Allowed Amount of each Holder's Class 4 Claim in cash, in full on the Distribution Date.

**Class 5 Claims:** Holders of Allowed Class 5 Interests shall receive distributions on their claims only after Class 4 Claims have been paid in full.

#### **Treatment of Equity Interest Holders.**

Equity Interest Holders of the Debtor will not retain their stock interest in the Debtor and their interests may be subject to an auction, as authorized by the Bankruptcy Court, to determine the value of the shareholder interest in the Debtor.

#### **C. Implementation of the Plan.**

On the Effective Date, the Newly Reorganized Debtor will execute all other documents necessary to the implementation of the Plan and the Order of Confirmation. This will consist of an amendment to the Partnership Agreement providing for the cancellation of the existing limited partnership interests in the Debtor and the issuance of new limited partnership interests in the Newly Reorganized Debtor and a trust agreement to hold the newly issued limited partnership interests in the Newly Reorganized Debtor.

According to the August 2017 Monthly Operating Report (see, Docket No. 69), the Debtor currently has approximately \$325,700.00 in cash on hand. On the Effective Date of the Plan, Debtor will contribute or pay the current balance of the PALIC claim in full, with the remainder to be distributed pro rata as an initial distribution to unsecured allowed unsecured claims, after payment of allowed administrative fees (including accrued legal fees, accountancy fees, and United States Trustee Quarterly Fees), Debtor may be able to pay the remaining amount owed to PALIC, thereby releasing more funds for unsecured creditors. Debtor may be able to pay the remaining allowed claims in full in approximately thirty-six to forty-eight months.

## **E. Other Provisions of the Plan.**

### **1. Provisions Governing Distribution.**

(a) Requirement for Allowance of Claims and Equity Interests. No payment or other distribution will be made on account of any claim or Equity Interest that is not "allowed". The plan defines an "Allowed Claim" as:

(i) a Claim which has been allowed by Final Order of the Court;

(ii) a Claim timely filed with the Clerk of the Court or scheduled as other than unliquidated, disputed or contingent by the Debtor in its Schedules and Statement of Financial Affairs or Amended Schedules and Amended Statement of Affairs filed with the Court, as to which Claim no objection to the allowance thereof has been timely filed, or as to which Claim either an objection to the Claim or an application to amend the Schedules with respect to such Claim has resulted in the allowance of the Claim, in whole or in part, by Final Order of the Court;

(iii) a Claim whose amount is established as a provision of the Plan; or

(iv) a right to payment from the Estate Property for compensation or reimbursement as approved by the Court by Final Order.

The Plan defines "Final Order" as an order or judgment, which is no longer subject to appeal or review. Any order or judgment which is pending a timely filed motion to correct or amend the order or judgment pursuant to F.R.B.P. 7052 or 9023 or which is pending a timely filed notice of appeal pursuant to F.R.B.P. 8002 shall not be considered a Final Order until after all such motions and appeals are exhausted. The bar date deadline for filing proofs of claim is not yet set, but when it is set it will serve as the Bar Date.

(b) Date and Delivery of Distribution. Distributions of cash under the plan will be made by the Newly Reorganized Debtor beginning on the date that is on the fifth (5th) day of the month following thirty days after the Effective Date (the "Distribution Date").

(c) Means of Cash Payment and Time Bar. Cash payments to be made by the Reorganized Debtor pursuant to the Plan will be made in U.S. funds by check drawn on a domestic bank. Checks issued in respect of Allowed Claims will be null and void if not cashed within 90 days of the date of issuance thereof. Any claim in respect of such a voided check must be made on or before the later of the first anniversary of the distribution date or 90 days after the date of issuance of such check. After such date, all claims in respect of void checks will be discharged and forever barred.

**2. Provisions for Resolving Contested Claims.**

(a) Filing Pre-Petition Claims. Creditors must have filed their proofs of claims with respect to pre-petition claims on or before the Bar Date, after which date any proof of claim filed will have no effect on the Plan and no right to participate with other creditors under the Plan.

(b) Objection Deadline. Except as otherwise set forth in the Plan or as otherwise extended or ordered by the Bankruptcy Court, all objections to pre-petition claims and/or post-petition administrative expense claims must be filed no later than one hundred twenty days (120) days after the Effective Date (unless such day is not a Business Day; in which case, such deadline will be the next Business Day thereafter unless extended by an order of the Bankruptcy Court). An objection to a Claim will be deemed properly served on the holder thereof if service is effected by any of the following methods: (a) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004; (b) to the extent counsel for a Claimant is unknown, by first-class mail, postage prepaid, on the signatory on the proof of Claim or other representative identified on the proof of Claim or any attachment thereto; or (c) by first-class mail, postage prepaid, on any counsel that has appeared on the behalf of the Claimant in the Bankruptcy Case.

(b) Notwithstanding any other provision of the Plan, the Holders of contested claims that are in dispute and pending allowance shall receive no payment or distribution until and unless this Court enters an order allowing such claim in a liquidated sum and any post-judgment motions and appeals with respect to such order are resolved and exhausted. Payment is then subject to the terms of the Plan.

(c) Post-Confirmation Amendments to Proofs of Claims. Except as otherwise provided in the Plan, following the Confirmation Date, a Claim may not be amended unless such amendment results in a decrease of the amount of the Claim, change in priority of the Claim to a lower priority under the Bankruptcy Code, or withdrawal of Claim. Any unauthorized amendment shall be deemed null, void, and of no force or effect.

(d) Claims Estimation. The Reorganized Debtor may request estimation or limitation of any contingent, unliquidated, or Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether that Claim was previously objected to or whether the Bankruptcy Court has ruled on any such objection; provided, however, that the Bankruptcy Court will determine (a) whether such Disputed Claims are subject to estimation pursuant to Section 502(c) of the Bankruptcy Code and (b) the timing and procedures for such estimation proceedings, if any. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation, and resolution procedures are intended to be cumulative and not exclusive of



one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Plan or the Bankruptcy Court.

(e) **No Distributions on Disputed Claims Pending Allowance.** No Distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order and the Disputed Claim has become an Allowed Claim. The Reorganized Debtor may, in his sole discretion, withhold Distributions otherwise due hereunder to the holder of a Claim until the Objection Deadline to enable the Reorganized Debtor to file a timely objection thereto. When a Disputed Claim becomes an Allowed Claim, the Reorganized Debtor shall make Distributions with respect to such Allowed Claim, without interest (except as otherwise provided in this Plan), net of any setoff and/or any required withholding of applicable taxes.

(f) **Distribution Reserve Account.** On or after the Effective Date, the Reorganized Debtor will establish a Distribution Reserve Account as is appropriate, in its sole and absolute discretion, for the benefit of holders of Disputed Claims pending the allowance thereof, the amount of which will be adjusted from time to time as appropriate. A Claimant will not be entitled to receive or recover any amount in excess of the amount provided in the Distribution Reserve Account specifically reserved to pay such Claim unless permitted by Order of the Bankruptcy Court. Nothing in the Plan will be deemed to entitle the holder of a Disputed Claim to post-petition interest on such Claim, if Allowed, unless otherwise required under the Bankruptcy Code or the Plan.

(g) **Distributions After Allowance.** Payments and Distributions from the Distribution Reserve Account to each respective holder of a Disputed Claim, to the extent it becomes an Allowed Claim, will be made in accordance with the provisions of the Plan that govern Distributions to such holders of Claims in the Class in which such Claimant is classified. Unless otherwise provided in the Plan, as promptly as practicable after the date on which a Disputed Claim becomes undisputed, non-contingent, liquidated and Allowed, and in no event later than thirty (30) days after the Disputed Claim becomes an Allowed Claim, the Reorganized Debtor will distribute to the Claimant the property from the Distribution Reserve Account that would have been distributed to such Claimant had its Claim been an Allowed Claim on the date that Distributions were previously made to holders of Allowed Claims in the Class in which such Claimant is classified under the Plan. After all Disputed Claims have been resolved and all such Claims that become Allowed Claims have been paid in full, any remaining property in the Distribution Reserve Account will be distributed to the Reorganized Debtor.

(h) **Allowance of Claims Subject to Bankruptcy Code Section 502(d).** Allowance of Claims will, in all respects, be subject to the provisions of Section 502(d) of the Bankruptcy Code, except as provided by a Final Order of the Bankruptcy Court or a settlement among the relevant parties.

