



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 9, 2019


United States Bankruptcy Judge

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

In re:

LEVI G. MCCATHERN, II

Debtor.

§
§
§
§
§

CASE NO. 18-31615-SGJ-11

Chapter 11

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER UNDER
11 U.S.C. § 1129 CONFIRMING SECOND AMENDED PLAN OF REORGANIZATION**

WHEREAS, Levi G. McCathern, II ("**McCathern**" or the "**Debtor**"), debtor and debtor-in-possession, in the above-referenced case, filed his Second Amended Plan of Reorganization (the "**Plan**") [Docket No. 88]¹ and the Second Amended Disclosure Statement in Support of Plan of Reorganization of Levi G. McCathern, II (the "**Disclosure Statement**") [Docket No. 71]; and

WHEREAS, on June 11, 2019, this Court entered an order approving the adequacy of the Disclosure Statement in accordance with Section 1125 of the Bankruptcy Code, setting forth

¹ All terms not otherwise defined herein shall have the same meaning ascribed to them in the Plan.

procedures for soliciting approval of the Plan, and setting deadlines for objections to and voting on the Plan (the "**Disclosure Statement Order**") [Docket No. 75]; and

WHEREAS, on June 14, 2019, in accordance with the Disclosure Statement Order, the Debtor caused the Plan, Disclosure Statement, Disclosure Statement Order, the Confirmation Notice, and a ballot for voting to accept or reject the Plan (the "**Solicitation Package**") to be transmitted to holders of Claims in Classes entitled to vote under the Plan;

WHEREAS, pursuant to Bankruptcy Code section 1128(a), the Court held a hearing on September 4, 2019 to consider confirmation of the Plan (the "**Confirmation Hearing**"); and

NOW, THEREFORE, based upon the Court's review and consideration of (i) the submissions previously filed with the Court; (ii) the record of the Confirmation Hearing (including all of the evidence proffered or adduced at the hearings, any declarations, pleadings, briefs, memoranda, stipulations, and other submissions filed in connection therewith, and the arguments of counsel made at the hearing); and (iii) the record in the Bankruptcy Case; and after due deliberation thereon, and good cause appearing therefore,

FINDINGS OF FACT AND CONCLUSIONS OF LAW

THE COURT FINDS AND CONCLUDES THAT:²

A. **Findings and Conclusions.** The findings and conclusions set forth herein and in the record of the Confirmation Hearing constitute the Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Federal Rule of Bankruptcy Procedure 7052 and 9014. To the extent any of the following findings

² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. *See* Fed. R. Bankr. P. 7052.

of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction, Venue, Core Proceeding - 28 U.S.C. §§ 157(b)(2) and 1334(a). The Court has jurisdiction over the Bankruptcy Case pursuant to 28 U.S.C §1334. Confirmation of the Plan is a core proceeding under 28 U.S.C. 157(b)(2), and this Court has jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed. The Debtor is an eligible debtor under section 109 of the Bankruptcy Code. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

C. Bankruptcy Case. On May 11, 2018 (the "Petition Date"), the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code (the "Bankruptcy Case").

D. Judicial Notice. The Court takes judicial notice of the docket of the Bankruptcy Case maintained by the Clerk of the Court and/or its duly appointed agent, including all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, or addressed at the hearings held before the Court during the pendency of the Bankruptcy Case.

E. Burden of Proof. The Debtor, as the Plan proponent, has the burden of proving the elements of Bankruptcy Code section 1129(a) by a preponderance of the evidence. The Debtor has met such burden.

F. Transmittal and Mailing of Materials: Notice. Due, adequate, and sufficient notice of the Disclosure Statement, the Plan, and the Confirmation Hearing, along with all deadlines for voting on or filing objections to the Plan, has been given to all known holders of Claims in accordance with the Bankruptcy Rules and the procedures set forth in the Disclosure Statement Order and further orders of the Court.

G. Identification of Plan Proponents—Fed. R. Bankr. P. 3016(a). The Plan satisfies Bankruptcy Rule 3016(a) by identifying the date of the Plan and the proponent of the Plan.

H. Solicitation and Transmittal of Solicitation Package. The solicitation of votes to accept or reject the Plan and requests for consent to the treatment were solicited in good faith and in compliance with Bankruptcy Code sections 1125 and 1126, and Bankruptcy Rules 3017 and 3018, the Disclosure Statement, all other applicable provisions of the Bankruptcy Code, and all other rules, laws, and regulations. The Solicitation Package was transmitted to all creditors entitled to vote on the Plan, sufficient time was prescribed for such creditors to accept or reject the Plan, and the solicitation materials used and solicitation procedures followed comply with Bankruptcy Code section 1126, thereby satisfying the requirements of Fed. R. Bankr. P. 3018. All procedures used to distribute the Solicitation Packages to the applicable holders of Claims were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and any other applicable rules, laws, and regulations.

I. Good Faith Solicitation—11 U.S.C. § 1125(e). Based on the record before the Court in the Bankruptcy Case, the Debtor and its attorneys, and other representatives have acted in good faith within the meaning of Bankruptcy Code section 1125(e) in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances to and consents to the treatment afforded under the Plan and their participation in the activities described in Bankruptcy Code section 1125.

J. Notice of the Confirmation Hearing—Fed. R. Bankr. P. 2002 and 3017. The Debtor gave notice of the Confirmation Hearing, the deadline to accept or reject the Plan, the deadline to object to the Plan in accordance with the Disclosure Statement Order. The solicitation package

prescribed by the Disclosure Statement Order was transmitted to the creditors entitled to vote on the Plan in accordance with Fed. R. Bankr. P. 2002 and 3017.

K. Impaired Classes That Have Voted to Accept the Plan. As evidenced by the record established at the Confirmation Hearing, at least one or more impaired Classes have voted to accept the Plan, as defined by sections 1124 and 1126 of the Bankruptcy Code.

L. Bankruptcy Rule 3016(a). The Plan reflects the date it was proposed and identifies the entity submitting it as Plan proponent, thereby satisfying Bankruptcy Rule 3016(a).

M. Plan Compliance with Bankruptcy Code – 11 U.S.C. § 1129(a)(1). The Plan complies with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, thereby satisfying 11 U.S.C. § 1129(a)(1).

a. Proper Classification 11 U.S.C. §§ 1122 and 1123(a)(1). In addition to Administrative Claims and Priority Tax Claims, which need not be classified, the Plan designates seven (7) Classes of Claims. The Claims placed in each Class are substantially similar to other Claims in each such Class, and such classification is therefore consistent with Bankruptcy Code section 1122. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims created under the Plan, and such Classes and the Plan's treatment thereof do not unfairly discriminate between Holders of Claims. The Plan satisfies Bankruptcy Code sections 1122 and 1123(a)(1).

b. Specified Treatment of Impaired and Unimpaired Classes—11 U.S.C. §§ 1123(a)(2) and (3). Article V of the Plan specifies the treatment of the Classes of Claims thereby satisfying Bankruptcy Code section 1123(a)(3).

c. No Discrimination—11 U.S.C. § 1123(a)(4). The Plan either provides the same treatment for each Claim within each respective Class or the Holder of a particular Claim or interest has agreed to a less favorable treatment of his/her/its particular Claim or interest, thereby satisfying Bankruptcy Code section 1123(a)(4).

d. Implementation of the Plan—11 U.S.C. § 1123(a)(5). Article VI of the Plan provides adequate and proper means for

implementing the Plan. Other articles of the Plan provide means for implementation of the Plan as well.

e. Selection of Officers and Directors—11 U.S.C. § 1123(a)(7). The Debtor properly and adequately discloses in Section 6.4 of the Plan that post-confirmation the Debtor shall continue to manage and control his assets after the Effective Date. Consequently, Bankruptcy Code section 1123(a)(7) is met.

f. Permissible Plan Provisions—11 U.S.C. § 1123(b). The Plan's provisions are appropriate and not inconsistent with the applicable provisions of the Bankruptcy Code.

g. Impairment of Classes—11 U.S.C. § 1123(b)(1). In accordance with Bankruptcy Code Section 1123(b)(1), Article V of the Plan impairs or leaves unimpaired, as the case may be, each class of Claims under the Plan.

h. Treatment of Executory Contracts and Unexpired Leases—11 U.S.C. § 1123(b)(2). The Plan constitutes a motion by the Debtor to reject all executory contracts and unexpired leases not expressly assumed or rejected on or before the Effective Date as allowed by Bankruptcy Code section 1123(b)(2).

i. Settlement of Claims—11 U.S.C. § 1123(b)(3). Article V of the Plan provides for various treatment of Classes of Claims, including the settlement of, or adjustments to, certain claims or interests belonging to the Debtor or to the Estate as allowed by Bankruptcy Code section 1123(b)(3).

j. Additional Plan Provisions—11 U.S.C. § 1123(b)(6). Further, the Plan provides a number of provisions related to the settlement, timing and payment of claims, as well as continuing jurisdiction and certain injunctions and exculpations. All other Plan provisions are acceptable and are not inconsistent with the applicable provisions of the Bankruptcy Code. Thus, the Plan complies with Bankruptcy Code section 1123(b)(6).

N. The Debtor's Compliance with the Bankruptcy Code—11 U.S.C. § 1129(a)(2). The Debtor has complied with the applicable provisions of the Bankruptcy Code, thereby satisfying Bankruptcy Code section 1129(a)(2). Based upon the record made at the Confirmation Hearing, *inter alia*: (a) the Debtor has complied with applicable provisions of the Bankruptcy Code and

orders of the Court and (c) the Debtor has complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Disclosure Statement Order in transmitting the Solicitation Package and related documents and notices and in soliciting and tabulating votes on the Plan.

O. Plan Proposed in Good Faith—11 U.S.C. § 1129(a)(3). The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying Bankruptcy Code section 1129(a)(3). This Court has examined the totality of the circumstances surrounding the formulation of the Plan. Based upon the evidence presented at the Confirmation Hearing, the Court finds and concludes that the Plan has been proposed with the legitimate and honest purpose of effectively liquidating the Debtor and maximizing the recovery to creditors in accordance with the priorities set forth in the Bankruptcy Code.

P. Payment for Services or Costs and Expenses—11 U.S.C. § 1129(a)(4). Any payments made or to be made by the Debtor for services or for costs and expenses in connection with the Bankruptcy Case have been approved by, or are subject to the approval of, the Court as reasonable, thereby satisfying Bankruptcy Code section 1129(a)(4).

Q. Identification of Directors, Officers, and Insiders —11 U.S.C. § 1129(a)(5). The Debtor has complied with Bankruptcy Code section 1129(a)(5) by disclosing that the Debtor will continue to manage his assets after entry of this Order and Effective Date.

R. No Rate Changes—11 U.S.C. § 1129(a)(6). No governmental regulatory commission has jurisdiction over rates of the Debtor after confirmation of the Plan. Thus, Bankruptcy Code section 1129(a)(6) is not applicable in the Bankruptcy Case.

S. Best Interests of Creditors Test—11 U.S.C. § 1129(a)(7). The Plan satisfies Bankruptcy Code section 1129(a)(7). The Disclosure Statement, Plan, and evidence adduced at the

Confirmation Hearing (i) are persuasive, credible and accurate as of the dates such evidence was prepared, presented, or proffered; (ii) have not been controverted by other persuasive evidence or have not been challenged; (iii) are based upon reasonable and sound assumptions; (iv) provide a reasonable estimate of the liquidation value of the Debtor's assets upon conversion to a chapter 7 proceeding; and (v) establish that each holder of a Claim in an impaired 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 amount that it would receive if the applicable Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.

