
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 20, 2017



THE DAVEY TREE EXPERT COMPANY

(Exact name of registrant as specified in its charter)

Ohio
(State or other jurisdiction
of incorporation)

000-11917
(Commission
File Number)

34-0176110
(Employer Identification
Number)

**1500 North Mantua Street
P.O. Box 5193
Kent, Ohio 44240**
(Address of principal executive offices) (Zip Code)

(330) 673-9511
(Registrant's telephone number, including area code)

Not Applicable
(Former Name or Former Address, if Changed since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement.

On November 20, 2017, The Davey Tree Expert Company (the “Company”) entered into waivers (the “Waivers”) under (i) its Third Amended and Restated Credit Agreement, dated as of October 6, 2017, by and among the Company, as borrower, various lending institutions party thereto, as banks, KeyBank National Association, as lead arranger, syndication agent and administrative agent, and PNC Bank, National Association, and Wells Fargo Bank, N.A., as co-documentation agents, (ii) Master Note Purchase Agreement, dated as of July 22, 2010, by and among the Company, as issuer, and Modern Woodmen of America and United of Omaha Life Insurance Company, as purchasers, and (iii) Receivables Financing Agreement, dated as of May 9, 2016, by and among the Company, in its individual capacity and as servicer, Davey Receivables LLC, as borrower, PNC Bank, National Association, as administrative agent and LC bank, and PNC Capital Markets LLC, as structuring agent, as last amended on May 8, 2017 (collectively, the “Financing Documents”).

As reported by the Company in its Current Report on Form 8-K filed on November 9, 2017, the Company is in the process of restating its previously issued audited financial statements contained in the Company’s Annual Report on Form 10-K for the year ended December 31, 2016 and the previously issued unaudited financial statements contained in the Company’s Quarterly Reports on Form 10-Q for the quarters ended April 1, 2017 and July 1, 2017 to correct the accounting method historically used by the Company for the classification of the shares of the Company’s common stock held by The Davey 401KSOP and ESOP Plan. Until the restatement is completed, the Company is unable to file its Quarterly Report on Form 10-Q for the quarter ended September 30, 2017 (the “Third Quarter 2017 Form 10-Q”).

The Waivers waive any potential event of default or event of default under the Financing Documents that the Company expects would have been caused by the restatement of its financial statements of prior periods described above and its inability to file timely its Third Quarter 2017 Form 10-Q, including the Company’s inability to deliver financial statements and related certifications and any failure to provide notices of default under the Financing Documents. As a result of the restatement, the Company would also no longer be able to make the representations under the Financing Documents concerning the conformity with GAAP of its previously delivered financial statements, or confirm its prior compliance with certain obligations concerning the maintenance of its books and records in accordance with GAAP. As the restatement is not expected to result in the Company having breached any of the financial covenants in the Financing Documents, the Waivers do not waive or modify any such financial covenants. The Waivers will terminate if the restated financial statements are not delivered on or before December 30, 2017. The Company expects to complete the restatement prior to such date.

The foregoing description of the Waivers does not purport to be complete and is qualified in its entirety by reference to the full text of the Waivers, which are filed as Exhibits 10.1, 10.2 and 10.3 to this Current Report on Form 8-K and are incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth above under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Forward-looking statements

Except for statements of historical fact, the matters discussed herein are “forward-looking statements” within the meaning of the applicable securities laws and regulations. The words “estimates”, “expects” and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. Forward-looking statements, including statements regarding the Company’s intent to restate its prior financial statements and estimated timing for such restatement, involve risks and uncertainties which may cause actual results to differ materially from those stated here. Factors that could cause actual results to differ materially from those in the forward-looking statements include, but are not limited to, the risk that additional

information may arise from the Company's review, the risk that the process of preparing and auditing the restated financial statements or other subsequent events would require the Company to make additional adjustments and the time and effort required to complete the restatement of its financial statements, as well as other risks described more fully in the Company's filings with the Securities and Exchange Commission. Forward-looking statements reflect management's analysis as of the date hereof. The Company does not undertake to revise these statements to reflect subsequent developments.

