

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In Re:)	Chapter 11
)	
SPENCER TRANSPORTATION, LLC)	
)	Case No. 17-70012-JHH11
Debtor.)	
)	

DISCLOSURE STATEMENT FOR DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

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THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL FROM, BUT HAS NOT BEEN APPROVED BY, THE BANKRUPTCY COURT. THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCE OR REJECTION MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT.

ARTICLE I.

INTRODUCTION

On January 4, 2017, the Debtor, Spencer Transportation, LLC, (“Spencer Transportation” or “the Debtor”) an Alabama limited liability company filed a voluntary petition for relief under Title 11 U.S.C. § 101, *et. seq.* and Chapter 11 of the Bankruptcy Code (“Bankruptcy Code”). The Debtor has continued to manage its business as Debtor-in-Possession and no Trustee has been appointed.

On ____ day of August, 2017, Spencer Transportation submitted its Disclosure Statement pursuant to Bankruptcy Code § 1125, to disclose information so as to enable creditors and other parties in interest entitled to vote (if any) (the "Claimants") to make an informed decision in exercising their rights to accept or reject the Debtor’s Chapter 11 Plan of Reorganization (the "Plan").

Upon approval of this Disclosure Statement by the Bankruptcy Court, this Disclosure Statement may be considered in connection with (i) the solicitation of votes to accept the Plan, and (ii) the Confirmation Hearing scheduled for _____, prevailing Central Time, to be held by the Bankruptcy Court to consider confirmation of the Plan pursuant to Bankruptcy Code §§ 1128 and 1129 and Bankruptcy Rule 3017, as such hearing may be adjourned or continued from time to time.

The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be served and Filed so that they are received on or before _____, prevailing Central Time. The Confirmation Hearing may be adjourned or continued from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment or continuance date made at the Confirmation Hearing or at any subsequently adjourned or continued Confirmation Hearing. Annexed as Exhibits to this Disclosure Statement are copies of the following documents:

Spencer Transportation’s Chapter 11 Plan of Reorganization (Exhibit A);
Liquidation Analysis (Exhibit B);
Summary of Liabilities (Exhibit C);
Summary of Assets (Exhibit D);
Feasibility Analysis (Exhibit E); and
Ballot (Exhibit F).

DEFINITIONS

FOR PURPOSES OF THE PLAN, EXCEPT AS EXPRESSLY PROVIDED HEREIN OR UNLESS THE CONTEXT OTHERWISE REQUIRES, ALL CAPITALIZED TERMS NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN SECTION 1 OF THIS DISCLOSURE STATEMENT AND THE PLAN OR ANY EXHIBIT HERETO. ANY TERM USED IN THE PLAN AND NOT HEREIN DEFINED BUT DEFINED IN THE BANKRUPTCY CODE OR IN THE BANKRUPTCY RULES SHALL HAVE THE MEANING ASSIGNED TO SUCH TERM IN THE BANKRUPTCY CODE OR IN THE BANKRUPTCY RULES, AS APPLICABLE. AS USED IN THIS DISCLOSURE STATEMENT AND PLAN, THE FOLLOWING TERMS HAVE THE RESPECTIVE MEANINGS SPECIFIED BELOW:

1. **Administrative Expense Claim** means an Allowed Claim against the Debtor for costs and expenses of administration in connection with the Case under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) any actual and necessary costs and expenses incurred after the Filing Date of preserving the Estate and operating the business(es) of the Debtor (such as wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) all Bankruptcy Administrator fees and charges assessed against the Debtor's Estate, but excluding Claims relating to tax periods or portions thereof, ending on or before the Filing Date; (c) Allowed Goods Claims; (d) Fee Claims; and (e) all other Claims entitled to administrative claim status pursuant to a Final Order.

2. **Allowed** means, with reference to any Claim or Interest and with respect to the Debtors, (a) any Claim against or Interest in the Debtors that (i) has been listed by the Debtor in the Schedules, as may be amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of claim or interest has been Filed, or (ii) has been allowed under the Plan, or (iii) has been allowed by Final Order of the Bankruptcy Court, or (iv) as to which a proof of claim has been timely Filed in a liquidated amount with the Bankruptcy Court pursuant to the Bankruptcy Code or any order of the Bankruptcy Court, or Filed late with leave of the Bankruptcy Court after notice and a hearing, and (b) in respect of which no objection to the allowance of such Claim or Interest has been interposed within any applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, a Final Order or other applicable law.

3. **Assets** collectively refers to all property of the Estate, as defined in Section 541 of the Bankruptcy Code.

4. **Asset Sale** means any sale or transfer of the Assets of the Debtor which was approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code.

5. **Available Funds** means the amount of Cash generated from Net Income, held by the Debtor to be distributed to Holders of Allowed Claims. Debtor shall be entitled to keep a

cash reserve from Net Income of \$10,000.00, which is not required to be used as Available Funds.

6. **Avoidance Action** means any claim, action or cause of action of the Debtor or the Estate, or either of them, that is or may be the subject of an adversary proceeding or contested matter under sections 510, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and/or 553 of the Bankruptcy Code, or pursuant to any similar or related state or federal statute or common law (including fraudulent transfer laws) whether or not litigation has been commenced as of the Confirmation Date.

7. **Ballot** means each of the ballot forms distributed to each Holder of a Claim entitled to vote to accept or reject the Plan.

8. **Bankruptcy Administrator** means the Bankruptcy Administrator for the Northern District of Alabama.

9. **Bankruptcy Code** means Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. as applicable to this Case.

10. **Bankruptcy Court** means the United States Bankruptcy Court for the Northern District of Alabama, Western Division or, in the event that such court ceases to exercise jurisdiction over the Case, the court that exercises jurisdiction over the Case in lieu of the United States Bankruptcy Court for the Northern District of Alabama, Western Division.

11. **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under 28 U.S.C. § 2075, and the local rules of the Bankruptcy Court as applicable to this Case.

12. **Bar Date** means July 31, 2017 for claims of non-governmental units and governmental units, as established by Order [Doc. 114] of this Court as the Final Date to file respective proofs of claim, as well as requests for allowance of an Administrative Expense Claim submitted and allowed by the Bankruptcy Court, or any other notice, objection or other document to evidence, support or seek Allowance of any Claim.

13. **Business Day** means any day other than a Saturday, Sunday or Federal Legal Holiday.

14. **Case** means the above styled case of the Debtor under Chapter 11 of the Bankruptcy Code.

15. **Cash** means cash and cash equivalents in United States dollars.

16. **Causes of Action** means all Claims and causes of action held by the Estate immediately prior to the Effective Date, including, but not limited to, any and all Claims,

obligations, rights, suits, damages, causes of action, remedies and liabilities, whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, whether arising under any contract or under the Bankruptcy Code or other federal, state or other non-bankruptcy law, including, without limitation, any cause of action set forth in the Plan or Disclosure Statement and any Exhibit thereto as well as Avoidance Actions, but excluding Claims and causes of action and related recoveries expressly released, exculpated or waived pursuant to the Plan.

17. **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code.
18. **Class** means a category of Holders of Allowed Claims or Interests as set forth in Section II of the Plan.
19. **Confirmation** means entry of the Confirmation Order on the Bankruptcy Court's docket in the Case.
20. **Confirmation Date** means the date of entry of the Confirmation Order on the Bankruptcy Court's docket in the Case.
21. **Confirmation Hearing** means the hearing held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.
22. **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.
23. **Creditor** means any Person who holds a Claim against the Debtor.
24. **Debtor** means Spencer Transportation, LLC an Alabama limited liability company.
25. **Disclosure Statement** means the disclosure statement that relates to the Plan, approved by the Court pursuant to section 1125 of the Bankruptcy Code, as such Disclosure Statement may be amended, modified, or supplemented (and all exhibits and schedules annexed thereto or referred to therein).
26. **Disputed Claim** means a Claim against the Debtor that is not Allowed, including:
 - (a) if no proof of claim has been filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim that is listed on the Schedules as disputed, contingent or unliquidated; or (ii) a Claim that is listed on the Schedules as other than disputed, contingent or unliquidated, but as to which the Debtors or Plan Trustee, as applicable, or any other party in interest with standing to object to Claims under the Plan

or applicable law, has Filed an objection by the Claims Objection Deadline, unless such objection has been withdrawn or denied by a Final Order; or

- (b) if a proof of claim or request for payment of an Administrative Expense Claim has been Filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim for which a corresponding Claim is listed on the Schedules as disputed, contingent or unliquidated; or (ii) a Claim for which an objection has been Filed by the Debtors or Plan Trustee, as applicable, to which the Claim relates, or any other party in interest with standing to object to Claims under the Plan or applicable law, by the Claims Objections Deadline, unless such objection has been withdrawn or denied by a Final Order. For purposes of this provision, an application, motion, complaint or other pleadings or papers filed with the Bankruptcy Court seeking to subordinate or dismiss a Claim or Administrative Expense Claim shall be deemed an objection thereto; or
- (c) any Claim filed after the Bar Date applicable to such Claim.

27. **Distribution** means any distribution pursuant to the Plan to the Holders of Allowed Claims.

28. **Distribution Date** means any date on which a Distribution is made by the Debtor to Holders of Allowed Claims entitled to receive Distributions under the Plan, and such term includes the Initial Distribution Date.

29. **Effective Date** means the first Business Day following the date on which the Confirmation Order becomes a Final Order.

30. **Estate** means the Estate created by the commencement of the Case pursuant to section 541 of the Bankruptcy Code, including, without limitation, any and all rights, Claims and interests of the Debtor and any and all interests in property, whether real, personal or mixed, rights, Causes of Action, Avoidance Actions, avoidance powers or extensions of time that the Debtors or its Estate shall have had effective as of the commencement of the Case, or which such Estate acquired after the commencement of the Case, whether by virtue of sections 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code or otherwise.

31. **Exhibit** means an exhibit annexed to either the Disclosure Statement or the Plan or as an appendix to the Disclosure Statement.

32. **Fee Claim** means a Claim for compensation or reimbursement of expenses under sections 327, 328, 330, 331 503(b) or 1103 of the Bankruptcy Code.

33. **File, Filed or Filing** means file, filed or filing with the Bankruptcy Court or its designee in the Case.

34. **Filing Date** means January 4, 2017, the date of the Filing of the Debtor's Voluntary Petition commencing the Case under chapter 11 of the Bankruptcy Code.

35. **Final Distribution Date** means the date of the last Distribution under the Plan.

36. **Final Order** means an order or judgment of a court (a) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending; or (b) as to rehearing shall have been waived in writing in form and substance satisfactory to the Debtors or, (c) in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order shall have been denied by the highest court to which such order was appealed, no further certiorari, reargument or rehearing shall have been taken, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rules 9023 or 9024 may be filed with respect to such order shall not cause such order not to be a final order.

37. **Governmental Unit** means a "governmental unit" as defined in section 101(27) of the Bankruptcy Code.

38. **Holder** means an entity holding a Claim or Interest.

39. **Insider** has the meaning set forth in 11 U.S.C. § 101(31).

40. **Insider Claims** means the Claims of any Insider.

41. **Lease Obligations** means the obligations of the Debtor to Central Capital, LLC by virtue of the lease assumed during the pendency of the Case, as well as the Debtor's obligations to Dwayne Haney and BMO Harris Bank, and further described in the Disclosure Statement and Plan.

42. **Legal Holiday** has the meaning set forth in Bankruptcy Rule 9006(a)

43. **Lien** has the meaning set forth in section 101(37) of the Bankruptcy Code and shall include, without limitation, all liens, security interests, mortgages, replacement liens, adequate protection, carved out rights and all charges and interests created or imposed on property by any order of the Bankruptcy Court.

44. **Net Income** means funds remaining from operation of Debtor's business after payment of all ordinary course expenses of such operation, including, without limitation,

payments to independent contractor drivers, utilities, insurance premiums, tag and registration fees for trucks, fuel, and maintenance expenses.

45. **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

46. **Plan** means the chapter 11 plan of the Debtor, including, without limitation, all documents referenced herein and all exhibits, supplements, appendices and schedules hereto, either in its present form or as the same may be altered, amended or modified from time to time.

47. **Pre-Petition Payment Amount** means the monthly payment amount Debtor owed to each Holder of a Secured Claim as of the Petition Date. These amounts are more particularly describe in the Feasibility Analysis attached as an Exhibit to the Disclosure Statement.

48. **Priority Tax Claim** means any Claim against the Debtor of a Governmental Unit of the kind specified in sections 502(i) or 507(a)(8) of the Bankruptcy Code.

49. **Pro Rata** means proportionally, so that with respect to an Allowed Claim, the ratio of (a)(i) the amount of property distributed on account of a particular Allowed Claim to (ii) the amount of the Allowed Claim is equal to the ratio of (b)(i) the amount of property distributed on account of all Allowed Claims of the Class in which the particular Allowed Claim is included to (ii) the amount of all Claims in that Class (including Disputed Claims until disallowed).

50. **Schedules** means the schedules of assets and liabilities, the lists of Holders of Interests and the statements of financial affairs Filed by the Debtor under section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, and all amendments and modifications thereto through the Confirmation Date.

51. **Secured Claim** means the portion of any Claim against the Debtor, (a) determined in accordance with section 506(a) of the Bankruptcy Code, as of the Confirmation Date, secured by a valid, perfected and unavoidable Lien, to the extent of the value of the Holder's interest in the Debtors' interest in the subject Collateral; or (b) subject to offset under section 553 of the Bankruptcy Code, to the extent of the amount subject to offset.

52. **Unsecured Claim** means any Claim that is not an Administrative Claim, a Priority Tax Claim, or a Secured Claim.

53. **Voting Deadline** means the date and time, as fixed by an order of the Bankruptcy Court and as set forth in the Disclosure Statement, by which all Ballots to accept or reject the Plan must be received in order to be counted.

All capitalized terms employed in the Disclosure Statement and not otherwise defined herein shall have the meanings given such terms in the Plan, which is attached hereto as Exhibit "A".

ARTICLE II.

NATURE OF REPRESENTATIONS

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTOR SOLELY FOR THE BENEFIT OF CREDITORS AND HOLDERS WITH THE DEBTOR. THIS DISCLOSURE STATEMENT AND THE RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ACCEPTING OR REJECTING THE PLAN.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED TO SOLICIT ACCEPTANCES OF THE PLAN. THE INFORMATION IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ANY PARTY WHO DOES NOT OBJECT TO THIS DISCLOSURE STATEMENT IS NOT DEEMED TO WAIVE ANY RIGHTS TO OBJECT TO THE CONFIRMATION OF THE PLAN ON ANY BASIS OTHER THAN LACK OF ADEQUATE DISCLOSURE UNDER BANKRUPTCY CODE SECTION 1125.

ALL CREDITORS SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE BY THE DEBTOR AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED. THE DELIVERY OF THIS DISCLOSURE STATEMENT DOES NOT IMPLY THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SET FORTH HEREIN SINCE SUCH DATE. THE DEBTOR PREPARED THIS DISCLOSURE STATEMENT, BUT DOES NOT WARRANT OR REPRESENT THAT THIS DISCLOSURE STATEMENT IS WITHOUT ERROR. HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN SHOULD READ THIS DISCLOSURE STATEMENT AND PLAN AND CONSULT WITH COUNSEL OR OTHER ADVISORS PRIOR TO VOTING ON THE PLAN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE UNITED STATES BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAW.

NOTHING IN THIS DISCLOSURE STATEMENT IS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, NOR DOES THIS DISCLOSURE STATEMENT PROVIDE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS. YOU SHOULD CONSULT YOUR TAX ADVISOR ON ANY QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

IF ANY INCONSISTENCY EXISTS BETWEEN THE TERMS AND PROVISIONS OF THE PLAN AND THIS DISCLOSURE STATEMENT, THE TERMS AND PROVISIONS OF THE PLAN CONTROL. CERTAIN OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE FORWARD LOOKING FORECASTS AND ARE BASED UPON CERTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES.

IRS CIRCULAR 230 NOTICE

TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY HOLDERS OF CLAIMS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN AND OTHER MATTERS ADDRESSED HEREIN; AND (C) CLAIMANTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

ARTICLE III.