T. Treatment of Administrative, Other Priority Claims and Priority Tax Claims—11 U.S.C. § 1129(a)(9). The treatment of Administrative Claims and Priority Tax Claims under the Plan satisfies the requirements of Bankruptcy Code sections 1129(a)(9)(A) and (C).

U. Acceptance by Impaired Classes—11 U.S.C. § 1129(a)(10). At least one Class of Claims that is impaired under the Plan has accepted the Plan thereby satisfying Bankruptcy Code section 1129(a)(10).

V. Feasibility—11 U.S.C. § 1129(a)(11). The Plan satisfies the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code. Specifically, the Plan is not likely to be followed by liquidation or need for further reorganization. The Court analyzed the factors traditionally used by bankruptcy courts in this Circuit—(i) the debtor's capital structure, (ii) the earning power of the business, (iii) economic conditions, (iv) the ability of debtor's management, (v) the probability of continuation of management, and (vi) any other related matters—and found that the factors support a finding that the Plan is feasible.

W. Payment of Fees—11 U.S.C. § 1129(a)(12). All fees payable under 28 U.S.C. § 1930 on or before the Effective Date, as determined by the Court, have been paid or will be paid pursuant to the Plan, thus satisfying the requirements of Bankruptcy Code section 1129(a)(12).

X. Continuation of Retiree Benefits—11 U.S.C. § 1129(a)(13). The Debtor does not have any retiree benefits to be continued under the Plan. Thus, Bankruptcy Code section 1129(a)(13) is not applicable to the Debtor.

Y. Domestic Support Obligations—11 U.S.C. § 1129(a)(4). The Plan complies with section 1129(a)(14) because any domestic support obligations are being addressed in the Plan.

Z. Inapplicability of 11 U.S.C. § 1129(a)(15). Section 1129(a)(15) is not applicable because no unsecured creditor objected to confirmation.

AA. 11 U.S.C. § 1129(b). All of the requirements of Bankruptcy Code section 1129(b) have been met as the Plan does not discriminate unfairly, and is fair and equitable with respect to each class of claims or interests that is impaired under, and has not accepted, the plan. Upon confirmation and the occurrence of the Effective Date, the Plan shall be binding upon: (a) the Debtor, (b) any Creditor, and (c) each of the foregoing's respective heirs, successors, assigns, trustees, executors, administrators, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, or guardians, whether or not the claim or interest of such Creditor, equity interest holder is Impaired under the Plan and whether or not such Creditor or equity security holder accepted the Plan.

BB. Satisfaction of Confirmation Requirements. The Plan satisfies the requirements for confirmation set forth in Bankruptcy Code section 1129.

ACCORDINGLY, THE COURT HEREBY ORDERS THAT:

1. Confirmation of the Plan. The Plan, which includes any and all modifications, including any modifications set forth on the record at the Confirmation Hearing, is **APPROVED** and **CONFIRMED** under Bankruptcy Code section 1129 in its entirety. The terms of the Plan are incorporated by reference into and are an integral part of this Confirmation Order. For reference, the Plan, with any modifications incorporated, is attached as **Exhibit A** to this Order.

2. Objections. Any objections that have not been withdrawn, waived, or settled, and all reservations of rights pertaining to confirmation of the Plan included therein, are overruled on the merits.

3. Effects of Confirmation; Effectiveness; Successors and Assigns. The Court directs that Fed. R. Civ. P. 62(a) and the stay provided by Bankruptcy Rule 3020(e) shall not apply to this Confirmation Order, and the Court authorizes the Debtor to consummate the Plan after entry of this Confirmation Order. Subject to the occurrence of the Effective Date, and notwithstanding any otherwise applicable law, immediately upon the entry of this Confirmation Order, the terms of the Plan (including the Plan Exhibits and all documents and agreements executed pursuant to the Plan) and this Confirmation Order shall be binding on (a) the Debtor, (b) any Creditor, and (c) each of the foregoing's respective heirs, successors, assigns, trustees, executors, administrators, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, or guardians, whether or not the claim or interest of such Creditor, equity interest holder is Impaired under the Plan and whether or not such Creditor or equity security holder accepted the Plan. Upon the occurrence of the Effective Date with respect to the Debtors, the Plan shall be deemed substantially consummated.

4. Injunction Against Interference with the Plan. Pursuant to Article 10.4 of the Plan, upon the entry of the Confirmation Order, all Creditors and persons acting in concert with them

are enjoined and restrained pursuant to section 105 of the Bankruptcy Code from taking any action to interfere with the implementation or consummation of the Plan.

5. Plan Implementation Authorization. Pursuant to the Plan, all necessary documents for the implementation of the Plan may be executed by all necessary parties in interest on the Effective Date, unless an earlier date is provided by the Plan.

6. Assumption or Rejection of Executory Contracts and Unexpired Leases—11 U.S.C. § 1123(b)(2). Pursuant to Article VII of the Plan, all executory contracts and unexpired leases to which the Debtor is a party shall be rejected as of the Petition Date, unless the Debtor expressly assumed or rejected such contract or lease on or before the Effective Date. For the sake of clarity, nothing in this Order is meant to alter any former Order of this Court with regarding to a prior assumption or rejection.

7. Damage Claims. Pursuant to Section 7.2 of the Plan, any Claims based upon rejection of an executory contract or unexpired lease shall be forever barred and shall not be enforceable against the Debtor, unless a proof of claim is filed with the Bankruptcy Court and served on the Debtor such that they actually receive the proof of claim within thirty (30) calendar days of entry of the Effective Date.

8. Governmental Approvals Not Required. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any State or any other governmental authority with respect to implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referred to in or contemplated by the Plan, the Disclosure Statement and any documents, instruments, or agreements, and any amendments or modifications thereto.

9. Exemption from Certain Taxes. Pursuant to section 1146(c) of the Bankruptcy Code, any transfers contemplated by the Plan shall not be subject to any stamp, transfer tax, or similar tax.

10. Resolution of Claims. Except as otherwise ordered by the Court, any Claim that is not an Allowed Claim shall be determined, resolved, or adjudicated in accordance with the terms of the Plan. All objections to Claims shall be filed with the Court within ninety (90) days from the Effective Date, and a copy of the objection shall be served upon the Holder of the Claim to which the such objection pertains. Any request for an extension period to object to Claims need be served only upon the creditors involved and the United States Trustee.

11. Payment of Fees. All fees payable by the Debtor under 28 U.S.C. § 1930 shall be paid on the later of the Effective Date or the due date.

12. Reversal. If any or all of the provisions of this Confirmation Order are hereafter reversed, modified, or vacated by subsequent order of this Court or any other court, such reversal, modification, or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under or in connection with the Plan prior to the Committee's receipt of written notice of any such order. Notwithstanding any such reversal, modification, or vacatur of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date of such reversal, modification, or vacatur shall be governed in all respects by the provisions of this Confirmation Order and the Plan or any amendments or modifications thereto.

13. Retention of Jurisdiction. Except as otherwise specified in the Plan, pursuant to Bankruptcy Code sections 105(a) and 1142, and notwithstanding the entry of this Confirmation

Order or the occurrence of the Effective Date, the Court shall retain exclusive jurisdiction as provided in Article XII of the Plan.

14. Notice of Entry of Confirmation Order. The Debtor shall serve notice of entry of this Confirmation Order pursuant to Bankruptcy Rules 2002(f)(7), 2002(j), 2002(k), and 3020(c) on all Creditors, the United States Trustee, the Securities and Exchange Commission, the Internal Revenue Service, and other parties in interest, by causing notice of entry of this Confirmation Order to be delivered to such parties by first-class mail, postage prepaid.

15. Notice of Effective Date. Within ten (10) Business Days following the occurrence of the Effective Date, the Debtor shall file notice of the occurrence of the Effective Date with the Bankruptcy Court and shall serve a copy of same on (a) the United States Trustee; and (b) the entities that have requested notice in the Bankruptcy Case pursuant to Bankruptcy Rule 2002.

16. Reference to Plan Provisions. The failure to specifically include or reference any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be confirmed in its entirety.

17. Inconsistency. In the event of an inconsistency between the Plan and any other agreement, instrument, or document intended to implement the provisions of the Plan, the provisions of the Plan shall govern unless otherwise expressly provided for in such agreements, instruments, or documents. In the event of any inconsistency between the Plan and any agreement, instrument, or document intended to implement the Plan and this Confirmation Order, the provisions of this Confirmation Order shall govern.

18. Enforceability. Pursuant to Bankruptcy Code sections 1123(a) and 1142(a) and the provisions of this Confirmation Order, the Plan and all plan-related documents shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

19. Final Order. This Confirmation Order constitutes a Final Order and no just cause exists for delay of this Confirmation Order.

20. Administrative and Professional Fee Claims. Except for Professional Claims, the deadline for filing all applications for payment of Administrative Claims shall be on or before thirty (30) days after the Effective Date. Except as expressly provided elsewhere in the Plan, any Administrative Claim filed after that date shall be deemed untimely filed and shall be disallowed. The deadline for objecting to such Administrative Claims is twenty-four (24) days after a request for payment of such Claim has been filed. The deadline for submitting applications for compensation for services rendered in the Bankruptcy Case pursuant to sections 327, 328, 330, 331, or 1103 (the "**Professional Fee Claims**") of the Bankruptcy Code prior to the Effective Date is one hundred eighty (180) days after the Effective Date. The deadline to object to final fee applications shall be the twenty-first (21st) day after such fee application has been filed.

21. Insurance. Pursuant to section 13.11 of the Plan, notwithstanding anything to the contrary in the Plan, neither this Order, nor Confirmation and consummation of the Plan shall have any effect on the insurance policies of the Debtor or any claim asserted thereunder. Each insurance company is prohibited from denying, refusing, altering or delaying coverage of the Debtor (or their current or former directors, officers or managers) on any basis regarding or related to any of the Bankruptcy Case, this Plan or any provision within the Plan, including the treatment or means of liquidation set out in the Plan for insured claims.

END OF ORDER

PREPARED AND SUBMITTED BY:

Gerrit M. Pronske
State Bar No. 16351640
Jason P. Kathman
State Bar No. 24070036
PRONSKE & KATHMAN, P.C.
2701 Dallas Parkway, Suite 590
Plano, Texas 75093
(214) 658-6500 - Telephone
(214) 658-6509 – Telecopier
Email: gpronske@pronskepc.com
Email: jkathman@pronskepc.com

**COUNSEL FOR DEBTOR
AND DEBTOR IN POSSESSION**

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

In re:

LEVI G. MCCATHERN, II

Debtor.

