

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

<b>IN RE</b>	§	
	§	
<b>RIGGING &amp; WELDING SPECIALISTS, INC.</b>	§	<b>CASE NO. 10-34012</b>
	§	<b>(Chapter 11)</b>
<b>DEBTOR</b>	§	

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**DEBTOR'S AMENDED PLAN OF REORGANIZATION  
IN CONNECTION WITH ITS DISCLOSURE STATEMENT AND  
NON-TECHNICAL MODIFICATION  
TO ITS DISCLOSURE STATEMENT**

Comes now RIGGING & WELDING SPECIALISTS, INC. (hereinafter referred to as "Debtor "or "RWS"), and files this Amended Plan of Reorganization. (This Amended Plan is the same as the Plan of Reorganization filed on September 16, 2010. Class No. 10 has been modified to reflect the Debtor's and Wells Fargo Equipment Finance, Inc. agreement.

**I.**

**INTRODUCTION**

Charles H. Fayle ("Owner") incorporated Rigging & Welding Specialists, Inc. on August 24, 1992. The Company is comprised of two divisions: crane rental division and inspection and testing division. The crane rental division provides manned and maintained mobile cranes from 4 ton to 240 ton capacity, haul trucks, rigging equipment, test weights, mobile crane operators and rigging personnel. Cranes are also provided to customers who have their own operators. The crane rental division primarily provides services to commercial, industrial and governmental customers in Southeast Texas including the 15 counties surrounding Houston. The inspection & testing division

inspects tests and certifies lifting, rigging, and safety devices and equipment. This service provides visual inspections, operational inspections, non-destructive testing and load tests. The Company also offers limited off-site load testing. The Debtor is ISO 9001 certified.

RWS principal place of business is located at 5800 Wade Rd., Baytown, Texas 77521. The Debtor owns no real property but is leasing its facility.

In order to meet the anticipated demand of its customers RWS expanded its equipment fleet to include cranes that could service an anticipation of continued growth in its core operations and cranes capable of serving the wind ("green") industry.

However, the anticipated wind industry business did not materialize and the general decline in the U. S. economy further eroded RWS's revenues. For example, average monthly revenue in 2005 was \$383,383, 2006 was \$622,474, 2007 was \$768,858 and grew to \$1,042,712 in 2008. Average monthly revenue in 2009 dropped to \$857,919 and for the first four months of 2010, it was \$663,430. Declining levels of revenue and the resulting difficulty in meeting operating expenses and debt service needs with reduced cash flow raised substantial concerns to the Debtor. When the Debtor was faced with the financial knowledge that the company was suffering from a cash flow problem, Mr. Fayle began investigating possible solutions

Due to the above mentioned factors, the Debtor's business suffered a tremendous shortfall of working capital and was greatly hindered in its day to day business activities. The Debtor sought financing from various financial institutions. The Debtor obtained proposals however no feasible proposals were consummated. In addition, Debtor reduced its labor force by 10% and later an additional 20% to match demand, cancelled certain consulting agreements, renegotiated a reduction in real property rent, reduced salaries across the board by 8% and discontinued Debtor funded contributions to the employee's retirement plan.

On May 12, 2010, Debtor filed for relief under Chapter 11 of Title 11 of U.S.C. in the Southern District of Texas, Houston Division. The Debtor filed Chapter 11 in an attempt to stop the foreclosure efforts by creditors and to preserve the assets of the corporation for the benefit of all of its creditors and to afford all creditors the highest return on their claim.

## II.

### DEFINITIONS

The following terms, when used in the Plan, shall unless the context otherwise requires, have the following meanings, respectively:

1. "Bankruptcy Code" is the Bankruptcy Code of 1978 as contained in Title 11 U.S.C. Section 101 et seq. and amendments thereto.
2. "Bar Date" is the deadline previously established by the court, after which any proof of claim filed will have no effect on this Plan and no right to participate with other creditors under the Plan. Pursuant to the Notice of Meeting of Creditors promulgated by the Court, the bar date occurs 90 days after the first date set for the meeting of creditors. In the instant case, the meeting of creditors was held on June 8, 2010, and the bar date is September 7, 2010.
3. "Claim" shall mean a right to payment from the Debtor's Estate, which is evidenced by a timely filed Proof of Claim which is allowed by the Court, or if a Proof of Claim is not filed by the creditor, a right which otherwise appears in the Debtor's bankruptcy schedules and is not listed as disputed, contingent or unliquidated, or has not been resolved by Final Order of the Court in this reorganization case.

