

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

In the Matter of:)
)
SHADRACH, MESHACH & ABEDNEGO, INC.,)
EIN: XX-XXX8207) CASE NO. 17-81731-CRJ11
)
Debtor.) CHAPTER 11
_____)

**SECOND AMENDED DISCLOSURE STATEMENT RELATING DEBTOR'S
AMENDED PLAN OF LIQUIDATION DATED SEPTEMBER 22, 2017
PRELIMINARY STATEMENT**

THIS SECOND AMENDED DISCLOSURE STATEMENT RELATES TO THE PLAN OF LIQUIDATION OF SHADRACH, MESHACH & ABEDNEGO, INC. AND HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE. THE PLAN PROVIDES FOR THE PROPOSED METHOD OF LIQUIDATION OF THE ASSETS OF THE DEBTOR AND THE DISTRIBUTIONS CREDITORS WOULD RECEIVE IN THE DEBTOR'S CHAPTER 11 CASE.

NO PERSON MAY GIVE ANY INFORMATION ON BEHALF OF THE DEBTOR REGARDING THE PLAN OF LIQUIDATION OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN, OTHER THAN THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT IS DESIGNED TO PROVIDE ADEQUATE INFORMATION TO ENABLE HOLDERS OF CLAIMS AGAINST THE DEBTOR TO MAKE AN INFORMED JUDGMENT ON WHETHER TO ACCEPT OR REJECT THE PLAN. ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, EXHIBITS ANNEXED HERETO AND OTHER DOCUMENTS REFERENCED AS FILED WITH THE BANKRUPTCY COURT PRIOR TO THE END OF THE SOLICITATION PERIOD FOR THE PLAN. NO MATERIALS OTHER THAN THE ACCOMPANYING MATERIALS ATTACHED HERETO OR REFERENCED HEREIN HAVE BEEN APPROVED BY THE BANKRUPTCY COURT OR THE DEBTOR FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THE PLAN. SUBSEQUENT TO THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT: (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN REMAIN MATERIALLY ACCURATE, AND (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (“SEC”), OR ANY SIMILAR PUBLIC GOVERNMENTAL OR REGULATORY AUTHORITY, AND NEITHER THE SEC NOR ANY SUCH AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT, THE INFORMATION CONTAINED HEREIN, OR THE MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN UPON HOLDERS OF CLAIMS AGAINST THE DEBTORS. THIS DISCLOSURE SHALL BE CONSIDERED TO BE A SETTLEMENT DOCUMENT PURSUANT TO FEDERAL RULE OF EVIDENCE 408.

ALL CAPITALIZED TERMS AND PHRASES USED IN THIS DISCLOSURE STATEMENT AND NOT OTHERWISE DEFINED HEREIN WILL HAVE THE MEANINGS ASCRIBED TO THEM IN THE PLAN.

I. INTRODUCTION

Shadrach, Meshach & Abednego, Inc., debtor and debtor-in-possession (“Debtor”), filed a voluntary petition under Chapter 11 of Title 11, United States Code (“Bankruptcy Code” or “Code”), on June 9, 2017, in the United States Bankruptcy Court for the Northern District of Alabama, Northern Division (“Bankruptcy Court” or “Court”). Debtor submits this Amended Disclosure Statement dated September 18, 2017 (“Disclosure Statement”), in connection with its Amended Chapter 11 Plan of Liquidation dated September 18, 2017, (“Plan”) as required by 11 U.S.C. § 1127 of the Bankruptcy Code. The definitions in the Plan are incorporated by reference. The Debtor is distributing this Disclosure Statement, pursuant to section 1125 of the Bankruptcy Code, to provide the Debtor’s creditors with adequate information so that they can make an informed judgment on whether to accept or reject the Plan.

A. Explanation of Chapter 11.

Pursuant to chapter 11 of the Bankruptcy Code, a debtor may reorganize or wind up its affairs for its benefit and the benefit of its creditors. In a chapter 11 case, the debtor typically remains in control of the estate as the “debtor in possession.” Upon filing a petition for chapter 11 relief and during the pendency of a case, the Bankruptcy Code imposes an automatic stay against creditors’ attempts to collect or enforce, through litigation or otherwise, claims against the debtor. The automatic stay provisions of section 362 of the Bankruptcy Code, unless modified by court order, will generally prohibit or restrict attempts by creditors to collect or enforce any claims that arose prior to the commencement of the chapter 11 case against the debtor.

