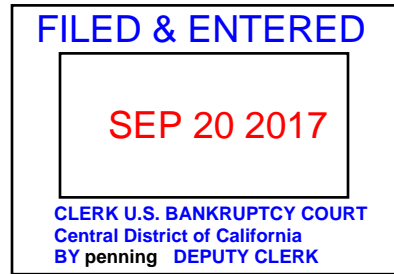


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6 Debtor-in-Possession



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8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA, SAN FERNANDO VALLEY DIVISION**

11 In re  
12 KEENEY TRUCK LINES, INC.

13  
14 Debtor

Case Number: 2:16-bk-26393-SK

Chapter 11

**AMENDED ORDER APPROVING  
MOTION FOR:**

- 15 **1. SECOND SALE OF ESTATE  
PROPERTY AND AGREEMENTS  
THEREON;**
- 16
- 17 **2. SALE OF PROPERTY FREE AND  
CLEAR OF LIENS;**
- 18
- 19 **3. MARKETING AND OVERBID  
PROCEDURES; and**
- 20 **4. REJECTION OF CONTRACT WITH  
DEBTOR AND SOUTH COAST AIR  
QUALITY MANAGEMENT DISTRICT**

21  
22 Date: July 13, 2017  
23 Time: 9:30 a.m.  
Courtroom: 1575  
24 Place: 255 E. Temple Street  
Los Angeles, CA 90012

25  
26 The Honorable Sandra R. Klein

27  
28 ///

1 This matter is before the court upon the application by debtor and debtor in possession,  
2 Keeney Truck Lines, Inc. ("Keeney" or "Debtor") for approval of an amendment to its Purchase  
3 and Sale Agreement with TEC Equipment, Inc. ("TEC Equipment"), approval of a September 19,  
4 2017(DN 161) Stipulation People's Capital and Leasing Corp. ("People's Capital") and the  
5 Debtor, and for a corresponding amendment to this Court's July 19, 2017 "Order Approving  
6 Second Sale of Estate Property (DN 120) ("the original Sale Order").

7 As set forth in Keeney's ex parte application, the auction this court approved in the  
8 original Sale Order was held on July 18, 2017 and the original buyers approved by the court,  
9 Flour Transport, Inc. and TEC Equipment, were the successful bidders, at the originally approved  
10 prices for the respective lots (Lot 2, Flour Transport, \$350,000; Lot 4, TEC Equipment,  
11 \$180,000).

12 As further set forth in Keeney's application, it took the Department of Motor Vehicles  
13 eight weeks to issue new titles on the Volvo tractors ("the Volvos") and the buyer, TEC  
14 Equipment, has contended the Volvos' value declined during the delay.

15 Pursuant to the Stipulation between Keeney and People's Capital and the amended  
16 Purchase and Sale Agreement between Keeney and TEC Equipment, the parties have agreed to  
17 lower both the sale price TEC Equipment is to pay on the Volvos and the amount People's Capital  
18 is to receive in satisfaction of its secured claim.

19 GOOD CAUSE APPEARING for Keeney's application,

20 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 21 1. The portion of the July 19, 2017 Order Approving Second Sale of Estate Property (DN  
22 120) is amended by the addition of the following new paragraphs (which will become  
23 numbers 20 and 21);
- 24 2. [20] Keeney is authorized to enter into the Amended Purchase and Sale Agreement  
25 with TEC Equipment attached to this amended order as Exhibit 1 and the Stipulation  
26 between Keeney and People's Capital (DN 161) is approved;

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3. [21] The figure of \$490,000 in ¶¶ 7, 8, 9, and 10 of the July 19, 2017 Order Approving Second Sale (DN 120) is struck out and the amount of \$483,333.33 is inserted as the amount to be paid to People's Capital;
4. These are the only changes made to the July 19, 2017 order (DN 120).

#####

Date: September 20, 2017

  
Sandra R. Klein  
United States Bankruptcy Judge

# EXHIBIT 1

AMENDMENT TO PURCHASE AND SALE AGREEMENT BETWEEN KEENEY TRUCK  
LINES, INC., A CALIFORNIA CORPORATION, AND TEC EQUIPMENT, INC., AN  
OREGON CORPORATION

This Amendment ("Amendment") modifies the terms of the "Purchase and Sale Agreement" entered July 14, 2017 ("the Purchase Agreement") between Keeney Truck Lines, Inc. ("Keeney") and TEC Equipment, Inc. ("TEC Equipment"), which Purchase Agreement was approved by the Bankruptcy Court by an order entered July 19, 2017 as Docket No. 120. A copy of the original Purchase Agreement is appended to this Amendment.