4. "Class" shall mean any class into which Claims are classified pursuant to section III.
5. "Confirmation" shall mean the entry by the Bankruptcy Court of an order confirming the plan in accordance with provisions of Chapter 11 of the Bankruptcy Code.
6. "Confirmation Date" shall mean the date set by the Court pursuant to §1128 of the Bankruptcy Code for hearing on confirming the Plan and on which the Court determines that the Plan meets the requirements of Chapter 11 of the Bankruptcy Code and is eligible for confirmation.
7. "Creditors" shall mean all creditors of the Debtor holding claims for debts, liabilities, demands or claims of any character whatsoever, as defined in the §101(4) of the Bankruptcy Code.
8. "Court" shall mean the United States Bankruptcy Court for the Southern District of Texas, Houston Division, presiding over the reorganization case, or, if necessary, the United States District Court for said District and Division having original jurisdiction over the reorganization case.
9. "Debtor" shall mean RIGGING & WELDING SPECIALISTS, INC.
10. "Effective Date" shall mean the fortieth day following the date of the order confirming the plan, if no notice of appeal is timely filed, or if a notice of appeal is filed, during which time no motion for stay pending appeal is granted or a supersedes bond is approved and filed, then it shall be the date on which the order confirming plan is a final order.

11. "Final Decree" shall mean the order of the Court entered after all payments and distributions of monies called for under the administration of the Plan have been made (i) making provisions by way of injunction or otherwise as may be equitable, and (ii) closing the reorganization case.

12. "Final Order" shall mean an order of the Court which, not having been reversed, modified or amended and not being stayed, and the time to appeal from which or to seek review or rehearing of which having expired, has become conclusive on all matters adjudicated thereby and is in full force and effect.

13. "Lien" shall mean mortgage, pledge, judgment lien, security interest, charging order, or other charge or encumbrance on property which is effective under applicable law as of the date of the commencement of the reorganization case.

14. "Plan" shall mean this Plan of Reorganization in its present form or as it may be amended, modified or supplemented.

15. "Pro Rata Share" shall mean the amount, which is the result of multiplying the monies available for distribution to a named class of creditors by that fraction in which the numerator is the allowed amount of a particular claim in the named class and the denominator is the total of the allowed amounts of all the claims in the named class.

16. "Reorganized Debtor" shall mean the Debtor on or after the Effective Date.

17. "Secured Claim" shall mean the claim of any creditor secured by a lien on property, which lien is valid, perfected, and enforceable under applicable law, and is not subject to avoidance under the Bankruptcy Code or other applicable non-

bankruptcy law, and is duly established in this case, to the extent of the value of the security, as determined in accordance with §506 of the Bankruptcy Code.

18. "Allowed Amount" shall mean the dollar amount of a claim approved and allowed by final order of the Bankruptcy Court.

19. "Disbursing Agent" shall mean the Controller of the Debtor, J. Patrick Fojtik.

20. "Priority Tax Claim" means any Claim to the extent that such Claim is entitled to a priority in payment under section 507(a) (8) of the Bankruptcy Code.

21. "Unsecured Claims" shall mean all business claimants or other claimants of any nature, holding claims for unsecured debts, liabilities, demands or claims of any character whatsoever.

22. "Unsecured Creditor" shall mean the holder of an unsecured claim.

### III.

#### CLASSES OF CREDITORS

#### AND SPECIFIC TREATMENT OF CLAIMS AND INTERESTS

**CLASS 1- ADMINISTRATIVE EXPENSES.** Class 1 is unimpaired. Class 1 are Claims entitled to priority by Section 507(a) (1) of the Bankruptcy Code and will consist of fees for services rendered and expenses incurred by the Court appointed counsel and other professional persons prior to the effective date of the Plan, as the same are finally approved and allowed by final order of the Court, and any other expenses incurred during the course of the Chapter 11 proceeding that have not yet been paid. The members of this class include J. Craig Cowgill & Associates, P.C.