The provisions of the Bankruptcy Code are designed to encourage the parties-in-interest in a chapter 11 proceeding to negotiate the terms of a plan of reorganization or liquidation so that it may be confirmed. A chapter 11 plan is the vehicle for satisfying or otherwise addressing the claims against and interests in a debtor. After the chapter 11 plan has been filed, the holders of claims against and/or interests in a debtor, whose claims or interests are impaired under the plan,

may vote to accept or reject the plan. Section 1125 of the Bankruptcy Code requires a debtor, before soliciting acceptances of the proposed plan, to prepare a disclosure statement containing adequate information of such kind, and in such detail, as to enable a hypothetical reasonable investor to make an informed judgment about the plan.

B. Preliminary Statement and Summary of Recoveries.

Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor continues in the management and possession of its property as debtor in possession; no trustee or examiner has been appointed for the Debtor.

The primary objective of the Debtor's Plan is to provide a mechanism for completing the liquidation of the Debtor's assets, including causes of action, if any, held by, or in favor of, the Debtor, reconciling and fixing the claims asserted against the Debtor and distributing the net liquidation proceeds in conformity with the distribution scheme provided by the Bankruptcy Code. Because the Plan is a plan of liquidation, pursuant to section 1141(d)(3) of the Bankruptcy Code, the Debtor will not receive a discharge, and will not engage in business after a Final Decree has been entered and its chapter 11 case is closed. All equity interests in the Debtor will be canceled and these equity interest will not receive a distribution under the Plan.

C. Who is Entitled to Vote on the Plan.

All classes are impaired and are entitled to vote on the Plan. Pursuant to the Bankruptcy Code, only classes of claims against or interests of a debtor that are "impaired" (within the meaning of section 1124 of the Bankruptcy Code) under the terms and provisions of a plan of reorganization or liquidation are entitled to vote to accept or reject a plan. A class is "impaired" if the legal, equitable, or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturity. Classes of claims and interests that are not impaired are not entitled to vote on a plan and, under section 1126(f) of the Bankruptcy Code, are conclusively presumed to have accepted a plan. All classes of claims and interests in this Plan are impaired and entitled to vote.

D. Definitions; Exhibit.

Unless otherwise defined herein, capitalized terms used in this Disclosure Statement will be defined as set forth in the Plan or as defined in the Bankruptcy Code.

A copy of a liquidation analysis is attached hereto as Exhibit "A". The Debtor has also attached hereto as Exhibit "B" an analysis of 1) the list of unsecured claims filed with the Bankruptcy Court; and 2) unfiled claims listed on Debtor's schedules.

E. Notice to Creditors.

1. *Purpose of Disclosure Statement.* This Disclosure Statement is being transmitted to holders of Claims in Classes 1, 2, 3 and 4 whether or not they have filed proofs of claim and to interested parties who have filed a notice with the Bankruptcy Court.

The purpose of this Disclosure Statement is to provide creditors with information that (i) summarizes the Plan and alternatives to the Plan, (ii) advises creditors of their rights under the Plan, (iii) assists creditors entitled to vote in making informed decisions as to whether they should vote to accept or reject the Plan, and (iv) assists the Bankruptcy Court in determining whether the Plan complies with the provisions of chapter 11 of the Bankruptcy Code and should be confirmed.

This Disclosure Statement contains important information regarding (A) the Debtor's history, (B) developments in these chapter 11 cases, (C) the Plan, including a summary and analysis thereof, and (D) considerations pertinent to acceptance or rejection of the Plan. All creditors are encouraged to read this Disclosure Statement and its exhibits carefully and in their entirety before deciding to vote either to accept or reject the Plan.

2. *Information Contained in this Disclosure Statement.* This Disclosure Statement is the only document authorized by the Bankruptcy Court to be used in connection with the solicitation of votes accepting the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement, and no Person has been authorized by the Bankruptcy Court or the Debtor to use or disclose any information concerning the Debtor other than the information contained herein. Other than as explicitly set forth in this Disclosure Statement, you should not rely upon any information relating to the Debtor, its estate, the value of its assets, the nature or amounts of its liabilities, its creditor's Claims, or the amount or value of any distributions made under the Plan. All financial information and historical information contained in this Disclosure Statement has been provided by the Debtor. This Disclosure Statement is accurate to the best of the Debtor's knowledge, information and belief. The Debtor has endeavored to make this Disclosure Statement as clear and comprehensive as possible in order to furnish creditors with adequate information to make an informed decision regarding acceptance or rejection of the Plan.