Item 9.01. Financial Statements and Exhibits.

- 10.1 Waiver No. 1 and Consent, dated as of November 20, 2017, to the Third Amended and Restated Credit Agreement, dated as of October 6, 2017, by and among The Davey Tree Expert Company, as borrower, various lending institutions party thereto, as banks, KeyBank National Association, as lead arranger, syndication agent and administrative agent, and PNC Bank, National Association, and Wells Fargo Bank, N.A., as co-documentation agents.
- 10.2 Waiver No. 1 and Consent, dated as of November 20, 2017, to the Master Note Purchase Agreement, dated as of July 22, 2010, by and among The Davey Tree Expert Company, as issuer, and Modern Woodmen of America and United of Omaha Life Insurance Company, as purchasers.
- 10.3 Waiver No. 1 and Consent, dated as of November 20, 2017, to the Receivables Financing Agreement, dated as of May 9, 2016, by and among The Davey Tree Expert Company, in its individual capacity and as servicer, Davey Receivables LLC, as borrower, PNC Bank, National Association, as administrative agent and LC bank, and PNC Capital Markets LLC, as structuring agent, as last amended on May 8, 2017.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE DAVEY TREE EXPERT COMPANY

By: /s/ Joseph R. Paul

Joseph R. Paul

Executive Vice President, Chief Financial Officer
and Secretary (Principal Financial Officer)

Date: November 21, 2017

WAIVER NO. 1 AND CONSENT

Dated as of November 20, 2017

to

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of October 6, 2017

THIS WAIVER NO. 1 AND CONSENT (“Waiver and Consent”) is made as of November 20, 2017 and shall, upon satisfaction of the conditions precedent set forth in Section 4 below, be effective as of the date hereof, and is by and among The Davey Tree Expert Company (the “Borrower”), the financial institutions listed on the signature pages hereof and KeyBank National Association, as Administrative Agent (the “Administrative Agent”), under that certain Third Amended and Restated Credit Agreement dated as of October 6, 2017, by and among the Borrower, the Banks and the Administrative Agent (as amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Credit Agreement.

WHEREAS, the Borrower has requested that the requisite Banks and the Administrative Agent agree to address certain provisions of the Credit Agreement in certain respects;

WHEREAS, the Borrower, the Lenders party hereto and the Administrative Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Lenders party hereto and the Administrative Agent hereby agree to enter into this Waiver and Consent.

1. Specified Defaults. The Borrower has informed the Lenders that Defaults or Events of Default may have occurred under the Credit Agreement as a result of (the items described in the following clauses (i) through (iv), the “Specified Defaults”):

- (i) the breach of representations or warranties contained in Sections 6.13 and/or 6.18 of the Credit Agreement, due to (a) the Borrower’s failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Borrower’s failure to keep proper records and books of account in conformity with GAAP;
- (ii) the failure to comply with Sections 5.3(a), 5.3(c) and/or 5.4 of the Credit Agreement, due to: (a) the Borrower’s failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Borrower’s failure to keep proper books of record and account in conformity with GAAP; and/or
- (iii) the occurrence of an event or condition that enables or permits the holder or holders of any Indebtedness evidenced by a Material Indebtedness Agreement or any trustee or agent on its or their behalf, to accelerate the maturity of such Indebtedness or cause any such Indebtedness

to become due prior to its scheduled maturity, to the extent resulting from any of the items described in the foregoing clauses (i) or (ii) or any failure to deliver notices in connection therewith (any event or condition described in this clause (iii), the “Cross Default”); and/or

- (iv) any failure to provide notice of a Default as required by Section 5.15 of the Credit Agreement with respect to any event described in the foregoing clauses (i) through (iii).