BACKGROUND

A. Narrative Description of the Debtor and Events Leading to Bankruptcy

Spencer Transportation, LLC was formed in June of 2011 by Dwayne Haney for the purpose of operating a local and long-haul trucking business. Over time, Spencer Transportation grew to operate a dozen trucks, with as many independent contractor drivers. The trucks and

trailers are Spencer Transportation's main assets, and were acquired through a combination of financed purchases and leases. The Debtor operates out of a facility in Marion County.

In the several months leading to the Filing Date, the trucking industry experienced a downturn, leading to a decrease in demand for Debtor's services. A significant portion of Debtor's business relies on the hauling of steel coils, which are used in coal mining and heavy manufacturing. When that line of business slowed, Debtor's cash flow suffered.

As a result, Debtor turned to several short-term lenders and took out loans to fill the gaps in his cash flow and continue operations. However, these debts snow-balled and Debtor began having trouble making timely payments on its trucks and trailers. When Holders of Secured Claims began threatening to repossess vital equipment, Debtor was caused to file the above captioned bankruptcy case on January 4, 2017.

B. Summary of Events that Occurred During the Course of the Bankruptcy

1. Professionals

At the beginning of the Case, the Debtor's application to employ Benton & Centeno, LLP ("Benton & Centeno") as the Debtor's legal counsel was approved by the Bankruptcy Court.

2. Adequate Protection

One of the most active aspects of this case has been the negotiation of adequate protection payments with the Secured Claim Holders. Debtor successfully negotiated payment plans with several Secured Claim Holders, and sought approval of those payments with the Court. Debtor also assumed a lease on one of its trucks, which it intends to use post-confirmation in the operation of its business. Debtor largely offered adequate protection payments equal to the pre-petition note obligations to the Secured Claim Holders, as these were the payments Debtor will ultimately seek to make in the Plan.

C. Description of Debtor's Other Assets

The Debtor does not have significant assets, other than its trucks and trailers. The Debtor has cash in its DIP accounts, which fluctuates as expenses are paid, and income is received. The Debtor also has a small amount of office equipment and tools for maintaining its trucks and trailers.

ARTICLE IV.

SUMMARY OF THE PLAN

The Debtor believes that its creditors, as a group, will obtain a greater recovery from the Estate of the Debtor through the Plan, than through the recovery that would otherwise be available if the assets of the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Accordingly, the Plan will maximize the value of the Debtor's assets. The Debtor believes, hence, that the Plan is in the best interests of the creditors.

The following summary is offered for convenience only; it is not a complete description of the terms of the Plan. Creditors must review the Plan itself for a complete understanding of the Plan and disclosure of its terms. In the event of a discrepancy between the terms of the Plan and anything contained in this Disclosure Statement, the terms of the Plan shall control.

A. Overview of Plan

The Plan places the creditors and equity holders of the Debtors in separate classes and provides for the treatment of each such class. For purposes of voting and all matters related to confirmation, except as otherwise provided in the Plan, all Claims and Interests shall be classified as set forth in Section II of the Plan. A Claim or Interest is classified in a particular class only to the extent that the Claim or Interest qualifies under the description of that class, and is classified in other classes to the extent that any remainder of the Claim or Interest qualifies under the description of such other classes. A Claim or Interest also is classified within a particular class only to the extent that such Claim or Interest is an Allowed Claim or Interest in that class and has not been paid, released or otherwise satisfied prior to the Effective Date.

The Debtor shall continue operation of its business in accordance with the Plan and shall distribute the Net Income thereof as follows: (a) first to pay Administrative Expense Claims; (B) pay Allowed Claims to the extent and in priority established by the Bankruptcy Code.

B. Classification of Claims

All Claims shall be classified as set forth in Section II of the Plan.

A Claim or Interest shall be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of the Claim or Interest qualifies within the description of such different Class. A Claim or Interest is in a particular Class only to the extent that such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled before the Effective Date.

The Debtor sets forth the Classes below; only Allowed Claims are considered:

C. Class 1: Administrative Expense Claims

There are several categories of Claims that make up the Administrative Expense Claims. These categories include Professional Fee Claims, and Claims allowed pursuant to § 503(b) of the Bankruptcy Code. The Debtor presently owes fees to Benton & Centeno, but while Benton &

Centeno has filed an interim Application, it has not yet filed an Application for Allowance of accrued compensation. The Bankruptcy Administrator will be due quarterly fees as required by the Code and similar expenses as required by the Bankruptcy Code. The Debtor is current with these obligations at this time.

Class 2: Priority Tax Claims

The Debtor is current with its tax obligations, and will pay future taxes as they come due to the appropriate taxing authority.

Class 3: Secured Claims & Leases Obligations

Class 3 shall consist of all Allowed Secured Claims and accrued Lease Obligations. Debtor has several Creditors holding Secured Claims, with varying payment requirements and payoff dates. The Debtor is also assuming two leases, and seeks to retain the leased equipment for use in its business. The Debtor estimates the total amount of Allowed Secured Claims and accrued Lease Obligations is \$ 951,136.00. Creditors in this class hold security interests in Debtor's trucks or equipment. Most Secured Creditors have been offered adequate protection payments, which have been approved by the Court and/or paid during the pendency of this Case. As the Claims of this Class are satisfied over time, Debtor will be able to devote an increasing amount of its Net Income to payment of Class 4 Creditor described below.

Class 4 – General Unsecured Claims Against Debtor

Class 4 shall consist of all Allowed Unsecured Claims against Debtor. The Debtor estimates that the total amount of General Unsecured Claims is approximately \$ 144,034.06, which amount may be increased or decreased based upon Claim Contests or failure to file a Proof of Claim.

Class 5 – Equity Holder Claims

Class 5 shall consist of all Equity Holder Claims, which would belong to Dwayne Haney as the sole member of the Debtor.

ARTICLE V.

Treatment of Claims and Interests

No Claim or Interest shall entitle the Holder thereof to a Distribution of Cash or to other consideration pursuant to the Plan unless, and only to the extent that, such Claim or Interest is an Allowed Claim or an Allowed Interest.

A. Treatment Claims

Class 1: Administrative Expense Claims

a. Allowance and Payment of Fee Claims. Except as provided by prior order of the Bankruptcy Court, professionals or other entities asserting a Fee Claim must File and serve on the Debtors, the Bankruptcy Administrator, and such other entities as are designated by the Bankruptcy Rules, the Confirmation Order or other Final Order of the Bankruptcy Court, an application for allowance of compensation and reimbursement of expenses to be paid by the Debtor and/or Plan Trustee. **Such application may include fees and expenses of the applicant incurred after the Confirmation Date. Failure to timely and properly File an application for allowance of a Fee Claim as set forth herein may result in such Fee Claim being barred and discharged.** Objections to an application for allowance of a Fee Claim must be Filed and served on the Debtor, the Bankruptcy Administrator, and the applicant no later than twenty (20) days after the Filing of the application for allowance of such Fee Claim. Unless the holder of an Allowed Fee Claim agrees to other treatment, any Allowed Fee Claim unpaid as of the Effective Date shall be paid on the Effective Date or, if later, not later than the fifteenth (15th) Business Day after such Fee Claim becomes Allowed, in Cash equal to such Allowed Fee Claim from the Available Funds or as soon as funds are available to pay such Allowed Fee Claim.

b. General Allowance Provisions for Administrative Expense Claims Other than Fee Claims. Pursuant to section 502 of the Bankruptcy Code, requests for payment of an Administrative Expense Claim, other than statutory fees and Fee Claims, arising before the Effective Date, must be Filed and served on the Bankruptcy Administrator, no later than thirty (30) days after the Effective Date; provided, however, all requests for payment of Administrative Expense Claims (except for Fee Claims) arising on or before the Bar Date, that were not filed before the Bar Date established by the Bankruptcy Court's Order establishing Bar Dates, shall be denied, barred and discharged as untimely. Each such request for payment of an Administrative Expense Claim must include, at a minimum, (i) the name of the Holder of the Claim, (ii) the amount of the Claim, (iii) the basis for the Claim, and (iv) documents evidencing or supporting the Claim. Failure to timely and properly file a request for payment of an Administrative Expense Claim as set forth herein may result in the Administrative Expense Claim being forever barred and discharged. Objections to any such request may be made by the Debtors or any party in interest and such objections, if any, must be filed and served on the Debtors, the Bankruptcy Administrator, the Plan Trustee and the requesting party by the later of twenty (20) days after the Effective Date or twenty (20) days after the filing of the applicable request for payment. To the extent not paid prior to the Effective Date, these claims shall be paid on the Effective Date or, if later, no later than the fifteenth (15th) Business Day after such Claim becomes Allowed, in Cash equal to such Allowed Claim from the Available Funds or as soon as funds are available to pay such Allowed Claim.

Class 2: Priority Tax Claims

a Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Priority Tax Claim shall be paid in full in Cash from the Available Funds, to the extent funds are available, within the later of (a) thirty (30) days after all Allowed Administrative Expense Claims that exist against the Debtor has received their full treatment under the Plan; or (b) if an objection is pending at such time, no later than the fifteenth (15th) Business Day after such Claim becomes Allowed, in Cash from the Available Funds. In the event funds are not available to pay Allowed Priority Tax Claims at the times set forth above, holders of Allowed Priority Tax Claims shall be paid in regular installments to be paid quarterly each year for five years from the Effective Date. Such quarterly payment shall commence on the first day of the first month that is ninety (90) days after all Allowed Administrative Expense Claims have received their treatment under the Plan.

Class 3 - Allowed Secured Claims

a. Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Class 3 Claim shall be paid the amount of their Pre-petition payment amount from the Available Funds after all Allowed Administrative Expense Claims receive the treatment they are entitled to under the Plan, to the extent funds are available, and until such Claims are paid in full. The distribution of Available Funds to this Class shall be in the sole discretion of the Debtor, and Debtor shall be entitled to keep a reserve of Available Funds up to \$10,000, if available. Distributions shall be made from Available Funds as they are replenished from Net Income.

b. Claims in Class 3 are impaired under the Plan. Therefore, pursuant to section 1126(a) of the Bankruptcy Code, the Holders of the Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.

Class 4 – Allowed Unsecured Claims

a. Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Class 4 Claim shall be paid pro rata from the Available Funds after all Allowed Administrative Expense Claims and Allowed Class 1, 2, and 3 Claims receive the treatment they are entitled to under the Plan, to the extent funds are available and until such Claims are paid in full. The distribution of Available Funds to this Class shall be in the sole discretion of the Debtor, and Debtor shall be entitled to keep a reserve of Available Funds up to \$10,000 if available; subsequent distributions shall be made from Available Funds as they are replenished from Net Income. Such subsequent distributions may be multiple in nature until, all the Allowed Claims in this Class are paid in full.

b. Claims in Class 4 are impaired under the Plan. Therefore, pursuant to section 1126(a) of the Bankruptcy Code, the Holders of the Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

Class 5 – Allowed Equity Holder Claims

a. Holders of Allowed Equity Holder Claims shall receive no distribution or recovery under the Plan.

c. Pursuant to section 1126(g) of the Bankruptcy Code, a Holder of a claim determined to be a contribution of capital is deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

B. Effect of Confirmation

1. Full and Final Satisfaction of Claims

The treatment of Claims and Interests provided in the Plan shall be in full and final satisfaction and settlement of all liabilities of Claims against the Estate, or Interest in the Debtor. Except as provided in the Plan or the Confirmation Order, the rights afforded under the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims and liabilities against the Estate and termination of all Interests arising on or before the Effective Date, including any interest accrued after the Filing Date.

2. Injunction

EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, THE CONFIRMATION ORDER SHALL PROVIDE, AMONG OTHER THINGS, THAT FROM AND AFTER THE EFFECTIVE DATE ALL PERSONS WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS AGAINST OR INTERESTS IN THE DEBTOR ARE PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST THE DEBTOR OR HIS ESTATE, OR ANY OF HIS PROPERTY ON ACCOUNT OF ANY SUCH CLAIMS OR INTERESTS: (A) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION OR OTHER PROCEEDING; (B) ENFORCING, ATTACHING, COLLECTING OR RECOVERING IN ANY MANNER ANY JUDGMENT, AWARD, DECREE OR ORDER; (C) CREATING, PERFECTING OR ENFORCING ANY LIEN OR ENCUMBRANCE; (D) ASSERTING A SETOFF, RIGHT OF SUBROGATION OR RECOUPMENT OF ANY KIND AGAINST ANY DEBT, LIABILITY OR OBLIGATION DUE TO THE DEBTOR; AND (E) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION THAT DOES NOT COMPLY WITH OR IS INCONSISTENT WITH THE PROVISIONS OF THE PLAN, PROVIDED HOWEVER, THAT NOTHING CONTAINED IN THE PLAN SHALL PRECLUDE SUCH PERSONS FROM EXERCISING THEIR RIGHTS PURSUANT TO AND CONSISTENT WITH THE TERMS OF THE PLAN OR THE CONFIRMATION ORDER.

THE CONFIRMATION ORDER SHALL FURTHER PROVIDE THAT UPON THE EFFECTIVE DATE, WITH THE EXCEPTION OF THE PLAN TRUSTEE AND ITS

PROFESSIONALS, ALL PERSONS ARE PERMANENTLY ENJOINED FROM OBTAINING ANY DOCUMENTS OR OTHER MATERIALS FROM BENTON & CENTENO, LLP, CURRENT COUNSEL FOR THE DEBTOR THAT IS IN THE POSSESSION OF SUCH COUNSEL AS A RESULT OF OR ARISING IN ANY WAY OUT OF THEIR REPRESENTATION OF THE DEBTOR.

3. Stay of Actions Against Guarantors and Co-Debtors

Confirmation of the Plan shall act as a stay, as that term is used in 11 U.S.C. § 362, of all actions against any co-debtors and/or guarantors of obligations of the Debtor to collect, enforce, or otherwise recover obligations of the Debtor. The stay shall continue during the pendency of this Case.

4. Exculpation Clause

The Debtor, the Professionals retained by the Debtor or the Professionals employed by the Debtor; any of the Debtor's affiliates nor any of his managers, officers, directors, partners, associates, employees, members or agents (collectively, the "Exculpated Persons"), shall not have or incur any liability to any person for any act taken or omission made in connection with or related to the bankruptcy case or actions taken therein, including negotiating, formulating, implementing, confirming or consummating the Plan, the Disclosure Statement, or any contract, instrument, or other agreement or document created in connection with the Plan. The Exculpated Persons shall have no liability to any Creditors or Holders of Interests for actions taken under the Plan, in connection therewith or with respect thereto in good faith, including, without limitation, failure to obtain Confirmation of the Plan or to satisfy any condition or conditions, or refusal to waive any condition or conditions, precedent to Confirmation or to the occurrence of the Effective Date. Further, the Exculpated Persons will not have or incur any liability to any holder of a Claim, holder of an Interest, or party-in-interest herein or any other Person for any act or omission in connection with or arising out of their administration of the Plan or the property to be distributed under the Plan, except for gross negligence or willful misconduct as finally determined by the Bankruptcy Court, and in all respects such person will be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

C. Implementation of Plan

1. Continued Operation of Debtor's Business.

The Debtor, through its sole member Dwayne Haney, shall continue operation of Debtor's business. Through continued operation, Debtor will generate Net Income, which be used as Available Funds to make the payments to Holders of Allowed Claims as outlined herein, and described more fully in the Plan.

2. Duration

The Debtor shall continue to exist, control the Assets and Distributions until entry of a Final Order by the Bankruptcy Court closing the Bankruptcy Case pursuant to section 350(a) of the Bankruptcy Code.