§
§
§
§
§

CASE NO. 18-31615-SGJ-11

Chapter 11

SECOND AMENDED PLAN OF REORGANIZATION OF LEVI G. MCCATHERN, II

Gerrit M. Pronske
State Bar No. 16351640
Jason P. Kathman
State Bar No. 24070036
PRONSKE & KATHMAN, P.C.
2701 Dallas Pkwy., Suite 590
Dallas, Texas 75056
(214) 658-6500 – Telephone
(214) 658-6509 – Facsimile

**COUNSEL FOR DEBTOR
AND DEBTOR IN POSSESSION**

DATED: August 29, 2019

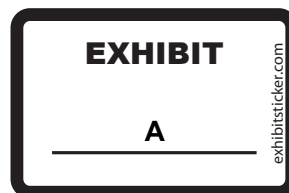


TABLE OF CONTENTS

I.	SUMMARY OF THE PLAN	1
1.1	Overview of the Plan	1
1.2	Payments to Creditors	1
II.	DEFINITIONS, RULES OF INTERPRETATION AND COMPUTATION OF TIME	1
2.1	Scope of Definitions	1
2.2	Definitions	1
2.3	Rules of Interpretation	10
2.4	Computation of Time	10
2.5	Exhibits	10
2.6	Approved Disclosure Statement	10
III.	DESIGNATION OF CLASSES OF CLAIMS	11
3.1	Designation of Classes of Claims	11
3.2	Unclassified Claims	11
3.3	Classified Claims and Interests	11
IV.	PAYMENT OF ADMINISTRATIVE CLAIMS AND EXPENSES AND CERTAIN PRIORITY CLAIMS	11
4.1	Administrative Claims and Deadlines	11
4.2	Professional Claims and Deadline	11
4.3	Treatment of Administrative Claims and Professional Claims	12
4.4	Priority Tax Claims	12
4.5	Priority Tax Claims of IRS	12
4.6	Payment of Statutory Fees	13
V.	TREATMENT OF CLASSES OF CLAIMS	13
5.1	Secured <i>Ad Valorem</i> Tax Claims	13
5.2	Secured Claims of FYP, LLC	13
5.3	Secured Claims of ZB, N.A.	14
5.4	Secured Claims of Internal Revenue Service	15
5.5	Priority Claims of Ashlea Willingham McCathern	15
5.6	Unsecured Claims Related to Guaranty of Law Firm Debt	15
5.7	General Unsecured Claims	16
VI.	MEANS OF IMPLEMENTING THE PLAN	16

6.1	Compromises and Settlements.....	16
6.2	Sale of Armstrong Home	16
6.3	Sources of Cash and Payment of Plan Payments.....	17
6.4	Post-Effective Date Management.....	17
6.5	Preservation of Causes of Action and Rights	17
6.6	Conditions to Effective Date	18
VII.	PROVISIONS FOR THE REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES	18
7.1	General Rejection of Executory Contracts	18
7.2	Claims for Damages	18
VIII.	RESOLUTION OF UNDETERMINED CLAIMS.....	19
8.1	Standing	19
8.2	Effect of Bar Date.....	19
8.3	Amendments to Claims; Claims Filed After the Effective Date	19
8.4	Objection Deadline	19
8.5	Creditor Response to Objection.....	19
8.6	No Payment Pending Allowance	20
8.7	Allowance of Claims	20
8.8	Estimation of Claims	20
IX.	DISTRIBUTION PROCEDURES	20
9.1	Distributions	20
9.2	Record Date for Claims	20
9.3	Interim and Final Distributions of Cash	20
9.4	Form of Distributions	20
9.5	Conditions to Distributions; Warranty of Entitlement.....	21
9.6	Withholding Taxes.....	21
9.7	Setoffs.....	21
9.8	Rounding.....	21
9.9	<i>De Minimis</i> Distributions.....	21
9.10	Undeliverable and Unclaimed Distributions	21
9.11	Disputed Distributions	22
X.	EFFECTS OF CONFIRMATION OF PLAN, INJUNCTION AND EXCULPATION	22
10.1	Notice of Effective Date	22
10.2	Binding Effect of Plan	22
10.3	Discharge	23

10.4	Injunction Against Interference with Plan	23
10.5	Exculpation	23
XI.	MODIFICATIONS OF THE PLAN	23
11.1	Amendments Prior to Confirmation Date	23
11.2	Amendments After Confirmation Date	23
11.3	Effect on Claims	24
XII.	RETENTION OF JURISDICTION	24
12.1	Purposes	24
12.2	Exclusive Jurisdiction	25
12.3	Abstention	25
12.4	Rights of the Reorganized Debtor	25
XIII.	GENERAL PROVISIONS	26
13.1	Certain Rights Unaffected	26
13.2	Incorporation of Valuation Motion	26
13.3	Automatic Stay	26
13.4	Reservation of Rights	26
13.5	Intentionally Omitted	26
13.6	Rights Under 1129(b)	26
13.7	Headings	26
13.8	Severability	26
13.9	Governing Law	26
13.10	Successors and Assigns	26
13.11	Insurance	27

**SECOND AMENDED PLAN OF REORGANIZATION
DATED AUGUST 29, 2019**

The Debtor proposes the following Plan of Reorganization.

**ARTICLE I.
SUMMARY OF THE PLAN**

1.1 Overview of the Plan. The Plan provides for a reorganization of the Debtor and the payment of Allowed Claims over not more than five (5) years through: (a) the liquidation of certain assets and (b) the commitment of a sum of money greater than the Debtor's projected disposal income for the next five (5) years. The Plan also provides for the resolution and treatment of outstanding Claims.

1.2 Payments to Creditors. The Plan provides for Creditors to be paid as provided in Article V herein. All Creditors of the Debtor will be paid as provided herein in accordance with the priority scheme established by the Bankruptcy Code. **PLEASE CONSULT ARTICLE V FOR SEPARATE INFORMATION REGARDING THE SPECIFIC TREATMENT OF YOUR CLAIM. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.**

**ARTICLE II.
DEFINITIONS, RULES OF INTERPRETATION AND COMPUTATION OF TIME**

2.1 Scope of Definitions. As used in this Plan and the Disclosure Statement, the following terms shall have their respective meanings as set forth below and, unless the context otherwise requires, shall be equally applicable to the singular and plural forms of the terms defined. Unless otherwise defined herein, the terms used in this Plan shall have the same meaning ascribed thereto in the Bankruptcy Code and the Bankruptcy Rules.

2.2 Definitions.

2.2.1 1933 Act: The Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

2.2.2 Administrative Claim: Any Claim for payment of any cost or expense of administration of the Bankruptcy Case entitled to priority in accordance with Sections 503(b) and/or 507(a) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the Estate on and after the Petition Date to and including the Confirmation Date, and all allowances of compensation and reimbursement of expenses approved by the Bankruptcy Court in accordance with the Bankruptcy Code and any fees or charges assessed against the Estate under Chapter 123, Title 28, United States Code.

- 2.2.3 Administrative Claim Bar Date: The date that is thirty (30) days after the Effective Date, unless not a Business Day, in which case it will be the first Business Day thereafter.
- 2.2.4 Ad Valorem Tax Claim: A Claim for taxes (together with any related interest, penalty, addition to tax or additional amount imposed by any Governmental Authority) which is assessed based upon the value of the Debtor's Asset and which is secured by a statutory Lien upon that Asset, or the net proceeds from the sale of such Asset, to the extent of the value of the interest of the holder of such Claim in the Debtor's interest in the Asset.
- 2.2.5 Allowed: When used with respect to a Claim or Equity Interest, means the Claim or Equity Interest (as applicable) (a) to the extent that it is listed in the Schedules in a liquidated, non-contingent, and undisputed amount, but only if no proof of Claim or proof of Equity Interest is Filed with the Bankruptcy Court to evidence such Claim or Equity Interest on or before the Bar Date; (b) as evidenced by a proof of Claim Filed on or before the Bar Date, but only to the extent asserted in a liquidated amount, and only if no objection to the allowance of the Claim or no motion to expunge the proof of Claim is Filed on or before the Claims Objection Deadline; or (c) to the extent allowed by a Final Order.
- 2.2.6 Armstrong Home: The real property and house generally described as 3508 Armstrong Ave., Dallas, Texas 75205.
- 2.2.7 Armstrong Home Closing Costs: Those certain costs and expenses directly related to the sale of the Armstrong Home, including, but not limited to, any fees of any Professionals employed to specifically market and sell the Armstrong Home. For the sake of clarity, the Armstrong Home Closing Costs do not include the following Claims, any Claims specifically identified and classified in this Plan, including any Claims classified in Classes 1, 2, 3, and Class 4.
- 2.2.8 Armstrong Home Sale: The sale of the Armstrong Home pursuant to Section 6.2.
- 2.2.9 Armstrong Home Gross Sale Proceeds: The total proceeds from the sale of the Armstrong Home pursuant to Section 6.2, after subtracting any Armstrong Home Closing Costs.
- 2.2.10 Armstrong Home Net Sale Proceeds: Any Armstrong Home Gross Sale Proceeds, to the extent they exist, after payment of the Classes of Claims specified in Section 6.2 of the Plan.
- 2.2.11 Asset: All right, title and interest in and to any and all property of every kind or nature, whether tangible or intangible, owned by a Debtor or its

Estate as of the Effective Date, including, but not limited to, Causes of Action.

- 2.2.12 Avoidance Action: Any and all rights, claims or actions which the Debtor may assert on behalf of the Estate under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 542, 544, 545, 546, 547, 548, 549, 550, 551 and/or 553 of the Bankruptcy Code, and any preference or fraudulent transfer action under any applicable state law, except to the extent that any such rights, claims, or actions are expressly released or waived in this Plan.
- 2.2.13 Ballot: The form of the ballot for voting to accept or to reject the Plan, which accompanies the Plan and the Disclosure Statement delivered to holders of Claims in Impaired Classes.
- 2.2.14 Bankruptcy Case: The chapter 11 bankruptcy case of Levi G. McCathern, II, Case No. 18-31615-SGJ-11, pending in the United States Bankruptcy Court for the Northern District of Texas, Dallas, Division, filed May 11, 2018.
- 2.2.15 Bankruptcy Code: The Bankruptcy Reform Act of 1978 as amended, and as applicable to this Chapter 11 case, § 101 *et seq.* Title 11, United States Code.
- 2.2.16 Bankruptcy Court: The United States Bankruptcy Court for the Northern District of Texas.
- 2.2.17 Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure, as amended and prescribed under section 2075, Title 28, United States Code, as applicable to the Bankruptcy Case, together with the Local Rules of the Bankruptcy Court.
- 2.2.18 Bar Date: The Bar Date is the last date on which proofs of Claim or proofs of Equity Interest may be timely Filed against the Debtor unless otherwise extended by Final Order of the Bankruptcy Court, which deadline was September 17, 2018.
- 2.2.19 Business Day: Any day other than a Saturday, Sunday, or “legal holiday” as defined in Bankruptcy Rule 9006(a).
- 2.2.20 Cash: Cash, cash equivalents and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States of America, certificates of deposits issued by banks and commercial paper of any entity, including interest earned or accrued thereon, but specifically excluding any Collateral consisting of funds in deposit or escrow accounts securing a Secured Claim.