2. Waiver. Subject to the satisfaction of the conditions precedent set forth in Section 4 below, the Administrative Agent and the Banks party hereto hereby waive the occurrence of the Specified Defaults, provided that:

- (a) it shall be a condition subsequent to the effectiveness of the waiver of the Cross Default that the Borrower shall, on or prior to December 30, 2017 (the “Outside Date”), obtain such waivers from applicable persons such that no holder or holders of any Indebtedness evidenced by a Material Indebtedness Agreement nor any trustee or agent on its or their behalf may accelerate the maturity of such Indebtedness or cause any such Indebtedness to become due prior to its scheduled maturity as a result of the occurrence of any Specified Default (and the Borrower shall have delivered to the Administrative Agent, on or prior to the Outside Date, a certificate certifying the satisfaction of such condition subsequent); and
- (b) the waiver of the Cross Default shall not constitute a waiver of the occurrence of any event or condition that results in any Indebtedness evidenced by a Material Indebtedness Agreement becoming due prior to its scheduled maturity.

The waiver in this Section 2 applies only to the Specified Defaults and only for the periods and for the express circumstances described above, and shall not be construed to constitute (i) a waiver of any other event, circumstance or condition or of any other right or remedy available to the Administrative Agent, Fronting Bank or any Bank pursuant to the Credit Agreement or any other Loan Document or (ii) a course of dealing or a consent to any departure by the Borrower from any other term or requirement of the Credit Agreement.

3. Consent. The Borrower has informed the Lenders that it requires additional time to deliver its (a) audited consolidated financial statements for the fiscal year ended December 31, 2016 and other related information required by Section 5.3(b) of the Credit Agreement, as well as the related Compliance Certificate required by Section 5.3(c) of the Credit Agreement and (b) unaudited financial statements for the fiscal quarters ended March 31, 2017, June 30, 2017 and September 30, 2017 and other related information required by Section 5.3(a) of the Credit Agreement, as well as the related Compliance Certificates as required by Section 5.3(c) of the Credit Agreement (collectively, the “Required Financial Deliverables”). Subject to the conditions to effectiveness set forth in Section 4 below, the Administrative Agent and the Banks party hereto hereby consent to the delivery by or on behalf of the Borrower of the Required Financial Deliverables by no later than the Outside Date, in lieu of the date for delivery thereof specified in such Sections 5.3(b) and (c); provided that it shall be an Event of Default under the Credit Agreement if the Borrower fails to deliver any such Required Financial Deliverables by the Outside Date.

4. Conditions of Effectiveness. The effectiveness of this Waiver and Consent is subject to the conditions precedent that the Administrative Agent shall have received (i) counterparts of this Waiver and Consent duly executed by the Borrower, the Required Banks and the Administrative Agent and (ii) payment and/or reimbursement of the Administrative Agent’s and its affiliates’ fees and expenses (including, to the extent invoiced, the reasonable fees and expenses of counsel for the Administrative Agent) in connection with this Waiver and Consent.

5. Representations; Warranties and Covenants of the Borrower. The Borrower hereby represents, warrants and covenants as follows:

- (i) The execution, delivery and performance of this Waiver and Consent has been duly authorized by all necessary action of the Credit Parties and has been duly executed and delivered by each Credit Party. This Waiver and Consent and the Credit Agreement as modified hereby constitute

legal, valid and binding obligations of the Borrower and each applicable Credit Party and are enforceable against the Borrower and each applicable Credit Party in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

- (ii) The execution and delivery hereof by each Credit Party and performance and observance by each Credit Party of the provisions hereof do not violate or conflict with any Organizational Document of any Credit Party. No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by any Credit Party of this Waiver and Consent that has not already been obtained or completed.
- (iii) As of the date hereof and after giving effect to the terms of this Waiver and Consent, (a) no Default or Event of Default shall have occurred and be continuing and (b) the representations and warranties of the Borrower set forth in the Credit Agreement, are true and correct as of the date hereof.

6. Guarantor Acknowledgement and Agreement. (i) Each of the undersigned Guarantors consents and agrees to and acknowledges the terms of this Waiver and Consent. Each of the undersigned Guarantors further agrees that the obligations of the undersigned pursuant to the Guaranty of Payment executed by such Guarantor shall remain in full force and effect and be unaffected hereby and are hereby ratified and confirmed.