PLEASE READ THIS DISCLOSURE STATEMENT, INCLUDING THE PLAN, IN ITS ENTIRETY. THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN, FOR THE CONVENIENCE OF CREDITORS, BUT THE PLAN ITSELF QUALIFIES ALL SUCH SUMMARIES. ACCORDINGLY, IF THERE EXISTS ANY INCONSISTENCY BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN WILL CONTROL.

3. *Hearing on Confirmation of Plan.* The Bankruptcy Court has scheduled a hearing to consider confirmation (*i.e.*, approval) of the Plan on October 27, 2017 at 9:00 am (Central Time), in the third floor Courtroom of the United States Bankruptcy Court, Decatur, Alabama. The Confirmation Hearing may be adjourned from time to time without further notice other than by announcement in the Bankruptcy Court on the scheduled hearing date or upon the Debtor filing a notice of adjournment.

II. **INFORMATION ABOUT THE DEBTOR**

A. General.

1. *General Description.* Shadrach, Meshach & Abednego, Inc. is a corporation which was formerly organized and existing under the laws of the State of Alabama as Victory Sweepers, Inc. Victory Sweepers, Inc. was formally established as of December 9, 2005 by Mark R. Schwarze. The amendment to change the name of the corporation to Shadrach, Meshach & Abednego, Inc., was adopted on November 21, 2016, and recorded with the State of Alabama shortly thereafter.

2. *Structure.* The Debtor is owned by Harvest Investment Partners, Inc. Harvest is an Alabama corporation which is owned 76% by Mark Schwarze and 24% by Margaret Schwarze.

B. Business Activities.

Debtor is a privately held company headquartered in Madison, Alabama, which manufactures and sells commercial sweepers machines. Debtor employs four employees and has arrangements with contractors to provide the services necessary to build sweepers.

C. Events Leading to Bankruptcy.

Debtor's bankruptcy filing was precipitated by a variety of factors that have led to a deterioration of Debtor's business. Debtor was slow to generate profits at start up due to development costs of the engineering, software, patents, and trademarks. Furthermore, Debtor had to build up its presence in the market through costly advertising at trade shows and such. Debtor was eventually able to grow sales to just under eight million dollars.

In 2008, the U.S. economy began its collapse and Debtor's customers could not or did not want to buy new sweepers due to cutbacks and the inability to obtain financing for new equipment. Debtor's management believed that the economy would recover much faster than it did and never "right-sized" its cost structure to the new revenue reality despite the infusion of additional capital. Management worked diligently to create a new line of products to meet the financial economy and achieved great success, but Debtor has never been able to fully recover. Instead, the Debtor saw a continual decline of its gross revenues.

After exhausting all reasonable alternatives, Debtors determined that a restructuring of the companies outside of chapter 11 could not be implemented. Beginning in November, 2016, the Debtor negotiated with Roots Multi-clean for the sale of substantially all of its assets. Debtor filed for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code on June 9, 2017, in an effort to liquidate its assets for the highest and best price.

III.

ACTIVITIES WITHIN THE CHAPTER 11 CASE

A. Filing.

On June 9, 2017, Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the "Petition Date"). The Court entered an Order on Chapter 11 Operating Procedures on June 26, 2017 [Doc. 27].

B. Administration of the Case.

After the Petition Date, and in accordance with sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor continued to operate its business as debtor in possession. As of the date of this Disclosure Statement, no trustee or examiner has been appointed in the chapter 11 cases, nor has any motion for a trustee or examiner been made.

C. Retention of Professionals.

1. *Bankruptcy Counsel.* On August 2, 2017, the Debtor received authorization to retain Heard, Ary & Dauro, LLC as counsel to the Debtor.

D. Use of Cash Collateral and Adequate Protection

On June 27, 2017, Debtor filed a Motion with the Court seeking authority for use of Cash Collateral. On June 29, 2017, the Court entered an Order granting the Motion on an Interim basis [Doc. 43]. Thereafter, on July 11, 2017, the Court entered a Second Interim Order extending the Debtor's use of Cash Collateral and again extended this use to August 23, 2017. Thereafter, the Court extended the use of Cash Collateral to September 20, 2017 in its Order dated August 29, 2017.

E. Executory Contracts and Unexpired Leases.

1. *Assumption of Contracts and Leases.* Debtor is not aware of any executory contracts or unexpired leases to which it is a party. To the extent such exists it is to be rejected upon confirmation. All parties to any executory contract or lease rejected shall have thirty (30) days from the Confirmation Date in which to file a claim for damages, if any, resulting from such rejection or such claims will be disallowed and will not be eligible to participate in distributions under this Plan. By rejecting such contracts and leases, the Debtor is able to avoid accruing additional expenses in connection with such contracts and leases to maximize the return to creditors.