3. Exclusive Powers and Duties

The Debtor shall serve under the Plan and shall discharge all of the rights, powers and duties set forth in the Plan. Without limiting the generality of the foregoing, the Debtor, his successors and assigns, shall have the following exclusive rights, powers and duties:

- a. all of the rights, powers, and duties of a trustee in bankruptcy, including but not limited to, those under sections 704(a)(1), (2), (4), (5) and (7) and 1106(a)(6) and (7) of the Bankruptcy Code;
- b. to administer the Available Funds, pursuant to the terms of the Plan;
- c. to use, acquire and dispose of property free of any restrictions imposed under the Bankruptcy Code;
- d. to sell, devise or otherwise dispose of any Assets without further notice or order of the Court, except as otherwise provided in the Plan;
- e. to employ, retain, and replace such persons, including actuaries, attorneys, accountants, auctioneers, brokers, managers, consultants, other professionals, agents, investigators, expert witnesses, consultants and advisors as necessary to discharge the duties of the Plan Trustee under the Plan and to pay the reasonable fees and costs of such employment without the need to seek approval from the Bankruptcy Court or review by any other party in interest.
- f. to establish reserves and open, maintain and administer bank accounts as necessary to discharge the duties of the Plan Trustee under the Plan;
- g. to investigate, analyze, commence, prosecute, litigate, collect and otherwise administer the Causes of Action in the Bankruptcy Court or other court of competent jurisdiction and settle same without further order of the Court or notice to creditors;
- h. to voluntarily engage in arbitration or mediation with respect to any Causes of Action;

- i. to represent the Estate before the Bankruptcy Court and other courts of competent jurisdiction with respect to all matters;
- j. to seek the examination of and production of documents from any entity under and subject to the provisions of Bankruptcy Rule 2004;
- k. to pay any fees due and owing under 28 U.S.C. § 1930;
- l. to comply with applicable orders of the Bankruptcy Court and any other court of competent jurisdiction over the matters set forth herein;
- m. to comply with all applicable laws and regulations concerning the matters set forth herein;
- n. to invest the Available Funds in (a) direct obligations of the United States of America or obligations of any agency or instrumentality thereof which are guaranteed by the full faith and credit of the United States of America, (b) in money market deposit accounts, checking accounts, savings accounts or certificates of deposit, or other time deposit accounts that are issued by a commercial bank or savings institution organized under the laws of the United States of America or any state thereof, or (c) or any other investments that may be permissible under section 345 of the Bankruptcy Code or order of the Bankruptcy Court;
- o. to exercise such other powers as may be vested in the Plan Trustee pursuant to the Plan, the Confirmation Order or other Final Orders of the Bankruptcy Court;
- p. to execute any documents, instruments, contracts and agreements necessary and appropriate to carry out the powers and duties of the Plan Trustee.

4. Compromising Disputed Claims, Liens, and Causes of Action

The Debtor is authorized to: (i) compromise and settle any Causes of Action, Liens, and Disputed Claims; and (ii) execute necessary documents, including, but not limited to, a stipulation of settlement or release.

5. Distributions

The Debtor shall make Distributions from Available Funds upon entry of an Final Order Approving Confirmation of the Plan, taking into account applicable allowed or pending claims of

professionals and other administrative expense claims. The Debtor shall operate its business and make distributions in accordance with the Plan.

6. Retention and Enforcement of Claims and Causes of Action of the Estate

Unless expressly and unequivocally released in the Plan, nothing contained in the Plan shall be deemed to be a waiver or relinquishment or release of any Cause of Action that the Debtor may choose to assert on behalf of the Estate under any provision of the Bankruptcy Code or any applicable non-bankruptcy law. All Causes of Action, cross-claims, setoffs, defenses and counterclaims of the Debtors or the Estate of any kind or nature whatsoever including, without limitation, those against third parties arising before the Effective Date that have not been disposed of prior to the Effective Date shall be preserved and retained for enforcement by the Debtor for the benefit of the Estate as set forth in the Plan, except to the extent expressly and unequivocally released or enjoined by the Plan or pursuant to a Final Order. Without limitation of the foregoing, pursuant to section 1123(b) of the Bankruptcy Code, the Debtor, and his successors and assigns, shall retain and is solely empowered and authorized to enforce, for the benefit of the Estate, all Causes of Action and related recoveries of any nature or type whatsoever, at law or in equity, against any Person or entity.

Furthermore, except as specifically released or enjoined by the Plan or pursuant to a Final Order, the Debtor retains enforcement for the benefit of the Estate all Avoidance Actions, including, but not limited to, against the following Persons or entities: (a) any Person or entity who received a payment or property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within ninety (90) days of the Filing Date, including, but not limited to, those persons or entities identified in response to Question 3(a) on Debtors' Statement of Financial Affairs Filed with the Bankruptcy Court; (b) any insider of the Debtors, as that term is defined by the Bankruptcy Code, who received a payment or transfer of property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within one year of the Filing Date; and (c) any Person or entity who received a transfer of property from the Debtors or from whom the Debtors assumed an obligation within two years of the Filing Date. Regardless of whether or not a Person or entity is identified as a recipient of a payment or other transfer of property from the Debtor or the transferor of obligation to the Debtors in the Debtor's Statement of Financial Affairs Filed with the Bankruptcy Court, all Avoidance Actions against any Persons or entities shall be reserved and retained for enforcement by the Debtor, for the benefit of the Estate.

Nothing in the Plan prejudices any party's positions with respect to jurisdictional, substantive, and procedural issues pertaining to the Causes of Action and other claims described in this paragraph.

ARTICLE VI.

Claims Resolutions and Distributions

A. Procedure for Determination of Claims

1. **Objections to Claims.** The Debtor shall have exclusive authority and responsibility to prosecute objections to all Claims.

2. **Disputed Claims.** Payments or Distributions under the Plan on account of Disputed Claims shall be held in reserve pending the Allowance or disallowance of the Claim. To the extent any property is distributed to an entity on account of a Claim that is not an Allowed Claim, such property shall promptly be returned to the Plan Trustee. To the extent that a Disputed Claim ultimately becomes an Allowed Claim, Distributions on account of such Allowed Claim shall be made in accordance with the provisions of the Plan. On the Distribution Date next following the date that the order or judgment of the Bankruptcy Court allowing such Claim becomes a Final Order, any Cash held in reserve pursuant to the Plan that would have been distributed prior to the date on which a Disputed Claim becomes an Allowed Claim shall be distributed to the Holder of such Allowed Claim, together with any other Distributions that would have been due on account of such Claim being an Allowed Claim. The Plan Trustee shall reserve from any Distribution on account of Allowed Claims any amount otherwise allocable to a Claim that is a Disputed Claim.

B. Distributions

1. **Distributions on Allowed Claims**

Except as otherwise provided herein, Distributions to Holders of Allowed Claims shall be made: (a) at the addresses set forth on the respective proofs of claim Filed by such Holders; (b) at the addresses set forth in any written notice of address change delivered to the Debtor the date of the Filing of any related proof of claim; or (c) at the address reflected in the Schedules or the Debtor's books and records if no proof of claim has been Filed and if the Debtor or the Plan Trustee, as applicable, has not received written notice of a change of address, as set forth herein. The Distributions to Holders of Allowed Claims shall be on the Initial Distribution Date and the subsequent Distribution Dates on the terms and conditions of the Plan. Notwithstanding any other provision of the paragraph, all Distributions to Holders of Claims shall be subject to the provisions of the Plan concerning reserves for Disputed Claims.

2. **Undeliverable Distributions**

If a Distribution is returned as undeliverable, the Debtor shall hold such Distribution and shall not be required to take any further action with respect to the delivery of the Distribution unless and until the earlier of (a) the date on which the Debtor is notified in writing of the then current address of the holder entitled to receive the Distribution and (b) three (3) months after said Distribution, except as the Bankruptcy Court may otherwise order. If the Debtor is notified in writing of the then current address of the holder before three (3) months after said Distribution, the Debtor shall make the Distribution required by the Plan to the Holder at such address. If the Debtor is not so notified by three (3) months after said Distribution, and the

Holder of the Claim does not assert a right to the undeliverable Distribution within three (3) months after the Distribution, the Holder shall be forever barred from asserting a Claim to such undeliverable Distribution and such future Distributions, and the undeliverable Distribution shall become available for Distribution to Holders of other Allowed Claims as provided in the Plan.

3. Manner of Payment

Distributions under the Plan may be made, at the option of the Debtor, in Cash, by wire transfer or by check drawn on such accounts established by the Plan Trustee as necessary to effectuate the Plan.

4. Interest

Unless otherwise required by Final Order of the Bankruptcy Court, interest shall not accrue or be paid after the Filing Date on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Filing Date on any Claim.

5. *De Minimis* Distributions

Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole cent.

- a. No interim Distribution will be made on account of any Allowed Claim if the amount of such Distribution is less than \$100.00.
- b. No interim Distribution will be made on account of any Allowed Claim if the amount of such Distribution is less than \$100.00. On the Final Distribution Date, the Plan Trustee shall (i) aggregate the amount of all Distributions that would have been made on account of an Allowed Claim in Class Three but for this de minimis provision and (ii) make a Distribution on account of such Allowed Claim in accordance with the Plan.

6. Distributions on Claims Allowed Pursuant to Section 502(h) of the Bankruptcy Code

Except as otherwise provided in the Plan, no Distribution shall be made on account of a Claim arising as a result of a Final Order entered in an Avoidance Action until such Claim becomes an Allowed Claim. Any Claim that is Allowed pursuant to § 502(h) of the Bankruptcy Code prior to the Initial Distribution Date as a result of the entry of a Final Order in any Avoidance Action will be treated in accordance with the provisions of the Plan. All Holders of such Claims that become Allowed Claims after the Initial Distribution Date will receive an Initial Distribution on the Distribution Date next following the date on which their Claim

becomes an Allowed Claim and shall receive subsequent Distributions, if any, in accordance with the provisions of the Plan. Distributions under the Plan on account of anticipated Claims that may arise or become allowable as a result of the entry of a Final Order in any Avoidance Action that are not Allowed Claims as of the Initial Distribution Date may be held in reserve, at the discretion of the Plan Trustee, pending the allowance or disallowance of such Claims.

7. Compliance with Tax Requirements

In compliance with section 346 of the Bankruptcy Code, to the extent applicable, the Debtor shall comply with all withholding and reporting requirements imposed by federal, state or local taxing authorities in connection with making Distributions pursuant to the Plan and shall be authorized to take any and all action necessary and appropriate to comply with such requirements. As a condition to making any Distribution under the Plan, the Plan Trustee may require the Holder of an Allowed Claim to provide such Holder's taxpayer identification number, and such other information, certification or forms as necessary to comply with applicable tax reporting and withholding laws. Notwithstanding any other provision of the Plan, each entity receiving a Distribution of Cash pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such Distribution.

8. Reserve for Disputed Claims

Except as otherwise provided in the Plan, no Distribution shall be made on account of a Disputed Claim until such Claim becomes an Allowed Claim. In making any Distribution on Allowed Claims, the Debtor and/or Plan Trustee (if applicable) shall calculate the amount of such Distribution (for purposes of making a Pro Rata calculation) as if each Disputed Claim were an Allowed Claim, unless the Bankruptcy Court enters an order specifying that the Disputed Claim should be treated as being a different amount for purposes of such calculation. The Plan Trustee shall reserve from Distributions a sufficient amount to make a Distribution on a Disputed Claim in the event it becomes an Allowed Claim (unless the Bankruptcy Court orders otherwise); and to the extent a Disputed Claim is disallowed pursuant to a Final Order, any reserves attributable to the disallowed portion of the Disputed Claim shall be distributed on account of Allowed Claims pursuant to the terms of the Plan.

9. Setoffs

Subject to section 553 of the Bankruptcy Code, in the event the Debtor has a Claim or Cause of Action of any nature whatsoever against a Holder of a Claim, the Debtor may, but is not required to, set off or recoup the Debtor's Claim or Cause of Action against such Claim (and any Distributions or other rights to receive property arising out of such Claim under the Plan) unless any such Claim or Cause of Action of the Debtor is or will be released under the Plan. Neither the failure to set off nor the allowance of any Claim under the Plan shall constitute a waiver or release of any Claim or Cause of Action of the Debtor.

10. **Reliance on Claims Register**

In making Distributions under the Plan, the Debtor may rely upon the accuracy of the claims register maintained by the Bankruptcy Court or its designee as claims agent in the Case, as modified by any Final Order of the Bankruptcy Court disallowing Claims in whole or in part. The Debtor may also rely upon the Schedules of the Debtor enumerating the liabilities of the Debtor when such enumeration designates the debt owed to the creditor as not being subject to liquidation or dispute and, hence, should be treated as an Allowed Unsecured Claim whether a proof of claim has been filed or not.

ARTICLE VII.

Other Provisions of the Plan

A. **Treatment of Executory Contracts and Unexpired Leases**

Pursuant to section 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases to which the Debtors are or were a party and not previously rejected or assumed, and assigned pursuant to prior order of the Bankruptcy Court or in the Plan, are deemed rejected pursuant to section 365(a) of the Bankruptcy Code as of the Confirmation Date. The accounts receivable and notes receivable and other contractual obligations owed the Debtor by third parties shall not be deemed executory in nature and shall be the subject of continued sale efforts and/or collection and recovery rights in favor of the holder of such account or note receivable.

Each party to an executory contract or unexpired lease rejected pursuant to the Plan (and only such entities) asserting a Claim for damages arising from such rejection shall File, not later than thirty (30) days following the Confirmation Date, a proof of such Claim; provided, however, that (1) the Bar Date established for rejection damages claims in this Section IV of the Plan shall not apply to Persons that may assert a Claim on account of an executory contract or unexpired lease that was rejected by the Debtors before the Confirmation Date for which a prior Bar Date was established; and (2) any Person asserting a claim for rejection damages that does not timely File a proof of claim in accordance with the Plan shall be forever enjoined and barred from asserting such Claim against the Debtors, the Estate or any property of the Estate.

1. **Lease of Trailers by Dwayne Haney to the Debtor**

In September 2013, Dwayne Haney individually purchased a Manac flatbed trailer (bearing VIN # 5MC120216D3138674), and financed said purchase through a loan from General Electric Capital Corporation, which was succeeded in interest by BMO Harris Bank, N.A. This trailer, though titled in Dwayne Haney's name, has been used exclusively by the Debtor since its purchase. Debtor has paid the loan and expenses associated with the trailer, and earned income

from their operation and use. Accordingly, Dwayne Haney and Debtor will formalize this arrangement in the Plan by way of a lease of the trailer to the Debtor. Debtor proposes to simply continue paying the loan obligations and expenses for operation of the trailer, and earn all income associated with their use. Debtor will directly pay BMO Harris as a Class 3 secured creditor.

B. Effective Date

The Plan will not become effective and operative unless and until the Effective Date occurs. The Effective Date will occur on the first Business Day after, and only after (a) the Confirmation Order has been entered and becomes a Final Order, and provides that the Debtor is authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with the Plan or effectuate, advance or further the purposes thereof; (b) all Plan Exhibits shall be, in form and substance, reasonably acceptable to the Debtor and shall have been executed and delivered by all parties' signatory thereto; (c) when appropriate, the Debtor shall be authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, indentures and the agreements or documents created in connection with the Plan; (d) all other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed; (e) Available Funds shall be sufficient to make all required payments on the Effective Date and fund a reserve for such payments if not Allowed as of the Effective Date.

Each of the conditions precedent to the Effective Date as set forth in Section V of the Plan may be waived in whole or in part by the Debtor. The failure of a party to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

C. Consequences Of Non-Occurrence Of Effective Date

In the event that the Effective Date does not timely occur, the Debtor reserves all rights to seek an order from the Bankruptcy Court directing that the Confirmation Order be vacated, that the Plan be null and void in all respects, and/or that any settlement of Claims provided for in the Plan be null and void. In the event that the Bankruptcy Court shall enter an order vacating the Confirmation Order, the time within which the Debtors may assume and assign, or reject all executory contracts and unexpired leases not previously assumed, assumed and assigned, or rejected, shall be extended for a period of thirty (30) days after the date the Confirmation Order is vacated, without prejudice to further extensions.