All claims in this class shall be paid in cash and in full in such amounts as may be allowed and approved by the Court on the effective date or after such claims are finally allowed, whichever is

later, by the Debtor to the extent of available funds, or such claims may be paid in accordance with any agreement or waiver. In either event, claims in this class shall be paid in full within the 6-month period after the Effective Date. The anticipated total fees to be paid in this class are in the range of \$25,000 to \$50,000, inclusive of the retainer for J. Craig Cowgill.

**CLASS 2- THE UNITED STATES TRUSTEE.** Class 2 consists of the administrative claim of the office of the United States Trustee for its fees from the date of confirmation until the Bankruptcy Clerk closes the Chapter 11 case. These fees are based on the amount of disbursements made by the Debtor on a quarterly basis. The Debtor shall continue to file monthly operating reports and pay the United States Trustee's fees on a quarterly basis from the date of confirmation until a Final Decree is entered. Class 2 is unimpaired. The Debtor shall be responsible for timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a) (6). Any fees due as of the date of confirmation of the plan will be paid in full on the Effective Date. After confirmation, the Reorganized Debtor or other responsible party shall pay the United States Trustee quarterly fees as they accrue until this case is closed. The Debtor or other responsible party shall file with the Court and serve on the U. S. Trustee a quarterly financial report for each quarter or portion thereof that the case remains open in a format prescribed by the U. S. Trustee.

**CLASS 3 -TAXING AUTHORITY CLAIMS.** Class 3 consists of all Allowed Secured Tax Claims arising from a secured claim for ad valorem taxes on real and personal property which are secured by a statutory lien. Class 3 is unimpaired. The taxing authorities will retain secured liens on all real property until the allowed secured tax claims are paid in full. As of the date of this filing, the amount due was approximately \$161,004.87 plus penalty and interest. These claims will be paid over the 60 month period of the Plan with interest continuing to accrue at the taxing authority's legal

rate until paid in full. The sum of the monthly payments on the four taxing authority accounts is \$3,626.93.

**CLASS 4- TEXAS COMPTROLLER OF PUBLIC ACCOUNTS.** (If any) Class 4 is unimpaired and consists of the unsecured priority claim of the Texas Comptroller of Public Accounts pursuant to 11 U.S. C. §507 (A) (8). The Debtor plans on making quarterly payments to the Comptroller's office as payments are due. Payments consist of sales and use taxes and are paid in a timely manner unless otherwise agreed upon between the parties.

**CLASS 5 – FINANCIAL FEDERAL CREDIT, INC.** Class 5 is impaired and consists of the Secured Claim of Financial Federal Credit, Inc. ("FFC"). FFCI is a pre-petition secured creditor of, and lesser of equipment to, Debtor pursuant to a promissory note (the "Pre-Petition Note") and five (5) leases (the "Leases"). FFCI holds a blanket security interest in all of Debtor's property which has priority over all other liens and security interests, except for any properly perfected purchase money security interests held by other lending parties. FFC holds a lien on the following cranes: a 2003 100 Ton Terex, a 1997 150 Ton Grove, a 1997 165 Ton Liebherr, a 2003 240 Ton Grove and 2 2002 240 Ton Groves), two Mack trucks (a 1999 and a 2000 Mack Truck), 5 flatbed trailers (a 1997 Eager Beaver, a 1987 Freuhauf, 3 1997 48' Alloy's) and two forklifts (both Taylor forklifts) and the proceeds and products thereof, as more fully set forth in the various Security Agreements (collectively the "Collateral"). As of this filing, Debtor owes FFC a combined total of \$3,736,889.10, including the deficit on a 300 Ton Demag crane returned to FFC in May 2010. The Debtor will refinance all existing loans and leases into one master loan (the Debtor has filed a motion to approve post-petition financing with FFC) with terms of 12% for 5 years and will commence making monthly payments of \$83,465.00 beginning on September 20 and continuing on the 20th day of each month thereafter for sixty (60) months.