- 2.2.21 Causes of Action: Any Avoidance Action, claim, cause of action of any kind, suit, controversy, right to payment, whether legal or equitable, known or unknown, liquidated or unliquidated, fixed or contingent, of the Debtor, whether listed in the Debtor's Schedules (as amended, supplemented and/or modified from time to time), the Disclosure Statement, the Plan, the Confirmation Order, any pleading in the Bankruptcy Case, or any other disclosure, statement, correspondence or communication providing informal notice of such Cause of Action.
- 2.2.21a CC Membership: The Debtor's membership at Royal Oaks Country Club.
- 2.2.22 Claim: Any right against the Debtor to (a) payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured or (b) an equitable remedy for a breach of performance if the breach would give rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.
- 2.2.23 Claims Objection Deadline: The date by which parties authorized by the Plan may file objections to Claims, which date shall be ninety (90) days after the Effective Date, unless extended by the Bankruptcy Court. The objection deadline with respect to Administrative Claims is specified separately in the Plan.
- 2.2.24 Claims Register: The combined registers of proofs of Claim filed in the Bankruptcy Case, maintained by the Clerk of the United States Bankruptcy Court for the Northern District of Texas.
- 2.2.25 Class: One of the categories of Claims established under Article III of this Plan.
- 2.2.26 Collateral: An Asset subject to a valid, enforceable and non-avoidable Lien securing the payment or performance of a Claim.
- 2.2.27 Confirmation: Confirmation means the entry of an Order of the Bankruptcy Court confirming this Plan.
- 2.2.28 Confirmation Date: The date of entry of the Confirmation Order by the Bankruptcy Court.
- 2.2.29 Confirmation Hearing: The hearing(s) before the Bankruptcy Court pursuant to Section 1128 of the Bankruptcy Code to consider confirmation of the Plan, as such hearing(s) may be continued, rescheduled or delayed.
- 2.2.30 Confirmation Order: Order of the Bankruptcy Court confirming the Plan and approving the transactions contemplated herein.

- 2.2.31 Contingent Claim: Any Claim listed in the Schedules as “contingent.”
- 2.2.32 Creditor: Any Person that is the holder of a Claim that arose on or before the Petition Date, or a Claim of any kind specified in Sections 502(g), 502(h), or 502(i) of the Bankruptcy Code.
- 2.2.32a CSO Obligations: The obligations of the Debtor related to child support as memorialized in the Divorce Settlement Agreement. More specifically: (a) the CSO Obligation Payments, (b) Reorganized Debtor shall maintain dental and health insurance coverage for the Debtor’s children, until the childer are no longer under the jurisdiction of the Divorce Court, and Reorganized Debtor shall be responsible for 80% of uninsured health care expenses of the children, (c) subject to the provisions and restrictions in the Informal Settlement Agreement, Reorganized Debtor shall maintain a life insurance policy insuring his life in an amount not less than \$1,000,000.00 and naming Ashlea Willingham McCathern as primary beneficiary for the benefit of the children so long as child support is payable for any child, and (d) Reorganized Debtor shall be eighty percent (80%) responsible for the costs (including but not limited to registration fees, uniforms, travel costs, if any) of all mutually agreed upon extra-curricular activities for the children.
- 2.2.33 CSO Obligation Payments: The payments specified in paragraph 7A of the Divorce Settlement Agreement. More specifically: Once the agreed Contractual Alimony (as that term is defined in the Divorce Settlement Agreement) obligation is reached or upon Wife’s remarriage or cohabitation, Reorganized Debtor shall pay child support to Ashlea Willingham McCathern for the children in the amount of \$2,535.00 per month on the first of each month until the Debtor’s oldest child is no longer subject to the Divorce Court. Thereafter, Reorganized Debtor shall pay child support to Ashlea Willingham McCathern in the amount of \$2,137.50 per month until only one child is subject to the Divorce Court. Thereafter, the Reorganized Debtor shall pay to Ashlea Willingham McCathern the amount of \$1,710.00 until no child is subject to the Divorce Court’s jurisdiction.
- 2.2.34 Cure Claim: The payment or other performance required to cure any existing default under an executory contract in accordance with Section 365 of the Bankruptcy Code, and unless otherwise specifically provided for in the Plan.
- 2.2.35 Debtor: Levi G. McCathern, II.
- 2.2.36 Disallowed: When used with respect to a Claim or Equity Interest, any portion thereof, that: (a) has been disallowed by either a Final Order or pursuant to a settlement; (b) has been withdrawn by the holder of the Claim or Equity Interest; (c)(i) is set forth in the Schedules at zero or as

contingent, disputed, or unliquidated and (ii) as to which the Bar Date has been established but no proof of Claim or proof of Equity Interest has been Filed or deemed timely Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely Filed under applicable law; or (d) has not been scheduled in the Schedules and as to which no proof of Claim or proof of Equity Interest has been timely Filed or deemed timely Filed with the Bankruptcy Court pursuant to the Bankruptcy Code, a Final Order, or the Plan.

- 2.2.37 Disclosure Statement: The Disclosure Statement Filed and served with respect to this Plan, as approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.
- 2.2.38 Disputed: The portion (including, when appropriate, the whole) of a Claim or Equity Interest that is not an Allowed Claim or Allowed Equity Interest as to which: (a) a proof of Claim or proof of Equity Interest has been Filed, or deemed Filed under applicable law or Order of the Bankruptcy Court; (b) an objection has been or may be timely Filed; and (c) such objection has not been (i) withdrawn, (ii) overruled or denied in whole or in part pursuant to a Final Order, or (iii) granted in whole or part pursuant to a Final Order. Before the time that an objection has been or may be Filed, a Claim or Equity Interest shall be considered a Disputed Claim or Equity Interest (a) if the amount or classification of the Claim or Equity Interest specified in the proof of Claim or proof of Equity Interest exceeds the amount or classification of any corresponding Claim or Equity Interest is listed by a Debtor in its Schedules, to the extent of such excess; (b) in its entirety, if any corresponding Claim or Equity Interest is listed by a Debtor in its Schedules as disputed, contingent, or unliquidated; or (c) in its entirety, if no corresponding Claim or Equity Interest has been listed by a Debtor in its Schedules.
- 2.2.38a Divorce Court: The Texas state court with jurisdiction over the Debtor's divorce, the 330th Judicial District Court for Dallas, County, Texas.
- 2.2.38b Divorce Settlement Agreement: That certain Informal Settlement Agreement entered into between the Debtor and Ashlea Willingham McCathern pursuant to Texas Family Code Section 6.604 specifying the agreed upon terms settling their divorce.
- 2.2.39 DSO Obligations: The "Contractual Alimony" agreed to (and subject to the terms and restrictions specified therein) in the Divorce Settlement Agreement. More specifically: Reorganized Debtor shall pay a gross sum of \$1,100,000.00 minus maximum statutory guideline support to Ashlea Willingham McCathern. Subject to the terms and restrictions of the Divorce Settlement Agreement, Reorganized Debtor shall make monthly payments towards the "Contractual Alimony" (as that term is defined in

the Divorce Settlement Agreement) in the total amount of \$11,100.00 per month as follows: (1) \$5,000.00 per month to be paid directly to the Internal Revenue Service (which amount shall also be applied against the Priority Tax Claim) for one half of the outstanding tax debt owed to the IRS for the parties' past tax liabilities; (2) \$6,100 per month minus the maximum statutory guideline child support discussed in paragraph 7 of the Divorce Settlement Agreement. Reorganized Debtor shall pay for and maintain health insurance for Ashlea Willingham McCathern under his insurance plan for a total of three (3) years from the date of the Divorce Settlement Agreement, or under a Cobra policy provided by Reorganized Debtor's employment. Notwithstanding the foregoing, and for the avoidance of doubt, all of the DSO Obligations specified herein are expressly subject to the terms, conditions, and limitations specified in the Divorces Settlement Agreement, including, but not limited to, "all financial obligations of the Reorganized Debtor under the Divorce Settlement Agreement excluding child support, Reorganized Debtor's eighty percent (80%) responsibility for uninsured health care expenses of the children, and Reorganized Debtor's eighty percent (80%) responsibility for the mutually agreed upon extra-curricular activities of the children shall terminate upon the cohabitation or remarriage of Ashlea Willingham McCathern.

- 2.2.40 Effective Date: The date that is thirty (30) days after the Confirmation Date.
- 2.2.41 Estate: The bankruptcy estate of the Debtor created upon the commencement of the Bankruptcy Case pursuant to Section 541 of the Bankruptcy Code.
- 2.2.42 Fee Application: An application of a Professional under Sections 328, 330, 331 or 503 of the Bankruptcy Code for allowance of compensation and reimbursement of expenses in the Bankruptcy Case.
- 2.2.43 File, Filed, or Filing: Means file, filed or filing with the clerk of the Bankruptcy Court, or it authorized designee in the Bankruptcy Case.
- 2.2.44 Final Order: Any order or a judgment which has not been reversed, stayed, modified or amended and as to which (i) the time to appeal or seek review, reargument or rehearing has expired and as to which no appeal or petition for certiorari, review or rehearing is pending or (ii) its appeal, review, reargument, rehearing or certiorari has been denied and a time to seek a further appeal, review, reargument, rehearing or certiorari has expired as a result of which such order shall have become final and nonappealable in accordance with applicable law.

- 2.2.45 General Unsecured Claim: Any Claim that is not an Administrative Claim, Priority Tax Claim (including the Priority Tax Claims of the IRS separately treated), or a Claim classified or defined in Classes 1-6.
- 2.2.46 Governmental Authority: Any transnational, domestic, or foreign federal, state or local governmental unit, authority, department, court, agency or official, including any political subdivision thereof, or any tribal authority.
- 2.2.47 Impaired: Has the same meaning as set forth in Section 1124 of the Bankruptcy Code.
- 2.2.48 Insider: Has the same meaning as set forth in Section 101(31) of the Bankruptcy Code.
- 2.2.49 Lien: With respect to any property or Asset, any mortgage, lien, interest pledge, charge, security interest, encumbrance, mechanics' lien, materialmen's lien, statutory lien or right, and other consensual or non-consensual lien, whenever granted and including, without limitation, those charges or interest in property within the meaning of "lien" under Section 101(37) of the Bankruptcy Code.
- 2.2.50 Lien Documents: An agreement, instrument, affidavit, filing, or recording evidencing, creating or perfecting a Lien.
- 2.2.51 Lexington Lawsuit: That certain litigation styled *West Star Transportation v. Lexington Ins. Co., et al*, Cause No. 2016-523114, pending before the 99th Judicial District Court for Lubbock County, Texas.
- 2.2.52 Order: Any order or judgment of the Bankruptcy Court as entered on the docket for the Bankruptcy Case.
- 2.2.53 Payment: Means the payment of Cash to the holders of Allowed Claims pursuant to this Plan.
- 2.2.54 Person: Any individual, entity, or Governmental Authority of any nature whatsoever, specifically including any individual, firm, company, corporation, partnership, trust, joint venture, association, joint stock company, limited liability company, estate, unincorporated organization, or any other entity.
- 2.2.55 Petition Date: May 11, 2018.
- 2.2.56 Plan: The Plan of Reorganization, either in its present form or as it may be altered, amended, modified, or supplemented from time to time.