D. Retention of Jurisdiction

Under the Plan, following the Effective Date, the Bankruptcy Court shall retain such jurisdiction as is set forth in the Plan. Without limitation, the Bankruptcy Court shall retain jurisdiction for the following purposes:

1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Expense Claim, the resolution of any objections to the Allowance or priority of Claims or Interests and the determination of requests for the payment of claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including compensation of any reimbursement of expenses of parties entitled thereto;
2. Hear and determine all applications for compensation and reimbursement of expenses of professionals under the Plan or under sections 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code;
3. Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which the Debtors are a party or with respect to which the Debtors may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. Effectuate performance of and payments under the provisions of the Plan;
5. Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to the Case or the Plan;
6. Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
7. Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan;
8. Consider any modifications of the Plan and any implementing documents, cure any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
9. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with

implementation, consummation, or enforcement of the Plan or the Confirmation Order;

10. Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;
11. Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
12. Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Case;
13. Except as otherwise limited by the Plan, recover all assets of the Debtors and property of the Estate, wherever located;
14. Hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;
15. Hear and determine all matters related to the property of the Estate from and after the Confirmation Date;
16. Hear and determine the Causes of Action, unless the Plan Trustee determines, in his sole discretion, to commence an action or proceeding in another court of competent jurisdiction;
17. Hear and determine all disputes involving the existence, nature or scope of the injunctions indemnification, exculpation and releases granted pursuant to the Plan.
18. Hear and determine all disputes or other matters arising in connection with the interpretation, implementation or enforcement of the Asset Sales;
19. Hear and determine all matters related to (a) the property of the Estate from and after the Confirmation Date, (b) the winding up of the Estate, and (c) the activities of the Plan Trustee, including (i) challenges to or approvals of his activities, where required under the Plan, (ii) the resignation, incapacity or removal of the Plan Trustee, (iii) reporting by, termination of and accounting by the Plan Trustee, and (iv) release of the Plan Trustee from his duties;
20. Hear and determine disputes with respect to compensation of professionals;

21. Hear and determine all disputes involving the existence, nature and/or scope of the injunctions and releases provided by the Plan including any dispute relating to any liability arising out of any termination of employment or the termination of any employee or retiree benefit provision, regardless of whether such termination occurred prior to or after the Effective Date;
22. Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provision of the Bankruptcy Code;
23. Enforce all orders previously entered by the Bankruptcy Court; and
24. Enter a final decree closing the Case.

E. Modifications and Amendments

The Debtor may alter, amend or modify the Plan pursuant to section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After Confirmation Date and prior to the substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Plan Proponent may, pursuant to section 1127(b) of the Bankruptcy Code, institute proceedings in Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of the Plan; so long as such proceedings do not adversely affect the treatment of Holders of Claims or provided, however, that prior notice of such proceedings shall be served in accordance with Bankruptcy Rule 2002 or order of the Bankruptcy Court.

F. Disclosure Statement Supplement

Exhibits to the Plan not attached hereto shall be filed in one or more Supplements by the Exhibit Filing Date. Any Supplement (and amendments thereto) filed by the Debtors shall be deemed an integral part of this Disclosure Statement and shall be incorporated by reference as if fully set forth herein. Substantially contemporaneously with its Filing, any Supplement may be viewed at the office of the clerk of the Court or its designee during normal business hours, by visiting the Court's website at ecf.alnb.uscourts.gov (PACER account required). Holders of Claims and/or Interests may obtain a copy of any Plan Supplement upon written request to the Debtor's counsel, Benton & Centeno. The documents contained in any Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. To the extent any Exhibit is inconsistent with the terms of this Disclosure Statement, unless otherwise ordered by the Bankruptcy Court, the non-Exhibit portion of this Disclosure Statement shall control.

ARTICLE VIII.

PLAN CONFIRMATION PROCESS

Under the Bankruptcy Code, the following steps must be taken to confirm the Plan:

A. Acceptance Of Plan By Voting

1. Approval of Disclosure Statement

After notice and a hearing held on _____ by order dated _____ pursuant to Bankruptcy Code § 1125, the Bankruptcy Court approved this Disclosure Statement as containing information of a kind, and in sufficient detail, that would enable a hypothetical reasonable investor typical of holders of Claims to make an informed judgment whether to accept or reject the Plan. The Bankruptcy Court's approval of this Disclosure Statement, however, does not constitute a determination by the Bankruptcy Court as to the fairness or merits of the Plan.

Each holder of Claim entitled to vote on the Plan and should carefully read this Disclosure Statement and the Plan in their entirety before voting on the Plan.

2. Voting on the Plan

Pursuant to Bankruptcy Code § 1126, holders of Allowed Claims may vote to accept or reject the Plan, provided, however, that (i) the holders of Claims in classes that are not impaired under the Plan conclusively are presumed to have accepted the Plan and solicitation of acceptances with respect to such classes is not required, and (ii) a class is deemed not to have accepted the Plan if the Plan provides that the Claims or Interests in such class do not entitle the holders of such Claims or Interests to receive or retain any property under the Plan on account of such Claims or Interests. Accordingly, the Debtor is soliciting acceptance of the Plan only from holders of Claims in Classes 3 and 4 which are "impaired" under the Plan and are entitled to accept or reject the Plan.

Because holders of Interests in Class 5 (Allowed Equity Holder Claims) shall not receive or retain any Distribution or other property on account of such Interests, they are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

3. Deadline for Voting

After reviewing the Plan and the Exhibits hereto, please indicate your vote on the enclosed Ballot (Exhibit F) and return it either by overnight courier or regular mail to the Attorney at the address specified in the Ballot and below. Holders of Claims in Classes entitled to vote should read the Ballot carefully and follow the instructions contained therein. **BALLOTS SUBMITTED TO THE ATTORNEY BY FAX OR OTHER ELECTRONIC TRANSMISSION WILL NOT BE ACCEPTED AND WILL BE VOID.**

Holders of Claims in Classes 3 and 4 should complete and sign the enclosed Ballot and deliver it to the Debtor at the following address:

**Lee R. Benton, Esquire
Samuel C. Stephens, Esquire
Benton & Centeno, LLP
2019 3rd Avenue North
Birmingham, Alabama 35203**

FOR YOUR VOTE TO COUNT, YOUR BALLOT MUST BE RECEIVED BY THE ATTORNEY DESIGNATED ABOVE AT THE SPECIFIED ADDRESS NO LATER THAN 5:00 P.M. PREVAILING CENTRAL TIME ON _____ (THE "VOTING DEADLINE").

The Debtor has concluded that confirmation of the Plan is in the best interest of the Debtor, all Holders of Claims and the Debtor's Estate.

B. Confirmation

At the Confirmation Hearing, the Bankruptcy Court may confirm the Plan if the Plan satisfies all requirements of Bankruptcy Code § 1129(a). The requirements for confirmation of the Plan under Bankruptcy Code § 1129(a) include the following: (1) the Plan must be accepted by all impaired classes, (2) the Plan must be feasible, and (3) with respect to each holder of a Claim or Interest that does not vote to accept the Plan (even if such holder is a member of a Class that as a whole votes to accept the Plan), the Plan must be in the "best interest" of such holder in that the Plan provides for a Distribution to the holder that is not less than the amount such holder would receive in a hypothetical Chapter 7 liquidation of the Debtor.

With respect to the requirement that each impaired class votes to accept the Plan, Bankruptcy Code § 1129(b) provides that if all other requirements of Bankruptcy Code § 1129(a) are satisfied, the Plan still may be confirmed if the Plan, with respect to each impaired class that does not accept the Plan, "does not discriminate unfairly" and is "fair and equitable" with respect to such Class. The acceptance, feasibility, unfair discrimination and fair and equitable concepts are discussed in more detail below.

For the Plan to be accepted by an impaired class of Claims or Interest, it must be accepted by holders of Claims or Interest in such Class that hold at least two-thirds in dollar amount and one-half in number of the Claims or Interest in such Class held by creditors that actually vote. A Class or Interest is impaired if the legal, equitable, or contractual rights of the members of such Class or Interest are modified or altered by the Plan (with an exception, not applicable to the Plan, for curing defaults, reinstating maturity and compensating certain damages). Holders of Claims in Class 1 and Class 2 are impaired. Unimpaired Classes are conclusively presumed to have accepted the Plan and are not part of the vote solicitation process.

If all Classes of Claims are unimpaired but a Class of Interests is impaired and does not accept the Plan, the Debtor may seek confirmation of the Plan under the "cramdown" provisions of Bankruptcy Code § 1129(b). To obtain confirmation despite non-acceptance by one or more impaired classes, the Debtor must show to the Bankruptcy Court that the Plan does not discriminate unfairly and is fair and equitable with respect to each such Class. Each of these requirements is discussed further, as follows:

1. Unfair Discrimination

A Plan does not discriminate unfairly with respect to a non-accepting Class if it protects the rights of such Class in a manner consistent with the treatment of other Classes with similar rights. The unfair discrimination test does not require that similarly situated Classes be treated in exactly the same way. The test requires that such Classes be treated substantially similarly or, if not treated substantially similarly, that differences in treatment be fair.

2. Fair And Equitable Test

In the event any impaired class of Claimants does not accept the Plan, the Debtor must demonstrate to the Bankruptcy Court, as to each nonaccepting Class that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to that Class. A Plan does not discriminate unfairly if no Class receives more than it is entitled to for its Claims. The Bankruptcy Code establishes "fair and equitable" tests for unsecured creditors as follows:

Unsecured Creditors: Either (i) each impaired unsecured creditor receives or retains under the Plan property of a value equal to the amount of its Allowed Claim, or (ii) the holders of Claims that are junior to the Claims of the dissenting class will not receive any property under the Plan.

C. Best Interest Test

Before the Bankruptcy Court will confirm the Plan, the Plan must meet the best interest test. The best interest test requires that with respect to each impaired class of creditors under the Plan, each Claimant either (a) has accepted the Plan; or (b) will receive or retain under the Plan on account of its Claim property of a value, as of the Effective Date of the Plan, that is not less than the amount such Claimant would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. In other words, if one or more Claimants that are members of an impaired class vote to reject the Plan, the Bankruptcy Court will confirm the Plan only if the Distribution to such Claimants under the Plan is not less than the Distribution that the Claimants would receive under a Chapter 7 liquidation of the Debtor.

Based upon several factors present in the Debtor's Bankruptcy Case, the Debtor believes that the Plan meets the best interest test. Considering the liquidation value of the Debtor's assets, the Liens and security interests of secured creditors, the cost of liquidation under Chapter

7, and the adverse impact that a liquidation under Chapter 7 would have on the going concern value of the Debtor's Assets, the Debtor believes that the Plan provides for a larger Distribution to individual unsecured creditors than under a Chapter 7 liquidation of the Debtor.

To determine if the Plan is in the best interest of each impaired class, the Bankruptcy Court will compare the present value of the Distributions from the proceeds of the liquidation of the Debtors' assets and properties (after subtracting the amounts attributable to the Secured Claims discussed above) with the present value offered to each of the Classes of Unsecured Claims under the Plan. The Distributions from the liquidation proceeds would be calculated Pro Rata according to the amount of the Claim held by each creditor.

After considering the effects that a Chapter 7 liquidation would have on the ultimate proceeds available for Distribution to creditors in the present case, including the costs and expenses of liquidation under Chapter 7, the uncertainties inherent in a Chapter 7, and the adverse effect that a Chapter 7 would have on the value of certain of the Debtors' Assets, the Debtor has determined that a Chapter 7 liquidation would not pay creditors in full. Debtor believes the value of any Distribution from the liquidation proceeds in a Chapter 7 would be less than the value of the Distribution under the Plan due to efficiencies provided by having a Plan Trustee.

Based on the foregoing analysis and given the elimination of uncertainties inherent under Chapter 7, the Debtor believes the confirmation of the Chapter 11 Plan will provide each Claimant with greater recovery than such Claimant would receive pursuant to a liquidation of the Debtor under Chapter 7 of the Bankruptcy Code. Accordingly, the Debtor submits that the Plan meets the best interest test.

D. Acceptance

Each impaired class of Claimants must accept the Plan or the "Fair and Equitable Test" described above must be met with respect to each impaired class that does not accept the Plan by the requisite vote.

E. Consummation

The Plan provides that the Plan shall be deemed to be substantially consummated when the Debtor and/or Plan Trustee makes the Final Distribution.

The Plan is to be implemented pursuant to the provisions of the Bankruptcy Code. Implementation requires an order of the Bankruptcy Court confirming the Plan.

F. Discharge

The Bankruptcy Code does not authorize a Discharge of an entity such as the Debtor, and, hence, confirmation does not create a Discharge effective as of the Effective Date.

However, an injunction contained within the Plan shall prevent undue credit actions and the Debtor anticipates filing a motion to enforce such injunction if violated.

If appropriate, the Debtor intends to file a motion requesting entry of a discharge pursuant to 11 U.S.C. § 1141 (d)(5)(B). Said motion will request a discharge of all debts except to the extent provided in the Plan or the Order confirming the Plan, of if a debt is excepted from discharge under 11 U.S.C. § 523. To the extent that a debt, claim, lien or interest is satisfied pursuant to the Plan, either by the payment of cash, the surrender of collateral, or the issuance of new documents or otherwise, said holder of said debt, claims or interest shall have no further claim or lien against or interest in the Debtor, the bankruptcy estate of the Debtor, or the asset of the bankruptcy estate or the Debtor, provided further, that if nothing is to be paid to said creditor, lienholder, claimant or equity security holder, said debt, claim, lien or interest will be discharge pursuant to 11 U.S.C. § 1141.

ARTICLE IX.

ALTERNATIVES TO CONFIRMATION OF THE PLAN

If the Plan is not confirmed and consummated, the theoretical alternatives include: (a) liquidation of the Debtor under Chapter 7 of the Bankruptcy Code; or (b) an alternative plan of reorganization.

A. Liquidation Under Chapter 7

If the Bankruptcy Court does not confirm a plan of reorganization, the Bankruptcy Court may convert the Debtor's case to a case under Chapter 7 of the Bankruptcy Code. Under Chapter 7, a trustee would be elected or appointed to liquidate the assets of the Debtor for Distribution to creditors in accordance with the priorities established by the Bankruptcy Code. Without limitation, secured and priority Claims would be paid in full before any Distribution to general unsecured creditors. The Debtor believes that liquidation of the Debtor's assets under Chapter 7 would result in fewer Distributions to unsecured creditors than under the Plan. Additionally, having one Plan Trustee oversee the liquidating of the Debtor's assets through the structure provided by the Plan will provide efficiency to the process.

A liquidation analysis of the Debtor is attached to the Debtor's Plan as Exhibit B.

B. Alternative Plan of Reorganization

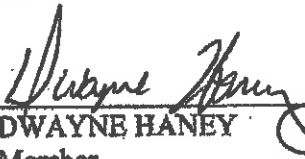
If the Plan is not confirmed, creditors may elect to vote for other plans which may be proposed later. However, given the liquidating of the Debtor's assets and the status of the economy, Debtor does not believe that it can effectively reorganize under any plan not involving substantial liquidation of the Debtor's assets.

ARTICLE X.


RECOMMENDATION

The Debtor believes that the confirmation and implementation of the Plan is preferable to the alternative described above because the Plan will provide greater recoveries to all claimants than those available in a Chapter 7 liquidation. In addition, any other alternative plan would probably not be feasible and would involve significant delay, uncertainty, and substantial additional administration. Accordingly, the Debtors recommend that all parties entitled to vote on the Plan accept the Plan and that the Bankruptcy Court confirm the Plan.

DATED this the 3rd day of August, 2017.


DWAYNE HANEY
Member

Dated: 8/30/17


Lee R. Benton
Samuel C. Stephens
Attorneys for Spencer Transportation, LLC

OF COUNSEL:

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Email: sstephens@bcattys.com

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of August, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system, which will send notification of such filing to all parties requesting electronic service and by mailing a copy to the **Creditor Matrix** (attached).