**CLASS 6 - COMMERCIAL CREDIT GROUP.** Class 6 is impaired and consists of the Secured Claim of Commercial Credit Group ("CCG"). CCG holds a lien on a 2001 Mack Truck and 2003 Mack Truck and the proceeds and products thereof, as more fully set forth in the Security Agreement (collectively the "Collateral"). As of the Petition Date, Debtor owed \$33,024.48 on the Note. The Debtor has an Agreed Order under which Debtor commenced making monthly payments of \$1,794.00 beginning on July 3, 2010 and continuing on the 3rd day of each consecutive month unless otherwise agreed upon. The Debtor will execute a new note to CCG subject to Court approval, said note to commence effective on the 3rd day July 2010 and continuing on the 3rd day of each consecutive month thereafter for twenty (20) months; then on the 3rd day of the 21st month, Debtor shall remit to CCG a final payment in the amount of \$510.00, thus discharging all of Debtor's obligation to CCG.

**CLASS - 7 – COMMUNITYBANK OF TEXAS, N.A.** Class 7 is impaired and consists of the Secured Claim of CommunityBank of Texas, N.A. ("Community"). Community is a secured creditor in the current principal amount of \$172,502.67. Community holds a first lien priority security interest in one 70 ton crane (a 2000 Linkbelt). Community and Debtor have entered into an Agreed Order (Docket #92) under which Community will receive a \$172,502.67 note at 7% with payments of \$4,078.60 per month beginning June 15, 2010, amortized over 4 years. Such amended obligations will be memorialized by documents to be prepared by Community, including but not limited to notes, security agreements and financing statements.

**CLASS 8 – GENERAL ELECTRIC COMMERCIAL CREDIT.** Class 8 is impaired and consists of the Secured Claim of General Electric Commercial Credit ("GECC") as to one

50 ton crane (S/N 1NPTX0EX19D771614). The Debtor and GECC have entered into a Letter Agreement in the amount \$165,786.46 (Docket #85). Pursuant to the terms and conditions of that Letter Agreement the Debtor is to make monthly adequate protection payments of \$2,689.25 per month for 72 months commencing July 11, 2010. In the Letter Agreement, GECC agreed to refinance the debt affording the Debtor an opportunity to reduce its current monthly payment from \$3,534.07 to \$2,689.25, which includes principal and interest.

**CLASS 9 – WELLS FARGO BANK, N.A. (BANK DEBT) -** Class 9 is an impaired class and consists of a Secured Claim of Wells Fargo Bank, N. A. (“Wells”). Debtor proposes to enter into an agreement with Wells wherein the Debtor will make monthly adequate protection payments on Debtor’s debt of \$225,000 at 5.25% for ten years. Each payment will be \$2,414.06 (principal and interest) and will commence on the Effective Date and continue on the 3<sup>rd</sup> day of each consecutive month thereafter for one hundred twenty (120) months. Well’s secured claim is secured by a second lien in Debtor’s Accounts Receivable.

**CLASS 10 – WELLS FARGO EQUIPMENT FINANCE (EQUIPMENT DEBT).** Class 10 is impaired and consists of the Secured Claim of Wells Fargo Equipment Finance, Inc. (“WFEF”). Debtor will retain all WFEF equipment except the 40 Ton crane (S/N 2FZHAZCV17AX58670) described below. The Debtor and Wells Fargo entered into an agreement to surrender the 2007 Manitex 40 Ton Crane. Pursuant to the Agreement the 2007 Manitex 40 Tone Boom Model and 2007 Sterling Model Lt 9513 complete with all attachments was return to Wells Fargo. (see Document #97) The Debtor has since been notified by G.E. Capital that G.E. received an Assignment of Interest from Wells Fargo on the 2007 Tadano/ crane. This is the crane that the Debtor agreed to abandon back to Wells Fargo. G.E. Capital has since filed a proof of claim in the

amount of the deficient of the sale of the 2007 Tadano crane. G.E.'s proof of claim reflecting the deficiency amount will be paid and treated as a Class 19 - Unsecured Creditor.