(ii) As of the date hereof and after giving effect to the terms of this Waiver and Consent, each of the undersigned Guarantors hereby represents and warrants that the representations and warranties of such Guarantor set forth in the Guaranty of Payment executed by such Guarantor, are true and correct.

7. No Implicit Waiver. Except with respect to the subject matter hereof and as expressly set forth herein, (i) the execution, delivery and effectiveness of this Waiver and Consent shall neither operate as a waiver of any right, power or remedy of the Administrative Agent, the Fronting Bank or the Banks under the Credit Agreement or any other documents executed in connection with the Credit Agreement, nor constitute a waiver of any provision of the Credit Agreement, the Loan Documents or any other documents, instruments and agreements executed and/or delivered in connection therewith and (ii) each Loan Document and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

8. Governing Law; Submission to Jurisdiction. This Waiver and Consent shall be construed in accordance with and governed by the law of the State of Ohio. Each Credit Party hereby irrevocably submits to the non-exclusive jurisdiction of any Ohio state or federal court sitting in Cleveland, Ohio, over any action or proceeding arising out of or relating to this Waiver and Consent, and each Credit Party hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such Ohio state or federal court. Each Credit Party, on behalf of itself and its Subsidiaries, hereby irrevocably waives, to the fullest extent permitted by law, any objection it may now or hereafter have to the laying of venue in any action or proceeding in any such court as well as any right it may now or hereafter have to remove such action or proceeding, once commenced, to another court on the grounds of FORUM NON CONVENIENS or otherwise. Each Credit Party agrees that a final, non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

9. Jury Trial Waiver. Each Credit Party, the Administrative Agent and each of the Banks waive, to the fullest extent permitted by applicable Law, any right to have a jury participate in resolving any dispute, whether sounding in contract, tort or otherwise, among the Credit Parties, the Administrative Agent and the Banks, or any thereof, arising out of, in connection with, related to, or incidental to the relationship established among them in

connection with this Waiver and Consent or other instrument, document or agreement executed or delivered in connection herewith or the transactions related thereto.

10. Amendment. No amendment, modification, termination, or waiver of any provision of this Waiver and Consent nor consent to any variance therefrom, shall be effective unless the same shall be in writing and signed by the Required Banks and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

11. Headings. Section headings in this Waiver and Consent are included herein for convenience of reference only and shall not constitute a part of this Waiver and Consent for any other purpose.

12. Counterparts. This Waiver and Consent may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Waiver and Consent has been duly executed as of the day and year first above written.

THE DAVEY TREE EXPERT COMPANY,
as the Borrower

By: /s/ Christopher J. Bast

Name: Christopher J. Bast

Title: Vice President and Treasurer

DAVEY TREE SURGERY COMPANY,
as the Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

WOLF TREE, INC.
as the Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

THE CARE OF TREES, INC.
as the Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

DAVEY RESOURCE GROUP, INC.
as the Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

KEYBANK NATIONAL ASSOCIATION,
individually as a Bank, as Fronting Bank and as
Administrative Agent

By: /s/ James A. Gelle

Name: James A. Gelle

Title: Senior Vice President

PNC BANK, NATIONAL ASSOCIATION
as a Bank

By: /s/ Joseph G. Moran

Name: Joseph G. Moran

Title: Senior Vice President

WELLS FARGO BANK, NATIONAL
ASSOCIATION,
as a Bank

By: /s/ Matthew Buzzelli

Name: Matthew Buzzelli

Title: Senior Vice President

JPMORGAN CHASE BANK, N.A.,
as a Bank

By: /s/ Henry W. Centa

Name: Henry W. Centa

Title: Managing Director

KEYBANK NATIONAL ASSOCIATION,
individually as a Bank, as Fronting Bank and as
Administrative Agent