Samuel C. Stephens
Of Counsel

Label Matrix for local noticing
1126-7
Case 17-70012-JHH11
NORTHERN DISTRICT OF ALABAMA
Tuscaloosa
Wed Aug 30 12:40:50 CDT 2017

Commercial Credit Group, Inc.
Balch & Bingham LLP
c/o Jesse S. Vogtle, Jr.
PO Box 306
Birmingham, AL 35201-0306

Mercedes-Benz Financial Services USA LLC
c/o Burr & Forman LLP
420 N 20th Street, Ste 3400
Birmingham, AL 35203-5210

Volvo Financial Services, a Division of VFS
Baker Donelson, PC
c/o Matthew M. Cahill
420 20th Street North
Suite 1400
Birmingham, AL 35203-3221

B&T Express
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North Lima, OH 44452-0468

Central Leasing
3184 Cahaba Heights Road
Birmingham, AL 35243-5217

Commercial Credit Group, LLC
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Charlotte, NC 28260-0121

ENGS Commercial Finance Company
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Fleetpride
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Dallas, TX 75247-6008

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Knoxville, TN 37919

BMO Harris Bank N.A.
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Cedar Rapids, IA 52406-3040

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Jones Walker LLP
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Suite 1100
Birmingham, AL 35203-2122

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773 Mt. Willing Road
Guin, AL 35563-3040

U. S. Bankruptcy Court
2005 University Blvd., Room 2300
Tuscaloosa, AL 35401-1546

Birmingham Freightliner
aka Peach State Truck Center
P.O. Box 808
Norcross, GA 30091-0808

Citizens Bank of Winfield
P.O. Box 550
Winfield, AL 35594-0550

Daimler Chrysler
13650 Heritage Parkway
Fort Worth, TX 76177-5323

ENSG Commercial Finance
2441 Warrenville Road
Lisle, IL 60532-3664

GE/BMO
P.O. Box 71951
Chicago, IL 60694-1951

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The Citizens Bank of Winfield
Rosen Harwood, PA
c/o Kristofor Sodergren, Esq.
P. O. Box 2727
Tuscaloosa, AL 35403-2727

AG Adjustments
740 Walt Whitman Road
Melville, NY 11747-2212

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Charlotte, NC 28202-2664

Dwayne Haney
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First Franklin Financial Corp.
2302 Temple Avenue N.
Fayette, AL 35555-1118

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Keystone Equipment Finance Corp
P.O. Box 330429
West Hartford, CT 06133-0429

Kubota Credit Corporation USA
4400 Amon Carter Blvd, Ste. 100
Fort Worth, TX 76155-2695

LG Funding, LLC
1218 Union Street Ste. 2
Brooklyn, NY 11225-1512

Mahindra Finance USA, LLC
P.O. Box 2000
Johnston, IA 50131-0020

Newman Specialized Carriers, Inc.
P.O. Box 78
Belk, AL 35545-0078

Nextran Volvo
P.O. Box 820
Fultondale, AL 35068-0820

Octagon Tire
3947 Excelsior Blvd. LL
Minneapolis, MN 55416-4779

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Winfield, AL 35594-0727

R. Price
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Winfield, AL 35594-0390

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Assistant US Bankruptcy Administrator
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Fayette, AL 35555-2617

Secretary of the Treasury
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Washington, DC 20220-0001

Stovall Contractors
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The Business Backer
10101 Alliance Road
Cincinnati, OH 45242-4715

(c)TIMEPAYMENT CORP
1600 DISTRICT AVE STE 200
BURLINGTON MA 01803-5233

U.S. Securities and Exchange Commission
Regional Director, Branch of Reorganizat
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Atlanta, GA 30326-1180

United States Attorney
Northern District of Alabama
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United States Bankruptcy Administrator
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Samuel Stephens
Benton & Centeno
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Birmingham, AL 35203-3301

Addresses marked (c) above for the following entity/entities were corrected
as required by the USPS Locatable Address Conversion System (LACS).

TimePayment Corp
16 N.E. Executive Park #200
Burlington MA 01803

(d)TimePayment Corp
16 N.E. Executive Park #200
Burlington, MA 01803

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)JB&B Investments

(d)TimePayment Corp
1600 District Ave Suite 200
Burlington, MA 01803-5233

End of Label Matrix	
Mailable recipients	53
Bypassed recipients	2
Total	55

Exhibit A - DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In Re:)	Chapter 11
)	
SPENCER TRANSPORTATION, LLC)	
)	Case No. 17-70012-JHH11
Debtor.)	
)	

DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

Lee R. Benton
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Birmingham, Alabama 35203
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sstephens@bcattys.com

Counsel for Debtor-in-Possession

August 30, 2017

INTRODUCTION

The Debtor, Spencer Transportation, LLC (“Spencer Transportation” or “the Debtor”) hereby proposes this Chapter 11 Plan of Reorganization to resolve claims against the Debtor. The Debtor is a proponent of this Plan within the meaning of section 1129 of the United States Bankruptcy Code, as amended.

Substantially all of the Debtor’s Assets will be retained. This Plan provides for the orderly payment of Debtor’s Creditors from the Net Income of Debtor’s continued operation in accordance with the priorities established by the Bankruptcy Code.

For a discussion of the Debtor’s history, businesses, operations, assets and financial information, and for a summary and analysis of this Plan, all parties entitled to vote on this Plan should consult the Disclosure Statement accompanying this Plan, including the Exhibits thereto.

No solicitation materials other than the Disclosure Statement and related materials transmitted therewith have been approved for use in soliciting acceptances and rejections of this Plan. Nothing in this Plan should be construed as constituting a solicitation of acceptances of this Plan unless and until the Disclosure Statement has been approved and distributed to all holders of Claims and Interests to the extent required by 11 U.S.C. § 1125.

NO CREDITOR OR OTHER PARTY IN INTEREST SHOULD CONSIDER THIS PLAN BINDING ON ANY PARTY IN THE ABOVE-CAPTIONED CASES UNTIL CONFIRMED, AS THIS PLAN IS SUBJECT TO AMENDMENT AND MAY BE REVISED. NO ASSURANCE CAN BE GIVEN THAT ANY DISTRIBUTION WILL BE MADE ON THE TERMS SET FORTH IN THIS PLAN.

All holders of Claims entitled to vote on this Plan are encouraged to read carefully the Disclosure Statement and this Plan, each in its entirety, before voting to accept or reject this Plan.

Section I.

DEFINITIONS AND RULES OF INTERPRETATION

DEFINITIONS

FOR PURPOSES OF THE PLAN, EXCEPT AS EXPRESSLY PROVIDED HEREIN OR UNLESS THE CONTEXT OTHERWISE REQUIRES, ALL CAPITALIZED TERMS NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN SECTION 1 OF THIS DISCLOSURE STATEMENT AND THE PLAN OR ANY EXHIBIT HERETO. ANY TERM USED IN THE PLAN AND NOT HEREIN DEFINED BUT DEFINED IN THE BANKRUPTCY CODE OR IN THE BANKRUPTCY RULES SHALL HAVE THE MEANING ASSIGNED TO SUCH TERM IN THE BANKRUPTCY CODE OR IN THE BANKRUPTCY RULES, AS APPLICABLE. AS USED IN THIS DISCLOSURE STATEMENT AND PLAN, THE FOLLOWING TERMS HAVE THE RESPECTIVE MEANINGS SPECIFIED BELOW:

1. **Administrative Expense Claim** means an Allowed Claim against the Debtor for costs and expenses of administration in connection with the Case under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) any actual and necessary costs and expenses incurred after the Filing Date of preserving the Estate and operating the business(es) of the Debtor (such as wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) all Bankruptcy Administrator fees and charges assessed against the Debtor's Estate, but excluding Claims relating to tax periods or portions thereof, ending on or before the Filing Date; (c) Allowed Goods Claims; (d) Fee Claims; and (e) all other Claims entitled to administrative claim status pursuant to a Final Order.

2. **Allowed** means, with reference to any Claim or Interest and with respect to the Debtors, (a) any Claim against or Interest in the Debtors that (i) has been listed by the Debtor in the Schedules, as may be amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of claim or interest has been Filed, or (ii) has been allowed under the Plan, or (iii) has been allowed by Final Order of the Bankruptcy Court, or (iv) as to which a proof of claim has been timely Filed in a liquidated amount with the Bankruptcy Court pursuant to the Bankruptcy Code or any order of the Bankruptcy Court, or Filed late with leave of the Bankruptcy Court after notice and a hearing, and (b) in respect of which no objection to the allowance of such Claim or Interest has been interposed within any applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, a Final Order or other applicable law.

3. **Assets** collectively refers to all property of the Estate, as defined in Section 541 of the Bankruptcy Code.

4. **Asset Sale** means any sale or transfer of the Assets of the Debtor which was approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code.

5. **Available Funds** means the amount of Cash generated from Net Income, held by the Debtor to be distributed to Holders of Allowed Claims. Debtor shall be entitled to keep a cash reserve from Net Income of \$10,000.00, which is not required to be used as Available Funds.

6. **Avoidance Action** means any claim, action or cause of action of the Debtor or the Estate, or either of them, that is or may be the subject of an adversary proceeding or contested matter under sections 510, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and/or 553 of the Bankruptcy Code, or pursuant to any similar or related state or federal statute or common law (including fraudulent transfer laws) whether or not litigation has been commenced as of the Confirmation Date.

7. **Ballot** means each of the ballot forms distributed to each Holder of a Claim entitled to vote to accept or reject the Plan.

8. **Bankruptcy Administrator** means the Bankruptcy Administrator for the Northern District of Alabama.

9. **Bankruptcy Code** means Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. as applicable to this Case.

10. **Bankruptcy Court** means the United States Bankruptcy Court for the Northern District of Alabama, Western Division or, in the event that such court ceases to exercise jurisdiction over the Case, the court that exercises jurisdiction over the Case in lieu of the United States Bankruptcy Court for the Northern District of Alabama, Western Division.

11. **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under 28 U.S.C. § 2075, and the local rules of the Bankruptcy Court as applicable to this Case.

12. **Bar Date** means July 31, 2017 for claims of non-governmental units and governmental units, as established by Order [Doc. 114] of this Court as the Final Date to file respective proofs of claim, as well as requests for allowance of an Administrative Expense Claim submitted and allowed by the Bankruptcy Court, or any other notice, objection or other document to evidence, support or seek Allowance of any Claim.

13. **Business Day** means any day other than a Saturday, Sunday or Federal Legal Holiday.

14. **Case** means the above styled case of the Debtor under Chapter 11 of the Bankruptcy Code.

15. **Cash** means cash and cash equivalents in United States dollars.

16. **Causes of Action** means all Claims and causes of action held by the Estate immediately prior to the Effective Date, including, but not limited to, any and all Claims, obligations, rights, suits, damages, causes of action, remedies and liabilities, whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, whether arising under any contract or under the Bankruptcy Code or other federal, state or other non-bankruptcy law, including, without limitation, any cause of action set forth in the Plan or Disclosure Statement and any Exhibit thereto as well as Avoidance Actions, but excluding Claims and causes of action and related recoveries expressly released, exculpated or waived pursuant to the Plan.

17. **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code.

18. **Class** means a category of Holders of Allowed Claims or Interests as set forth in Section II of the Plan.

19. **Confirmation** means entry of the Confirmation Order on the Bankruptcy Court's docket in the Case.

20. **Confirmation Date** means the date of entry of the Confirmation Order on the Bankruptcy Court's docket in the Case.

21. **Confirmation Hearing** means the hearing held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

22. **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

23. **Creditor** means any Person who holds a Claim against the Debtor.

24. **Debtor** means Spencer Transportation, LLC an Alabama limited liability company.

25. **Disclosure Statement** means the disclosure statement that relates to the Plan, approved by the Court pursuant to section 1125 of the Bankruptcy Code, as such Disclosure Statement may be amended, modified, or supplemented (and all exhibits and schedules annexed thereto or referred to therein).

26. **Disputed Claim** means a Claim against the Debtor that is not Allowed, including:

- (a) if no proof of claim has been filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim that is listed on the Schedules as disputed, contingent or unliquidated; or (ii) a Claim that is listed on the Schedules as other than disputed, contingent or unliquidated, but as to which the Debtors or Plan Trustee, as applicable, or any other party in interest with standing to object to Claims under the Plan

or applicable law, has Filed an objection by the Claims Objection Deadline, unless such objection has been withdrawn or denied by a Final Order; or

- (b) if a proof of claim or request for payment of an Administrative Expense Claim has been Filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim for which a corresponding Claim is listed on the Schedules as disputed, contingent or unliquidated; or (ii) a Claim for which an objection has been Filed by the Debtors or Plan Trustee, as applicable, to which the Claim relates, or any other party in interest with standing to object to Claims under the Plan or applicable law, by the Claims Objections Deadline, unless such objection has been withdrawn or denied by a Final Order. For purposes of this provision, an application, motion, complaint or other pleadings or papers filed with the Bankruptcy Court seeking to subordinate or dismiss a Claim or Administrative Expense Claim shall be deemed an objection thereto; or
- (c) any Claim filed after the Bar Date applicable to such Claim.

27. **Distribution** means any distribution pursuant to the Plan to the Holders of Allowed Claims.

28. **Distribution Date** means any date on which a Distribution is made by the Debtor to Holders of Allowed Claims entitled to receive Distributions under the Plan, and such term includes the Initial Distribution Date.

29. **Effective Date** means the first Business Day following the date on which the Confirmation Order becomes a Final Order.

30. **Estate** means the Estate created by the commencement of the Case pursuant to section 541 of the Bankruptcy Code, including, without limitation, any and all rights, Claims and interests of the Debtor and any and all interests in property, whether real, personal or mixed, rights, Causes of Action, Avoidance Actions, avoidance powers or extensions of time that the Debtors or its Estate shall have had effective as of the commencement of the Case, or which such Estate acquired after the commencement of the Case, whether by virtue of sections 544, 545, 546, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code or otherwise.

31. **Exhibit** means an exhibit annexed to either the Disclosure Statement or the Plan or as an appendix to the Disclosure Statement.

32. **Fee Claim** means a Claim for compensation or reimbursement of expenses under sections 327, 328, 330, 331 503(b) or 1103 of the Bankruptcy Code.

33. **File, Filed or Filing** means file, filed or filing with the Bankruptcy Court or its designee in the Case.

34. **Filing Date** means January 4, 2017, the date of the Filing of the Debtor's Voluntary Petition commencing the Case under chapter 11 of the Bankruptcy Code.

35. **Final Distribution Date** means the date of the last Distribution under the Plan.

36. **Final Order** means an order or judgment of a court (a) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending; or (b) as to rehearing shall have been waived in writing in form and substance satisfactory to the Debtors or, (c) in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order shall have been denied by the highest court to which such order was appealed, no further certiorari, reargument or rehearing shall have been taken, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rules 9023 or 9024 may be filed with respect to such order shall not cause such order not to be a final order.

37. **Governmental Unit** means a "governmental unit" as defined in section 101(27) of the Bankruptcy Code.

38. **Holder** means an entity holding a Claim or Interest.

39. **Insider** has the meaning set forth in 11 U.S.C. § 101(31).

40. **Insider Claims** means the Claims of any Insider.

41. **Lease Obligations** means the obligations of the Debtor to Central Capital, LLC by virtue of the lease assumed during the pendency of the Case, as well as the Debtor's obligations to Dwayne Haney and BMO Harris Bank, and further described in the Disclosure Statement and Plan.

42. **Legal Holiday** has the meaning set forth in Bankruptcy Rule 9006(a)

43. **Lien** has the meaning set forth in section 101(37) of the Bankruptcy Code and shall include, without limitation, all liens, security interests, mortgages, replacement liens, adequate protection, carve out rights and all charges and interests created or imposed on property by any order of the Bankruptcy Court.

44. **Net Income** means funds remaining from operation of Debtor's business after payment of all ordinary course expenses of such operation, including, without limitation, payments to independent contractor drivers, utilities, insurance premiums, tag and registration fees for trucks, fuel, and maintenance expenses.

45. **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

46. **Plan** means the chapter 11 plan of the Debtor, including, without limitation, all documents referenced herein and all exhibits, supplements, appendices and schedules hereto, either in its present form or as the same may be altered, amended or modified from time to time.

47. **Pre-Petition Payment Amount** means the monthly payment amount Debtor owed to each Holder of a Secured Claim as of the Petition Date. These amounts are more particularly describe in the Feasibility Analysis attached as an Exhibit to the Disclosure Statement.

48. **Priority Tax Claim** means any Claim against the Debtor of a Governmental Unit of the kind specified in sections 502(i) or 507(a)(8) of the Bankruptcy Code.

49. **Pro Rata** means proportionally, so that with respect to an Allowed Claim, the ratio of (a)(i) the amount of property distributed on account of a particular Allowed Claim to (ii) the amount of the Allowed Claim is equal to the ratio of (b)(i) the amount of property distributed on account of all Allowed Claims of the Class in which the particular Allowed Claim is included to (ii) the amount of all Claims in that Class (including Disputed Claims until disallowed).

50. **Schedules** means the schedules of assets and liabilities, the lists of Holders of Interests and the statements of financial affairs Filed by the Debtor under section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, and all amendments and modifications thereto through the Confirmation Date.

51. **Secured Claim** means the portion of any Claim against the Debtor, (a) determined in accordance with section 506(a) of the Bankruptcy Code, as of the Confirmation Date, secured by a valid, perfected and unavoidable Lien, to the extent of the value of the Holder's interest in the Debtors' interest in the subject Collateral; or (b) subject to offset under section 553 of the Bankruptcy Code, to the extent of the amount subject to offset.