### **3. Litigation and Recoverable Transfers.**

Pursuant to 11 U.S.C. § 1123(b)(3)(B), as of the Effective Date any Causes of Action that are already pending or that are property of the estate of the Debtor, even if not yet filed, including,

without limitation all common law tort, statutory tort, statutory claims and contract claims and claims for equitable relief of all kinds and avoidance or recovery actions under 11 U.S.C. § 544, 545, 547, 548, 549, 550, 551 and 553, that are not released as a part of this Plan, shall become property of the Newly Reorganized Debtor. The Newly Reorganized Debtor shall have the authority to prosecute such Causes of Action for the benefit of the estate and its creditors to be distributed pursuant to this Plan. The Newly Reorganized Debtor shall have the authority to compromise and settle, otherwise resolve, discontinue, abandon or dismiss all such Causes of Action without approval of the Bankruptcy Court. All cash received by the Newly Reorganized Debtor as a result of prosecution or settlement of any Causes of Action or of enforcement of any judgment or order obtained in connection with any Cause of Action shall be distributed in accordance with the terms of the Plan. Unless a Cause of Action is released as an express term of this Plan, no Cause of Action is released by confirmation of this Plan, and confirmation of the Plan shall not have any *res judicata* or collateral estoppel effect on the Newly Reorganized Debtor's prosecution of any Cause of Action. The following causes of action will be dealt with in the Plan:

a. *Rising Star Management Group v. Cypress Associates, Inc., et al; Case No. LACL 135260*

This litigation was pending in the Iowa district court at the time the Chapter 11 petition was filed. Debtor's alleged liability will be discharged by the Confirmation Order.

b. *American Express Bank FSB vs Cypress Associates Inc., et al; Case No. 1084611*

This litigation was pending in the Harris County Court at Law, Harris County, Texas, at the time the Chapter 11 petition was filed. Debtor's alleged liability will be discharged by the Confirmation Order.

c. *Qualifying Transfers under 11 U.S.C. § 547.*

The Debtor will evaluate certain pre-petition transfers to creditors prior to the filing of the petition. An avoidable preference is a transaction prior to bankruptcy which prefers one creditor over others that are similarly situated. The transactions may be voluntary (where the Debtor wrote a check to the creditor) or involuntary (the creditor garnishes a bank account in which the Debtor's funds were on deposit). The look back period, or period of time that the Debtor can go back to unwind these transfers, is ninety days for general creditors and one year for insiders (relatives or someone with a close or influential relationship with the Debtor) (the "Preference Period"). Debtor has not initiated actions to recover these payments at this time but will do so in accordance with the Bankruptcy Code and will take such actions allowable under the Bankruptcy Code and applicable non-bankruptcy law. While the Debtor is granted these strong arm powers under the bankruptcy law, the recovery of the transfers is not automatic. The Debtor must demand the return of the money or property, but the creditor has no legal obligation to return the funds until the Debtor obtains a judgment from the court. A creditor may use this time period to do its own investigation and perhaps work out a settlement of less than the full amount with the Debtor. As outlined below, some payments may qualify as preferential payments but may not be recoverable.



i. *Cypress Associates Administrators LLC*

Cypress Associates Administrators LLC, is an affiliate of the Debtor and is indebted to the Debtor of its apportioned share of the operating costs and overhead expended by Debtor. Cypress Associates Administrators LLC may have claims of offsets, credits and/or payments for funds Debtor received during this time period that could be construed as Cypress Associates Administrators LLC money.

ii. *The Bene\*Fit Group.*

The Bene\*Fit Group is an affiliate of the Debtor and is indebted to the Debtor of its apportioned share of the operating costs and overhead expended by Debtor, including office rent, employees (if any), and other costs advanced by Debtor. Entities making up the Bene\*Fit Group were created to market separate insurance products than those offered by Debtor. To the extent that the Bene\*Fit Group owes Debtor for its apportioned share of expenses and overhead advanced by Debtor since June 2016, the Bene\*Fit Group will reimburse Debtor for those amounts.

iii. *Transfer of Assets between Debtor and the Bene\*Fit Group.*

As stated, the Bene\*Fit Group is an affiliate of the Debtor. From time to time, certain assets of the Debtor may have been utilized by the Bene\*Fit Group to transact its business. These assets would include rental space, office equipment and furniture, and computers. Debtor will evaluate whether there is a recoverable value to those assets.

iv. *Payments to Insiders within the Preference Period.*

Debtor will evaluate whether it has a claim for avoidable or preferential payments to payments against insiders of the Debtor. This would include payments for assets of the Debtor utilized by insiders such as vehicles, etc. There may be defenses to these claims. For instance, Mr. Glenn may have a defense against preference actions because he is owed significant amounts in unpaid compensation as well as deferred compensation for services rendered to the Debtor.

v. *Preference Actions Against Other Parties or Creditors.*

Prior to filing for Chapter 11, Debtor did make payments to creditors within the Preference Period which would, and do, constitute preferences for which there may not be a defense. Debtor will take appropriate actions to pursue those claims.

vi. *Fraudulent Transfers and Avoidance Actions.*

The Debtor may also recover (or "clawback") fraudulent transfers of property. In general, fraudulent transfers include those made with the intent to hide assets or transfers of property for less than fair market value prior to bankruptcy. The Debtor may have grounds to void a transfer and recover the property if:

1. the transfer is made the two years prior to filing for bankruptcy or within the time limit allowed by state law for setting aside fraudulent transfers, whichever is greater, and
2. there was an intent to delay, hinder, or defraud your creditors (actual fraud), or the Debtor received less than fair market value for the property transferred while the Debtor was insolvent, became insolvent as a result of the transfer, or intended to incur more debt than the Debtor could afford to pay back (constructive fraud).

Debtor believes that payments made to Rising Star, either directly or indirectly by PALIC, may constitute fraudulent transfers. Upon information and belief, Rising Star received approximately \$250,000.00 within the year prior to filing for bankruptcy. Debtor believes that these payments are subject to recovery for the benefit of the estate.

yii. Motion to Appoint Chapter 11 Trustee, or Alternatively, for Leave, Standing, and Authority to Commence, Prosecute, and Settle Claims on Behalf of the Debtor's Estate (Docket Nos. 56 and 70)

Rising Star has filed a Motion to Appoint Chapter 11 Trustee, or Alternatively, for Leave, Standing, and Authority to Commence, Prosecute, and Settle Claims on Behalf of the Debtor's Estate (see, Docket No. 56) seeking to appoint a litigation trustee to evaluate and prosecute certain claims the estate has, among other parties, insiders and affiliates of the Debtor. Debtor does not believe this is the best use of resources of the Debtor's estate, considering that Debtor intends to pay all claims in full during the course of the plan. In an effort to minimize legal fees and costs associated with claims litigation, Debtor's amended plan tolls the statute of limitations on all rights, claims, defenses and causes of action which may be asserted in the event the Debtor fails to complete the Plan. Nothing in the Plan shall constitute a waiver of any defense or claim that may be asserted by or against a creditor, party in interest, or the Debtor.

#### **4. Miscellaneous Provisions.**

(a) Recognition of Guarantee and Subordination Rights. The classification and manner of satisfying all claims under this plan takes into consideration (a) the existence of guarantees by the Debtor of obligations of other persons, (b) the fact that the Debtor may be a joint obligor with another person or persons with respect to the same obligation, and (c) any contention by holders of claims against the Debtor that the Claims of other holders are subordinated by contract or otherwise to their Claims. All Claims against the Debtor are based upon the express requirement and terms of this Plan that any such guarantees, subordination claims or joint obligations shall be discharged in the manner provided in this Plan, and which holders of such Claims shall be entitled to only one distribution with respect to any obligation of the Debtor. All Claims against the Debtor, and all rights and claims between or among holders of Claims relating in any manner whatsoever to Claims against the Debtor, based upon any claimed subordination rights or rights to avoid payments or transfers of property pursuant to any provision of the Bankruptcy Code or other applicable law, shall be deemed satisfied by the distributions under this Plan to holders of claims hereunder and shall not

be subject to levy, garnishment, attachment, or like legal process by any holder of a Claim by reason of any claim subordination rights or otherwise, except as otherwise provided herein, so that each holder of a Claim shall have and receive the benefits of the distributions in the manner set forth in this plan.