By: /s/ James A. Gelle

Name: James A. Gelle

Title: Senior Vice President

WAIVER NO. 1 AND CONSENT

Dated as of November 20, 2017

to

MASTER NOTE PURCHASE AGREEMENT

Dated as of July 22, 2010

THIS WAIVER NO. 1 AND CONSENT ("Waiver and Consent") is made as of November 20, 2017 and shall, upon satisfaction of the conditions precedent set forth in Section 4 below, be effective as of the date hereof, and is by and among The Davey Tree Expert Company (the "Company"), Modern Woodmen of America and United of Omaha Life Insurance Company (each a "Purchaser" and, collectively, the "Purchasers"), under that certain Master Note Purchase Agreement dated as of July 22, 2010, by and among the Company and the Purchasers (as amended, restated, supplemented or otherwise modified from time to time, the "Purchase Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Purchase Agreement.

WHEREAS, the Company has requested that the Purchasers agree to address certain provisions of the Purchase Agreement in certain respects;

WHEREAS, the Company and the Purchasers have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Purchasers hereby agree to enter into this Waiver and Consent.

1. Specified Defaults. The Company has informed the Purchasers that Defaults or Events of Default may have occurred under the Purchase Agreement as a result of (the items described in the following clauses (i) through (iv), the "Specified Defaults"): =

- (i) the breach of representations or warranties contained in Sections 7.1(a) and/or 7.1(b) of the Purchase Agreement, due to (a) the Company's failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Company's failure to keep proper records and books of account in conformity with GAAP;
- (ii) the failure to comply with Sections 7.1(a), 7.1(b), 7.2 and/or 9.7 of the Purchase Agreement, due to: (a) the Company's failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Company's failure to keep proper books of record and account in conformity with GAAP; and/or
- (iii) any failure to provide notice of a Default as required by Section 7.1(d) of the Purchase Agreement with respect to any event described in the foregoing clauses (i) and (ii).

2. Waiver. Subject to the satisfaction of the conditions precedent set forth in Section 4 below, the Purchasers hereby waive (i) the occurrence of the Specified Defaults and (ii) any other Default or Event of Default arising under Section 11(e) of the Purchase Agreement, solely as a result of the Specified Defaults. The waiver in this Section 2 applies only to the Specified Defaults and only for the periods and for the express circumstances described above, and shall not be construed to constitute (i) a waiver of any other event, circumstance or condition or of any other right or remedy available to the Purchasers pursuant to the Purchase Agreement, any Note, any Subsidiary Guaranty or any Supplemental Note Purchase Agreement or (ii) a course of dealing or a consent to any departure by the Company from any other term or requirement of the Purchase Agreement.

3. Consent. The Company has informed the Purchasers that it requires additional time to deliver its (a) audited consolidated financial statements for the fiscal year ended December 31, 2016 and other related information required by Sections 7.1(a) of the Purchase Agreement, as well as the related officer's certificate required by Section 7.2 of the Purchase Agreement and (b) its unaudited financial statements for the fiscal quarters ended March 31, 2017, June 30, 2017 and September 30, 2017 and other related information required by Section 7.1(b) of the Purchase Agreement, as well as the related officer's certificate required by Section 7.2 of the Purchase Agreement (collectively, the "Required Financial Deliverables"). Subject to the conditions to effectiveness set forth in Section 4 below, the Purchasers hereby consent to the delivery by or on behalf of the Company of the Required Financial Deliverables by no later than December 30, 2017, in lieu of the date for delivery thereof specified in such Sections 7.1(a) and 7.2; provided that it shall be an Event of Default under the Purchase Agreement if the Company fails to deliver any of the Required Financial Deliverables by December 30, 2017.

4. Conditions of Effectiveness. The effectiveness of this Waiver and Consent is subject to the conditions precedent that the Purchasers shall have received (i) counterparts of this Waiver and Consent duly executed by the Company and the Purchasers and (ii) payment and/or reimbursement of the Purchasers' fees and expenses (including, to the extent invoiced, the reasonable fees and expenses of counsel for the Purchasers) in connection with this Waiver and Consent.