52. **Unsecured Claim** means any Claim that is not an Administrative Claim, a Priority Tax Claim, or a Secured Claim.

53. **Voting Deadline** means the date and time, as fixed by an order of the Bankruptcy Court and as set forth in the Disclosure Statement, by which all Ballots to accept or reject the Plan must be received in order to be counted.

B. RULES OF INTERPRETATION.

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

2. **Rules of Construction.** Unless otherwise provided herein, for purposes of this Plan: (a) whenever appropriate from the context, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) any reference in this Plan to a contract, instrument, release or other agreement or document being in a particular form or on particular

terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in this Plan to an existing document or exhibit Filed or to be Filed means such document or exhibit as it may have been or may be amended, modified or supplemented from time to time and shall include all addenda, exhibits and schedules attached thereto or referenced therein; (d) unless otherwise specified, any reference to an entity as a Holder of a Claim or an Interest includes that entity's successors, assigns and affiliates; (e) unless otherwise specified, all references to sections and articles are references to sections and articles of this Plan; (f) unless otherwise specified, all references in this Plan to exhibits are references to exhibits of or to this Plan or the Disclosure Statement; (g) the words "herein," "hereunder" or "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (h) "including" and "include" shall be understood to mean "including, without limitation" (and, for purposes hereof, the rule of *ejusdem generis* shall not be applicable to limit a general statement, which is followed by or reference to an enumeration of specific matters to matters similar to the matters specifically mentioned); (i) captions and headings to articles, sections and exhibits are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretations of this Plan; and (j) unless modified herein, the rules of construction set forth in section 102 of the Bankruptcy Code and the Bankruptcy Rules shall apply.

3. **Governing Law.** Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of the State in which the Bankruptcy Court resides, without giving effect to the principles of conflicts of laws thereof.

Section II.

CLASSIFICATION OF CLAIMS AND INTERESTS

A. INTRODUCTION.

All Claims and Interests shall be classified as set forth in this Section II of this Plan.

A Claim or Interest shall be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of the Claim or Interest qualifies within the description of such different Class. A Claim or Interest is in a particular Class only to the extent that such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled before the Effective Date.

The Debtor has set forth the Classes below; only Allowed Claims are considered:

B. CLASSES OF CLAIMS

Class 1: Administrative Expense Claims. There are several categories of Claims that make up the Administrative Expense Claims. These categories include Professional Fee Claims, and Claims allowed pursuant to § 503(b) of the Bankruptcy Code. The Debtor presently owes fees to Benton & Centeno, but while Benton & Centeno has filed an interim Application, it has not yet filed an Application for Allowance of accrued compensation. The Bankruptcy Administrator will be due quarterly fees as required by the Code and similar expenses as required by the Bankruptcy Code. The Debtor is current with these obligations at this time.

Class 2: Priority Tax Claims. Priority Tax Claims shall collectively consist of any Claims against the Debtors of a Governmental Unit of the kind specified in sections 502(i) or 507(a)(8) of the Bankruptcy Code. The Debtor is current with its tax obligations, and will pay future taxes as they come due to the appropriate taxing authority.

Class 3: Secured Claims & Leases Obligations

Class 3 shall consist of all Allowed Secured Claims and Lease Obligations. Debtor has several Creditors holding Secured Claims, with varying payment requirements and payoff dates. The Debtor is also assuming two leases, and seeks to retain the leased equipment for use in its business. The Debtor estimates the total amount of Allowed Secured Claims and Lease Obligations is \$ 951,136.00. Creditors in this class hold security interests in Debtor's trucks or equipment. Most Secured Creditors have been offered adequate protection payments, which have been approved by the Court and/or paid during the pendency of this Case. As the Claims of this Class are satisfied over time, Debtor will be able to devote an increasing amount of its Net Income to payment of Class 4 Creditor described below.

Class 4: General Unsecured Claims Against Debtor

Class 4 shall consist of all Allowed Unsecured Claims against Debtor. The Debtor estimates that the total amount of General Unsecured Claims is approximately \$ 144,034.06, which amount may be increased or decreased based upon Claim Contests or failure to file a Proof of Claim.

Class 5 – Equity Holder Claims

Class 5 shall consist of all Equity Holder Claims, which would belong to Dwayne Haney as the sole member of the Debtor.

Section III.

TREATMENT OF CLAIMS AND INTERESTS

No Claim or Interest shall entitle the Holder thereof to a Distribution of Cash or to other consideration pursuant to the Plan unless, and only to the extent that, such Claim or Interest is an Allowed Claim or an Allowed Interest.

A. TREATMENT OF CLAIMS.

Class 1: Administrative Expense Claims

a. Allowance and Payment of Fee Claims. Except as provided by prior order of the Bankruptcy Court, professionals or other entities asserting a Fee Claim must File and serve on the Debtors, the Bankruptcy Administrator, and such other entities as are designated by the Bankruptcy Rules, the Confirmation Order or other Final Order of the Bankruptcy Court, an application for allowance of compensation and reimbursement of expenses to be paid by the Debtor and/or Plan Trustee. **Such application may include fees and expenses of the applicant incurred after the Confirmation Date. Failure to timely and properly File an application for allowance of a Fee Claim as set forth herein may result in such Fee Claim being barred and discharged.** Objections to an application for allowance of a Fee Claim must be Filed and served on the Debtor, the Bankruptcy Administrator, and the applicant no later than twenty (20) days after the Filing of the application for allowance of such Fee Claim. Unless the holder of an Allowed Fee Claim agrees to other treatment, any Allowed Fee Claim unpaid as of the Effective Date shall be paid on the Effective Date or, if later, not later than the fifteenth (15th) Business Day after such Fee Claim becomes Allowed, in Cash equal to such Allowed Fee Claim from the Available Funds or as soon as funds are available to pay such Allowed Fee Claim.

b. General Allowance Provisions for Administrative Expense Claims Other than Fee Claims. Pursuant to section 502 of the Bankruptcy Code, requests for payment of an Administrative Expense Claim, other than statutory fees and Fee Claims, arising before the Effective Date, must be Filed and served on the Bankruptcy Administrator, no later than thirty (30) days after the Effective Date; provided, however, all requests for payment of Administrative Expense Claims (except for Fee Claims) arising on or before the Bar Date, that were not filed before the Bar Date established by the Bankruptcy Court's Order establishing Bar Dates, shall be denied, barred and discharged as untimely. Each such request for payment of an Administrative Expense Claim must include, at a minimum, (i) the name of the Holder of the Claim, (ii) the amount of the Claim, (iii) the basis for the Claim, and (iv) documents evidencing or supporting the Claim. Failure to timely and properly file a request for payment of an Administrative Expense Claim as set forth herein may result in the Administrative Expense Claim being forever barred and discharged. Objections to any such request may be made by the Debtors or any party in interest and such objections, if any, must be filed and served on the Debtors, the Bankruptcy Administrator, the Plan Trustee and the requesting party by the later of twenty (20) days after the Effective Date or twenty (20) days after the filing of the applicable request for payment. To the extent not paid prior to the Effective Date, these claims shall be paid on the Effective Date or, if later, no later than the fifteenth (15th) Business Day after such Claim becomes Allowed, in Cash

equal to such Allowed Claim from the Available Funds or as soon as funds are available to pay such Allowed Claim.

Class 2: Priority Tax Claims

a. Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Priority Tax Claim shall be paid in full in Cash from the Available Funds, to the extent funds are available, within the later of (a) thirty (30) days after all Allowed Administrative Expense Claims that exist against the Debtor has received their full treatment under the Plan; or (b) if an objection is pending at such time, no later than the fifteenth (15th) Business Day after such Claim becomes Allowed, in Cash from the Available Funds. In the event funds are not available to pay Allowed Priority Tax Claims at the times set forth above, holders of Allowed Priority Tax Claims shall be paid in regular installments to be paid quarterly each year for five years from the Effective Date. Such quarterly payment shall commence on the first day of the first month that is ninety (90) days after all Allowed Administrative Expense Claims have received their treatment under the Plan.

Class 3: Allowed Secured Claims

a. Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Class 3 Claim shall be paid the amount of their Pre-petition Payment Amount from the Available Funds after all Allowed Administrative Expense Claims receive the treatment they are entitled to under the Plan, to the extent funds are available, and until such Claims are paid in full. The distribution of Available Funds to this Class shall be in the sole discretion of the Debtor, and Debtor shall be entitled to keep a reserve of Available Funds up to \$10,000, if available. Distributions shall be made from Available Funds as they are replenished from Net Income.

b. Claims in Class 3 are impaired under the Plan. Therefore, pursuant to section 1126(a) of the Bankruptcy Code, the Holders of the Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.

Class 4: Allowed Unsecured Claims

a. Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), each Holder of an Allowed Class 4 Claim shall be paid pro rata from the Available Funds after all Allowed Class 1, 2, and 3 Claims receive the treatment they are entitled to under the Plan, to the extent funds are available and until such Claims are paid in full. The distribution of Available Funds to this Class shall be in the sole discretion of the Debtor, and Debtor shall be entitled to keep a reserve of Available Funds up to \$10,000 if available; subsequent distributions shall be made from Available Funds as they are replenished from Net Income. Such subsequent distributions may be multiple in nature until, all the Allowed Claims in this Class are paid in full.

b. Claims in Class 4 are impaired under the Plan. Therefore, pursuant to section 1126(a) of the Bankruptcy Code, the Holders of the Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

Class 5 – Allowed Equity Holder Claims

a. Holders of Allowed Equity Holder Claims shall receive no distribution or recovery under the Plan.

c. Pursuant to section 1126(g) of the Bankruptcy Code, a Holder of a claim determined to be a contribution of capital is deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

Section IV.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Pursuant to section 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases to which the Debtors are or were a party and not previously rejected or assumed, and assigned pursuant to prior order of the Bankruptcy Court or in the Plan, are deemed rejected pursuant to section 365(a) of the Bankruptcy Code as of the Confirmation Date. The accounts receivable and notes receivable and other contractual obligations owed the Debtor by third parties shall not be deemed executory in nature and shall be the subject of continued sale efforts and/or collection and recovery rights in favor of the holder of such account or note receivable.

Each party to an executory contract or unexpired lease rejected pursuant to the Plan (and only such entities) asserting a Claim for damages arising from such rejection shall File, not later than thirty (30) days following the Confirmation Date, a proof of such Claim; provided, however, that (1) the Bar Date established for rejection damages claims in this Section IV of the Plan shall not apply to Persons that may assert a Claim on account of an executory contract or unexpired lease that was rejected by the Debtors before the Confirmation Date for which a prior Bar Date was established; and (2) any Person asserting a claim for rejection damages that does not timely File a proof of claim in accordance with the Plan shall be forever enjoined and barred from asserting such Claim against the Debtors, the Estate or any property of the Estate.

1. Lease of Trailers by Dwayne Haney to the Debtor

In September 2013, Dwayne Haney individually purchased a Manac flatbed trailer (bearing VIN # 5MC120216D3138674), and financed said purchase through a loan from General Electric Capital Corporation, which was succeeded in interest by BMO Harris Bank, N.A. This trailer, though titled in Dwayne Haney's name, has been used exclusively by the Debtor since its purchase. Debtor has paid the loan and expenses associated with the trailer, and earned income from their operation and use. Accordingly, Dwayne Haney and Debtor will formalize this arrangement in the Plan by way of a lease of the trailer to the Debtor. Debtor proposes to simply

continue paying the loan obligations and expenses for operation of the trailer, and earn all income associated with their use. Debtor will directly pay BMO Harris as a Class 3 secured creditor. This provision, if the Plan is confirmed, shall constitute a binding lease of the trailer to the Debtor, under the same terms as lease between BMO Harris Bank and Dwayne Haney. Debtor will directly pay BMO Harris as a Class 3 secured creditor.

Section V.

CONFIRMATION AND CONSUMMATION OF THIS PLAN

A. CONDITIONS PRECEDENT – Confirmation Date.

The following are conditions precedent to the occurrence of the Confirmation Date:

1. The entry of a Final Order finding that the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code which order shall be in form and substance reasonably satisfactory to the Debtors;
2. The proposed Confirmation Order shall be, in form and substance, reasonably acceptable to the Debtor; and
3. All provisions, terms and conditions of this Plan are approved in the Confirmation Order.

B. CONDITIONS PRECEDENT – Effective Date.

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in writing:

1. The Confirmation Order shall have been entered and become a Final Order. Such Confirmation Order shall provide that the Debtor is directed to take all actions necessary or appropriate to enter into, implement and consummate this Plan or effectuate, advance or otherwise further the purposes thereof;
2. All Plan Exhibits shall be, in form and substance, reasonably acceptable to the Debtor, and if applicable, shall have been executed and delivered by all parties' signatory thereto;
3. All other actions, documents, and agreements necessary to implement this Plan shall have been effected or executed; and
4. Available Funds shall be sufficient to make all required payments on the Effective Date and fund a reserve for such payments if not Allowed as of the Effective Date.

C. WAIVER OF CONDITIONS.

Each of the conditions set forth in Section V of this Plan may be waived in whole or in part by the Debtor. The failure of a party to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

D. CONSEQUENCES OF NON-OCCURRENCE OF EFFECTIVE DATE.

In the event that the Effective Date does not timely occur, the Debtor reserves all rights to seek an order from the Bankruptcy Court directing that the Confirmation Order be vacated, that the Plan be null and void in all respects, and/or that any settlement of Claims provided for in the Plan be null and void. In the event that the Bankruptcy Court shall enter an order vacating the Confirmation Order, the time within which the Debtors may assume and assign, or reject all executory contracts and unexpired leases not previously assumed, assumed and assigned, or rejected, shall be extended for a period of thirty (30) days after the date the Confirmation Order is vacated, without prejudice to further extensions.

Section VI.

IMPLEMENTATION OF PLAN

1. Continued Operation of Debtor's Business.

The Debtor, through its sole member Dwayne Haney, shall continue operation of Debtor's business. Through continued operation, Debtor will generate Net Income, which be used as Available Funds to make the payments to Holders of Allowed Claims as outlined herein, and described more fully in the Plan.

2. Duration

The Debtor shall continue to exist, control the Assets and Distributions until entry of a Final Order by the Bankruptcy Court closing the Bankruptcy Case pursuant to section 350(a) of the Bankruptcy Code.

3. Exclusive Powers and Duties

The Debtor shall serve under the Plan and shall discharge all of the rights, powers and duties set forth in the Plan. Without limiting the generality of the foregoing, the Debtor, his successors and assigns, shall have the following exclusive rights, powers and duties:

- a. all of the rights, powers, and duties of a trustee in bankruptcy, including but not limited to, those under sections 704(a)(1), (2), (4), (5) and (7) and 1106(a)(6) and (7) of the Bankruptcy Code;

- b. to administer the Available Funds, pursuant to the terms of the Plan;
- c. to use, acquire and dispose of property free of any restrictions imposed under the Bankruptcy Code;
- d. to sell, devise or otherwise dispose of any Assets without further notice or order of the Court, except as otherwise provided in the Plan;
- e. to employ, retain, and replace such persons, including actuaries, attorneys, accountants, auctioneers, brokers, managers, consultants, other professionals, agents, investigators, expert witnesses, consultants and advisors as necessary to discharge the duties of the Plan Trustee under the Plan and to pay the reasonable fees and costs of such employment without the need to seek approval from the Bankruptcy Court or review by any other party in interest.
- f. to establish reserves and open, maintain and administer bank accounts as necessary to discharge the duties of the Plan Trustee under the Plan;
- g. to investigate, analyze, commence, prosecute, litigate, collect and otherwise administer the Causes of Action in the Bankruptcy Court or other court of competent jurisdiction and settle same without further order of the Court or notice to creditors;
- h. to voluntarily engage in arbitration or mediation with respect to any Causes of Action;
- i. to represent the Estate before the Bankruptcy Court and other courts of competent jurisdiction with respect to all matters;
- j. to seek the examination of and production of documents from any entity under and subject to the provisions of Bankruptcy Rule 2004;
- k. to pay any fees due and owing under 28 U.S.C. § 1930;
- l. to comply with applicable orders of the Bankruptcy Court and any other court of competent jurisdiction over the matters set forth herein;
- m. to comply with all applicable laws and regulations concerning the matters set forth herein;
- n. to invest the Available Funds in (a) direct obligations of the United States of America or obligations of any agency or instrumentality thereof which are guaranteed by the full faith and credit of the United States of America, (b) in money market deposit accounts, checking accounts, savings accounts or certificates of deposit, or other time deposit accounts that are

issued by a commercial bank or savings institution organized under the laws of the United States of America or any state thereof, or (c) or any other investments that may be permissible under section 345 of the Bankruptcy Code or order of the Bankruptcy Court;

- o. to exercise such other powers as may be vested in the Plan Trustee pursuant to the Plan, the Confirmation Order or other Final Orders of the Bankruptcy Court;
- p. to execute any documents, instruments, contracts and agreements necessary and appropriate to carry out the powers and duties of the Plan Trustee.