(b) Injunction and Stay of Proceedings. Unless otherwise specified in this Plan, all Entities who have held, hold, or may hold Claims and all Entities who have held, hold, or may hold Interests against the Debtor are permanently enjoined on and after the Effective Date from:

- (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim against the Debtor;
- (ii) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtor with respect to any such Claim;
- (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtor or against property of the Debtor with respect to any such Claim;
- (iv) from asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor or against property of the Debtor with respect to any such Claim;
- (v) conducting any form of discovery from the Debtor with respect to any such Claim; and/or
- (vi) harassing the Debtor. Unless otherwise provided in this Plan, all injunctions or stays set forth in Sections 105 and 362 of the Bankruptcy Code (11 U.S.C. §§ 105 and 362) shall remain in full force and effect until the Effective Date of the Plan rather than the Confirmation Date.

However, this shall not be construed as a limitation of the permanent injunctions provided for in the Plan.

(c) Property of the Estate/Payments. All of the assets of the Debtor shall be transferred to the Newly Reorganized Debtor on the Effective Date and shall cease to constitute property of the estate. The payments required under the Plan are the only payments to be made to the Holders of Allowed Claims, and no others, in satisfaction of such Allowed Claims.

(d) U.S. Trustee Requirements. Until the Effective Date, the Debtor shall be responsible for timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6) as provided for in the Plan. After the Effective Date, the Newly Reorganized Debtor shall file with the Court and serve upon the United States Trustee on behalf of the Debtor a quarterly financial report for each quarter or portion thereof that the case remains open in a format prescribed by the United States Trustee and provided to the Debtor by the United States Trustee.

**5. Consummation of the Plan.**

(a) Retention of Jurisdiction. The plan provides that the Court shall retain exclusive jurisdiction over the Debtor's chapter 11 case to determine, among other things, all disputes relating to claims, adversary proceedings, all issues presented by, arising or stated in the plan, and all matters pending on the Effective Date.

(b) Modification of the Plan. The Debtor may amend or modify the plan before or after confirmation in accordance with the provisions of Section 1127 of the Bankruptcy Code.

(c) Revocation of the Plan. The Debtor may revoke and withdraw the plan at any time prior to confirmation.

**F. Federal Income Tax Consequences of the Plan on the Debtor and the Creditors.**

**1. Introduction.**

The following discussion summarizes certain significant U.S. federal income tax consequences of the transactions that are described herein and in the Plan that affect holders of Claims or Interests and the Debtor. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Tax Code"), the Treasury Department regulations promulgated thereunder (the "Treasury Regulations"), judicial authority and current administrative rulings and practice now in effect. These authorities are all subject to change at any time by legislative, judicial or administrative action, and such change may be applied retroactively in a manner that could adversely affect holders of Claims or Interests and the Debtor. The federal income tax consequences to any particular holder of a Claim or Interests may be affected by matters not discussed below. For example, the impact of the Plan under any foreign, state or local law is not discussed. Further, this summary generally does not address the tax consequences to Claim holders who may have acquired their Claims from the initial holders nor does it address the tax considerations applicable to Claim holders or Interest holders that may be subject to special tax rules such as financial institutions, insurance companies, dealers in securities or currencies, tax exempt organizations or taxpayers subject to the alternative minimum tax. To the extent that the summary of payments to Claimholders in this section conflicts with other parts of this Disclosure Statement or the Plan, the discussion in such other parts of the Disclosure Statement or the Plan shall govern.

NO RULING WILL BE SOUGHT FROM THE INTERNAL REVENUE SERVICE (the "IRS"), AND NO OPINION OF COUNSEL HAS BEEN OR WILL BE SOUGHT, WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN. THE DISCUSSION SET FORTH BELOW IS FOR GENERAL INFORMATION ONLY. THIS DESCRIPTION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO THE DEBTOR OR HOLDERS OF CLAIMS OR INTERESTS. EACH CLAIM AND INTEREST HOLDER IS URGED TO CONSULT WITH ITS OWN TAX ADVISER REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN.



## **2. Federal Income Tax Consequences to Debtor.**

Generally, a taxpayer recognizes cancellation of indebtedness ("COD") income upon satisfaction of its outstanding indebtedness for less than its adjusted issue price. The amount of COD income is, in general, the excess of (i) the adjusted issue price of the indebtedness satisfied, over (ii) the issue price of any new indebtedness issued by the taxpayer, the amount of cash and the fair market value of any other consideration (including stock of the taxpayer) given in exchange for the indebtedness satisfied. However, COD income is not included in gross income to a debtor if the discharge occurs in a Title 11 case or the discharge occurs when the debtor is insolvent. Rather the debtor generally must, after determining its tax for the taxable year of discharge, reduce its net operating losses ("NOL(s)") and any capital loss carryovers first and then, as of the first day of the next taxable year, reduce the tax basis of its assets by the amount of COD income excluded from gross income by this exception. The Debtor does not expect there to be any tax effect to the Debtor as a result of the Plan.

## **3. Consequences to Holders of Claims.**

The federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, upon the origin of the holder's Claim, when the holder's Claim becomes an Allowed Claim, when the holder receives payment in respect of such Claim, whether the holder reports income using the accrual or cash method of accounting, whether the holder has taken a bad debt deduction or worthless security deduction with respect to such Claim and whether the holder's Claim constitutes a "security" for federal income tax purposes. Generally, a holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for stock and other property (such as Cash and new debt instruments), in an amount equal to the difference between (i) the sum of the amount of any Cash, the issue price of any debt instrument, and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to a Claim for accrued but unpaid interest) and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the holder's taxable income). The treatment of accrued but unpaid interest and amounts allocable thereto varies depending on the nature of the holder's claim and is discussed below. Whether or not such realized gain or loss will be recognized (i.e., taken into account) for federal income tax purposes will depend in part upon whether such exchange qualifies as a recapitalization or other "reorganization" as defined in the Tax Code, which may in turn depend upon whether the Claim exchanged is classified as a "security" for federal income tax purposes. The term "security" is not defined in the Tax Code or in the Treasury Regulations. One of the most significant factors considered in determining whether a particular debt instrument is a security is the original term thereof. In general, the longer the term of an instrument, the greater the likelihood that it will be considered a security. As a general rule, a debt instrument having an original term of 10 years or more will be classified as a security, and a debt instrument having an original term of fewer than five years will not. Debt instruments having a term of at least five years but less than 10 years are likely to be treated as securities, but may not be, depending upon their resemblance to ordinary promissory notes, whether they are publicly traded, whether the instruments are secured, the financial condition of the debtor at the time the debt instruments are issued and other factors. Each holder of an Allowed Claim should consult his or her own tax advisor to determine whether his or



her Allowed Claim constitutes a security for federal income tax purposes.

The Debtor and/or Trustee of the Liquidating Trust intends to take the position that all payments in respect of Allowed Claims will be first allocated to the principal amount of the Allowed Claim, with any excess allocated to accrued unpaid interest. However, there is no assurance that such allocation would be respected by the IRS for federal income tax purposes. In general, to the extent any amount received by a holder of an Allowed Claim is received in satisfaction of accrued interest 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 will recognize a deductible loss to the extent any accrued interest claimed was previously included in gross income and is not paid in full. Each holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and deductibility of unpaid interest for tax purposes. A holder, who, under his accounting method, was not previously required to include in income, accrued but unpaid interest attributable to its existing Claims, and who exchanges its interest Claim for cash, or other property, pursuant to the Plan will be treated as receiving ordinary interest income to the extent of any consideration so received allocable to such interest, regardless of whether that holder realizes an overall gain or loss as a result of the exchange of its existing Claims.

Allowed Claims will be paid from the operating income of the Newly Reorganized Debtor. A claimholder's tax basis in a Claim should generally equal the amount included in income as a result of the provision of goods or services to the debtor, except to the extent that a bad debt loss had previously been claimed. The gain or loss should be capital gain or loss under Section 1221 of the Tax Code to the extent that the Claim did not arise in the ordinary course of trade or business for services rendered or from the sale of inventory to the Debtor, in which case such gain or loss should generally be ordinary. Any capital gain or loss recognized by a holder of a Claim should be long-term capital gain or loss with respect to Claims held for more than one year.