5. Representations; Warranties and Covenants of the Company. The Company hereby represents, warrants and covenants as follows:

- (i) The execution, delivery and performance of this Waiver and Consent has been duly authorized by all necessary action of the Company and has been duly executed and delivered by the Company. This Waiver and Consent and the Purchase Agreement as modified hereby constitute legal, valid and binding obligations of the Company and are enforceable against the Company in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting Purchasers' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.
- (ii) As of the date hereof and after giving effect to the terms of this Waiver and Consent, (a) no Default or Event of Default shall have occurred and be continuing and (b) the representations and warranties of the Company set forth in the Purchase Agreement, are true and correct as of the date hereof.

6. Subsidiary Guarantor Acknowledgement and Agreement. (i) Each of the undersigned Subsidiary Guarantors consents and agrees to and acknowledges the terms of this Waiver and Consent. Each of the undersigned Subsidiary Guarantors further agrees that the obligations of the undersigned pursuant to the Subsidiary Guarantor executed by such Subsidiary Guarantor shall remain in full force and effect and be unaffected hereby and are hereby ratified and confirmed.

(ii) As of the date hereof and after giving effect to the terms of this Waiver and Consent, each of the undersigned Subsidiary Guarantors hereby represents and warrants that the representations and warranties of such Subsidiary Guarantor set forth in the Subsidiary Guaranty executed by such Guarantor, are true and correct.

7. No Implicit Waiver. Except with respect to the subject matter hereof and as expressly set forth herein, (i) the execution, delivery and effectiveness of this Waiver and Consent shall neither operate as a waiver of any right, power or remedy of the Purchasers under the Purchase Agreement or any other documents executed in connection with the Purchase Agreement, nor constitute a waiver of any provision of the Purchase Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith and (ii) the Purchase Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

8. Governing Law. This Waiver and Consent shall be construed in accordance with and governed by the law of the State of New York.

9. Headings. Section headings in this Waiver and Consent are included herein for convenience of reference only and shall not constitute a part of this Waiver and Consent for any other purpose.

10. Counterparts. This Waiver and Consent may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Waiver and Consent has been duly executed as of the day and year first above written.

THE DAVEY TREE EXPERT COMPANY,
as the Company

By: /s/ Christopher J. Bast

Name: Christopher J. Bast

Title: Vice President and Treasurer

DAVEY TREE SURGERY COMPANY,
as a Subsidiary Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

WOLF TREE, INC.
as a Subsidiary Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

THE CARE OF TREES, INC.
as a Subsidiary Guarantor

By: /s/ Christopher J. Bast
Name: Christopher J. Bast
Title: Vice President and Treasurer

MODERN WOODMEN OF AMERICA,
as a Purchaser

By: /s/ Douglas A. Pannier

Name: Douglas A. Pannier

Title: Group Head - Private Placements

MODERN WOODMEN OF AMERICA,
as a Purchaser

By: /s/ Brett M. Van

Name: Brett M. Van

Title: Chief Investment Officer & Treasurer

UNITED OF OMAHA LIFE INSURANCE
COMPANY,
as a Purchaser

By: /s/ Lee Martin

Name: Lee Martin

Title: Vice President

Signature Page to Waiver No. 1 and Consent to
Master Note Purchase Agreement dated as of July 22, 2010
The Davey Tree Expert Company

WAIVER NO. 1 AND CONSENT

Dated as of November 20, 2017

to

RECEIVABLES FINANCING AGREEMENT

Dated as of May 9, 2016

THIS WAIVER NO. 1 AND CONSENT (“Waiver and Consent”) is made as of November 20, 2017 and shall, upon satisfaction of the conditions precedent set forth in Section 4 below, be effective as of the date hereof, and is by and among Davey Receivables LLC (the “Borrower”), PNC Bank, National Association, as Administrative Agent (the “Administrative Agent”), PNC Bank, National Association, as LC Bank (the “LC Bank”), The Davey Tree Expert Company in its individual capacity (“Davey Tree”) and as servicer (the “Servicer”) and PNC Capital Markets LLC, as Structuring Agent (the “Structuring Agent”) under that certain Receivable Financing Agreement dated as of May 9, 2016, by and among the Borrower, the Administrative Agent, the LC Bank, Davey Tree, the Servicer and the Structuring Agent (as amended, restated, supplemented or otherwise modified from time to time, the “RFA”). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the RFA.