On July 15, 2010, Wells Fargo Equipment Finance, Inc. filed another Motion for Relief from Stay. (See Document No. 77) The Debtor and Wells Fargo have entered into an agreement regarding the collateral referenced in the additional motion for relief. The following is the terms of the agreement: i.) the stay will terminate as to the 2006 Terex Hydraulic Truck Crane T560 together with all attachments and the (1) 2006 Terex T560 60 Ton Crane (referred to as "the 60 Ton Cranes").

The stay will remain in effect as to the One Manitex Model 50100 Crane mounted on the 2008 Kenworth Model Truck, complete with attachments, (collectively, the "50 Ton Crane). This is provided that the Debtor pay Wells Fargo an aggregate amount of \$21,114.12, consisting of the arrear payments since the date of filing plus late charges of \$3,014.29 which shall become due on November 15, 2010, in addition to the payment of the Debtor's regular contractual payment of \$6,028.53 on the 50 Ton Crane. The regular monthly payment shall also be due on November 15, 2010 and continue each month. (An Agreed Order to be submitted).

**CLASS 11 - G. E. CAPITAL.** Class 11 is an impaired class consisting of the Secured Claim of G. E. Capital ("GE"). GE holds a secured interest in the following equipment: 5 flatbed trailers, 3 forklifts, 2 Service Trucks, 7 Pickup Trucks, one Mack Truck and one 110 Ton Crane. Debtor will abandon its interest in and surrender to GE one 90 ton crane (S/N 475387, Lower VIN 044112). Debtor will retain possession of the remaining equipment and resume payments on the Effective Date at the existing scheduled amounts until paid in full except as to the 110 ton crane (S/N WFN4RULR582045133). Debtor owes GE approximately \$897,000 on the 110 ton crane and proposes to pay GE this amount in a new note bearing interest at the same 5.25% rate given by GECC over 10 years with monthly payments of \$9,624.07 commencing on the Effective Date.

**CLASS 12 - PITNEY BOWES CREDIT CORPORATION.** Class 12 is an impaired class and consists of the Secured Claim of Pitney Bowes in a postage machine and scale. This equipment is essential to Debtor's continued operations. Debtor has continued and will continue to pay the monthly fixed equipment charges of \$213.20 per quarter and postage based on usage.

**CLASS 13- FORD MOTOR CREDIT COMPANY.** Class 13 is impaired and consists of the Secured Claim of Ford Motor Credit Company ("FMCC"), which has a secured interest in five pickup trucks, although Debtor believes that one of these has been paid in full (VIN 1FDXW46P07EB34976). If it is established that there is a balance due on this truck, debtor proposes to pay it in full upon FMCC's proof of claim. The VIN's of the four remaining trucks are 1FTSW21R68EB27768, 1FTSW21R69EA34623, 1FTSW21R48EC64157 AND 1FTSW21R89EA34655. Debtor has entered into Agreed Orders with respect to these four trucks under which debtor will pay \$565.00, \$903.00, \$657.00 and \$907.00 per month, respectively, commencing on August 1, 2010 and continuing until the remaining balance is paid in full. Debtor believes the remaining balances are \$22,030.78, \$37,810.79, \$25,741.01 and \$37,834.71, respectively.

**CLASS 14 JOHN DEERE & COMPANY.** Class 14 is impaired and consists of the Unsecured Claim of John Deere and Company ("Deere"). The Debtor desires to retain its interest in the financed equipment and has advised Deere that it is willing to pay Deere 23 monthly installments of \$1,298.75 beginning January 10, 2011. Debtor believes that the amount owed to Deere is equal to the Fair Market Value and that the proposed payments will fully discharge Debtor's obligation to Deere.

**CLASS 15 – FCC EQUIPMENT FINANCING.** Class 15 is impaired and consists of the Unsecured Claim of FCC Equipment Financing ("FCC"). The Debtor has abandoned its interest in

the financed equipment and all equipment has been returned to FCC. By Agreed Orders, the court has authorized the lifting of the automatic stay to allow the returns. Debtor believes that the amount owed to FCC is below the Fair Market Value of the equipment at the time of return and Debtor has no further obligation to FCC.

**CLASS 16 – HITACHI CAPITAL.** Class 16 is impaired and consists of the Unsecured Claim of Hitachi Capital (“Hitachi”). The Debtor has entered into an Agreed Order to surrender the collateral back to Hitachi. Debtor believes that the amount owed to Hitachi is less than the Fair Market Value and Debtor has no further obligation to Hitachi.