#### **4. Withholding and Reporting.**

The Newly Reorganized Debtor will withhold all amounts required by law to be withheld and will comply with all applicable reporting requirements of the Tax Code. Under the Tax Code, interest, dividends and other "reportable payments" may under certain circumstances be subject to "backup withholding" at a rate equal to the fourth lowest rate of tax under Section 1(c) of the Tax Code. Backup withholding generally applies if the Holder (i) fails to furnish his social security number or other taxpayer identification number ("TIN"), (ii) furnishes an incorrect TIN, (iii) fails to report interest or dividends or (iv) under certain circumstances fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is his correct number and the Holder is not subject to backup withholding. Your ballot contains a place to indicate your TIN.

AS INDICATED ABOVE, THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OR HER OWN TAX ADVISER REGARDING THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN

WITH RESPECT TO THAT ENTITY.

## V. VOTING PROCEDURES AND REQUIREMENTS

### A. Ballots and Voting Deadline.

A ballot to be used for voting to accept or reject the plan together with postage paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT. As indicated above, the Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the plan must be received by the Debtor's counsel no later than 12:00 p.m. (Houston Time) on \_\_\_\_\_, 2017, at the following address:

John V. Burger  
Burger Law Firm  
3000 Wesleyan, Suite 305  
Houston, TX 77027  
Tel: (713) 960 9696  
Fax: (713) 961 4403  
Email: [johnburger@burgerlawfirm.com](mailto:johnburger@burgerlawfirm.com)

YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS AFTER 12:00 P.M. (HOUSTON TIME) ON \_\_\_\_\_, 2017.

### B. Parties in Interest Entitled to Vote.

Any holder of a claim against in the Debtor whose claim or interest is impaired under the plan is entitled to accept or reject the plan if either (i) its claim has been scheduled by the Debtor and such claim is not scheduled as disputed, contingent or unliquidated, or (ii) it has filed a timely proof of claim, on or before the last date set by the Bankruptcy Court for such filings, such date to be set by the Court, and the Debtor or Newly Reorganized Debtor has not filed an objection to that proof of claim or (iii) the Debtor or Newly Reorganized Debtor has agreed to the amount and treatment of such claim as provided under the Plan. Any claim which the Debtor has listed as disputed, contingent, or unliquidated or as to which an objection has been filed is not entitled to vote, unless the Bankruptcy Court, upon application of the holder whose claim has been so listed or objected to, temporarily allows the claim in an amount that it deems proper for the purpose of accepting or rejecting the plan. A vote may be disregarded if the Bankruptcy Court determines that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

IF YOU HAVE ANY QUESTIONS REGARDING THE PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE OFFICE OF THE DEBTOR'S COUNSEL:

John V. Burger  
Burger Law Firm  
3000 Wesleyan, Suite 305  
Houston, TX 77027  
Tel: (713) 960 9696  
Fax: (713) 961 4403  
Email: [johnburger@burgerlawfirm.com](mailto:johnburger@burgerlawfirm.com)

**C. Definition of Impairment.**

A class of claims and equity interests is impaired under a plan of reorganization unless, as set forth in section 1124 of the Bankruptcy Code, with respect to each claim or equity interest of such class, the plan:

1. Leaves unaltered the legal, equitable, and contractual rights of the holder of such claim or interest.
2. Notwithstanding any contractual provision or applicable law that entitles the holder of the claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default:
  - (a) cures any default that occurred before or after the commencement of the case under this title other than the 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) compensate 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 interests; or
3. Provides that, on the Effective Date of the plan, the holder of such claim or interest receives, on account of such claim or interest, cash equal to:
  - (a) with respect to a claim, the allowed amount of such claim; or
  - (b) with respect to an interest, if applicable, the greater of:
    - (i) any fixed liquidation preference to which the terms of any security representing such interest entitle the holder of such interest; or
    - (ii) any fixed price at which the Debtor, under the terms of the security, may redeem such security from such holder.

**D. Classes Impaired Under the Plan.**

All classes are impaired classes of claims under the Debtor's Plan.

**E. Vote Required for Class Acceptance.**

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least 2/3 in amount, and more than 1/2 in number, of the claims of that class that actually casts ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount and a majority in number of the holders of claims voting cast their ballots in favor of acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of Equity Interests as acceptance by holders of at least 2/3 in amount of the Equity Interests of that class that actually cast ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if 2/3 in amount of the holders of Equity Interests voting casts their ballots in favor of acceptance.

**VI. CONFIRMATION OF THE PLAN**

**A. Confirmation Hearing.**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the plan. By order of the Bankruptcy Court, the Bankruptcy Court will consider confirmation of the Plan at the Hearing scheduled for \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_.m. (Houston Time) in Courtroom \_\_\_\_\_, United States Courthouse, 515 Rusk Street, 4<sup>th</sup> Floor, Houston, Texas. The confirmation may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the confirmation hearing or any adjournment thereof. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the plan. Any objection to confirmation of the plan must be made in writing and filed with the Bankruptcy Court and served via facsimile, mail or hand delivery, upon the Debtor, the United States Trustee, and those parties requesting notice, together with proof of service, on or before 12:00 p.m. (Houston Time) on \_\_\_\_\_, 2017.

Objections to confirmation of the plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

**B. Requirements for Confirmation of the Plan.**

At the confirmation hearing the Bankruptcy Court shall determine whether the Bankruptcy Code's requirements for confirmation of the plan have been satisfied, in which event the Bankruptcy Court shall enter an order confirming the plan. As set forth in Section 1129 of the Bankruptcy Code, these requirements are as follows:

1. The plan complies with the applicable provisions of the Bankruptcy Code.



2. The proponent of the plan complies with the applicable provisions of the Bankruptcy Code.
3. The plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the proponent, by the Debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Court as reasonable.
5. (a) (i) the proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a joint plan with the Debtor, or a successor to the Debtor under the plan; and (ii) the appointment, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and (b) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized Debtor, in the nature of any compensation for such insider.
6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the Debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.
7. With respect to each class of impaired claims or Equity Interests;
  - (a) Each holder of a claim or interest of such class:
    - (i) has accepted the plan; or
    - (ii) will receive or retain under the plan on account of such claim or interest property of the value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on such date; or (b) If section 1111 (b) (2) of the Bankruptcy Code applies to the claims of such class, the holder of the claim of such class will receive or retain under the plan on account of such claim property of a value, as of the Effective Date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.
8. With respect to each class of claims or interests:
  - (a) Such class has accepted the plan; or
  - (b) Such class is not impaired under the plan;

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:
  - (a) With respect to a claim of the kind specified in section 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;
  - (b) With respect to a class of claims of the kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of the claim of such class will receive:
    - (i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
    - (ii) if such class has not accepted the plan, cash on the Effective Date of the plan equal to the allowed amount of such claim; and
  - (c) With respect to a claim of the kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of a claim will receive on account of such claim regular installment payments in cash of a total value, as of the Effective Date of the Plan, equal to the allowed amount of such claim, over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303, and in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)).
10. If a class of claims is impaired under the plan, at least one class of claims that is impaired has accepted the plan, determined without including any acceptance of the plan by any insider.
11. Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor under the plan, unless such liquidation or reorganization is proposed to the plan.
12. All fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.
13. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.
14. If the debtor is required by a judicial or administrative order, or by statute, to pay a

domestic support obligation, the debtor has paid all amounts payable under such order of such statute for such obligation that first become payable after the date of the filing of the petition.

15. All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust:
  - (a) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or
  - (b) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

The Debtor believes that the plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code, that it has complied or will have complied with all of the requirements of Chapter 11, and that the proposal of the plan is made in good faith.

The Debtor believes that the holders of all claims impaired under the plan will receive payments or distributions under the plan having a present value as of the Effective Date in amounts not less than the amounts likely to be received by such holders if the Debtor were liquidated in a case under chapter 7 of the Bankruptcy Code. At the confirmation hearing, the Bankruptcy Court will determine whether holders of claims would receive greater distributions under the plan than they would receive in liquidation under chapter 7. A discussion of the Debtor's liquidation analysis is provided below.

The Debtor also believes that confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successor to the Debtor under the plan.

### **C. Cramdown.**

In the event that any impaired class of claims or Equity Interests does not accept the plan, the Bankruptcy Court may still confirm the plan at the request of the Debtor if, as to each impaired class which has not accepted the plan, the plan "does not discriminate unfairly" and is "fair and equitable." The plan of reorganization does not discriminate unfairly which in the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims.