F. Bar Date For Filing Proofs of Claims.

The Debtor filed its Schedules of Assets and Liabilities (the "Schedules") and Statements of Financial Affairs on June 9, 2017. By an Order dated June 22, 2017 [Doc. 22] (the "Bar Date Order"), the Bankruptcy Court fixed **August 15, 2017, as the date by which proofs of claims for prepetition claims had to be filed against the Debtor.** Under the Bar Date Order and the Plan, unless otherwise ordered by the Bankruptcy Court, any person or entity that was required to file a timely proof of claim and failed to do so on or before the Bar Date will not be entitled with respect to such claim to receive any payment or distribution of property from the Debtor, their successors or assigns, and will be forever barred from asserting such Claims against the Debtor's Estate.

G. Avoidance Actions.

The Debtor will be conducting an analysis of potential avoidance actions that are available to the Debtor under the Bankruptcy Code or otherwise. Where appropriate, the Debtor, by the

Plan Administrator, will commence actions to recover avoidable pre-petition transfers (or achieve potential Claim reductions under section 502(d) of the Bankruptcy Code).

IV. SUMMARY OF THE PLAN

A. Overview of the Plan.

If the Plan is confirmed by the Bankruptcy Court and is then consummated as is set forth below, holders of Claims will receive the distributions described below. Upon the Effective Date, the treatment of each class of Claims under the Plan will be binding upon the Debtor, all holders of Claims, and all Persons whether or not such Persons are to receive any payments or other distributions under the Plan and whether or not such Persons have voted to accept the Plan.

B. Summary of Classification and Treatment of Claims Under the Plan.

Claims are divided into four Classes under the Plan, and the proposed treatment of Claims varies among Classes. Administrative Claims are not classified. The Plan contains three Classes of impaired Claims, which consist of Secured Claims, Priority Claims, and General Unsecured Claims. Additionally, the Equity Interests are in Class 4 and are also impaired.

The following section briefly summarizes the classification and treatment of Claims under the Plan.

1. Unclassified Claims

(a) *General.* Pursuant to section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims against the Debtor are not classified for purposes of voting on, or receiving distributions under, the Plan, and the holders of such unclassified Claims are thus not entitled to vote to accept or reject the Plan. All such Claims are instead treated separately in accordance with Article IV of the Plan and the requirements set forth in section 1129(a)(9)(A) of the Bankruptcy Code.

(b) *Administrative Claims.* An Administrative Claim is defined in the Plan and means any Claim under sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation: (a) the actual, necessary costs and expenses incurred by the Debtor after the Petition Date of preserving the Estate or operating the business of the Debtor, (b) Professional Fee Claims, (c) Bankruptcy Court Fees, and (d) any Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court.

The Debtor estimates that the amount of accrued but unpaid Administrative Claims will be in the range of approximately \$24,000 (excluding Professional Fee Claims). As of August 31, 2017 the amount of Professional Fees are approximately \$15,600. Except as provided in the Plan or to the extent the Debtor, or the Plan Administrator and the holder of an Allowed Administrative Claim agree to different and less favorable treatment, each holder of an Allowed

Administrative Claim will be paid in full as of the Effective Date or the date such Administrative Claim becomes an Allowed Administrative Claim, or as soon thereafter as is practicable.

(i) Estimation of Administrative Claims. The Debtor and the Plan Administrator reserve the right, for purposes of allowance and distribution, to seek to estimate any unliquidated Administrative Claim, if the fixing or liquidation of such Administrative Claim would unduly delay the administration of and distributions under the Plan.

(ii) Administrative Bar Date. All Administrative Claims not filed by any applicable Administrative Claim Bar Date for the filing of such Claims shall be deemed waived. The Administrative Claim Bar Date for all holders of Administrative Claims, except those of Professionals and for Bankruptcy Court Fees, shall be as provided in the Confirmation Order.

(c) *Priority Claims:* Priority Claims consist of any Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than an Administrative Claim. This Class consists of the Allowed Priority Claims of pre-petition wages earned within the 180 days prior to filing under §507(a)(4) and claims owed governmental units under §507(a)(8) of the Bankruptcy Code. These claims are impaired and their treatment is predicated upon the consent of the claim holder pursuant to §1129(a)(9) of the Code. These claims are classed as follows:

1.1 Internal Revenue Service: This Class consists of the Allowed Priority Claims of the Internal Revenue under §507(a)(8) of the Bankruptcy Code. The total amount of these priority claims is currently \$143,701.12. With the consent of the IRS, this claim will be treated in accordance with Claim 2.1 as set out below. Except for releasing its lien and any claim to the assets being sold IRS will retain all rights it has for the collection and enforcement of the amounts owed by Debtor.