**CLASS 17 GEHL FINANCE.** Class 17 is impaired and consists of the Unsecured Claim of GEHL Finance (“GEHL”). The Debtor has abandoned its interest in the financed equipment and advised GEHL that it may recover the equipment. Debtor believes that the amount owed to GEHL is less than the Fair Market Value. An Agreed Order will be submitted to the Court.

**CLASS 18 – SG EQUIPMENT FINANCE.** Class 18 is impaired and consists of the Unsecured Claim of SG Equipment Finance (“SG”). The Debtor has abandoned its interest in the financed equipment and all equipment has been returned to SG. By Agreed Order, the court has authorized the lifting of the automatic stay to allow the return. Debtor believes that the amount owed to SG is less than the Fair Market Value at the time of return and Debtor has no further obligation to SG.

**CLASS 19 - UNSECURED CREDITORS WITH CLAIMS UNDER \$500.** Class 19 is impaired and consists of all claims up to \$500 and all claims which, by agreement, are reduced to \$500. There are approximately 13 claims totaling \$3,490.77 in this class. The Class 19 claimants will receive payment in full within 90 days of the Effective Date. The creditors that fall within Class 19 are listed in TABLE 1.

**CLASS 20- UNSECURED CREDITORS WITH CLAIMS OVER \$500.01.** Class 20 is impaired and consists of all allowed unsecured claims over \$500.01 that does not elect to reduce their claims to \$500 pursuant to Class 19. All members of Class 20 shall have 30 days from receipt of the Plan to elect to remain in Class 20 and receive such distribution as set forth herein over the life of the Plan or, to reduce their claim to \$500 and receive treatment under Class 19 of the Plan.

The claims in this class total approximately \$196,702.89 of which Debtor disputes \$10,643.89. Those undisputed claims will be paid at 100% by the Debtor over a period of 120 months. Class 20 claimants will receive payment, pro-rata, in monthly payments beginning on January 10, 2011 and continuing thereafter for a period of 120 months. The creditors that fall into Class 20 are listed in TABLE 2.

**CLASS 21 - CLAIMS OF ALL CREDITORS WHO ARE CONSIDERED AS INSIDERS:**

“Insider” as defined pursuant to §101 of the United States Bankruptcy Code (31) (A) (iv) a corporation in which the debtor is a director or officer or person in control (31) (B) (i) director of the debtor; (ii) officer of the debtor; (iii) person in control of the debtor; (vi) relative of a general partner or director, officer or person in control of the debtor.

Charles H. Fayle  
427 Burwell Road  
Highlands, TX 77562  
**(This claim is for \$7,459.14)**  
RWST  
427 Burwell Road  
Highlands, TX 77562  
**(This claim is for \$24,670.00)**

**TOTAL AMOUNT OF INSIDER CLAIMS IS \$32,129.14.**

All of claimants in Class 21 will receive 100% of their claim when all underlying classes have been paid in full.

**CLASS 22- SHAREHOLDER OF THE DEBTOR.** Class 22 is impaired and consists of the equity interests in the Debtor. Charles H. Fayle is the President of the Debtor and owns 100% of the equity interest **in the Debtor.**

**IV.**

**FUNDING OF THE PLAN**

The Debtor will fund all plan payments from its ongoing business. The period of time in which the funding will occur will be based upon a 10 year projection which is attached as Exhibit "B" to the Disclosure Statement.

**V**

**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**Assumption of Executory Contracts and Leases.** The Debtor will assume its executory contracts with Charles H. Fayle for the real property from which the Debtor operates its business and the following office equipment leases that are necessary for the continuation of business.

**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**Assumption of Executory Contracts and Leases.** The Debtor will assume its executory contracts with Charles H. Fayle for the real property from which the Debtor operates its business located at 5800 Wade Road, Baytown, Texas 77521. The Debtor is currently under an Agreed Order Authorizing Use of Cash Collateral. In that agreed budget, the Debtor is authorized to make \$8,000.00 per month to its landlord, Charles Fayle. Mr. Fayle voluntarily agreed to accept this reduced lease payment for the total leased space known as 5800 Wade Road, Baytown, Texas. 77523. The original lease was a five year lease with an option for renewal at the end of the period.