This Amendment is made in accordance with ¶17 of the Purchase Agreement, which provides the agreement can only be modified by a writing executed by both parties. Other than as modified by this Amendment, the Purchase Agreement is unchanged and remains in full force and effect.

¶3 of the Purchase Agreement as originally written is struck out and the following paragraph is substituted:

"3. Purchase Price. TEC Equipment shall pay to Keeney as Debtor in Possession as the Purchase Price for the Volvos the sum of One Hundred Seventy Three Thousand Three Hundred Thirty Three and 33/100 Dollars (\$173,333.33) for the Volvos (representing a unit price of \$34,666.66 per tractor for VINs 131641, 131642, 131644, 131645 and 131643). TEC Equipment acknowledges and agrees this reduction in the purchase price and this Amendment to the Purchase Agreement must be approved by the Bankruptcy Court and Keeney represents it will use its best efforts to obtain that approval."

IN WITNESS WHEREOF, the parties have executed this Amendment to the Purchase Agreement on September 15<sup>th</sup>, 2017.

TEC Equipment, Inc.

By: Rich Newell  
Its: Vice President

Keeney Truck Lines, Inc.

  
By: Dan Hubbard  
Its: President

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") made and entered into this 14th day of July, 2017, between Keeney Truck Lines, Inc., Debtor in Possession in Chapter 11 Bankruptcy Case No. 2:16-bk-26393-SK, Central District of California ("Keeney" or "Debtor") and TEC Equipment, Inc., an Oregon Corporation ("TEC Equipment").

### RECITALS

- A. Keeney is a motor carrier in intrastate and interstate commerce and it filed its Chapter 11 bankruptcy case on December 14, 2016.
- B. TEC Equipment wishes to purchase the Volvo tractors ("the Volvos") belonging to Keeney which are listed in Exhibit A attached to this Agreement.
- C. Keeney wishes to sell the Volvos to the highest bidder to maximize return for its bankruptcy estate and creditors.
- D. Keeney has agreed to sell the Volvos to TEC Equipment on the terms contained in this Agreement, subject to the necessity of bankruptcy court approval and the allowance of interested parties to overbid the amount TEC Equipment has offered.

NOW, THEREFORE, IN CONSIDERATION of the provisions contained in this Agreement, the Parties agree as follows:

#### 1. Definitions.

The following definitions apply in the Agreement:

- a. The "Volvos" to be acquired by TEC Equipment as buyer are listed with their license numbers and VINS on Exhibit A attached hereto.
- b. "Closing" means the completion of the purchase and sale of the Volvos as described in this Agreement by the payment of the agreed consideration, and the transfer of title to the Volvos.
- c. "Parties" means Keeney as seller and TEC Equipment as buyer where it is necessary to refer to them collectively.

#### 2. Sale.

Subject to the terms and conditions of this Agreement, Keeney agrees to sell the Volvos listed on Exhibit A to TEC Equipment and TEC Equipment agrees to purchase them.

#### 3. Purchase Price.

TEC Equipment shall pay to Keeney as Debtor in Possession as the Purchase Price for the Volvos the sum of One Hundred Eighty Thousand Dollars (\$180,000) for the Volvos

(representing a unit price of \$36,500 per tractor for VINs 131641, 131642, 131644, and 131645 and \$34,000 for VIN 131643).

#### **4. Sale to be Free and Clear of Liens**

Each of the Volvos is liened to secure Keeney's obligations to People's Capital and Leasing Corp. ("People's Capital"). The Volvos will be sold to TEC Equipment, or the successful overbidder, free and clear of those liens and People's Capital's liens will attach to the sale proceeds. Keeney will seek People's Capital's stipulation to the sale free and clear, or, alternatively, Keeney will move the bankruptcy court for an order deeming the sale to be free and clear.

#### **5. Bankruptcy Court Approval Required.**

TEC Equipment acknowledges and agrees that the bankruptcy court must approve Keeney's sale of the Volvos and Keeney promises its best efforts to obtain the court's approval. In the event the court will not approve this agreement, or if the court will not authorize sale of the Volvos free and clear of liens, Keeney will have no obligation to sell the Volvos to TEC Equipment, and, aside from a refund of any deposits TEC Equipment has made with Keeney, TEC Equipment will have no further rights of any kind under this Agreement or with respect to the Volvos.

