

James C. Scott
State Bar No. 24056287.
Jim.scott@kellyhart.com
Elizabeth A. Cuneo
State Bar No. 24100166
Elizabeth.Cuneo@kellyhart.com
Kelly Hart & Hallman LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
Telephone: (817) 332-2500
Telecopier: (817) 878-9280

Attorneys for ProFrac Services, LLC

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

**VISTA PROPPANTS AND LOGISTICS,
LLC AND MAALT, LP**

DEBTORS

**LONESTAR PROSPECTS, LTD. D/B/A
VISTA SAND**

PLAINTIFF

v.

PROFRAC SERVICES, LLC

DEFENDANT.

CHAPTER NO.: 11

CASE NO. 20-42002-ELM11

JOINTLY ADMINISTERED

ADVERSARY NO. 21-04013-ELM

**JOINT MOTION TO EXTEND DEADLINE FOR DEFENDANT PROFRAC SERVICES, LLC TO
ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT**



TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:

Pursuant to Federal Rule of Bankruptcy Procedure 7012, Plaintiff Lonestar Prospects, Ltd. d/b/a Vista Sand (“Vista”) and Defendant ProFrac Services, LLC (“ProFrac”) (together, the “Parties”) file this Joint Motion to Extend the Deadline for ProFrac Services, LLC to Answer or Otherwise Respond to Plaintiff’s Complaint, and respectfully ask the Court to extend ProFrac’s deadline 30 days, as follows:

1. On March 15, 2021, Vista filed Plaintiff’s Original Complaint (the “Complaint”), asserting a single claim of breach of contract against ProFrac in connection with the Parties’ alleged obligations under the Master Purchase Agreement for Products and/or Services, as amended (the “Adversary Proceeding”).

2. On March 16, 2021, a summons was issued to ProFrac regarding the Adversary Proceeding.

3. Pursuant to Federal Rules of Bankruptcy Procedure 7012, ProFrac’s current deadline to answer or otherwise respond to the Complaint is April 15, 2021. *See* Fed. R. Bankr. P. 7012(a)–(b) (setting forth response deadline and the applicability of Federal Rule of Civil Procedure 12(b)–(i)); *see also* Fed. R. Civ. P. 12(b) (providing that a motion asserting particular defenses “must be made before pleading if a responsive pleading is allowed”).

4. Since the commencement of the Adversary Proceeding, the Parties have engaged in discussions to resolve this matter amicably. Accordingly, they respectfully request, pursuant to Federal Rule of Bankruptcy Procedure 7012, that the Court extend ProFrac’s deadline to answer or otherwise respond to the Complaint 30 days—i.e., until May 14, 2021. *See* Fed. R. Bankr. P. 7012(a) (“If a complaint is duly served, the defendant shall serve an answer within 30 days after

the issuance of the summons, *except when a different time is prescribed by the court.*” (emphasis added)); *id.* at 7012(b); *see also* Fed. R. Civ. P. 12(b).

5. The Parties seek this extension not to delay or otherwise burden the Court, but rather to facilitate a prompt and agreeable resolution to this matter. Accordingly, they respectfully ask the Court to grant this motion and sign their proposed order, attached hereto as Exhibit A, to extend ProFrac’s deadline to answer or otherwise respond to the Complaint to May 14, 2021.

Respectfully submitted,

/s/ **Jim Scott**

James C. Scott

State Bar No. 24056287.

Jim.scott@kellyhart.com

Elizabeth A. Cuneo

State Bar No. 24100166

Elizabeth.Cuneo@kellyhart.com

KELLY HART & HALLMAN LLP

201 Main Street, Suite 2500

Fort Worth, Texas 76102

Telephone: (817) 332-2500

Telecopier: (817) 878-9280

ATTORNEYS FOR PROFRAC SERVICES, LLC

/s/ **Paul Elkins**

David J. Drez III

david.drez@wickphillips.com

State Bar No. 24007127

Paul T. Elkins

paul.elkins@wickphillips.com

State Bar No. 24092383

WICK PHILLIPS GOULD & MARTIN LLP

100 Throckmorton Street, Suite 1500

Fort Worth, Texas 76102

Telephone: (817) 332-7788

Telecopier: (817) 332-7789

ATTORNEYS FOR PLAINTIFF LONESTAR

PROSPECTS LTD. D/B/A VISTA SAND

CERTIFICATE OF CONFERENCE

I, undersigned counsel, hereby certify that on April 12, 2021 I conferred with counsel for Plaintiff LoneStar Prospects, Ltd. regarding the foregoing via email and counsel indicated Plaintiff is unopposed to the relief sought herein.

/s/ **Jim Scott**

James C. Scott

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that the foregoing was filed with the Court and served via the Court's ECF E-Filing Service System on all parties and/or counsel of record on April 12, 2021.

/s/ **Jim Scott**

James C. Scott

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

**VISTA PROPPANTS AND LOGISTICS,
LLC AND MAALT, LP**

DEBTORS

**LONESTAR PROSPECTS, LTD. D/B/A
VISTA SAND**

PLAINTIFF

v.

PROFRAC SERVICES, LLC

DEFENDANT.

CHAPTER NO.: 11

CASE NO. 20-42002-ELM11

JOINTLY ADMINISTERED

ADVERSARY NO. 21-04013-ELM

ORDER

Before the Court is Plaintiff Lonestar Prospects, Ltd. d/b/a Vista Sand (“Vista”) and Defendant ProFrac Services, LLC’s (“ProFrac”) Joint Motion to Extend the Deadline for ProFrac Services, LLC to Answer or Otherwise Respond to Plaintiff’s Complaint (the “Motion”). Having considered the Motion, the record of this Court, and the applicable law, the Court finds that the Motion should be and hereby is **GRANTED**. Accordingly, the deadline for ProFrac to answer or otherwise respond to Vista’s complaint is extended to May 14, 2021.

SO ORDERED.

###End of Order###

/s/ **Jim Scott**

James C. Scott

Jim.scott@kellyhart.com

Elizabeth A. Cuneo

Elizabeth.Cuneo@kellyhart.com

KELLY HART & HALLMAN LLP

201 Main Street, Suite 2500

Fort Worth, Texas 76102

ATTORNEYS FOR PROFRAC SERVICES, LLC

/s/ **Paul Elkins**

David J. Drez III

david.drez@wickphillips.com

Paul T. Elkins

paul.elkins@wickphillips.com

WICK PHILLIPS GOULD & MARTIN LLP

100 Throckmorton Street, Suite 1500

Fort Worth, Texas 76102

ATTORNEYS FOR PLAINTIFF LONESTAR PROSPECTS LTD. D/B/A VISTA SAND