- 2.2.57 Plan Documents: All documents, forms, lists and agreements contemplated under this Plan to effectuate the terms and conditions hereof.
- 2.2.58 Plan Proponent: The Debtor.
- 2.2.59 Priority DSO Claim: The Allowed Priority Non-Tax Claim of Ashlea Willingham McCathern pursuant to 11 U.S.C. § 507(a)(1).
- 2.2.60 Priority Non-Tax Claim: Any Claim entitled to a priority under, *inter alia*, Section 507(a) of the Bankruptcy Code other than a Priority Tax Claim.
- 2.2.61 Priority Tax Claim: Any Claim of a Governmental Authority that is entitled to priority in payment under Sections 502(i) and 507(a)(8) of the Bankruptcy Code.
- 2.2.62 Pro Rata: The proportion that the amount of an Allowed Claim in a particular Class bears to the aggregate Face Amount of all Allowed Claims in such Class.
- 2.2.63 Professional: Any Person employed in the Bankruptcy Case pursuant to Sections 326, 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code.
- 2.2.64 Professional Claim: Any Claim that is Filed by a Professional pursuant to Sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code.
- 2.2.65 Professional Claim Bar Date: The date that is ninety (90) days after the Effective Date.
- 2.2.66 Reorganized Debtor: The Debtor as of the Effective Date.
- 2.2.67 Schedules: The Schedules of Assets and Liabilities and the Statements of Financial Affairs Filed by or on behalf of each Debtor in the Bankruptcy Case pursuant to Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as they have been or may hereafter be amended, modified or supplemented.
- 2.2.68 Secured Claim: Any Claim to the extent (a) secured by a Lien on Collateral which is not void or avoidable under applicable state and federal law, including the Bankruptcy Code or (b) subject to set off under Sections 553 of the Bankruptcy Code, in each case to the extent of the value of the Secured Creditor's interest in the Debtor's interests in the property or the amount of the set off, as applicable; *provided, however*, that nothing herein shall prohibit a Secured Creditor from making the election provided in Section 1111(b)(2) of the Bankruptcy Code.
- 2.2.69 Secured Creditor: Any Creditor that is the holder of a Secured Claim.

- 2.2.70 Texas Property Tax Loans: FYP, LLC *d/b/a* Texas Property Tax Loans.
- 2.2.71 U.S. Trustee Fees: Fees payable pursuant to 28 U.S.C. § 1930.
- 2.2.72 Undetermined Claim: Any Claim that is (a) a Disputed Claim; (b) a Claim arising through rejection of executory contracts or unexpired leases pursuant to this Plan; (c) an undetermined Administrative Claim; or (d) a claim that is an Unliquidated Claim or Contingent Claim.
- 2.2.73 Unimpaired: When used with reference to a Claim, a Claim that is not Impaired.
- 2.2.74 Unliquidated Claim: Any Claim that is listed in the Schedules as “unliquidated.”
- 2.2.75 Unsecured Claim: Any Claim against the Debtor that is is not a Secured Claim.

2.3 Rules of Interpretation. For purposes of this Plan, (i) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (ii) any reference in the Plan to an existing document, pleading or exhibit Filed or to be Filed means such document or exhibit as it may have been or may be amended, modified, or supplemented as permitted herein; (iii) the words “herein,” “hereto” and “hereof” refer to the Plan in its entirety rather than to a particular portion of the Plan; and (iv) the rules of construction set forth in Section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply, unless an alternate calculation is expressly provided herein (*i.e.*, Business Days).

2.4 Computation of Time. In computing any period of time prescribed or allowed in this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

2.5 Exhibits. All exhibits are incorporated into and are a part of the Plan as if set forth in full herein. Holders of Claims may obtain a copy of the Filed exhibits upon written request to the Debtor. Upon their Filing, the exhibits may be inspected in the office of the clerk of the Bankruptcy Court or at the Bankruptcy Court’s CM/ECF or PACER website. The documents contained in the exhibits shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. The Debtor expressly reserves the right to modify or make additions to or subtractions from any exhibit or to the Plan and to amend, modify or supplement any exhibit to the Plan in conformance with the provisions of this Plan.

2.6 Approved Disclosure Statement. The terms and provisions of the Disclosure Statement, as approved by the Bankruptcy Court, are expressly incorporated herein, except where such provisions of the Disclosure Statement may conflict with the terms of this Plan. In the event that such a conflict arises, the terms of this Plan and the Confirmation Order shall control, with the Confirmation Order controlling over the terms of this Plan.

ARTICLE III. DESIGNATION OF CLASSES OF CLAIMS

3.1 Designation of Classes of Claims. A Claim is classified in a particular Class only to the extent that the Claim qualifies within the description of that Class and is classified in a different Class to the extent that any remainder of the Claim qualifies within the description of such different Class. A Claim is in a particular Class only to the extent that the Claim is an Allowed Claim in that Class and has not been paid, released or otherwise satisfied before the Effective Date.

3.2 Unclassified Claims.

Allowed Administrative Claims
Allowed Priority Tax Claims

3.3 Classified Claims and Interests.

Class 1: Secured Ad Valorem Tax Claims (Impaired)
Class 2: Secured Claims of FYP, LLC d/b/a Texas Property Tax Loans (Impaired)
Class 3: Secured Claims of ZB, N.A (Impaired)
Class 4: Secured Claims of IRS (Impaired)
Class 5: Priority Claims of Ashlea Willingham McCathern (Impaired)
Class 6: Unsecured Claims Related to Guaranty of Law Firm Debt (Unimpaired)
Class 7: General Unsecured Claims (Impaired)

ARTICLE IV. PAYMENT OF ADMINISTRATIVE CLAIMS AND EXPENSES AND CERTAIN PRIORITY CLAIMS

4.1 Administrative Claims and Deadline. Holders of Administrative Claims that were incurred, accrued or in existence prior to the Effective Date, other than (a) a Professional Claim, (b) Allowed Administrative Claim as of the Effective Date, (c) Administrative Claim that represents a liability incurred and paid in the ordinary course of the Debtor, and (d) Administrative Claim based on a fee or charge assessed against the Estate under Chapter 123, Title 28, United States Code, must by no later than the Administrative Claim Bar Date: (i) File an application with the Bankruptcy Court for allowance of the Administrative Claim; and (ii) serve a copy of such application on the Debtor, the United States Trustee, and all other parties entitled to notice thereof. Failure to File and serve such application by the Administrative Claim Bar Date shall result in the Administrative Claim being forever barred and discharged. Except as specifically provided in the Plan, nothing in this Plan alters the law applicable to, and governing, the allowance of an Administrative Claim under the Bankruptcy Code and/or the Bankruptcy Rules.

4.2 Professional Claims and Deadline. Each Professional who holds or asserts an Administrative Claim that is a Professional Claim incurred prior to the Effective Date shall File with the Bankruptcy Court and serve on all parties entitled to receive such notice its Fee

Application by no later than the Professional Claim Bar Date. Any party in interest with standing to object to a Professional Claim may File such an objection to thereto.

4.3 Treatment of Administrative Claims and Professional Claims. In full and final satisfaction of Allowed Administrative Claims, each Allowed Administrative Claim shall, unless otherwise agreed, be paid in full in Cash by the Debtor by the later of (a) fifteen (15) days after the Effective Date, or (b) fifteen (15) days after becoming an Allowed Administrative Claim; *provided, however*, that Allowed Administrative Claims that represent liabilities incurred on or after the Petition Date, but prior to the Effective Date, in the ordinary course of the Debtor which may be paid in the ordinary course without Order of the Bankruptcy Court, shall be paid in accordance with the agreements related thereto. Each Allowed Professional Claim, after deducting any retainer, shall be paid by the Debtor by the later of (i) five (5) Business Days after such Professional Claim is Allowed by a Final Order, (ii) on such date as agreed by the Debtor and the applicable Professional.

4.4 Priority Tax Claims. Unless otherwise agreed in this Plan, Priority Tax Claims shall be paid by the Reorganized Debtor, up to the Allowed amount of such Claim, plus interest at the rate of 4.25% per annum accrued thereon on a quarterly basis on January 1, April 1, July 1, and October 1 of each year over a not exceeding five (5) years after the date of the order for relief, as provided in § 1129(a)(9)(C) of the Bankruptcy Code, commencing after the first full quarter following the Effective Date.

4.5 Priority Tax Claims of IRS.

4.5.1 Treatment. The Priority Tax Claims of the IRS shall be paid by the Reorganized Debtor, up to the Allowed amount of the Allowed Priority IRS Claim, plus interest at the rate of 4.00% per annum accrued thereon on a quarterly basis on January 1, April 1, July 1, and October 1 of each year over a period of seven (7) years from the Effective Date.

4.5.2 Default. In the event that the Reorganized Debtor fails to timely make any of the quarterly payments towards the Allowed Priority IRS Claim described above, but cures such payment within thirty (30) days of receiving notice of such default from the IRS (such payment, a “Cured Payment Default”), the Reorganized Debtor shall be in default of its obligations to the IRS. In the event that the Reorganized Debtor does not cure the default within thirty (30) days of receiving notice from the IRS, the administrative collection power and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition.

4.5.3 Other Provisions. The IRS shall not be bound any release provisions in the Plan that would release any liability of the responsible persons of the Debtor to the IRS. The IRS may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor to the IRS; but the IRS shall not take any action to actually collect from such persons unless and until this a default pursuant to the terms of this section.

4.6 Payment of Statutory Fees. All fees due and payable on or before the Effective Date (a) pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, and (b) to the United States Trustee, shall be paid by the Debtor within fifteen (15) days following the Effective Date. From and after the Effective Date, any fees and charges which are assessed under Chapter 123, Title 28, United States Code, in relation to the Bankruptcy Case shall be paid by the Reorganized Debtor as they become due.

ARTICLE V. TREATMENT OF CLASSES OF CLAIMS

5.1 Secured *Ad Valorem* Tax Claims. (Class 1)

(a) **Classification:** Class 1 consist of the the Allowed Secured *Ad Valorem* Tax Claims that are not specifically classified in any other class.

(b) **Treatment:** Unless otherwise agreed, each holder of an Allowed Ad Valorem Tax Claim, excluding any penalties, shall receive in full discharge and in exchange for such Allowed Ad Valorem Tax Claim, and the Lien(s) securing the same, Cash in the full amount of their Allowed Claim from the Armstrong Home Gross Sale Proceeds. Prior to the Armstrong Home Sale, each holder of an Allowed Ad Valorem Tax Claim shall retain all liens in, to, or against any property of the Debtor and the Estate, such Liens shall continue to apply and attach to the Armstrong Home (or the proceeds thereof) with the same validity, extent, and priority as otherwise exists pending payment of each Allowed Ad Valorem Tax Claim in full, together with all applicable interest. Upon the payment of each Allowed Ad Valorem Tax Claim in full, together with all applicable interest, each lien securing such Allowed Ad Valorem Tax Claim shall be automatically, and without need for further order, document, or action, released and discharged.

(c) **Voting:** Class 1 is Impaired under the Plan and is entitled to vote.

(d) **Dallas County:** Dallas County shall receive interest on its prepetition claim from the petition date through the effective date and from the effective date through the date of payment in full at the state statutory rate of interest pursuant to 11 U.S.C. Sections 506(b), 511 and 1129. Dallas County shall retain the liens that secure all amounts ultimately owed for tax year 2019 until all such amounts are paid in full. Dallas County's administrative expense claim for year 2019 ad valorem property taxes shall be paid in the ordinary course of business prior to the state law delinquency date or pursuant to the further agreement of the parties.

5.2 Secured Claims of FYP, LLC d/b/a Texas Property Tax Loans. (Class 2)

(a) **Classification:** Class 2 consist of the the Allowed Secured Claims of Texas Property Tax Loans.

(b) **Allowed Claim:** FYP, LLC d/b/a Texas Property Tax Loans shall have an Allowed Claim in the amount of \$164,180.53.