"Fair and equitable" has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

- (1) With respect to a class of secured claims:
  - (a)(i) The plan provides that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
  - (ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the Effective Date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
  - (b) for the sale, subject to section 363 (k) of the Bankruptcy Code, of any property that is subject to the lien securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) and (b) of this subparagraph; or
  - (c) for the realization by such holders of the indubitable equivalent of such claims.
- (2) With respect to a class of unsecured claims:
  - (a) the plan provides that each holder of a claim of such class receive or retain on the account of such claim property of a value, as of the Effective Date of the plan, equal to the allowed amount of such claim; or
  - (b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property.
- (3) with respect to a class of interests:
  - (a) the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the Effective Date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price which such holder is entitled, or the value of such interest; or
  - (b) the holder of any interest that is junior to the interest of such class will not receive or retain under the plan on account of such junior interests any property.

In the event that one or more classes of impaired claims rejects the plan, the Bankruptcy Court will determine at the confirmation hearing whether the plan is fair and equitable with respect to and does not discriminate unfairly against any rejecting impaired class of claims.



## VII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF PLAN

The Debtor believes that the Plan is feasible and will not lead to further reorganization or liquidation. The Debtor has operated successfully for six (6) years. The Debtor's projected financial statements show that the Debtor's Plan is feasible. The unsecured creditors are receiving at least as much under this Plan as they would receive in a case under Chapter 7 of the Bankruptcy Code. The liquidation analysis shows that the Debtor's unsecured creditors would receive nothing under a Chapter 7 liquidation. The Plan proposes to pay 100% of the Allowed Amount of Class 2 Claims of First Bank, and one hundred percent (100%) of the Allowed Amount of the Class 4 Claims of the general unsecured creditors.

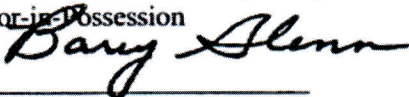
## VIII. LIQUIDATION ANALYSIS

The Debtor does not believe that liquidation under Chapter 7 would be in the best interest of the creditors and the conversion of the case to case under Chapter 7 would result in the loss of the going concern value of the Debtor as well as the additional administrative expenses attributable to the statutory trustee fees and professional fees for the trustee's professionals. In a Chapter 7 liquidation, the Debtor believe that all of the proceeds would go to PALIC, New Era, and the Internal Revenue Service and no payment would be made to other creditors. This assumes the value of assets available for the benefit of the estate if the case were liquidated under Chapter 7 of the Bankruptcy Code. This figure does not include potential increases from recoveries of claims under Chapter 5 of the Bankruptcy Code, or other claims involving litigation. In the event those claims are successful, the amount (or dividend) may be higher, depending on litigation costs including legal fees, administrative fees, and other litigation costs.

## VIII. CONCLUSION

All holders of claims against the Debtor are urged to vote to accept the plan and to evidence such acceptance by returning their ballots so that they will be received by the deadline for voting which is \_\_\_\_\_, 2017 at 12:00 p.m. (Houston Time).

CYPRESS ASSOCIATES, INC.,  
Debtor-in-Possession

By:   
Barry Glenn, President

BURGER LAW FIRM

By:   
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                          |   |                         |
|--------------------------|---|-------------------------|
| In re:                   | § |                         |
|                          | § |                         |
| CYPRESS ASSOCIATES, INC. | § | Case No. 17-30491-H1-11 |
|                          | § |                         |
| Debtor                   | § |                         |
| <hr/>                    | § | Chapter 11              |

CYPRESS ASSOCIATES, INC.'S

PLAN OF REORGANIZATION,

DATED October 19, 2017

ARTICLE I

Summary

This Plan of Reorganization of CYPRESS ASSOCIATES, INC. Under Chapter 11 of the Bankruptcy Code (the "Plan") proposes to pay creditors of Cypress Associates, Inc. (the "Debtor") from a ongoing operations and cash flow of the Debtor and an eventual infusion of capital through the issuance of new limited partnership interests in the Newly Reorganized Debtor.

This Plan provides for five (5) classes of claims and interests. There is a class for the secured claims of Philadelphia Life Insurance Company ("PALIC"), the Internal Revenue Service, and creditors asserting claims secured by automobiles; a class for unsecured priority claims, a class for general unsecured claims, a class for *de minimus* unsecured claims, and a class for the holders of equity interests in the Debtor. This Plan also provides for the payment of administrative, priority claims.

All creditors and equity security holders should refer to Articles III through VI of this Plan for information regarding the precise treatment of their claim. A disclosure statement that provides more detailed information regarding this Plan and the rights of creditors and equity security holders

has been circulated with this Plan.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.**

## ARTICLE II

### Classification Of Claims And Interests

2.01 Class 1. This class consists of the allowed, secured portion of the claim of Philadelphia Life Insurance Company (“PALIC”) arising out of the offsetting of commissions from the servicing of insurance contracts. Such claim is the subject of the Debtor’s Emergency Motion for Preliminary and Final Use of Cash Collateral (Docket No. 3), and related orders. This class also consists of PALIC’s rights to receive replacement liens and/or adequate protection payments as authorized by the Court. **This Class also includes critical vendors such as Servarus Systems LLC, which is the platform enrollment service provider that allows insureds access to the benefits under insurance policies.** The terms of the preliminary and final cash collateral orders are incorporated herein for all purposes.

2.02 Class 2. This class consists of all allowed, unsecured priority claims. The Debtor anticipates having Allowed Claims for taxes by governmental entities. Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. This class should consist of certain allowed tax claims of the Debtor, specifically claims of the United States Department of the Treasury - Internal Revenue Service.

2.03 Class 3. This class consists of the allowed, general unsecured claims.

2.04 Class 4. This class consists of all allowed, *de minimus* unsecured claims. Such



claims are the allowed general unsecured claims in an amount of \$500.00 or less.

2.05 Class 5. This class consists of all allowed, equity holders in the Debtor.

### ARTICLE III

#### Treatment Of Claims And Interests Under The Plan

3.01 Non-Classified Claims. Claims and interests shall be treated as follows under this Plan. Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class. One category of such claims are administrative expenses are costs or expenses of administering the Debtor's chapter 11 case, which are allowed under § 507(a)(2) of the Code.

Fees owed to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) are another category of such administrative expenses. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment. All fees required to be paid by 28 U.S.C. § 1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid. To the extent there are such fees due and owing on the confirmation date, such fees will be paid in cash in full on the Effective Date. Other U.S. Trustee Fees incurred after the confirmation date will be paid timely until the case is closed. Holders of other forms of allowed administrative expense claims shall be paid in cash, in full, on the Effective Date, or as agreed between the Debtor and such holder of administrative expense claim.

3.02 Class 1 Claim: PALIC's allowed Class 1 Claim shall be paid in cash, in full, in equal monthly installments over a period of eighteen (18) months, with interest at 4.0% per

annum, with the first payment due on the Distribution Date. PALIC will receive replacement liens in accordance the interim and final cash collateral orders entered by the Bankruptcy Court.

3.03 Class 2 Claims: Holders of allowed, unsecured priority claims shall receive equal monthly payments, plus twelve (12%) percent interest per annum, in cash for a period of sixty (60) months, or five (5) years from the Petition Date, with the first payment due on the Distribution Date. Upon information and belief, the IRS secured claim arising out of pre-petition payroll tax debts will be reduced by \$30,000.00, by the sale of non-estate assets belonging to Barry Glenn, the Debtor's principal shareholder, against whom the IRS has assessed the personal liability.

3.04. Class 3 Claims: Holders of Allowed Class 3 Claims shall be paid one hundred (100%) percent of the Allowed Amount of each Holder's Class 3 Claim plus interest at 4.0% per annum in cash, in equal monthly installments over a period of sixty (60) months, with the first payment due on the Distribution Date. Debtor's valuation of assets, which does not include a monetary value of amounts recoverable under Section 501, et seq of the Bankruptcy Code, indicates that the estimated value of \$1,100,000.00 in assets available in the Debtor's estate, and an estimated \$2,284,000.00 in potential allowed claims, would result in a dividend of 48% on such allowed claims. Based upon the Debtor's projections, Debtor believes it will be able to satisfy all allowed claims in full over sixty (60) months. This amount may increase depending on the Debtor's successful recovery on any claims litigation.

3.05 Class 4 Claims: Unless otherwise accounted for in Class 3 Claims, Holders of Allowed Class 4 Claims shall be paid in full on the amount of the Allowed Amount of each Holder's Class 4 Claim in cash, in full on the Distribution Date.