WHEREAS, the Borrower has requested that the Administrative Agent, the LC Bank and the Structuring Agent agree to address certain provisions of the RFA in certain respects;

WHEREAS, the Borrower, the Administrative Agent, the LC Bank and the Structuring Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Administrative Agent, the LC Bank the Structuring Agent, Davey Tree and the Servicer hereby agree to enter into this Waiver and Consent.

1. Specified Defaults. The Borrower has informed the LC Bank that Unmatured Events of Defaults or Events of Default may have occurred under the RFA as a result of (the items described in the following clauses (i) through (iv), the “Specified Defaults”):

- (i) the breach of representations or warranties contained in Sections 7.01(n), 7.01(x), 7.02(i), 7.02(o) and/or 7.2(w) of the RFA, due to (a) the Servicer’s failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Borrower’s failure to maintain a system of accounting established and administered in accordance with GAAP; and/or (c) the Servicer’s failure to maintain a system of accounting established and administered in accordance with GAAP;
- (ii) the failure to comply with Sections 8.01(c) and/or 8.02(a) of the RFA, due to: (a) the Servicer’s failure to deliver financial statements (and related certifications) for (1) fiscal year 2016 and the interim periods therein and/or (2) the interim periods in fiscal year 2017, which in each case were true and complete as of the dates and the periods covered by such financial statements and prepared in accordance with GAAP; and/or (b) the Borrower’s failure to maintain a system of accounting established and administered in accordance with GAAP; and/or (c) the Servicer’s

failure to maintain a system of accounting established and administered in accordance with GAAP; and/or

- (iii) the occurrence of an event or condition that enables or permits the holder or holders of any outstanding Debt in a principal amount in excess of \$5,000,000 (“Material Debt”) or any trustee or agent on its or their behalf, to accelerate the maturity of such Material Debt or to terminate the commitment of any lender thereunder, to the extent resulting from any of the items described in the foregoing clauses (i) or (ii) or any failure to deliver notices in connection therewith (any event or condition described in this clause (iii), the “Cross Default”); and/or
- (iv) any failure to provide notice of any Unmatured Event of Default as required by Sections 8.01(d) and/or 8.02(b) of the RFA with respect to any event described in the foregoing clauses (i) through (iii).

2. Waiver. Subject to the satisfaction of the conditions precedent set forth in Section 4 below, the Administrative Agent, the LC Bank and the Structuring Agent hereby waive (i) the occurrence of the Specified Defaults and (ii) any other Default or Event of Default arising under Section 10.01(b) of the RFA, solely as a result of the Specified Defaults, provided that:

- (a) it shall be a condition subsequent to the effectiveness of the waiver of the Cross Default that the Borrower shall, on or prior to December 30, 2017 (the “Outside Date”), obtain such waivers from applicable persons such that no holder or holders of any Material Debt nor any trustee or agent on its or their behalf may accelerate the maturity of such Indebtedness or cause any such Material Debt to become due prior to its scheduled maturity as a result of the occurrence of any Specified Default (and the Borrower shall have delivered to the Administrative Agent, on or prior to the Outside Date, a certificate certifying the satisfaction of such condition subsequent); and
- (b) the waiver of the Cross Default shall not constitute a waiver of the occurrence of any event or condition that results in any Material Debt becoming due prior to its scheduled maturity.

The waiver in this Section 2 applies only to the Specified Defaults and only for the periods and for the express circumstances described above, and shall not be construed to constitute (i) a waiver of any other event, circumstance or condition or of any other right or remedy available to the Administrative Agent, the LC Bank or the Structuring Agent pursuant to the RFA or any other Transaction Document or (ii) a course of dealing or a consent to any departure by the Borrower and/or the Servicer from any other term or requirement of the RFA.