(c) **Treatment:** Unless otherwise agreed, FYP, LLC *d/b/a* Texas Property Tax Loans (“Texas Property Tax Loans”), excluding any penalties, shall receive in full discharge and in exchange for its Allowed Secured Claims, and the Lien(s) securing the same, Cash in the full amount of its Allowed Claim from the Armstrong Home Gross Sale Proceeds. Prior to the Armstrong Home Sale, Texas Property Tax Loans shall retain all liens in, to, or against any property of the Debtor and the Estate, such Liens shall continue to apply and attach to the Armstrong Home (or the proceeds thereof) with the same validity, extent, and priority as otherwise exists pending payment of its Allowed Secured Claim in full, together with all applicable interest. Upon the payment of each Allowed Secured Claim of Texas Property Tax Loans in full, together with all applicable interest, each lien securing such Allowed Secured Claim of Texas Property Tax Loans shall be automatically, and without need for further order, document, or action, released and discharged.

Voting: Class 2 is Impaired under the Plan and is entitled to vote.

5.3 Secured Claims of ZB, N.A. (Class 3)

(a) **Classification:** Class 3 consist of the the Allowed Secured Claims of ZB, N.A.

(b) **Treatment:** Unless otherwise agreed, ZB, N.A. (“ZB”) shall receive in full discharge and in exchange for its Allowed Secured Claim, and the Lien(s) securing the same, Cash in the full amount of its Allowed Secured Claim from the Armstrong Home Gross Sale Proceeds. Prior to the Armstrong Home Sale, the Reorganized Debtor shall continue to make the \$9,949.02 monthly principal and interest payment to ZB, and ZB shall retain its liens in, to, or against any property of the Debtor and the Estate, such Liens shall continue to apply and attach to the Armstrong Home (or the proceeds thereof) with the same validity, extent, and priority as otherwise exists pending payment of the ZB’s Allowed Secured Claim in full, together with all applicable interest. Upon the payment in full of the Allowed Secured Claim of ZB, together with all applicable interest, and pursuant to a current payoff statement obtained from ZB, each lien securing the Allowed ZB Secured Claim shall be automatically, and without need for further order, document, or action, released and discharged. In the event that the Armstrong Home has not sold by the date that is the two-year anniversary of the Effective Date, the Reorganized Debtor agrees to convey the Armstrong Home to ZB in full discharge, accord and satisfaction of any and all claims and amounts owed to ZB.

(c) **Post-petition Cure:** The Reorganized Debtor shall pay ZB the amount of \$73,528.64 as payment for any and all defaults that may have occurred since the Petition Date (the “ZB Cure Amount”), through and including September 1, 2019 principal and interest payment. This amount shall be paid in addition to the ongoing monthly principal and interest payments due under paragraph (b) of this section, which shall resume on October 1, 2019. The ZB Cure Amount shall be paid in seven (7) installments, with the first payment of \$20,000 due on or before the Effective Date. The remaining \$53,528.64 shall be paid as six (6) monthly payments of \$8,921.44 due on the first day of each successive month, starting on November 1, 2019. Upon paying the ZB Cure Amount in

full, any and all defaults related to ZB's Claims shall be deemed satisfied and ZB shall be deemed to have released the Reorganized Debtor of any defaults that arose prior to the Effective Date.

(d) **Voting:** Class 3 is Impaired under the Plan and is entitled to vote.

5.4 Secured Claims of Internal Revenue Service. (Class 4)

(a) **Classification:** Class 4 consists of the Allowed Secured Claims of the Internal Revenue Service ("IRS"). The Allowed Secured Claims of the IRS shall be equal to the remainder of the Armstrong Home Gross Sale Proceeds after payment of the Allowed Class 1, Allowed Class 2 and Allowed Class 3 Claims.

(b) **Treatment:** Unless otherwise agreed, the IRS shall receive in full discharge and in exchange for its Allowed Secured Claim, and the Lien(s) securing the same, Cash in the full amount of its Allowed Secured Claim from the Armstrong Home Gross Sale Proceeds. Prior to the Armstrong Home Sale, the IRS shall retain its liens in, to, or against any property of the Debtor and the Estate, such Liens shall continue to apply and attach to the Armstrong Home (or the proceeds thereof) with the same validity, extent, and priority as otherwise exists pending payment of the IRS's Allowed Secured Claim in full, together with all applicable interest. Upon the payment in full of the Allowed Secured Claim of the IRS, together with all applicable interest, each lien securing the Allowed Secured Claim of the IRS shall be automatically, and without need for further order, document, or action, released and discharged. For the avoidance of doubt, any deficiency that may arise on any Allowed Claim of the IRS that is not treated as an Allowed Class 4 Claim shall be paid and included as an Allowed Priority Tax Claim.

(c) **Voting:** Class 4 is Impaired under the Plan and is entitled to Vote.

5.5 Priority Claims of Ashlea Willingham McCathern. (Class 5)

(a) **Classification:** Class 5 consists of the Priority Claims of Ashlea Willingham McCathern pursuant to 11 U.S.C. § 507(a)(1).

(b) **Treatment:** Unless otherwise agreed, Ms. McCathern will receive, on account of the Allowed Priority DSO Claim: (a) any Armstrong Home Net Sale Proceeds that exist after payment of the Allowed Priority Tax Claims, (b) the CSO Obligations (including the CSO Obligation Payments), (c) the CC Membership, and (d) the DSO Obligation. Notwithstanding the foregoing, Ashlea Willingham McCathern agrees that the CSO Obligations and DSO Obligation shall not be required under this Plan until the Armstrong Home is sold.

(c) **Voting:** Class 5 is Impaired under the Plan and is entitled to Vote.

5.6 Unsecured Claims Related to Guaranty of Law Firm Debt. (Class 6)

- (a) **Classification:** Class 6 consists of the unsecured contingent claims of Post Oak Bank related to that certain guaranty of the debt of McCathern, PLLC.
- (b) **Treatment:** On the Effective Date, the guaranty agreement shall be reaffirmed without any need for any further order of Court.
- (c) **Voting:** Class 6 is Unimpaired and deemed to accept.

5.7 General Unsecured Claims. (Class 7)

- (a) **Classification:** Class 7 consists of consist of all other Allowed Unsecured Claims against the Debtor not placed in any other Class under the Plan.
- (b) **Treatment:** Class 7 Claims shall not receive any distributions on account of their Allowed Claims.
- (c) **Voting:** Deemed to Reject – 1129(g)

ARTICLE VI.
MEANS OF IMPLEMENTING THE PLAN

6.1 Compromises and Settlements. Pursuant to Sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, Distribution and other benefits provided in the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of certain Claims and Causes of Action arising prior to the Effective Date, whether known or unknown, foreseen or unforeseen, asserted or unasserted. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements and all other compromises or settlements provided in the Plan, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, the Estate, Creditors and other parties in interest, and are fair, equitable and within the range of reasonableness. To the extent necessary to effectuate and implement the compromises and releases contained in this Plan, the Plan shall be deemed to constitute a motion under Bankruptcy Rule 9019 seeking the Bankruptcy Court's approval of all of the compromises and releases contained herein. More specifically, and without limiting this provision, the Plan shall be deemed to constitute a motion under Bankruptcy Rule 9019 to settle any Claims and the treatment provided for them in this Plan.

- 6.1.1 Divorce Settlement Agreement. The Plan shall be expressly construed as a motion to approve, pursuant to Federal Rule of Bankruptcy Procedure 9019, the terms and agreements memorialized and specified in the Divorce Settlement Agreement.

6.2 Sale of Armstrong Home. The Reorganized Debtor shall continue to market for sale the Armstrong Home. The Armstrong Home Gross Sale Proceeds shall be used to pay Allowed Claims in the following order: first to pay the Armstrong Home Closing Costs, second, to any Allowed Secured Claims in Class 1 (*Ad Valorem* Secured Claims), then to Class 2 (Texas Property Tax Loans), then to Class 3 (ZB, N.A.), and then to Class 4 (Secured IRS Claims). To the extent

any Armstrong Home Gross Sale Proceeds exist after payment in full of the foregoing Allowed Claims, such Armstrong Home Net Sale Proceeds shall be applied first to reduce the amount of the Priority Tax Claims of the IRS. To the extent sufficient Armstrong Home Net Sale Proceeds exist to pay the Priority Tax Claims of the IRS in full, the remainder of the Armstrong Home Net Sale Proceeds shall be applied to the DSO Obligation. In the event that the Armstrong Home has not sold by the date that is the two-year anniversary of the Effective Date, the Reorganized Debtor agrees to convey to ZB, NA, in accordance with the terms of Section 5.3 of the Plan, the Armstrong Home in full accord and satisfaction for any all claims.

6.3 Sources of Cash and Payment of Plan Payments. The Reorganized Debtor shall continue to work post-confirmation and devote such necessary resources to fund each and all of the monthly and quarterly payments pursuant to the Plan.

6.4 Post-Effective Date Management. The Reorganized Debtor shall continue to manage and control his assets after the Effective Date in accordance with the applicable laws of the State of Texas, for the purposes of effectuating the terms of this Plan.

6.5 Preservation of Causes of Action and Rights. All Causes of Action, rights of setoff and other legal and equitable defenses of the Debtor or the Estate are preserved unless expressly released, waived, or relinquished under the Plan or the Confirmation Order, and shall vest in the Reorganized Debtor. No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as an indication that a Cause of Action will not be pursued against them.

Further, unless expressly released by the Plan or by an order of the Bankruptcy Court, any and all such claims and Causes of Action against third parties are specifically reserved, including but not limited to any such claims or Causes of Action relating to any counterclaims, demands, controversies, costs, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, liabilities, objections, legal proceedings, equitable proceedings, and executions of any nature, type, or description, avoidance actions, preference actions, fraudulent transfer actions, strong-arm power actions, state law fraudulent transfer actions, improper assignment of interest, negligence, gross negligence, willful misconduct, usury, fraud, deceit, misrepresentation, conspiracy, unconscionability, duress, economic duress, defamation, control, interference with contractual and business relationships, breach of fiduciary duty, conversion, aiding and abetting, civil conspiracy, conflicts of interest, misuse of insider information, concealment, disclosure, secrecy, misuse of collateral, wrongful release of collateral, failure to inspect, environmental due diligence, negligent loan processing and administration, wrongful recoupment, wrongful setoff, violations of statutes and regulations of governmental entities, instrumentalities and agencies, equitable subordination, debt re-characterization, substantive consolidation, securities and antitrust laws violations, tying arrangements, deceptive trade practices, breach or abuse of any alleged fiduciary duty, breach of any special relationship, course of conduct or dealing, obligation of fair dealing, obligation of good faith, malpractice, at law or in equity, in contract, in tort, or otherwise, known or unknown, suspected or unsuspected.

Unless expressly released by the Plan or by an Order of the Bankruptcy Court, the Debtor may hold the following claims, all of which shall be preserved pursuant to the terms of this Plan:

- Preference claims under section 547 of the Bankruptcy Code;
- Fraudulent transfer and other avoidance claims arising under section 506, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code and various state laws;
- Unauthorized post-petition transfer claims including, without limitation, claims under section 549 of the Bankruptcy Code;
- Claims and Causes of Action asserted in current litigation, whether commenced pre- or post-petition;
- Counterclaims asserted in current litigation (including, but not limited to, any counterclaims asserted or that may be asserted in the Lexington Lawsuit).