#### **6. Sale Subject to Overbidding.**

TEC Equipment acknowledges and agrees that the Volvos will be offered for public auction on the terms below and are subject to purchase by any third party offering a bid higher than TEC Equipment's \$180,000 offer (as specified in paragraph 3 above).

Keeney's auctioneer, AGES, shall hold a public auction of the Volvos on July 18, 2017 on the following terms:

- a. In order to bid, all interested parties must make a deposit equal to 10% of the initial price.
- b. The initial overbid will be a minimum of 5% over TEC Equipment's original offer (i.e., \$189,000);
- c. Any further overbids must be at least 5% higher than the preceding bid;
- d. Deposits of unsuccessful bidders will be returned;
- e. Winning bidders will be required to pay the balance of funds within 48 hours;
- f. If the winning bidder is unable to consummate their purchase, they will forfeit their deposit as liquidated damages to the benefit of the estate;
- g. If the winning bidder is unable to consummate their purchase, the Volvos will be offered to the runner up bidder.

## **7. Closing.**

The Closing of the purchase and sale of the Volvos will take place immediately after the public auction on July 18, 2017 (the "Closing Date").

If at Closing TEC Equipment is the successful buyer, TEC Equipment will pay the Purchase Price in full to Keeney by cashier's check or wire transfer and Keeney will deliver the Volvos to TEC Equipment along with a bill of sale and Department of Motor Vehicle title documents signed over to TEC Equipment. It will be the responsibility of TEC Equipment (or the successful overbidder) to complete the paperwork and filings necessary to transfer ownership and registration of the Volvos; Keeney will co-operate and assist with respect to the re-titling and re-registration, but the ultimate responsibility is that of the buyer.

TEC Equipment shall be responsible for paying all applicable taxes, including federal sales tax, state sales tax, duties, and any other taxes or charges payable that are necessary to give effect to the transfer of the Volvos from Keeney to TEC Equipment.

## **8. Keeney's Representations and Warranties as Seller.**

Keeney represents and warrants the following:

Keeney has full legal title over the Volvos necessary to transfer them to TEC Equipment as buyer.

Keeney shall make every reasonable effort to obtain the agreement of Peoples Capital to a sale free and clear of liens and the approval from the Bankruptcy Court for the sale of the Volvos to TEC Equipment (or any successful overbidder).

Save for the pending authorization of this sale by the Bankruptcy Court and the anticipated agreement of People's Capital, Keeney has all necessary power, authority and capacity to enter into this Agreement and to carry out its obligations under it. The execution and delivery of this Agreement and sale of the Volvos has been duly authorized by all necessary action on Keeney's part, including approval by a majority interest of the shareholders and the board of directors.

Keeney has not agreed to sell the Volvos to any other buyer prior to entering into this Agreement.

Keeney has maintained the Volvos in proper registration with the California Department of Motor Vehicles and the federal Department of Transportation and there are no claims against any of the Volvos for unpaid registrations or for any accidents and injury to either people or property.

Keeney will ensure the check engine/DPF light on tractor VIN I31643 is repaired prior to the sale.

The representations and warranties given in this Agreement are the only representations and warranties. No other representation or warranty, either express or implied, has been given by Keeney to TEC Equipment, including, without limitation, any representations or warranties regarding the merchantability of the Volvos or their fitness for a particular purpose, including, but not limited to, no warranty is made about the fitness of the vehicles to pass smog inspections or any other legal registration requirements.



### **9. Reasonable Inspection Access to Volvos.**

Upon reasonable request of TEC Equipment, Keeney will, from time to time, allow TEC Equipment and its agents, counsel, accountant, employees, or other representatives to have access to the Volvos and to all records concerning their titling and maintenance.