4. Compromising Disputed Claims, Liens, and Causes of Action

The Debtor is authorized to: (i) compromise and settle any Causes of Action, Liens, and Disputed Claims; and (ii) execute necessary documents, including, but not limited to, a stipulation of settlement or release.

5. Distributions

The Debtor shall make Distributions from Available Funds upon entry of an Final Order Approving Confirmation of the Plan, taking into account applicable allowed or pending claims of professionals and other administrative expense claims. The Debtor shall operate its business and make distributions in accordance with the Plan.

6. Retention and Enforcement of Claims and Causes of Action of the Estate

Unless expressly and unequivocally released in the Plan, nothing contained in the Plan shall be deemed to be a waiver or relinquishment or release of any Cause of Action that the Debtor may choose to assert on behalf of the Estate under any provision of the Bankruptcy Code or any applicable non-bankruptcy law. All Causes of Action, cross-claims, setoffs, defenses and counterclaims of the Debtors or the Estate of any kind or nature whatsoever including, without limitation, those against third parties arising before the Effective Date that have not been disposed of prior to the Effective Date shall be preserved and retained for enforcement by the Debtor for the benefit of the Estate as set forth in the Plan, except to the extent expressly and unequivocally released or enjoined by the Plan or pursuant to a Final Order. Without limitation of the foregoing, pursuant to section 1123(b) of the Bankruptcy Code, the Debtor, and his successors and assigns, shall retain and is solely empowered and authorized to enforce, for the benefit of the Estate, all Causes of Action and related recoveries of any nature or type whatsoever, at law or in equity, against any Person or entity.

Furthermore, except as specifically released or enjoined by the Plan or pursuant to a Final

Order, the Debtor retains enforcement for the benefit of the Estate all Avoidance Actions, including, but not limited to, against the following Persons or entities: (a) any Person or entity who received a payment or property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within ninety (90) days of the Filing Date, including, but not limited to, those persons or entities identified in response to Question 3(a) on Debtors' Statement of Financial Affairs Filed with the Bankruptcy Court; (b) any insider of the Debtors, as that term is defined by the Bankruptcy Code, who received a payment or transfer of property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within one year of the Filing Date; and (c) any Person or entity who received a transfer of property from the Debtors or from whom the Debtors assumed an obligation within two years of the Filing Date. Regardless of whether or not a Person or entity is identified as a recipient of a payment or other transfer of property from the Debtor or the transferor of obligation to the Debtors in the Debtor's Statement of Financial Affairs Filed with the Bankruptcy Court, all Avoidance Actions against any Persons or entities shall be reserved and retained for enforcement by the Debtor, for the benefit of the Estate.

Nothing in the Plan prejudices any party's positions with respect to jurisdictional, substantive, and procedural issues pertaining to the Causes of Action and other claims described in this paragraph.

D. SETTLEMENT, RELEASE, SATISFACTION AND INJUNCTION.

1. **Full and Final Satisfaction.** The treatment of Claims provided in this Plan shall be in full and final satisfaction and settlement of all Claims against the Estate or the Debtor and, except as provided in this Plan or the Confirmation Order, the rights afforded under this Plan will be in exchange for and in complete satisfaction and release of all Claims and liabilities against the Estate; provided, however, notwithstanding anything herein to the contrary, Confirmation of the Plan shall not discharge the Debtor from any debt provided for in the Plan unless or until this Bankruptcy Court grants Debtor a discharge under Section 1141(d)(5) of the Bankruptcy Code. The Chapter 11 case shall remain open until the Debtor receives a discharge as set forth herein.

2. **Term of Bankruptcy Injunction or Stays.** All injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect in accordance with the provisions thereof.

3. **Exculpation Clause.** Neither the Debtor nor the Professionals retained or employed by the Debtor (collectively, the "Exculpated Persons"), shall have or incur any liability to any person for any act taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, implementation, administration, confirmation or consummation of the Plan, the Asset Sales, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, or any other act taken or omitted to be taken since the Filing Date in connection with the Case or any of the Asset Sales; *provided, however*, that the foregoing provisions of the Plan shall have no

effect on the liability of any person or entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct.

4. **Approval of Releases.** To the extent necessary, this Plan constitutes the Debtor's motion pursuant to Bankruptcy Rule 9019 seeking approval of the foregoing provisions of Section VI. D of the Plan.

5. **Waiver.** The Plan does not limit, abridge, or otherwise affect the rights of the Plan Trustee to enforce, sue on, settle, or compromise the rights, claims and other matters retained by the Plan Trustee on behalf of the Estate pursuant to this Plan.

6. **Reservation of Police and Regulatory Powers of Governmental Units.** Notwithstanding any other provision in this Plan, any exculpation or injunction provided in this Plan shall not preclude any action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

7. **Stay of Actions Against Guarantors and Co-Debtors**

Confirmation of the Plan shall act as a stay, as that term is used in 11 U.S.C. § 362, of all actions against any co-debtors and/or guarantors of obligations of the Debtor to collect, enforce, or otherwise recover obligations of the Debtor. The stay shall continue during the pendency of this Case.

E. PLAN ADMINISTRATION.

1. **General.** Upon the Effective Date, the Debtor shall fulfill the specific duties set forth in the Plan. The Debtor shall execute, deliver, file or record such documents, instruments, releases and other agreements, and take such actions as may be necessary or appropriate to implement, effectuate and further evidence the terms and conditions of this Plan.

2. **Authority.** The Confirmation Order shall constitute full and complete authority for the Debtor to take all other actions that may be necessary, useful or appropriate to consummate this Plan without any further corporate or judicial authority.

Section VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. PROCEDURE FOR DETERMINATION OF CLAIMS.

1. **Objections to Claims.** The Debtor shall have exclusive authority and responsibility to prosecute objections to all Claims.

2. **Disputed Claims.** Payments or Distributions under the Plan on account of Disputed Claims shall be held in reserve pending the Allowance or disallowance of the Claim. To the extent any property is distributed to an entity on account of a Claim that is not an Allowed Claim, such property shall promptly be returned to the Plan Trustee. To the extent that a Disputed Claim ultimately becomes an Allowed Claim, Distributions on account of such Allowed Claim shall be made in accordance with the provisions of the Plan. On the Distribution Date next following the date that the order or judgment of the Bankruptcy Court allowing such Claim becomes a Final Order, any Cash held in reserve pursuant to the Plan that would have been distributed prior to the date on which a Disputed Claim becomes an Allowed Claim shall be distributed to the Holder of such Allowed Claim, together with any other Distributions that would have been due on account of such Claim being an Allowed Claim. The Plan Trustee shall reserve from any Distribution on account of Allowed Claims any amount otherwise allocable to a Claim that is a Disputed Claim.

B. DISTRIBUTIONS.

1. Distributions on Allowed Claims

Except as otherwise provided herein, Distributions to Holders of Allowed Claims shall be made: (a) at the addresses set forth on the respective proofs of claim Filed by such Holders; (b) at the addresses set forth in any written notice of address change delivered to the Debtor the date of the Filing of any related proof of claim; or (c) at the address reflected in the Schedules or the Debtor's books and records if no proof of claim has been Filed and if the Debtor or the Plan Trustee, as applicable, has not received written notice of a change of address, as set forth herein. The Distributions to Holders of Allowed Claims shall be on the Initial Distribution Date and the subsequent Distribution Dates on the terms and conditions of the Plan. Notwithstanding any other provision of the paragraph, all Distributions to Holders of Claims shall be subject to the provisions of the Plan concerning reserves for Disputed Claims.

2. Undeliverable Distributions

If a Distribution is returned as undeliverable, the Debtor shall hold such Distribution and shall not be required to take any further action with respect to the delivery of the Distribution unless and until the earlier of (a) the date on which the Debtor is notified in writing of the then current address of the holder entitled to receive the Distribution and (b) three (3) months after said Distribution, except as the Bankruptcy Court may otherwise order. If the Debtor is notified in writing of the then current address of the holder before three (3) months after said Distribution, the Debtor shall make the Distribution required by the Plan to the Holder at such address. If the Debtor is not so notified by three (3) months after said Distribution, and the Holder of the Claim does not assert a right to the undeliverable Distribution within three (3) months after the Distribution, the Holder shall be forever barred from asserting a Claim to such undeliverable Distribution and such future Distributions, and the undeliverable Distribution shall become available for Distribution to Holders of other Allowed Claims as provided in the Plan.

3. Manner of Payment

Distributions under the Plan may be made, at the option of the Debtor, in Cash, by wire transfer or by check drawn on such accounts established by the Plan Trustee as necessary to effectuate the Plan.

4. Interest

Unless otherwise required by Final Order of the Bankruptcy Court, interest shall not accrue or be paid after the Filing Date on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Filing Date on any Claim.

5. *De Minimis* Distributions

Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole cent.

- a. No interim Distribution will be made on account of any Allowed Claim if the amount of such Distribution is less than \$100.00.
- b. No interim Distribution will be made on account of any Allowed Claim if the amount of such Distribution is less than \$100.00. On the Final Distribution Date, the Plan Trustee shall (i) aggregate the amount of all Distributions that would have been made on account of an Allowed Claim in Class Three but for this de minimis provision and (ii) make a Distribution on account of such Allowed Claim in accordance with the Plan.

6. Distributions on Claims Allowed Pursuant to Section 502(h) of the Bankruptcy Code

Except as otherwise provided in the Plan, no Distribution shall be made on account of a Claim arising as a result of a Final Order entered in an Avoidance Action until such Claim becomes an Allowed Claim. Any Claim that is Allowed pursuant to § 502(h) of the Bankruptcy Code prior to the Initial Distribution Date as a result of the entry of a Final Order in any Avoidance Action will be treated in accordance with the provisions of the Plan. All Holders of such Claims that become Allowed Claims after the Initial Distribution Date will receive an Initial Distribution on the Distribution Date next following the date on which their Claim becomes an Allowed Claim and shall receive subsequent Distributions, if any, in accordance with the provisions of the Plan. Distributions under the Plan on account of anticipated Claims that may arise or become allowable as a result of the entry of a Final Order in any Avoidance Action that are not Allowed Claims as of the Initial Distribution Date may be held in reserve, at the discretion of the Plan Trustee, pending the allowance or disallowance of such Claims.

7. Compliance with Tax Requirements

In compliance with section 346 of the Bankruptcy Code, to the extent applicable, the Debtor shall comply with all withholding and reporting requirements imposed by federal, state or

local taxing authorities in connection with making Distributions pursuant to the Plan and shall be authorized to take any and all action necessary and appropriate to comply with such requirements. As a condition to making any Distribution under the Plan, the Plan Trustee may require the Holder of an Allowed Claim to provide such Holder's taxpayer identification number, and such other information, certification or forms as necessary to comply with applicable tax reporting and withholding laws. Notwithstanding any other provision of the Plan, each entity receiving a Distribution of Cash pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such Distribution.

8. Reserve for Disputed Claims

Except as otherwise provided in the Plan, no Distribution shall be made on account of a Disputed Claim until such Claim becomes an Allowed Claim. In making any Distribution on Allowed Claims, the Debtor and/or Plan Trustee (if applicable) shall calculate the amount of such Distribution (for purposes of making a Pro Rata calculation) as if each Disputed Claim were an Allowed Claim, unless the Bankruptcy Court enters an order specifying that the Disputed Claim should be treated as being a different amount for purposes of such calculation. The Plan Trustee shall reserve from Distributions a sufficient amount to make a Distribution on a Disputed Claim in the event it becomes an Allowed Claim (unless the Bankruptcy Court orders otherwise); and to the extent a Disputed Claim is disallowed pursuant to a Final Order, any reserves attributable to the disallowed portion of the Disputed Claim shall be distributed on account of Allowed Claims pursuant to the terms of the Plan.

9. Setoffs

Subject to section 553 of the Bankruptcy Code, in the event the Debtor has a Claim or Cause of Action of any nature whatsoever against a Holder of a Claim, the Debtor may, but is not required to, set off or recoup the Debtor's Claim or Cause of Action against such Claim (and any Distributions or other rights to receive property arising out of such Claim under the Plan) unless any such Claim or Cause of Action of the Debtor is or will be released under the Plan. Neither the failure to set off nor the allowance of any Claim under the Plan shall constitute a waiver or release of any Claim or Cause of Action of the Debtor.

10. Reliance on Claims Register

In making Distributions under the Plan, the Debtor may rely upon the accuracy of the claims register maintained by the Bankruptcy Court or its designee as claims agent in the Case, as modified by any Final Order of the Bankruptcy Court disallowing Claims in whole or in part. The Debtor may also rely upon the Schedules of the Debtor enumerating the liabilities of the Debtor when such enumeration designates the debt owed to the creditor as not being subject to liquidation or dispute and, hence, should be treated as an Allowed Unsecured Claim whether a proof of claim has been filed or not.

C. RESERVATION OF RIGHTS OF THE ESTATE; RETENTION AND ENFORCEMENT OF CAUSES OF ACTION.

Unless expressly and unequivocally released in the Plan, nothing contained in the Plan shall be deemed to be a waiver or relinquishment or release of any Cause of Action that the Debtor may choose to assert on behalf of the Estate under any provision of the Bankruptcy Code or any applicable non-bankruptcy law. All Causes of Action, cross-claims, setoffs, defenses and counterclaims of the Debtors or the Estate of any kind or nature whatsoever including, without limitation, those against third parties arising before the Effective Date that have not been disposed of prior to the Effective Date shall be preserved and retained for enforcement by the Debtor for the benefit of the Estate as set forth in the Plan, except to the extent expressly and unequivocally released or enjoined by the Plan or pursuant to a Final Order. Without limitation of the foregoing, pursuant to section 1123(b) of the Bankruptcy Code, the Debtor, and his successors and assigns, shall retain and is solely empowered and authorized to enforce, for the benefit of the Estate, all Causes of Action and related recoveries of any nature or type whatsoever, at law or in equity, against any Person or entity.

Furthermore, except as specifically released or enjoined by the Plan or pursuant to a Final Order, the Debtor retains enforcement for the benefit of the Estate all Avoidance Actions, including, but not limited to, against the following Persons or entities: (a) any Person or entity who received a payment or property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within ninety (90) days of the Filing Date, including, but not limited to, those persons or entities identified in response to Question 3(a) on Debtors' Statement of Financial Affairs Filed with the Bankruptcy Court; (b) any insider of the Debtors, as that term is defined by the Bankruptcy Code, who received a payment or transfer of property from the Debtors to or for their benefit on account of an antecedent debt owed by the Debtors within one year of the Filing Date; and (c) any Person or entity who received a transfer of property from the Debtors or from whom the Debtors assumed an obligation within two years of the Filing Date. Regardless of whether or not a Person or entity is identified as a recipient of a payment or other transfer of property from the Debtor or the transferor of obligation to the Debtors in the Debtor's Statement of Financial Affairs Filed with the Bankruptcy Court, all Avoidance Actions against any Persons or entities shall be reserved and retained for enforcement by the Debtor, for the benefit of the Estate.

Nothing in the Plan prejudices any party's positions with respect to jurisdictional, substantive, and procedural issues pertaining to the Causes of Action and other claims described in this paragraph.

Section VIII.