1.2 Alabama Department of Revenue: This Class consists of the Allowed Priority Claims of the Alabama Department of Revenue for withholding taxes for tax years 2014, 2015 and 2016 as well as sales tax for the 11/2016, 12/2016, 01/2017, and 02/2017. The total amount of these priority claims is currently \$6,022.89. With the consent of the ADOR, this claim will be treated in accordance with Claim 2.2 as set out below. Except for releasing its lien and any claim to the assets being sold ADOR will retain all rights it has for the collection and enforcement of the amounts owed by Debtor.

1.3 Jason Loveday: This Class consists of the Allowed Priority Claim of Jason Loveday for unpaid wages earned within 180 prior to the Petition Date pursuant to §507(a)(4) of the Bankruptcy Code. The amount of this claim is claim is \$12,500. By consent, the Debtor or Plan Administrator will make a distribution to Loveday on account of this claim in the amount \$6,000. In exchange for the receipt of the distribution provided for in this paragraph, Loveday agrees to release and waive any claim against the Assets being sold by the Debtor to Roots as well as Roots, its successors and assigns.

1.4 **Brandon Davis**: This Class consists of the Allowed Priority Claim of Brandon Davis for unpaid wages earned within 180 prior to the Petition Date pursuant to §507(a)(4) of the Bankruptcy Code. The amount of this claim is claim is \$12,500. By consent, the Debtor or Plan Administrator will make a distribution to Loveday on account of this claim in the amount \$6,000. In exchange for the receipt of the distribution provided for in this paragraph, Davis agrees to release and waive any claim against the Assets being sold by the Debtor to Roots as well as Roots, its successors and assigns.

1.5 **Paul Skipworth**: This Class consists of the Allowed Priority Claim of Paul Skipworth for unpaid wages earned within 180 prior to the Petition Date pursuant to §507(a)(4) of the Bankruptcy Code. The amount of this claim is claim is \$3,000. By Consent, the Debtor or Plan Administrator will make a distribution to Loveday on account of this claim in the amount \$1,500. In exchange for the receipt of the distribution provided for in this paragraph, Skipworth agrees to release and waive any claim against the Assets being sold by the Debtor to Roots as well as Roots, its successors and assigns.

1.6 **Monte Countess**: This Class consists of the Allowed Priority Claim of Monte Countess for unpaid wages earned within 180 prior to the Petition Date pursuant to §507(a)(4) of the Bankruptcy Code. The amount of this claim is claim is \$6,470.57. The Debtor or Plan Administrator will make a distribution to Loveday on account of this claim in the amount \$3,235.28. In exchange for the receipt of the distribution provided for in this paragraph, Loveday agrees to release and waive any claim against the Assets being sold by the Debtor to Roots as well as Roots, its successors and assigns.

2. **Classified Claims**

(a) *Secured Claims*:

2.1 **Internal Revenue Service**:¹ This Class consists of the Allowed Secured Claim of the Internal Revenue Service (“IRS”) and is impaired. The IRS has filed a proof of claim in the amount of \$800,610.07. A portion of the claim is for unpaid withholding taxes for the tax years 2012 through 2017. The IRS has filed tax liens for these years in the amount of \$646,034.91. The sale proceeds from the Sale of Assets discussed below attach to the assets which the Debtor seeks to sell and therefore attaches to the sale proceeds. The Debtor or Plan Administrator will make a distribution to the IRS on account of this claim in the amount \$400,000. Except for releasing its lien against the assets to be sold, the IRS will retain all rights it has for the collection and enforcement of the amounts owed by Debtor. The remainder

¹ Debtor’s classification of these secured tax claims is in accordance with the Bankruptcy Code. See eg. *In re Tree of Life Church*, 522 B.R. 849, 861 (Bankr. D.S.C. 2015); *In re Greenwood Point, LP*, 445 B.R. 885, 905 (Bankr. S.D. Ind. 2011).

of the IRS claim shall be treated as provided for in general unsecured Class 3 below.