Related Party Transaction - The Debtor leased a company office building and accounting space located at 5800 Wade road, Baytown, Texas. The lease with the Debtor consists of three (3) contiguous lease agreement consisting of the leases of three (3) different tracts of land known

as 5800 Wade Road, 5806 Wade Road, and 4520 West Cedar Bayou-Lynchburg Road (collectively referred to as "5800 Wade Road Lease"). The 5800 This portion and Lease Agreement was entered on October 1, 2007 for a period of five (5) years at \$10,000.00 per month. However, at the end of 2008, the Lessor, Mr. Charles Fayle, reduced the lease agreement expense from \$10,000.00 to \$5,000.00 per month for the remaining lease period, retroactive to January 1, 2008. In 2009, the lease was modified such that no rent was paid for July through November.

The Company repair shop building located at 5806 Wade Road, Baytown, Texas (a Contiguous Lease Agreement and hereinafter referred to as part of the 5800 Wade Road Lease) houses the Debtor's repair and testing facilities. This Lease Agreement commenced on October 1, 2007 for a period of five (5) years. The monthly lease agreement under this lease was \$10,500.00 per month. The Debtor entered into this lease agreement to house a repair and testing facility for the Debtor's business.

The Company parking lot and storm water retention pond located at 4520 West Cedar Bayou-Lynchburg Road (referred to as the 5800 Wade Road Lease) is also contiguous of the 5800 Wade Road property and houses the Debtor's cranes and equipment. It also contains the facility for the mechanic end of the Debtor's operation. The part of the lease agreement was also for a five (5) year period commencing on July 1, 2007 at \$11,000.00 per month.

This leased space is important to the Debtor because it provides a total package for the Debtor business operation. The 7 acres of land, more or less, is special stabilized foundation consisting of approximately 4' of stabilized concrete and pavement. This stabilization is required when storing and housing heavy equipment like the larger cranes used in the Debtor's business operation. The Debtor gets the benefit of its office, repair and testing



facility and mechanic building used in the day to day business operation of the Debtor. The parking lot is utilized in parking and securing the heavy equipment and cranes.

All of the separate lease agreements have been combined into a single payment of \$8,000.00 per month.

In the event the Debtor had to relocate, it would interrupt the Debtor's business until such a specialized facility could be located. In addition, the cost would increase approximately an additional \$15,000.00 to \$20,000.00 per month. It is in the best interest of all creditors and the bankruptcy estate that the Debtor remains at this facility.

In addition, the following equipment leases will be assumed:

De Lange Landen Financial Services	Copier
Pitney Bowes Global Financial Services	Postage Meter and
	Scale

All other executory contracts are rejected.

**Claims for damages**, if any, arising from the rejection of an executory contract or lease shall become a disputed claim in Class 19 or Class 20, whichever is appropriate, to the extent that the holder of the disputed claim files with the Court a proof of claim for rejection damages on or before the Effective Date. If a holder of a claim arising from the rejection of an Executory Contract or Lease fails to file a proof of claim on or before the Effective Date, the claim will be untimely and will be forever barred.

**Limitation on Damages.** The Allowed Amount of claims for the rejection of executory contracts and leases may be limited by various provisions of the Bankruptcy Code. For example, claims for damages from the rejection of leases may be limited to a fraction of the actual damages; claims for certain employment agreements may be limited to one year; claims for interest are generally disallowed. Holders of claims

arising from the rejection of executory contracts or leases are urged to consult counsel in order to protect their rights.