3.06 Class 5 Claims: Claims of insiders or equity holders. Claimants in this class

will not be paid unless and until other general unsecured claims are paid in full. Equity Interest Holders of the Debtor will not retain their stock interest in the Debtor and their interests may be subject to an auction, as authorized by the Bankruptcy Court, to determine the value of the shareholder interest in the Debtor.

#### **ARTICLE IV**

##### **Allowance And Disallowance Of Claims**

4.01 Disputed Claims. A disputed claim is a claim that has not been allowed or disallowed by a final non-appealable order, and as to which either: (i) a proof of claim has been filed or deemed filed, (ii) an administrative expense claim has been filed or deemed filed, and the Debtor or another party in interest has filed an objection; or (iii) no proof of claim or administrative expense claim has been filed, or the Debtor has scheduled such pre-petition claim as disputed, contingent, or unliquidated or the Debtor has not agreed to the administrative expense claim.

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

4.03 Settlement of Disputed Claims. The Newly Reorganized Debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure pursuant to Article VI below.

#### **ARTICLE V**

##### **Provisions For Executory Contracts And Unexpired Leases**

5.01 Assumed Executory Contracts and Unexpired Leases.

(a) The Debtor hereby rejects, pursuant to this Plan, the expired lease of commercial real property located at 11720 Katy Freeway, Suite 1600, Houston, TX 77079, including all amendments



to the lease. The lease is of 3,000 rentable square feet on the interior of the space.

(b) The Debtor hereby assumes, pursuant to this Plan, all of the executory contracts listed in Schedule G of its Schedules.

(c) Any party claiming damages as a result of the Debtor's rejection of the unexpired leases and executory contracts described above in 5.01(a) and (b) must file a proof of claim and/or application for administrative expenses within sixty (60) days after the Liquidation Effective Date, or such claim and the indebtedness owing thereunder shall be forever barred and extinguished.

## ARTICLE VI

### Means For Implementation Of The Plan

6.01 On the Effective Date, the Newly Reorganized Debtor will execute all other documents necessary to the implementation of the Plan and the Order of Confirmation. This will consist of an amendment to any agency contracts with PALIC providing for continuation of insurance policies and/or group policies underwritten or issued by PALIC.

6.02 According to the August 2017 Monthly Operating Report (see, Docket No. 69), the Debtor currently has approximately \$325,700.00 in cash on hand. On the Effective Date of the Plan, Debtor will contribute or pay the current balance of the PALIC claim in full, with the remainder to be distributed pro rata as an initial distribution to unsecured allowed unsecured claims, after payment of allowed administrative fees (including accrued legal fees, accountancy fees, and United States Trustee Quarterly Fees), Debtor may be able to pay the remaining amount owed to PALIC, thereby releasing more funds for unsecured creditors. Debtor may be able to pay the remaining allowed claims in full in approximately thirty-six to forty-eight months.

6.03 Causes of Action. Pursuant to 11 U.S.C. § 1123(b)(3)(B), as of the Effective Date any Causes of Action that are already pending or that are property of the estate of the Debtor, even if not yet filed, including, without limitation all common law tort, statutory tort, statutory claims and contract claims and claims for equitable relief of all kinds and avoidance or recovery actions under 11 U.S.C. § 544, 545, 547, 548, 549, 550, 551 and 553, that are not released as a part of this Plan, shall become property of the Newly Reorganized Debtor. The Newly Reorganized Debtor shall have the authority to prosecute such Causes of Action for the benefit of the estate and its creditors to be distributed pursuant to this Plan. The Newly Reorganized Debtor shall have the authority to compromise and settle, otherwise resolve, discontinue, abandon or dismiss all such Causes of Action without approval of the Bankruptcy Court. All cash received by the Newly Reorganized Debtor as a result of prosecution or settlement of any Causes of Action or of enforcement of any judgment or order obtained in connection with any Cause of Action shall be distributed in accordance with the terms of the Plan. Unless a Cause of Action is released as an express term of this Plan, no Cause of Action is released by confirmation of this Plan, and confirmation of the Plan shall not have any *res judicata* or collateral estoppel effect on the Newly Reorganized Debtor's prosecution of any Cause of Action. The following causes of action will be dealt with in the Plan:

a. *Rising Star Management Group v. Cypress Associates, Inc., et al; Case No. LACL 135260*

This litigation was pending in the Iowa district court at the time the Chapter 11 petition was filed. Debtor's alleged liability will be discharged by the Confirmation Order.

b. *American Express Bank FSB vs Cypress Associates Inc., et al; Case No. 1084611*

This litigation was pending in the Harris County Court at Law, Harris County, Texas, at the time the Chapter 11 petition was filed. Debtor's alleged liability will be discharged by the

Confirmation Order.

*c. Qualifying Transfers under 11 U.S.C. § 547.*

The Debtor is evaluating certain pre-petition transfers to creditors prior to the filing of the petition. An avoidable preference is a transaction prior to bankruptcy which prefers one creditor over others that are similarly situated. The transactions may be voluntary (where the Debtor wrote a check to the creditor) or involuntary (the creditor garnishes a bank account in which the Debtor's funds were on deposit). The look back period, or period of time that the Debtor can go back to unwind these transfers, is ninety days for general creditors and one year for insiders (relatives or someone with a close or influential relationship with the Debtor) (the "Preference Period"). Debtor has not initiated actions to recover these payments at this time but will do so in accordance with the Bankruptcy Code and will take such actions allowable under the Bankruptcy Code and applicable non-bankruptcy law. While the Debtor is granted these strong arm powers under the bankruptcy law, the recovery of the transfers is not automatic. The Debtor must demand the return of the money or property, but the creditor has no legal obligation to return the funds until the Debtor obtains a judgment from the court. A creditor may use this time period to do its own investigation and perhaps work out a settlement of less than the full amount with the Debtor. As outlined in the Debtor's Disclosure Statement, recovery on any of those claims will be distributed through the Plan.

6.04 Objections. Any party in interest, including, without limitation, the Newly Reorganized Debtor, may make and file objections to the Claims. No party is obligated to administer, dispute, reserve for, object to, compromise, resolve or make Distributions with respect to any and all Allowed Claims. No party is obligated to object to any Claim but will nevertheless have standing to object to any such Claim from and after the Effective Date, if they so elect in their absolute



discretion. Nothing in this section is intended to limit the right of any party in interest to object to Claims.

6.05 Pre-Petition Claim and Administrative Claim Bar Date; Objection Deadline. General Unsecured Creditors must file their proofs of claims with respect to pre-petition claims on or before the Bar Date of June 19, 2017, and governmental entities must file their proofs of claims by no later than the Bar Date of August 14, 2017, after which date any proof of claim filed will have no effect on the Plan and no right to participate with other creditors under the Plan. Except as excepted below, all persons and entities (including without limitation, individuals, partnerships, corporations, joint ventures, trusts, and governmental units), that assert any claim against the Debtor pursuant to Section 503(b) of Bankruptcy Code that first arose or accrued after January 30, 2017 (an "Administrative Expense"), shall file an application for approval of the Administrative Expense in writing on or before \_\_\_\_\_, 2017 at 12:00 o'clock p.m. (the "Administrative Expense Bar Date"). The holders of the following types of claims (the "Excluded Administrative Expenses") are not required to file applications for Administrative Expense on or before the Administrative Expense Bar Date:

- (a) Administrative Expenses of professional persons, as that term is used in sections 327, 328, 330, 331, 503(b)(2) and/or 1103 of the Bankruptcy Code, retained pursuant to a final order of the Court;
- (b) Administrative Expenses, if any, previously allowed by order(s) of the Court;
- (c) Administrative Expenses, if any, on account of which a motion requesting allowance and payment already has been filed in the Court against the Debtor; and
- (d) Administrative Expenses held by the United States Trustee for the Southern District of Texas which arise under section 1930(a)(6) of title 28 of the United States Code.

Any holder of a claim for Administrative Expense against the Debtor that is required, but

fails to file an application for Administrative Expense on or before the Administrative Expense Bar Date shall (i) be forever barred, estopped, and enjoined from asserting any Administrative Expense against the Debtor, the Debtor's estate, or the Newly Reorganized Debtor and they shall be deemed forever discharged from any and all indebtedness or liability with respect to such Administrative Expense and (ii) not be entitled to receive further notices regarding such Administrative Expenses. Nothing in this Order shall, or shall be deemed to, prejudice the Debtor's or any other party's right to object to any Administrative Expense on any ground, or to dispute, or to assert offsets against or defenses to, any Administrative Expense as to amount, liability, classification, priority or otherwise, and to subsequently designate any claim or lien as disputed, contingent, or unliquidated.