6.6 Conditions to Effective Date. The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied in accordance with the terms hereof:

- (a) The Confirmation Order shall have become a Final Order; and
- (b) All other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed;

provided, however, that each of the conditions precedent provided herein may be waived, in whole or in part, by written consent of the Debtor and any counter-party to any agreements or documents specified herein without notice or order of the Bankruptcy Court.

ARTICLE VII. **PROVISIONS FOR THE REJECTION OF EXECUTORY CONTRACTS AND** **UNEXPIRED LEASES**

7.1 General Rejection of Executory Contracts. All executory contracts and unexpired leases of the Debtor (including, but not limited to, those listed on the Debtor's Schedules) which are not expressly assumed or rejected on or before the Effective Date, or not otherwise specifically treated in this Plan or in the Confirmation Order, shall be deemed to have been rejected as of the Petition Date. The Bankruptcy Court shall retain jurisdiction to effectuate any post-confirmation assumption and assignment of leases, and such assumption and assignments shall be performed pursuant to Section 365 of the Bankruptcy Code. The listing by the Debtor in his Schedules of a contract or lease as an executory contract or unexpired lease will not constitute an admission by the Debtor that such contract or lease is an executory contract or unexpired lease of the Debtor, or that the Debtor or the Estate has any liability thereunder.

7.2 Claims for Damages. Any Claim based upon rejection of an executory contract or unexpired lease under the Plan must be Filed with the Bankruptcy Court and served on the Reorganized Debtor such that the Claim is actually received within thirty (30) days of the entry of an Order rejecting such contract or lease. All Allowed Claims for rejection damages, unless

otherwise specifically provided for or addressed in this Plan, shall be treated as Class 7 General Unsecured Claims. Any Claim not Filed within such time will be forever barred from assertion against the Debtor or the Estate.

ARTICLE VIII.

RESOLUTION OF UNDETERMINED CLAIMS

8.1 Standing. In addition to all other parties that may otherwise have standing to object to Claims, the Reorganized Debtor shall have specific standing to object to the allowance of said Claims.

8.2 Effect of Bar Date. In accordance with Bankruptcy Rule 3003(c), any entity, Person or Creditor whose Claim was listed in the Schedules, or holds a Contingent Claim, Unliquidated Claim, or Disputed claims, and did not file a proof of Claim before the Bar Date, shall not be treated as a Creditor with respect to such Claim for purposes of voting or distribution.

8.3 Amendments to Claims; Claims Filed After the Effective Date. Except as otherwise provided in the Plan, and subject to the Bar Date, a Claim may not be amended after the Effective Date without the prior written authorization of the Bankruptcy Court. Except as otherwise provided in the Plan, any amended Claim Filed with the Bankruptcy Court after the Effective Date shall be deemed Disallowed in full and expunged without the need for any action by the Debtor. Notwithstanding the foregoing, and for the avoidance of doubt, the holder of an Ad Valorem Tax Claim may amend any timely Filed proof of Claim, where such proof of Claim includes an estimated amount for *ad valorem* taxes, in order to assert actual taxes for said year(s), at any time prior to substantial consummation of the Plan.

8.4 Objection Deadline. Within ninety (90) days from the Effective Date, unless such date is extended by Order of the Court after notice and hearing, the Reorganized Debtor may file with the Bankruptcy Court objections to Claims and interests and shall serve a copy of each such objection upon the Holder of the Claim or interest to which such objection pertains, but upon no other party or party-in-interest. Unless arising from an Avoidance Action, any proof of Claim filed after the Confirmation Date shall be of no force and effect and need not be objected to. Any Undetermined Claim may be litigated to Final Order. The Reorganized Debtor may compromise and settle any Undetermined Claim without the necessity of any further notice or approval of the Bankruptcy Court, and Bankruptcy Rule 9019 shall not apply to any settlement of an Undetermined Claim after the Effective Date. Nothing in this Plan extends the Bar Date set in the Chapter 11 Case or grants any Creditor any greater rights with respect to a late-filed Claim than such Creditor otherwise has. Unless otherwise ordered by the Court, the Reorganized Debtor shall litigate to judgment, settle or withdraw objections to contested Claims.

8.5 Creditor Response to Objection. With respect to any objection to a Claim when such objection is filed after the Effective Date but otherwise in compliance with this Plan, the Creditor whose Claim was the subject of the objection must file with the Bankruptcy Court and serve a response to the objection upon the Reorganized Debtor and the objecting party no later than thirty (30) days from the date of service of any such objection. Failure to file and serve such a response within the thirty (30) days shall cause the Bankruptcy Court to enter a default judgment against the non-responding Creditor and thereby grant the relief requested in the objection without

further notice to such Creditor. Any such objection shall contain prominent negative notice language informing the objected-to creditor of the same.

8.6 No Payment Pending Allowance. Notwithstanding any other provision in the Plan, if any portion of a Claim is Disputed or is an Undetermined Claim, then no payment or Distribution shall be made on account of any portion of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

8.7 Allowance of Claims. At the time, and to the extent that a Disputed or an Undetermined Claim becomes an Allowed Claim, such Allowed Claim shall be entitled to such Distributions. Such Distributions shall be made in the manner provided for by this Plan, or any Final Order of the Bankruptcy Court with respect to such Allowed Claim.

8.8 Estimation of Claims. The Debtor or the Reorganized Debtor may at any time request that the Bankruptcy Court estimate any Contingent Claim, Unliquidated Claim or Disputed Claim pursuant to 11 U.S.C. § 502(c), regardless of whether the Debtor or the Reorganized Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and 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. In the event that the Bankruptcy Court estimates an Undetermined 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 Debtor or 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, compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

ARTICLE IX.

DISTRIBUTION PROCEDURES

9.1 Distributions. The Reorganized Debtor shall make Distributions to the holders of Allowed Claims, on the terms set forth in this Plan and subject to the availability of Cash.

9.2 Record Date for Claims. The record date for Distributions to Allowed Claims under the Plan shall be the date the Bankruptcy Court enters its Order approving the Disclosure Statement. For purposes of Distribution to holders of Allowed Claims, the Reorganized Debtor will rely on the Claims Register maintained by the Bankruptcy Court except to the extent a notice of transfer of Claim has been Filed with the Bankruptcy Court prior to the record date pursuant to Bankruptcy Rule 3001.

9.3 Interim and Final Distributions of Cash. The Reorganized Debtor shall make Cash Distributions to the holders of Allowed unclassified Claims and Claims in Classes 1 through 3 under the terms set forth in the Plan.

9.4 Form of Distributions. Any Cash payment to be made pursuant to the Plan may be made by check or wire transfer, at the option of the Debtor.

9.5 Conditions to Distributions; Warranty of Entitlement. Each and every Creditor who receives and accepts a Distribution under the Plan on account of an Allowed Claim is deemed to have warranted to the Reorganized Debtor that such Creditor is the lawful holder of the Allowed Claim, is authorized to receive the Distribution, and that there are no outstanding commitments, agreements or understandings, express or implied, that may or can, in any way, defeat or modify the right of the Creditor to receive the Distribution.

9.6 Withholding Taxes. In connection with this Plan, to the extent applicable, the Reorganized Debtor shall comply with all tax withholding and reporting requirements validly imposed on them by any governmental authority, and all Distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in this Plan to the contrary, the Reorganized Debtor shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, payment of applicable withholding taxes from a Distribution, and conditioning a Distributions upon receipt of necessary tax reporting information from the holder of the Claim.

9.7 Setoffs. Except as otherwise expressly provided in the Plan and pursuant to Sections 502(d) or 553 of the Bankruptcy Code or any applicable non-bankruptcy law, the Reorganized Debtor may upon application and approval by the Bankruptcy Court, setoff against any Distribution to be made pursuant to the Plan on account of an Allowed Claim any claims, rights or Causes of Action held by the Reorganized Debtor against the holder of the Allowed Claim, or in relation to the Allowed Claim; *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim shall constitute a waiver or release by the Reorganized Debtor of any such claims, rights or Causes of Action. If the Reorganized Debtor fails to setoff against a Claim and seeks to collect from the holder of such Claim after Distribution to that holder pursuant to the Plan, the Reorganized Debtor shall be entitled to full recovery on the claims of the Debtor or the Estate, if any, against the holder of such Claim.

9.8 Rounding. Where the calculation of a distribution results in a fraction of a cent owing, the calculation shall be rounded down to the nearest whole cent for purposes of paying (or reserving) the Distribution.

9.9 De Minimis Distributions. Notwithstanding any provision of the Plan to the contrary, no Distribution of less than twenty-five dollars (\$25.00) shall be made on an Allowed Claim, unless such Distribution shall be a final Distribution.

9.10 Undeliverable and Unclaimed Distributions. Any Person that is entitled to receive a Cash Distribution under the Plan but fails to cash a check within ninety (90) days of its issuance shall be entitled to receive a reissued check from the Reorganized Debtor for the amount of the original check, without any interest, if such Person requests the Reorganized Debtor to reissue such check and provides such documentation as may be requested to verify that such Person is entitled to such check prior to the later of: (i) the first anniversary of the Effective Date; or (ii) six (6) months after such Person's Claim becomes an Allowed Claim. After the expiration of the applicable deadline to request a check to be reissued, the Person who fails to cash a check within ninety (90) days of its issuance shall not be entitled to receive any Distribution under the Plan on account of the Claim that was attempted to be paid. If the Distribution to any holder of an Allowed Claim is returned to the Reorganized Debtor as undeliverable, no further Distributions will be

made to such holder unless and until the Reorganized Debtor is notified in writing of such holder's current address; *provided, however*, a claim for an undeliverable Distribution must be made within one hundred eighty (180) days following the date of issuance of the original Distribution. After such date, all unclaimed property shall revert to the Reorganized Debtor for further disbursement in accordance with the Plan, and the Claim of any holder or successor to such holder with respect to such property shall be discharged, disallowed, and forever barred notwithstanding any federal or state escheatment laws to the contrary. The Reorganized Debtor has no obligation to independently undertake any investigation to determine the whereabouts of any holder of an Allowed Claim.

9.11 Disputed Distributions. No Distribution will be made on account of a Disputed Claim unless and until it becomes Allowed. Upon a request for estimation by the Reorganized Debtor, the Bankruptcy Court will determine what amount of Cash from the initial and subsequent Distributions is sufficient to reserve on account of any Disputed Claim not otherwise treated in the Plan pursuant to Section 502 of the Bankruptcy Code or applicable law; in which case, the amount so determined by the Bankruptcy Court shall be deemed the Allowed amount of such Disputed Claims for purposes of the Plan or, in lieu thereof, the Bankruptcy Court will determine the maximum amount to which such Claim may be ultimately Allowed. Upon motion by a party in interest, the Bankruptcy Court may determine the appropriate amount of any reserves required in connection with a Disputed Claim. In the event that a dispute arises as to the rightful owner of an Allowed Claim, or a Distribution thereon, the Reorganized Debtor may either (a) deposit the Distribution into the Disputed Claims Reserve until a determination is made as to the rightful owner of the Distribution by the Bankruptcy Court or by written agreement between each of the Persons making claim to the Distribution, or (b) interplead the Distribution into the registry of the Bankruptcy Court or such other court having jurisdiction over the Disputed Distribution and the Persons making claim to such Distribution, reserving the right to assert any and all claims that the Reorganized Debtor may have in relation to such interpleader action; *provided, however*, that once segregated or interplead, interest shall cease to accrue on an Allowed Claim.