2.2 **Alabama Department of Revenue:** This Class consists of the secured claim of the Alabama Department of Revenue (“ADOR”) and is impaired. ADOR has filed proofs of claim in the amount of \$27,171. These claims are for unpaid withholding taxes for the tax years 2012 through 2017. ADOR has filed tax liens for these years in the amount of \$27,172.07. The sale proceeds from the Sale of Assets discussed below currently attaches to the assets which the Debtor seeks to sell and therefore attaches to the sale proceeds. The Debtor or Plan Administrator will make a distribution to ADOR on account of this claim in the amount \$16,403.56. Except for releasing its lien against the assets to be sold, ADOR will retain all rights it has for the collection and enforcement of the amounts owed by Debtor. The remainder of the ADOR claim shall be treated as provided for in the general unsecured Class 3 below.

2.3 **Ace Funding Source, LLC:** This Class consists of the secured claim of the Ace Funding Source, LLC (“Ace”) and is impaired. Ace has not filed a proof of claim but the Debtor does not dispute that it owes Ace the sum of \$3,945 which is secured by the Debtor’s accounts receivable. The Debtor or Plan Administrator will make a distribution to Ace on account of this claim in the amount \$2,000. Except for releasing its lien against the assets to be sold, Ace will retain all rights it has for the collection and enforcement of the amounts owed by Debtor.

2.4 **Alabama Department of Labor:** This Class consists of the secured claim of the Alabama Department of Labor (“ADOL”) and is impaired. ADOL has not filed a proof of claim but the Debtor does not dispute that it owes ADOL the sum of \$16,019 which is secured by the Debtor’s accounts receivable. The Debtor or Plan Administrator will make a distribution to Ace on account of this claim in the amount \$1,000. Except for releasing its lien against the assets to be sold, ADOL will retain all rights it has for the collection and enforcement of the amounts owed by Debtor.

2.5 **LeaseSouth, LLC:** This Class consists of the secured claim of LeaseSouth, LLC and is impaired. LeaseSouth has obtained a judgment lien against the Debtor which arises from an equipment lease from LeaseSouth to the Debtor in the amount of \$112,017. LeaseSouth has not filed a proof of claim but the Debtor does not dispute that it owes LeaseSouth which is secured by a portion of the Debtor’s equipment. The Debtor or Plan Administrator will make a distribution to Ace on account of this claim in the amount \$12,000. Except for releasing its lien against the assets to be sold, ADOL will retain all rights it has for the collection and enforcement of the amounts owed by Debtor.

2.6 **O’Reilly Automotive Stores:** This Class consists of the claim of O’Reilly Automotive Stores (“O’Reilly”) and is impaired. O’Reilly obtained judgment against the Debtor pre-petition in the amount of \$21,910.01. Pursuant to §506(d) of

the Code, because the value of the Debtor's property which would secure this claim is less than the amount of the Claim, this Claim shall be treated for all purposes under the Plan as a General Unsecured Claim under Class 3 below.

2.7 **OES Industries, LLC**: This Class consists of the claim of OES Industries, LLC ("OES") and is impaired. OES obtained judgment against the Debtor pre-petition in the amount of \$145,050 on April 11, 2017. Pursuant to §506(d) of the Code because the value of the Debtor's property which would secure this claim is less than the amount of the Claim, this Claim shall be treated for all purposes under the Plan as a General Unsecured Claim under Class 3 below.

2.8 **Neely Coble Company**: This Class consists of the claim of Neely Coble Company ("Neely") and is impaired. Neely obtained judgment against the Debtor pre-petition in the amount of \$32,000. Pursuant to §506(d) of the Code because the value of the Debtor's property which would secure this claim is less than the amount of the Claim, this Claim shall be treated for all purposes under the Plan as a General Unsecured Claim under Class 3 below.

2.9 **Bancorp Bank**: This Class consists of the claim of Bancorp Bank ("Bancorp") and is impaired. Bancorp filed a secured claim in the amount of \$120,500 and claims to have a lien upon titles to vehicles which are not in the Debtor's possession. Pursuant to §506(d) of the Code because the value of the Debtor's property which would secure this claim is less than the amount of the Claim, this Claim shall be treated for all purposes under the Plan as a General Unsecured Claim under Class 3 below.

2.10 **Bale Chevrolet Company**: This Class consists of the claim of Bale Chevrolet Company ("Bale") and is impaired. Bancorp filed a secured claim in the amount of \$102,108 and claims to have a lien upon titles to chassis which are not in the Debtor's possession. Pursuant to §506(d) of the Code because the value of the Debtor's property which would secure this claim is less than the amount of the Claim, this Claim shall be treated for all purposes under the Plan as a General Unsecured Claim under Class 3 below.