Except as otherwise set forth in the Plan or as otherwise extended or ordered by the Bankruptcy Court, all objections to pre-petition claims and/or post-petition administrative expense claims must be filed no later than one hundred twenty days (120) days after the Effective Date (unless such day is not a Business Day; in which case, such deadline will be the next Business Day thereafter unless extended by an order of the Bankruptcy Court). An objection to a Claim will be deemed properly served on the holder thereof if service is effected by any of the following methods:

- (a) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004;
- (b) to the extent counsel for a Claimant is unknown, by first-class mail, postage prepaid, on the signatory on the proof of Claim or other representative identified on the proof of Claim or any attachment thereto; or
- (c) by first-class United States Mail, postage prepaid, on any counsel that has appeared on the behalf of the Claimant in the Bankruptcy Case.

6.09 Settlement of Objections to Claims. From and after the Effective Date, pursuant to Bankruptcy Rule 9019(b) and Section 105(a) of the Bankruptcy Code, the Reorganized Debtor shall

be entitled to compromise and settle his objections to Disputed Claims without notice to the Creditors/beneficiaries or approval from the Bankruptcy Court.

6.06 Post-Confirmation Amendments to Proofs of Claims. Except as otherwise provided in the Plan, following the Confirmation Date, a Claim may not be amended unless such amendment results in a decrease of the amount of the Claim, change in priority of the Claim to a lower priority under the Bankruptcy Code, or withdrawal of Claim. Any unauthorized amendment shall be deemed null, void, and of no force or effect.

6.07 Claims Estimation. The Reorganized Debtor may request estimation or limitation of any contingent, unliquidated, or Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether that Claim was previously objected to or whether the Bankruptcy Court has ruled on any such objection; provided, however, that the Bankruptcy Court will determine (a) whether such Disputed Claims are subject to estimation pursuant to Section 502(c) of the Bankruptcy Code and (b) the timing and procedures for such estimation proceedings, if any. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation, and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or



resolved by any mechanism approved by the Plan or the Bankruptcy Court.

6.08 Procedures for Treating and Resolving Disputed and Contingent Claims.

(a) No Distributions on Disputed Claims Pending Allowance. No Distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order and the Disputed Claim has become an Allowed Claim. The Reorganized Debtor may, in his sole discretion, withhold Distributions otherwise due hereunder to the holder of a Claim until the Objection Deadline to enable the Reorganized Debtor to file a timely objection thereto. When a Disputed Claim becomes an Allowed Claim, the Reorganized Debtor shall make Distributions with respect to such Allowed Claim, without interest (except as otherwise provided in this Plan), net of any setoff and/or any required withholding of applicable taxes.

(b) Distribution Reserve Account. On or after the Effective Date, the Reorganized Debtor will establish a Distribution Reserve Account as is appropriate, in his sole and absolute discretion, for the benefit of holders of Disputed Claims pending the allowance thereof, the amount of which will be adjusted from time to time as appropriate. A Claimant will not be entitled to receive or recover any amount in excess of the amount provided in the Distribution Reserve Account specifically reserved to pay such Claim unless permitted by Order of the Bankruptcy Court. Nothing in the Plan will be deemed to entitle the holder of a Disputed Claim to post-petition interest on such Claim, if Allowed, unless otherwise required under the Bankruptcy Code or the Plan.

(c) Distributions After Allowance. Payments and Distributions from the Distribution Reserve Account to each respective holder of a Disputed Claim, to the extent it becomes an Allowed Claim, will be made in accordance with the provisions of the Plan that govern

Distributions to such holders of Claims in the Class in which such Claimant is classified. Unless otherwise provided in the Plan, as promptly as practicable after the date on which a Disputed Claim becomes undisputed, non-contingent, liquidated and Allowed, and in no event later than thirty (30) days after the Disputed Claim becomes an Allowed Claim, the Reorganized Debtor will distribute to the Claimant the property from the Distribution Reserve Account that would have been distributed to such Claimant had its Claim been an Allowed Claim on the date that Distributions were previously made to holders of Allowed Claims in the Class in which such Claimant is classified under the Plan. After all Disputed Claims have been resolved and all such Claims that become Allowed Claims have been paid in full, any remaining property in the Distribution Reserve Account will be distributed the Reorganized Debtor.

(d) Allowance of Claims Subject to Bankruptcy Code Section 502(d). Allowance of Claims will, in all respects, be subject to the provisions of Section 502(d) of the Bankruptcy Code, except as provided by a Final Order of the Bankruptcy Court or a settlement among the relevant parties.

## **ARTICLE VII**

### **General Provisions**

7.01 Definitions and Rules of Construction. The definitions and rules of construction set forth in §§ 101 and 102 of the Code shall apply when terms defined or construed in the Code are used in this Plan.

7.02 Effective Date of Plan. The effective date of this Plan is the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order is in effect on that date, the effective date will be the first business day

after the date on which the stay of the confirmation order expires or is otherwise terminated.

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

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

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

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

7.07 Corporate Governance. As required by § 1123(a)(6) of the Code, on the effective date the reorganized debtor shall file an amendment to its articles of incorporation including a provision prohibiting the issuance of nonvoting equity securities.

## **ARTICLE VIII**

### **Modification Of Plan**

8.01 The Debtor may propose amendments or modifications of this Plan at any time prior to confirmation, without leave of the Court, so long as such amendment or modification meets the requirements of 11 U.S.C. § 1127(a) does not constitute a material modification of the Plan requiring additional disclosure under 11 U.S.C. § 1125. After the Confirmation Date, the Debtor may, with



approval of the Court, and so long as it does not materially or adversely affect the interests of 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 this Plan.

## **ARTICLE IX**

### **Jurisdiction Of The Court**

9.01 The Court shall retain jurisdiction of this case after the Effective Date until all payments and distributions called for under the Plan have been made and until entry of a Final Order concluding and terminating this case, in respect of the following matters:

- A. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked or vacated.
- B. To hear objections to proofs of claim in connection with any contingent or unliquidated Claim.

## **ARTICLE X**

### **Effect Of Confirmation**

10.01 Plan is Binding. The provisions of this confirmed Plan bind the Debtor, the Trustee, any entity acquiring property under the Plan, and any Creditor, whether or not the Claim of such Creditor is impaired under the Plan and whether or not such Creditor has accepted the Plan. All liens, Allowed Claims, Interests and encumbrances regarding Estate Property shall be treated as specifically set forth in the Plan.

10.02 Guarantees and Joint Obligations. The classification and manner of satisfying all claims under this plan takes into consideration:

- (a) the existence of guarantees by the Debtor of obligations of other persons and of third parties of debts of the Debtor;
- (b) the fact that the Debtor may be a joint obligor with another person or persons with respect to the same obligation, and
- (c) any contention by holders of Claims that the Claims of other holders are subordinated by contract or otherwise to their Claims. All Claims against the Debtor are based upon the express requirement and terms of this Plan that any such guarantees, subordination claims or joint obligations shall be discharged in the manner provided in this Plan, and which holder of such Claims shall be entitled to only one distribution with respect to any obligation of the Debtor.

All Claims against the Debtor, and all rights and claims between or among holders of Claims relating in any manner whatsoever to Claims against the Debtor, based upon any claimed subordination rights or rights to avoid payments or transfers of property pursuant to any provision of the Bankruptcy Code or other applicable law, shall be deemed satisfied by the distributions under this Plan to holders of Allowed Claims hereunder and shall not be subject to levy, garnishment, attachment, or like legal process by any holder of a Claim by reason of any claim subordination rights or otherwise, except as otherwise provided herein, so that each holder of a Claim shall have and receive the benefits of the distributions in the manner set forth in this Plan.

10.03 Permanent Injunction. Unless otherwise specified in this Plan, all Entities who have held, hold, or may hold Claims and all Entities who have held, hold, or may hold Interests against the Debtor are permanently enjoined on and after the Effective Date from:

- (a) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim against the Debtor;
- (b) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtor with respect to any such Claim;
- (c) creating, perfecting, or enforcing any encumbrance of any kind against the Debtor or against property of the Debtor with respect to any such Claim;

- (d) from asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor or against property of the Debtor with respect to any such Claim (unless otherwise ordered by agreement or by the Court);
- (e) conducting any form of discovery from the Debtor with respect to any such Claim; and/or
- (f) harassing the Debtor.