ARTICLE X.

EFFECTS OF CONFIRMATION OF PLAN, INJUNCTION AND EXCULPATION

10.1 Notice of the Effective Date. On or before ten (10) Business Days after occurrence of the Effective Date, the Reorganized Debtor shall mail or cause to be mailed to all holders of Claims a notice that informs such holders of the following: (a) entry of the Confirmation Order; (b) occurrence of the Effective Date; (c) the Administrative Claim Bar Date; (d) Professional Claim Bar Date; and (e) such other matters that the Reorganized Debtor deems appropriate.

10.2 Binding Effect of Plan. Upon the Effective Date, the Plan and each of its provisions shall be binding on the the Debtor, the Reorganized Debtor, all Creditors, all Equity Interest holders, and all Persons acquiring property under the Plan, whether or not they voted to accept the Plan, whether or not they had a right to vote on the Plan, whether or not any Claim or Equity Interest held by any of them is Impaired under the Plan, whether or not any Claim or Equity Interest held by any of them is Allowed in full, only in part, or Disallowed in full, and whether or not a Distribution is made to any of them under the Plan.

10.3 Discharge. Confirmation of this Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments under this Plan, or as otherwise provided in Section 1141(d)(5) of the Bankruptcy Code. The Debtor will not be discharged from any debt excepted from discharge under 11 U.S.C. § 523 of the Code, except as provided in Federal Rule of Bankruptcy Procedure 4007(c).

10.4 Injunction Against Interference with Plan. Upon the Effective Date, all holders of Claims, and all other parties in interest in the Bankruptcy Case, along with their respective current and former officers, directors, principals, employees and agents, shall be and are hereby enjoined from taking any action to interfere with the implementation or consummation of the Plan.

10.5 Exculpation. NEITHER THE DEBTOR'S PROFESSIONALS, NOR ANY OF THEIR RESPECTIVE PRESENT OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ADVISORS, AFFILIATES, UNDERWRITERS OR INVESTMENT BANKERS, NOR ANY OTHER PROFESSIONAL PERSONS EMPLOYED BY ANY OF THEM (COLLECTIVELY, THE "EXCULPATED PARTIES"), SHALL HAVE OR INCUR ANY LIABILITY TO ANY PERSON FOR ANY ACT TAKEN OR OMISSION IN CONNECTION WITH OR RELATED TO FORMULATING, NEGOTIATING, IMPLEMENTING, CONFIRMING OR CONSUMMATING THE PLAN, THE DISCLOSURE STATEMENT OR THE TRUST AGREEMENT, EXCEPT FOR WILLFUL MISCONDUCT. THE EXCULPATED PERSONS SHALL HAVE NO LIABILITY, EXCEPT FOR WILLFUL MISCONDUCT, TO THE DEBTOR, ANY CREDITOR, AND ANY OTHER PARTY IN INTEREST IN THE BANKRUPTCY CASE, OR ANY OTHER PERSON FOR ACTIONS TAKEN OR NOT TAKEN UNDER THE PLAN, IN CONNECTION HERewith OR WITH RESPECT THERETO, OR ARISING OUT OF THEIR ADMINISTRATION OF THE PLAN OR THE PROPERTY TO BE DISTRIBUTED UNDER THE PLAN INCLUDING, WITHOUT LIMITATION, FAILURE TO OBTAIN CONFIRMATION OR TO SATISFY ANY CONDITION OR CONDITIONS, OR REFUSAL TO WAIVE ANY CONDITION OR CONDITIONS, TO THE OCCURRENCE OF THE EFFECTIVE DATE, AND IN ALL RESPECTS SUCH EXCULPATED PERSONS SHALL BE ENTITLED TO RELY UPON THE ADVICE OF COUNSEL WITH RESPECT TO THEIR DUTIES AND RESPONSIBILITIES UNDER THE PLAN.

ARTICLE XI.

MODIFICATIONS OF THE PLAN

11.1 Amendments Prior to Confirmation Date. The Debtor reserves the right to amend or modify the Plan prior to Confirmation pursuant to Section 1127(a) of the Bankruptcy Code, and the Plan, as amended shall become the new Plan.

11.2 Amendments After Confirmation Date. The Reorganized Debtor may amend or modify the Plan before its substantial consummation, provided that the Plan, as amended or modified, meets the requirements of the Bankruptcy Code and the Bankruptcy Court, after notice and hearing, confirms this Plan, as modified.

11.3 Effect on Claims. A holder of a Claim that has accepted or rejected this Plan shall be deemed to have accepted or rejected, as the case may be, this Plan, as modified, unless, within the time fixed by the Bankruptcy Court, such holder changes its previous acceptance or rejection.

ARTICLE XII.

RETENTION OF JURISDICTION

12.1 Purposes. Notwithstanding entry of the Confirmation Order, the Bankruptcy Court shall retain jurisdiction over the Bankruptcy Case for the following purposes:

- (i) to determine any and all objections to the allowance of Claims, both before and after the Confirmation Date, including any objections to the classification of any Claim or Equity Interest;
- (ii) to determine any and all applications for fees and expenses authorized to be paid or reimbursed in accordance with Section 503(b) of the Bankruptcy Code or this Plan;
- (iii) to determine any and all pending applications for the assumption or rejection of executory contracts or for the rejection or assumption and assignment, as the case may be, of unexpired leases to which the Debtor is a party or with respect to which it may be liable; to hear and determine any actions to void or terminate unexpired contracts or leases, and to hear and determine and, if need be, to liquidate any and all Claims arising therefrom;
- (iv) to hear and determine any and all actions initiated by the Reorganized Debtor, whether by motion, complaint or otherwise;
- (v) to determine any and all applications, motions, adversary proceedings and contested matters pending before the Bankruptcy Court on the Confirmation Date or Filed or instituted after the Confirmation Date;
- (vi) to modify this Plan, the Disclosure Statement or any document created in connection with this Plan, or remedy any defect or omission or reconcile any inconsistency in any Order of the Bankruptcy Court, this Plan, the Disclosure Statement or any document created in connection with this Plan, in such manner as may be necessary to carry out the purposes and effects of this Plan to the extent authorized by the Bankruptcy Code;
- (vii) to ensure that the Distributions are accomplished in accordance with the provisions of this Plan;
- (viii) to Allow, Disallow, determine, liquidate, or estimate any Claim or Equity Interest, and to enter or enforce any Order requiring the Filing of any such Claim or Equity Interest before a particular date;
- (ix) to enter such Orders as may be necessary to interpret, enforce, administer, consummate, implement and effectuate the operative provisions of this

Plan, the Confirmation Order and all documents and agreements provided for herein or therein or executed pursuant hereto or thereto including, without limitation, entering appropriate Orders to protect the Estate from creditor actions;

- (x) to hear any other matter not inconsistent with Chapter 11 of the Bankruptcy Code;
- (xi) 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;
- (xii) to determine such other matters as may arise in connection with this Plan, the Disclosure Statement or the Confirmation Order;
- (xiii) to enforce all Orders, judgments, injunctions, and rulings entered in connection with the Bankruptcy Case;
- (xiv) to determine all issues relating to the Claims of the IRS, and other taxing authorities, state or federal;
- (xv) to determine any Avoidance Actions;
- (xvi) to enter a Final Order and final decree closing the Bankruptcy Case; and
- (xvii) to determine any matter or issue related to the Reorganized Debtor.

12.2 Exclusive Jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction to resolve all controversies, suits and disputes that may arise in connection with the interpretation, enforcement, consummation, implementation or administration of this Plan, the Confirmation Order or the Disclosure Statement, and all entities shall be enjoined from commencing any legal or equitable action or proceeding with respect to such matters in any other court or administrative or regulatory body.

12.3 Abstention. If the Bankruptcy Court abstains from exercising jurisdiction or is otherwise without jurisdiction over any matter arising out of the Bankruptcy Case, including the matters set forth in this Article XII, then this Article XII shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

12.4 Rights of the Reorganized Debtor. Nothing contained in this Article shall be construed so as to limit the rights of the Reorganized Debtor to commence or to prosecute any Cause of Action in any court of competent jurisdiction.

ARTICLE XIII. GENERAL PROVISIONS

13.1 Certain Rights Unaffected. Except as otherwise provided herein, any rights or obligations which the Creditors may have among themselves as to their respective Claims or the relative priority or subordination thereof are unaffected by this Plan.

13.2 Incorporation of Valuation Motion. To the extent necessary to effectuate and implement the provisions of this Plan, the Plan shall be deemed to constitute a motion for valuation under the Bankruptcy Code, including the value of any lien, security interest, or encumbrance treated by this Plan; *provided, however*, that nothing in this Plan shall alter any valuation ordered by Final Order of the Bankruptcy Court in the Bankruptcy Case.

13.3 Automatic Stay. The automatic stay provided in Section 362 of the Bankruptcy Code, shall remain in effect through the Effective Date, unless otherwise specifically modified, annulled, or terminated by the Bankruptcy Court pursuant to a separate order, and shall terminate on the Effective Date.

13.4 Reservation of Rights. The Plan shall have no force or effect unless and until the Effective Date occurs. Prior to the Effective Date, none of the filing of the Plan, any statement or provision contained in the Plan, or action taken by the Debtor with respect to the Plan shall be, or shall be deemed to be, an admission or waiver of any rights of the Debtor or any other party with respect to any Claims or any other matter.

13.5 Intentionally Omitted.

13.6 Rights Under 1129(b). **The Debtor hereby gives notice of its intent to seek confirmation under the cram down provisions of Section 1129(b) of the Bankruptcy Code, if necessary.**

13.7 Headings. The article and section headings used in this Plan are inserted for convenience and reference only and neither constitute a part of this Plan nor in any manner affect the terms, provisions or interpretations of this Plan.

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

13.9 Governing Law. Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under this Plan and any documents, agreements and instruments executed in connection with this Plan (except to the extent such documents, agreements and instruments designate otherwise) shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas.

13.10 Successors and Assigns. The rights and obligations of any entity named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such entity.

13.11 Insurance. Notwithstanding anything to the contrary in this Plan, neither the Confirmation Order nor Confirmation and consummation of this Plan shall have any effect on the insurance policies of the Debtor (including, but not limited to, any policies held by any law firm the Debtor is or was affiliated or associated with) in which the Debtor is or was an insured party or any claim asserted thereunder. Each insurance company is prohibited from denying, refusing, altering or delaying coverage for the Debtor on any basis regarding or related to any of the Bankruptcy Case, this Plan or any provision within this Plan.

Dated: August 29, 2019

By: /s/ Levi G. McCathern, II
Name: Levi G. McCathern, II

OF COUNSEL:

/s/ Jason P. Kathman
Gerrit M. Pronske
State Bar No. 16351640
Jason P. Kathman
State Bar No. 24070036
PRONSKE & KATHMAN, P.C.
2701 Dallas Pkwy., Suite 590
Plano, Texas 75093
(214) 658-6500 - Telephone
(214) 658-6509 - Facsimile
Email: gpronske@pronskepc.com
Email: jkathman@pronskepc.com

**COUNSEL FOR
DEBTOR AND DEBTOR IN POSSESSION**