## VI.

### DISCHARGE

The **DISCHARGE** of the Debtor, Rigging and Welding Specialists, Inc. d/b/a RWS Crane and Rigging or RWS will be effective as to each Claim, whether or not the Claim constituted an Allowed Claim and whether or not the holder of the Claim voted to accept the Plan. In addition, the Confirmation Order will operate as a general resolution with prejudice, as of the Effective Date, of all pending legal proceedings, if any, against ONLY THE ***Debtor and the Reorganized Debtor***, and shall in no way release any third party individual of their obligations, if any, unless provided for herein. As provided in section 524 of the Bankruptcy Code, the discharge operates as an injunction against the prosecution of any Claim so discharged. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold, or may hold Claims against the Debtor or the Reorganized Debtor are permanently enjoined on and after the Effective Date from (a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtor or the Reorganized Debtor with respect to any such Claim or Equity Interest, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any such Claim against the Debtor or the Reorganized Debtor, (c) creating, perfecting or enforcing any encumbrance of any kind against the Debtor or the Reorganized Debtor with respect to such Claim, (d) asserting any right of subordination of any

kind against any obligation due the Debtor or the Reorganized Debtor with respect to any such Claim and (e) asserting any right of setoff or recoupment against the Debtor or the Reorganized Debtor only. Unless otherwise provided in the Plan or by order of the Bankruptcy Court, all injunctions or automatic stays provided for in this case pursuant to section 105, if any, or section 362 of the Bankruptcy Code, or otherwise, and in existence on the confirmation date will remain in full force and effect until the Effective Date.

## **VII**

### **OTHER PROVISIONS**

The Debtor has filed as a part of its schedules a list of all creditors, setting forth the identity of each creditor and an indication of the amount due each creditor. Unless a claim is listed as disputed, contingent or unliquidated, each creditor's claim will be allowed in the amount and status stated on the Debtor's schedules.

## **VII.**

### **MISCELLANEOUS PROVISIONS**

All claims and causes of action in favor of the Debtor are hereby reserved to be prosecuted after confirmation.

1. Whenever the word "confirmation" is used in this Plan, it is intended to mean that date upon which the order confirming this Plan as entered by this Court becomes final and unappealable.

2. Patrick Fojtik, comptroller of the Debtor, shall act as Disbursing Agent

under this Plan.

3. Upon confirmation, title to the remaining property of the Debtor, if any, will revert in the Debtor, and the jurisdiction of the Court will cease, except as provided herein above. However, the reinvesting of title shall not extinguish the rights and powers of the Debtor, but shall include the assignment of such rights and powers of the Debtor so that they may prosecute claims after confirmation.

4. Notwithstanding anything-contained herein above, the Debtor reserves the right to object to and/or defend against any and all claims filed in this case.

The Debtor also proposes that all debts incurred after the filing of the petition initiating this proceeding and during the pendency of this proceeding, will be or shall have been paid in full and if not paid shall be entitled to payment under Class 1 hereunder.

The stay of actions and lien enforcement and all other matters provided for by Bankruptcy Code §362 shall remain effective and in full force until consummation of this Plan.

#### **VIII. POST CONFIRMATION RETENTION OF JURIDICITION**

Notwithstanding confirmation of the Plan, the Court will retain jurisdiction:

1. To determine any and all objections to the allowance of Claims or Interests;
2. To determine any and all applications for allowances of compensation and reimbursement of expenses and any other fees and expenses authorized to be paid or reimbursed under the Bankruptcy Code or this Plan;

3. To determine any applications or motions pending on the Effective Date for the rejection, assumption or assumption and assignment of any Executory Contract with respect to which the Debtor may be liable, and to hear and determine the amount of any Claim arising out of the rejection or assumption of an Executory Contract;

4. To determine any and all applications, adversary proceedings and Contested matters that may be pending on the Effective Date;

5. To consider and approve any modification of this Plan, remedy any defect or omission or reconcile any inconsistency in any order of the Court, including the Order of Confirmation;

6. To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of this Plan;

7. To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of this Plan;

8. To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtor;

9. To issue orders in aid of execution of this Plan to the extent authorized by 11 U.S.C. §1142 or otherwise;

10. To determine other matters as may be set forth in the Order of Confirmation or which may arise in connection with the Plan or the Order of Confirmation; and

11. This Plan may be amended by the Debtor before or after the Effective Date as provided in 11 U.S.C. §1127.

**DATED:** 10/25/2010

**RIGGING & WELDING SPECIALISTS, INC.**

By: /s/Charles Fayle  
Charles Fayle, President

**OF COUNSEL:**

**J. CRAIG COWGILL & ASSOICATES, P.C.**

BY: /s/ J. Craig Cowgill

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