Unless otherwise provided for in the Plan, all injunctions or stays set forth in Sections 105 and 362 of the Bankruptcy Code (11 U.S.C. §§ 105 and 362) shall remain in full force and effect until the Effective Date of the Plan rather than the Confirmation Date. However, this shall not be construed as a limitation of the permanent injunctions provided for in the Plan.

10.04 US Trustee Requirements. The Debtor shall be responsible for timely payment of all fees incurred pursuant to 28 U.S.C. § 1930(a)(6), and shall timely pay post-confirmation fees owed to the Office of the US Trustee and assessed pursuant to n 28 U.S.C. § 1930(a)(6) until such time as the Court enters a final decree closing this Chapter 11 case or enters an order either converting this case to a case under Chapter 7 or dismissing this case. After confirmation, the Debtor, on or before the last day of the month after the end of each calendar quarter, shall file with the Bankruptcy Court and shall transmit to the Office of the US Trustee a true and correct statement, in a format agreed upon by the Debtor and the US Trustee, of all disbursements made for each quarter or portion thereof that this Chapter 11 case remains open.

10.05 Discharge. On the confirmation date of this Plan, the Debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor will not be discharged of any debt: (i) imposed by this Plan; (ii) of a kind specified in § 1141(d)(6)(A) if a



timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure; or (iii) of a kind specified in § 1141(d)(6)(B).

**ARTICLE XI**

**Default under the Plan**

11.01 If there is a default in payments under the Plan, then any party may give a thirty day (30) notice to the Debtor and Debtor's counsel with opportunity to cure the default. If the default is not cured within the time prescribed, then it shall constitute an Event of Default and each party may exercise all rights (I) under the Plan or (II) under applicable non-bankruptcy law.

Dated: \_\_\_\_\_, 2017.

Cypress Associates, Inc.

Debtor-in-Possession

By: Barry Glenn  
Barry Glenn, President

## Exhibit B Liquidation Analysis

***Plan Proponent's Estimated Liquidation Value of Assets***

|   |  |                |
|---|--|----------------|
| <b>Assets</b>   |  | \$325,700.00   |
| a. Cash on hand (included \$52,702 in customer premiums held in trust) *  |  | \$104,300      |
| b. Accounts receivable (estimated monthly commissions and car note)   |  | \$0.0          |
| c. Inventory  |  | \$35,000       |
| d. Office furniture & equipment   |  | \$12,900.00    |
| e. Machinery & equipment (includes 11 sudo scan devices)  |  | \$150,000.00   |
| f. Automobiles  |  | [0.00]         |
| g. Building & Land  |  | [0.00]         |
| h. Customer List  |  | [0.00]         |
| i. Investment property (such as stocks, bonds or other financial assets)  |  | \$56,000.00    |
| j. Avoidance Transfers, Fraudulent Transfers, and other Actions against Non-Debtor Insiders and Affiliates                        |  | \$229,610.00   |
| k. Other intangibles (such as avoiding powers actions)  |  | \$882,010.00   |
| <b>Total Assets at Liquidation Value</b>  |  | \$114,209.00   |
| <b>Less:</b>  |  |                |
| Secured creditors' recoveries   |  | 0.00]          |
| <b>Less:</b>  |  |                |
| Chapter 7 trustee fees and expenses   |  | \$30,000.00    |
| <b>Less:</b>  |  |                |
| Chapter 11 administrative expenses (legal fees subject to court approval; CPA fees subject to court approval)                     |  | \$167,616.00   |
| <b>Less:</b>  |  |                |
| Priority claims, excluding administrative expense claims (IRS)  |  | \$570,185.00   |
| (1) Balance for unsecured claims**  |  | \$1,450,172.51 |
| (2) Total dollar amount of filed unsecured claims   |  | 39%            |
| Percentage payable to Unsecured Claims if Liquidated under Ch. 7  |  | 100%           |
| <b><i>Percentage of Claims Which Unsecured Creditors Will Receive or Retain under the Plan, based on current projections:</i></b> |  |                |

\* As for the petition date; according to the August 2017 Monthly Operating Report, cash on hand is approximately \$325,700.00.

\*\* This assumes the value of assets available for the benefit of the estate if the case were liquidated under Chapter 7 of the Bankruptcy Code. This figure does not include potential increases from recoveries of claims under Chapter 5 of the Bankruptcy Code, or other claims involving litigation. In the event those claims are successful, the amount (or dividend) may be higher, depending on litigation costs including legal fees, administrative fees, and other litigation costs.

| Cypress Monthly Projections                                    |                    |                    |                    |                    |                    |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
|  | Sep-17             | October            | November           | December           | Jan-18             |
| <b>Total Income*</b>   | \$70,000.00        | \$70,000.00        | \$70,000.00        | \$70,000.00        | \$70,000.00        |
| <b>Expenses</b>  |                    |                    |                    |                    |                    |
| <i>General Administrative</i>                                  |                    |                    |                    |                    |                    |
| Office Copy & Print: American Business Machines Inc            | \$60.59            | \$60.59            | \$60.59            | \$60.59            | \$60.59            |
| Bene-Fit Group Administration & Owner Compensation             | \$14,400.00        | \$14,400.00        | \$14,400.00        | \$14,400.00        | \$14,400.00        |
| Copy Machine Lease (Wells Fargo Financial Leasing)             | \$40.04            | \$40.04            | \$40.04            | \$40.04            | \$40.04            |
| Office Space Rent  | -                  | -                  | -                  | -                  | -                  |
| Storage Unit for Office Furniture: Storage Direct Willowbrook  | \$177.00           | \$177.00           | \$177.00           | \$177.00           | \$177.00           |
| <i>IT &amp; Phone Services</i>                                 |                    |                    |                    |                    |                    |
| Online Webinar Service (Cisco Webex)                           | \$139.99           | \$139.99           | \$139.99           | \$139.99           | \$139.99           |
| Internet Cabling (Logix)                                       | \$160.24           | \$160.24           | \$160.24           | \$160.24           | \$160.24           |
| Phone System NEC Financial Services, LLC                       | \$85.64            | \$85.64            | \$85.64            | \$85.64            | \$85.64            |
| Mobile Phones: Verizon Wireless                                | \$191.90           | \$191.90           | \$191.90           | \$191.90           | \$191.90           |
| Enrollment Platform  | \$5,000.00         | \$5,000.00         | \$5,000.00         | \$5,000.00         | \$5,000.00         |
| Online Quoting Portal: DiscoverHR                              | \$625.00           | \$625.00           | \$625.00           | \$625.00           | \$625.00           |
| Agency Errors & Omissions Insurance: NAPA National Association | \$172.92           | \$172.92           | \$172.92           | \$172.92           | \$172.92           |
| Office Liability Insurance: The Hartford                       | \$118.87           | \$118.87           | \$118.87           | \$118.87           | \$118.87           |
| <b>Net Operating Income</b>                                    | <b>\$48,827.81</b> | <b>\$48,827.81</b> | <b>\$48,827.81</b> | <b>\$48,827.81</b> | <b>\$49,004.81</b> |
|  |                    |                    |                    |                    |                    |
|  |                    |                    |                    |                    |                    |

\* Any additional commissions received would be used to fund the plan as well. These are just estimated based on current policies enforce.

\*\* Also once we figure out Bene-Fit/Cypress's obligation to each other we would work that in as well.





|             |             |  |
|-------------|-------------|--|
|             |             |  |
|             |             |  |
|             |             |  |
|             |             |  |
| November    | Dec-18      |  |
| \$70,000.00 | \$70,000.00 |  |
|             |             |  |
| \$60.59     | \$60.59     |  |
| \$14,400.00 | \$14,400.00 |  |
| \$40.04     | \$40.04     |  |
| \$4,000.00  | \$4,000.00  |  |
|             | \$177.00    |  |
|             |             |  |
| \$139.99    | \$139.99    |  |
| \$160.24    | \$160.24    |  |
| \$85.64     | \$85.64     |  |
| \$191.90    | \$191.90    |  |
| \$5,000.00  | \$5,000.00  |  |
| \$625.00    | \$625.00    |  |
| \$172.92    | \$172.92    |  |
| \$118.87    | \$118.87    |  |
|             |             |  |
| \$45,004.81 | \$44,827.81 |  |
|             |             |  |
|             |             |  |
|             |             |  |