(b) *Class 3: General Unsecured Claims*. General Unsecured Claims consist of any unsecured Claim that is not on Administrative Claim, a Secured Claim, or a Priority Claim unless said claims are specifically included in this class as set out above. Holders of Claims in Class 3 are impaired under the Plan. The total amount of unsecured claims exceeds \$2.1 Million Dollars. The claims are of every kind and nature including claims arising from the rejection of executory contracts, unexpired lease claims, deficiencies on secured claims, contract damage claims or open account claims and damages arising from or related to any liquidated or contingent claim. Holders of general unsecured claims without priority which are Allowed Claims as determined on or before the Effective Date of the Plan shall be paid on a *pro rata* basis from a

pool of funds created from the distribution of Five percent (5%) of the proposed Purchaser's pre-tax profit for a period of three (3) years as discussed below. In addition to this amount the pool will also consist of the collection of accounts receivables which belong to the Debtor. As shown on the attached Exhibits C, D and E this distribution is estimated to be approximately \$75,000. The Debtor believes that a distribution to Allowed General Unsecured Creditors from this pool of funds would result in an approximate distribution of 4 to 5% of the amount of each claim. This amount may increase depending upon the disallowance of certain unsecured claims.

(c) *Class 4: Equity Interest Holder:* This Class consists of the equity interests of Harvest Investment Partners, Inc. ("HIP"). HIP owns One Hundred percent (100%) of the issued and outstanding stock in Debtor. The claim of HIP as the equity interest holder is impaired. As part of this plan, HIP's outstanding equity in the Debtor is to be cancelled and HIP will not receive any distribution under the terms of this Plan.

C. The Sale.

1. *Sale.* Pre-petition, the Debtor negotiated an Asset Purchase and Sale Agreement ("Purchase Agreement") with Roots Multiclean, Ltd. ("Roots") to purchase certain assets of the Debtor. Roots is an Indian Company whose principal place of business located at R.K.G. Industrial Estate, Ganapathy, Coimbatore 641 006 Tamilnadu, India. Roots is the largest manufacturer and exporter of cleaning equipment in India. It has grown into a world leader in the cleaning equipment manufacturing industry and has a significant market presence in the world market. The Debtor is satisfied that its efforts have resulted in the highest price available for the assets to be sold to Roots. On June 29, 2017, the Debtor filed its Amended Motion to Sell Substantially All of the Debtor's Operating Assets and Intellectual Property Free and Clear of Liens, Claims, Interests, and Encumbrances ("Motion") [Doc 42]. The sale process described in the Motion is now incorporated into this Plan.

2. *The Purchase Price.* Recently, the Debtor has executed an Addendum to the Purchase Agreement with Roots. A copy of this Addendum is attached to this Disclosure Statement as Exhibit F. The Addendum supersedes and replaces many of the key provisions of the Purchase Agreement attached as Exhibit G. Pursuant to this Plan which incorporates the terms of the Purchase Agreement as revised by the Addendum, Debtor proposes to sell its intellectual property, domains, and fixed asset inventory as well as its goodwill to Roots for the sum of \$450,000 plus the payment of Five percent of the purchaser's pre-tax profit for a period of three (3) years subsequent to the closing.² The sale of the assets is free and clear of all liens, claims, interests and encumbrances.

3. *Sale Subject to Better Offers.* The Offer from Roots is subject to any higher bids as set out in the Motion. Without limiting the terms of a contract, each of the agreements must provide that (i) the purchase price shall be "all cash" payable at the closing and (ii) the bidder's

² In addition to the Purchase Price, Roots has allocated an additional approximate sum of \$325,000 to be used in negotiating with creditors of the Debtor which Roots, in its sole discretion, deems is necessary to protect and maintain the goodwill of the Debtor which Roots is purchasing as part of the Assets. These negotiations do not include the Debtor. These negotiations are further explained on Exhibit H.

obligation to close shall not be conditioned upon obtaining acquisition financing, the completion of any additional due diligence with respect to the assets to be sold or any other contingency, other than the approval by the Bankruptcy Court. In addition, any subsequent offer must include in the bid an additional amount of \$50,000.00 for Bid Protection which Debtor would seek to grant to Roots as a “stalking horse”. In the event that Roots was not the successful bidder, Debtor will seek Court permission for Roots to be paid the sum of \$50,000 as a breakup fee. Additionally, in the event there is a subsequent offer made, then the Sale Procedures set forth in paragraph 12 of the Motion shall apply except that all interested parties would receive information about a new date and location for the auction.