3. Consent. The Servicer has informed the Lenders that it requires additional time to deliver its (a) audited consolidated financial statements for the fiscal year ended December 31, 2016 and other related information required by Sections 8.01(c) and 8.02(a) of the RFA, as well as the related compliance certificate required by Section 8.02(a) of the RFA and (b) its unaudited financial statements for the fiscal quarters ended March 31, 2017, June 30, 2017 and September 30, 2017 and other related information required by Sections 8.01(c) and 8.02(a) of the RFA, as well as the related compliance certificate required by Section 8.02(a) of the RFA (collectively, the “Required Financial Deliverables”). Subject to the conditions to effectiveness set forth in Section 4 below, the Administrative Agent, the LC Bank and the Structuring Agent hereby consent to the delivery by or on behalf of the Borrower and the Servicer of the Required Financial Deliverables by no later than the Outside Date, in lieu of the date for delivery thereof specified in such Sections 8.01(c) and 8.02(a).

4. Conditions of Effectiveness. The effectiveness of this Waiver and Consent is subject to the conditions precedent that the Administrative Agent shall have received (i) counterparts of this Waiver and Consent duly executed by the Borrower, the Administrative Agent, the LC Bank, the Structuring Agent, Davey Tree and the Servicer and (ii) payment and/or reimbursement of the Administrative Agent’s and its affiliates’ fees and expenses (including, to the extent invoiced, the reasonable fees and expenses of counsel for the Administrative Agent) in connection with this Waiver and Consent.

5. Representations; Warranties and Covenants of the Borrower and the Servicer. Each of the Borrower and the Servicer hereby represents, warrants and covenants as follows:

- (i) This Waiver and Consent and the RFA as modified hereby constitute legal, valid and binding obligations of the Borrower and the Servicer and are enforceable against the Borrower and the Servicer in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.
- (ii) As of the date hereof and after giving effect to the terms of this Waiver and Consent, (a) no Unmatured Event of Default or Event of Default shall have occurred and be continuing and (b) the representations and warranties of each of the Borrower and the Servicer set forth in the RFA, are true and correct as of the date hereof.

6. No Implicit Waiver. Except with respect to the subject matter hereof and as expressly set forth herein, (i) the execution, delivery and effectiveness of this Waiver and Consent shall neither operate as a waiver of any right, power or remedy of the Administrative Agent, the LC Bank or the Structuring Agent under the RFA or any other documents executed in connection with the RFA, nor constitute a waiver of any provision of the RFA, the Transaction Documents or any other documents, instruments and agreements executed and/or delivered in connection therewith and (ii) each Transaction Document and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

7. Governing Law. This Waiver and Consent shall be construed in accordance with and governed by the law of the State of New York.

8. Headings. Section headings in this Waiver and Consent are included herein for convenience of reference only and shall not constitute a part of this Waiver and Consent for any other purpose.

9. Counterparts. This Waiver and Consent may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Waiver and Consent has been duly executed as of the day and year first above written.

DAVEY RECEIVABLES LLC
as the Borrower

By: /s/ Christopher J. Bast

Name: Christopher J. Bast

Title: Vice President and Treasurer

THE DAVEY TREE EXPERT COMPANY
as the Servicer

By: /s/ Christopher J. Bast

Name: Christopher J. Bast

Title: Vice President and Treasurer

PNC BANK, NATIONAL ASSOCIATION
as LC Bank

By: /s/ Stephen Ritchey

Name: Stephen Ritchey

Title: Senior Vice President

PNC BANK, NATIONAL ASSOCIATION
as Administrative Agent

By: /s/ Stephen Ritchey

Name: Stephen Ritchey

Title: Senior Vice President

Signature Page to Waiver No. 1 and Consent to
Receivables Financing Agreement dated as of May 9, 2016
Davey Receivables LLC

PNC CAPITAL MARKETS LLC,
as Structuring Agent

By: /s/ Stephen Ritchey

Name: Stephen Ritchey

Title: Managing Director