### **10. Notices.**

All notices under this Agreement shall be in writing and shall be deemed effective on the date of delivery if delivered personally (and a receipt obtained therefore), or by email (with a reply that confirms delivery), or on the third calendar day after mailing if mailed by first class mail, registered or certified, postage prepaid, and shall be addressed as follows (or as may be amended by a written communication delivered pursuant to this paragraph):

For Keeney:

c/o William P. Fennell, Esq.  
Charles F. Bethel, Esq.  
Law Office of William P. Fennell, APLC  
401 West A Street, Suite 1800  
San Diego, CA 92101  
Phone: (619) 325-1560  
Fax: (619) 325-1558  
william.fennell@fennelllaw.com

For TEC Equipment:

Jon Cinquegrani  
Used Truck Sales  
TEC Equipment  
14166 Valley Blvd  
Fontana, CA 92335  
Office: 909.427.8090 x7619 | Cell: 213.308.7328  
JCinquegrani@tecequipment.com

### **11. Facsimile and Email Validity.**

The Parties hereto agree that if this Agreement is executed via facsimile or scanned by electronic mail, that the copy shall have the same validity as an original for all purposes including but not limited to use of the procedures for settling a dispute. The copy shall be used in place and stead of the original until such time that an original is received by the Party receiving an executed copy hereof via facsimile or electronic mail.

### **12. Multiple Counterparts.**

This Agreement may be executed in any number of counterparts, each of which may be deemed an original and all of which together shall constitute a single instrument.

### **13. Severability.**

If any part of this Agreement is held by a court of competent jurisdiction to be invalid, it is the intent of the Parties that such provision be reduced in scope only to the extent deemed necessary to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected or invalidated as a result.

### **14. Governing Law and Dispute Resolution.**

This Agreement shall be governed by and construed in accordance with the California law on contracts. The United States Bankruptcy Court for the Central District of California shall be the exclusive forum and venue for any disputes involving this Agreement.

### **15. Construction and Interpretation.**

Keeney and TEC Equipment have each been involved in the drafting of and negotiation of the terms of this Agreement. Because Keeney and TEC Equipment were involved in drafting this Agreement, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.

### **16. Entire Agreement.**

This Agreement contains all terms and conditions agreed to by the Parties for the sale of the Volvos and it supersedes any and all negotiations, promises, inducements, representations, statements or understandings not expressly contained herein.

### **17. Amendments Must Be in Writing.**

This Agreement may only be amended or modified by a subsequent written instrument executed by both Parties.

### **18. No Right of Unilateral Assignment.**

This Agreement will not be assigned either in whole or in part by either Party without the written consent of the other Party.

### **19. No Accumulation of Waivers.**

A waiver by one Party of any right or benefit provided in this Agreement does not imply, constitute, or permit a further waiver of that right or benefit, nor does it imply, constitute, or permit a waiver of any other right or benefit provided in this Agreement.

**20. Remedies Cumulative.**

All of the rights, remedies and benefits provided in this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law or equity.

**21. Survival of Executory Provisions.**

Any and all executory provisions under this Agreement shall survive the consummation of this Agreement and shall continue in full force and effect until fully performed and satisfied.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on

this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

Keeney Truck Lines, Inc. (Seller)

Dated: \_\_\_\_\_

TEC Equipment, Inc.

Dated: 7/13/17

By: \_\_\_\_\_

Dan Hubbard, President

By:  \_\_\_\_\_

Rich Newell, Vice President

20. Remedies Cumulative.

All of the rights, remedies and benefits provided in this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law or equity.

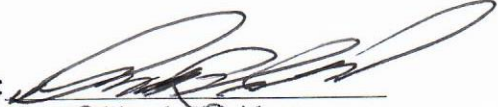
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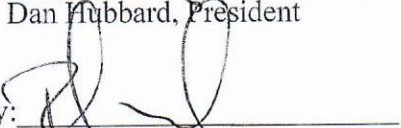
Keeney Truck Lines, Inc. (Seller)

Dated: 7/14/17

By:   
Dan Hubbard, President

TEC Equipment, Inc.

Dated: 7/13/17

By:   
Rich Newell, Vice President

# EXHIBIT A

<b>EQUIPMENT NUMBER</b>	<b>LICENSE</b>	<b>YEAR</b>	<b>MAKE</b>	<b>VIN</b>	<b>TYPE</b>	<b>DATE PURCHASED</b>
842	WP40764	2013	VOLVO	4V4NC9TH0DN131641	TRACTOR	04/30/12
843	WP40765	2013	VOLVO	4V4NC9TH2DN131642	TRACTOR	04/30/12
844	WP40766	2013	VOLVO	4V4NC9TH4DN131643	TRACTOR	04/30/12
845	WP40767	2013	VOLVO	4V4NC9TH6DN131644	TRACTOR	04/30/12
846	WP40768	2013	VOLVO	4V4NC9TH8DN131645	TRACTOR	04/30/12