RETENTION OF JURISDICTION

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order, substantial consummation of this Plan and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and

related to, the Case and this Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Expense Claim, the resolution of any objections to the Allowance or priority of Claims or Interests and the determination of requests for the payment of claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including compensation of any reimbursement of expenses of parties entitled thereto;
2. Hear and determine all applications for compensation and reimbursement of expenses of professionals under this Plan or under sections 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code;
3. Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. Effectuate performance of and payments under the provisions of this Plan;
5. Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to the Case or this Plan;
6. Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of this Plan and all contracts, instruments, releases and other agreements or documents created in connection with this Plan, the Disclosure Statement or the Confirmation Order;
7. Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of this Plan, including disputes arising under agreements, documents or instruments executed in connection with this Plan;
8. Consider any modifications of this Plan and any implementing documents, cure any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
9. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with implementation, consummation, or enforcement of this Plan or the Confirmation Order;
10. Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;
11. Hear and determine any matters arising in connection with or relating to this Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other

agreement or document created in connection with this Plan, the Disclosure Statement or the Confirmation Order;

12. Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Case;

13. Except as otherwise limited by this Plan, recover all assets of the Debtor and property of the Estate, wherever located;

14. Hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

15. Hear and determine all matters related to the property of the Estate from and after the Confirmation Date;

16. Hear and determine the Causes of Action, unless the Plan Trustee determines, in his sole discretion, to commence an action or proceeding in another court of competent jurisdiction;

17. Hear and determine all disputes involving the existence, nature or scope of the injunctions indemnification, exculpation and releases granted pursuant to this Plan.

18. Hear and determine all disputes or other matters arising in connection with the interpretation, implementation or enforcement of the Asset Sales;

19. Hear and determine all matters related to (a) the property of the Estate from and after the Confirmation Date, (b) the winding up of the Estate, and (c) the activities of the Plan Trustee, including (i) challenges to or approvals of his activities, where required under this Plan, (ii) the resignation, incapacity or removal of the Plan Trustee, (iii) reporting by, termination of and accounting by the Plan Trustee, and (iv) release of the Plan Trustee from his duties;

20. Hear and determine disputes with respect to compensation of professionals and/or the Plan Trustee;

21. Hear and determine all disputes involving the existence, nature and/or scope of the injunctions and releases provided by this Plan including any dispute relating to any liability arising out of any termination of employment or the termination of any employee or retiree benefit provision, regardless of whether such termination occurred prior to or after the Effective Date;

22. Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provision of the Bankruptcy Code;

23. Enforce all orders previously entered by the Bankruptcy Court; and

24. Enter a final decree closing the Case.

Section IX.

MISCELLANEOUS PROVISIONS

A. SUBSTANTIAL CONSUMMATION.

The Plan shall be deemed to be substantially consummated when the first payment is made to a Allowed Claim following the Effective Date.

B. INSURANCE PRESERVATION.

Any policies of insurance or indemnification escrows that may cover or apply to any Claims against any other officer, director, employee, property, agent or other representative of the Debtor (collectively, the "Insured Parties"), including, without limitation, any directors or officers liability insurance policy, shall be preserved and shall remain in full force and effect following entry of the Confirmation Order and nothing in this Plan, including any releases, shall diminish, impair or prejudice the rights, claims, interests or defenses of any Insured Party.

C. TAX INJUNCTION.

In accordance with § 346 of the Bankruptcy Code for purposes of any state or local law imposing a tax, income will not be realized by the Debtor or by reason of forgiveness or discharge or indebtedness resulting from the Case. As a result, each state or local taxing authority is permanently enjoined and restrained, after the Confirmation Date, from commencing, continuing or taking any act to impose, collect or recover in any manner any tax against the Debtor arising by reason of the forgiveness or discharge of any such Person under this Plan. Notwithstanding any other provision of this Plan, each Person or entity receiving a Distribution pursuant to this Plan shall have sole and exclusive responsibility for the payment and satisfaction of tax Claims or obligations imposed by any Governmental Unit on account of, arising out of or related to any such Distribution, including, without limitation, income and withholding taxes.

D. EFFECTUATING DOCUMENTS; FURTHER TRANSACTION; EXEMPTION FROM TRANSFERS TAXES.

1. Pursuant to section 1146(a) of the Bankruptcy Code, the creation or transfer of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with this Plan, and executed in connection with the liquidation of assets shall not be subject to any stamp tax, real estate tax or similar tax and the Confirmation Order shall direct the appropriate state, commonwealth and local government officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

2. On the Effective Date, all provisions of this Plan, including all releases, injunctions, agreements, instruments and other documents filed in accordance with this Plan, shall be binding and have *res judicata*, collateral estoppel, claim preclusion and issue preclusion effect upon the Debtor, all Holders of Claims and Interests and all other entities that are affected in any manner by this Plan. All agreements, instruments and other documents filed in connection with this Plan shall have full force and effect, and shall bind all parties thereto as of the Effective Date, whether or not such documents actually shall be executed by parties other than the Debtor or shall be issued, delivered or recorded on the Effective Date or thereafter.

E. NONCONSENSUAL CONFIRMATION.

If all impaired classes do not vote in favor of this Plan, the Debtor shall seek confirmation of this Plan in accordance with section 1129(b) of the Bankruptcy Code, either under the terms provided herein or upon such terms as may exist if this Plan is modified in accordance with section 1127(a) of the Bankruptcy Code.

F. MODIFICATION OF PLAN.

The Debtor may alter, amend or modify this Plan pursuant to section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After Confirmation Date and prior to the substantial consummation of this Plan, as defined in section 1101(2) of the Bankruptcy Code, this Plan Proponent may, pursuant to section 1127(b) of the Bankruptcy Code, institute proceedings in Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of this Plan; so long as such proceedings do not adversely affect the treatment of Holders of Claims or provided, however, that prior notice of such proceedings shall be served in accordance with Bankruptcy Rule 2002 or order of the Bankruptcy Court.

G. PLAN SUPPLEMENT(S).

Exhibits to this Plan not attached hereto shall be filed in one or more Plan Supplements. Any Plan Supplement (and amendments thereto) filed by Debtor shall be deemed an integral part of this Plan and shall be incorporated by reference as if fully set forth herein. Substantially contemporaneously with its Filing, any Plan Supplement may be viewed at the office of the clerk of the Court or its designee during normal business hours, by visiting the Court's website at ecf.alnb.uscourts.gov (PACER account required). Holders of Claims and/or Interests may obtain a copy of any Plan Supplement upon written request to the Debtors. The documents contained in any Plan Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. To the extent any Exhibit is inconsistent with the terms of this Plan, unless otherwise ordered by the Bankruptcy Court, the non-Exhibit portion of this Plan shall control.

H. NOTICE.

Except as specifically provided otherwise in the order approving the Disclosure Statement, any notice, pleading, objection or other document required by this Plan or the Confirmation Order, shall be sent by overnight delivery service, facsimile transmission or hand delivery and deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed and addressed as follows:

1. If to the Debtors:

Lee R. Benton
Samuel C. Stephens
BENTON & CENTENO, LLP
2019 3RD Avenue North
Birmingham, Alabama 35203

2. If to the Bankruptcy Administrator:

Rachel L. Webber
Assistant U.S. Bankruptcy Administrator
Northern District of Alabama
2005 University Boulevard, Suite 1300
Tuscaloosa, Alabama

I. SEVERABILITY; CONFLICT OF TERMS; SUCCESSORS AND ASSIGNS.

If, prior to Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, then the Bankruptcy Court, at the request of this Plan Proponent, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

J. CONFLICT OF TERMS.

To the extent the Disclosure Statement and this Plan are inconsistent, the terms of this Plan shall control.

K. SUCCESSORS AND ASSIGNS.

The rights, benefits and obligations of any Person named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, the heir, executor, administrator, successor or assignee of such Person.

L. PAYMENT OF BANKRUPTCY ADMINISTRATOR FEES.

All fees payable through the Effective Date due the Bankruptcy Administrator shall be paid on the Effective Date by the Debtor. The Debtor shall pay quarterly fees to the Bankruptcy Administrator until the Case is closed or converted and/or the entry of final decrees. The Bankruptcy Administrator shall not be required to file a request or proof of claim for payment of its quarterly fees, which shall be paid by the Debtors.

M. TAX REPORTING AND COMPLIANCE.


The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor for all taxable periods ending after the Petition Date through and including the Effective Date.

DATED this the 30th day of August, 2017.



Dwayne Haney
Member

Dated: August 30, 2017



Lee R. Benton
Samuel C. Stephens

OF COUNSEL:

Benton & Centeno, LLP
2019 Third Avenue North
Birmingham, Alabama 35203
Telephone: (205) 278-8000
Facsimile: (205) 278-8005
Email: lbenton@bcattys.com
sstephens@bcattys.com

Exhibit B – Liquidation Analysis

<u>Real Property</u>	<u>Value</u>	<u>Mortgages/Liens</u>	<u>Net Equity</u>
None			
<u>Personal Property</u>			
Trucks & Trailers	\$917,570.09	\$884,283.55	\$33,283.54
Insurance Check (due to Citizens Bank of Winfield)	\$26,500.00	\$26,500.00	N/A
Cash (DIP Account)(estimated)	\$7,000.00	0.00	7,000.00
Tools	\$1,000.00	\$1,000.00	0.00
Air Compressor	\$3,500.00	\$3,500.00	0.00
Office Equipment	\$1,500.00	\$1,500.00	0.00
Net Equity:	\$ 33,283.54		
Chapter 7 Admin Fees (est.)	(\$ 4,078.36)		
Proceeds Available	\$ 29,205.17		

EXHIBIT C – SUMMARY OF LIABILITIES

Classes of Claims

<u>Class 1: Administrative Expense Claims</u>			
Benton & Centeno	\$	17,861.52	(Application pending)
	\$	1,806.80	(Accrued)
<u>Class 2: Priority Tax Claims</u>			
	\$	0.00	
Total Unclassified Claims	\$	19,668.32	

Class 3: Allowed Secured Claims and Lease Obligations

Central Leasing (Central Capital)	\$	39,699.99
Citizens Bank of Winfield	\$	27,513.58
Citizens Bank of Winfield (estimated)	\$	9,000.00
CCG	\$	300,728.18
Mercedes (Daimler/Chrysler)(estimated)	\$	86,318.00
ENGS	\$	159,242.15
GE/BMO Harris	\$	93,338.32
JB&B	\$	32,000.32
Keystone	\$	1,354.32
Volvo	\$	115,411.52
Element (estimated)	\$	86,529.62
Total Allowed Secured Claims	\$	951,136.00

Class 4 – Allowed Unsecured Claims

Birmingham Freightliner	\$	10,562.29
Fleetpride	\$	3,777.47
LG Funding, LLC	\$	30,558.40
Nextran Volvo	\$	6,497.73
Octagon Tire	\$	8,443.44
R&T Price Oil Co., Inc.	\$	4,313.44
R. Price	\$	1,559.56
Rogers Auto Parts	\$	3,293.29
The Business Backer	\$	30,000.00
Waters Truck & Trailers	\$	10,239.54
WG Financing	\$	33,562.50
Time Payment Corp.	\$	1,226.40

Total Allowed Unsecured Claims \$ 144,034.06

Total Claims: \$ 1,114,838.38

Exhibit D – Summary of Unencumbered Assets

Equity in Trucks and Trailers: \$ 33,283.54

Cash (DIP Account)(estimated) \$ 7,000.00

EXHIBIT E – FEASIBILITY ANALYSIS

Monthly Income:

Trucking Income	125,450.61	
Fuel Surcharges paid from customers	14,651.94	
Adjustment for Lost Income*	4,416.67	
Total Monthly Income:		\$ 144,519.22

Expenses:

Monthly Secured Obligations to be Paid:

Central Leasing (Central Capital)	1,470.37
Citizens Bank of Winfield **	1,555.93
Citizens Bank of Winfield	838.15
CCG (cash collateral)	5,276.00
Mercedes (Daimler/Chrysler)	4,054.22
ENGS	3,559.44
GE/BMO Harris	751.59
GE/BMO Harris	2,406.53
JB&B	727.28
Keystone***	0.00
Volvo	3,103.54
Element	2,860.35
Total Monthly Secured Obligations:	\$ 26,122.10

Other Operating Expenses:

Business License Fees	957.00
Drug Screens	17.00
Fuel	37,422.22

Fuel Tax	668.74	
Insurance	5,670.99	
Workers Compensation Ins.	178.00	
Payroll	48,781.72	
Shop Supplies	982.00	
Tarps	278.00	
Tires	2,102.10	
Towing Charges	507.00	
Truck Maintenance Costs	1,801.00	
License Plates	1,666.00	
Tolls	1,055.00	
Oil & Gas	5,755.00	
Medical Insurance	2,225.00	
Office Supplies	290.49	
Permits	71.75	
Insurance	2,867.50	
Postage	49.00	
Truck Maintenance and Expense****	3,114.55	
Tools	488.00	
Telephone	235.00	
Traffic Fines	116.00	
Utilities	367.00	
Total Other Operating Expenses	\$117,666.06	
Total Other Operating Expenses and Monthly Secured Obligations:	\$ 143,788.16	
Projected Monthly Net Income		\$ 731.06

The projected income and expense numbers here are derived from Debtor's operations from February through July of 2017. Adjustments have been made, as noted below, to account for large one-time expenses or lost income which occurred during that period.

* During June and July of 2017, Debtor had two trucks require major engine overhauls. This resulted in significant down time for both trucks, which cost Debtor approximately \$12,500 of lost income from the use of the trucks. Additionally, one of Debtor's customers, Newman Specialized Carriers, was closed for two weeks around the July 4th holiday. This resulted in additional lost income of \$14,000 in July. When this anomalous lost income is factored back into the results for June and July, the resulting adjustment is \$ 4,416.67 of additional projected income.

** The outstanding balance on this loan, after application of insurance proceeds, will be approximately \$9,000. At this payment amount, this loan will be paid in 6 months, and upon completion will free the \$ 1,555.93 payment for other uses by Debtor.

*** Debtor only has one payment of \$1,354.32 left to Keystone, which will satisfy the debt that creditor. Therefore, for the purposes of this analysis, their payment amount has been reduced to zero.

**** Similar to the lost income adjustment described above, this expense item was reduced to account for the cost of the major engine overhauls. The cost for the repairs totaled \$ 18,062.87, which when removed from the June expenses reduces the projected monthly maintenance costs by \$3,010.48 to \$3,114.55.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In Re:)	Chapter 11
)	
SPENCER TRANSPORTATION, LLC)	
)	Case No. 17-70012-JHH11
Debtor.)	
)	

BALLOT FOR ACCEPTING OR REJECTING PLAN OF REORGANIZATION

Spencer Transportation, LLC filed a Disclosure Statement dated ___ day of _____, 2017 (“Disclosure Statement”) as the Debtor in this case. The Plan of Reorganization (“Plan”) was attached as Exhibit A to the Disclosure Statement. The Court has approved the Disclosure Statement with respect to the Plan. The Disclosure Statement provides information to assist you in deciding how to vote your ballot. The Disclosure Statement and Plan have been included in this mailing. If you do not receive or otherwise have a Disclosure Statement and Plan you may obtain a copy from:

Lee R. Benton
Benton & Centeno, LLP
2019 3rd Avenue North
Birmingham, Alabama 35203
Telephone: (205)278-8000
Facsimile: (205)278-8005

Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court. You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been placed in a certain class under the Plan. Please review the Disclosure Statement and Plan carefully to determine your particular class of claim. If you hold more than one claim or, claims in more than one class, you should complete a ballot for each claim that you are entitled to vote.

If your ballot is not received by overnight courier or regular mail by Lee R. Benton and/or Samuel C. Stephens with Benton & Centeno, LLP, 2019 3rd Avenue North, Birmingham, Alabama 35203 on or before 5:00 p.m. on the ___ day of _____, 2017 (This Court’s time), and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan. Electronic voting is not allowed. If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote. Please also follow any other applicable instructions set forth in the Order Approving Disclosure Statement and Fixing Time For Filing Acceptance Or Rejection Of Plan. The day following the deadline for the

providing of ballots afore-described or as soon thereafter as feasible, counsel for the Debtor shall file with the Bankruptcy Court a Summary of such ballots as are received.

ACCEPTANCE OR REJECTION OF THE PLAN

Name of Individual or Corporation _____

A member of Class _____ Claim against the Debtor in the unpaid amount of \$ _____

(Check one box only)

ACCEPTS THE PLAN

REJECTS THE PLAN

Dated: _____

Print or type name:

(If corporation or partnership)

Signature:

Title (if corporation or partnership)

Address:

Phone Number:

RETURN THIS BALLOT TO:

Lee R. Benton or
Samuel C. Stephens
Attorney for the Debtor-in-Possession
2019 3rd Avenue North
Birmingham, Alabama 35203