3. *Approval by Bankruptcy Court.* Notwithstanding anything to the contrary set forth in any purchase agreement, contract or these procedures, the entry of an order by the Bankruptcy Court approving the applicable Final Sale Agreement and successful bidder shall be required before any Final Sale Agreement shall be deemed to have been accepted as the “winning bidder” by the Debtor.

4. *Closing.* The closing of the Sale shall occur on or before four weeks following the Order Confirming the Debtor’s Plan and approving the sale of assets, provided, that such Order is final non-appealable (ie Effective Date). The Closing shall be held at the law offices of Wilmer & Lee P.C. or at such mutually convenient location as the parties shall select.

D. Implementation of Plan.

1. *Implementation.* The Plan will be implemented by the Plan Administrator in a manner consistent with the terms and conditions set forth in the Plan and in the Confirmation Order.

2. *Funding for the Plan.* The proceeds of the Sale of the Assets will be the primary means of funding for the Plan. The Plan Administrator will use the proceeds from the Sale to the Allowed Claims for Administrative, Priority, Secured and General Unsecured Creditors.

3. *Continuing Existence.* From and after the Effective Date, the Debtor shall continue in existence for the purposes of (i) winding up its affairs as expeditiously as reasonably possible, (ii) liquidating, by conversion to Cash, or other methods, of any remaining Assets, as expeditiously as reasonably possible, (iii) enforcing and prosecuting claims, interests, rights and privileges of the Debtor, including, without limitation, the prosecution of Causes of Action, (iv) resolving disputed claims, (v) administering the Plan, (vi) filing appropriate tax returns and (vii) performing all such other acts and conditions required by and consistent with consummation of the terms of the Plan.

4. *Closing of the Chapter 11 Case.* When all disputed claims filed against the Debtor have become Allowed Claims or have been Disallowed, and all Assets have been liquidated and converted into Cash (other than those Assets abandoned), and such Cash has been distributed in accordance with the Plan, or at such earlier time as the Plan Administrator deems appropriate, the Plan Administrator shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

5. *Corporate Action.* The Plan will be administered by the Plan Administrator and all actions taken under the Plan in the name of the Debtor shall be taken through the Plan Administrator. Upon the distribution of all Assets pursuant to the Plan and the filing by the Plan Administrator of a certification to that effect with the Bankruptcy Court (which may be included in the application for the entry of the final decree), the Debtor shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Debtor or payments to be made in connection therewith; provided, however, that the Debtor may take appropriate action to dissolve under applicable law. From and after the Effective Date, the Debtor shall not be required to file any document, or take any action, to withdraw their business operations from any states where the Debtor previously conducted business.

6. *Winding Up Affairs.* Following the Effective Date, the Debtor shall not engage in any business or take any actions, except those necessary to consummate the Plan and wind up the affairs of the Debtor. On and after the Effective Date, the Plan Administrator may, in the name of the Debtor take such actions without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than the restrictions imposed by the Plan or the Confirmation Order.

7. *Power and Duties of the Plan Administrator.* The Plan Administrator will act for the Debtor in a fiduciary capacity as applicable to a board of directors or trustees, subject to the provisions of the Plan. The powers and duties of the Plan Administrator shall include:

(a) Making Distributions of Cash to holders of Allowed Claims and paying taxes and other obligations owed by the Debtor or incurred by the Plan Administrator in connection with the wind-down of the Estate in accordance with the Plan;

(b) engaging attorneys, consultants, agents, employees and all professional persons, to assist the Plan Administrator with respect to the Plan Administrator's responsibilities;

(c) executing and delivering all documents, and taking all actions, necessary to consummate the Plan and wind down the Debtor's business;

(d) coordinating the turnover of property, if any, subject to rejected executory contracts or abandonment or liquidation of any retained assets;

(e) coordinating the collection of outstanding accounts receivable;

(f) coordinating the storage and maintenance of the Debtor's books and records to the extent not transferred pursuant to the Sale;

(g) overseeing compliance with the Debtor's accounting, finance and reporting obligations;

(h) preparing monthly operating reports and financial statements and Bankruptcy quarterly reports;

(i) overseeing the filing of final tax returns, audits, and other corporate

dissolution documents if required;

(j) performing any additional corporate actions as necessary to carry out the wind down and liquidation of the Debtor;

(k) communicating with the and responding to inquiries from the creditors of the court.

(l) provide regular cash budgets, information on all disbursements and copies of bank statement you request.

(m) paying the fees and expenses of the attorneys, consultants, agents, employees and professional persons engaged by the Debtor and the Plan Administrator and to pay all other expenses for winding down the affairs of the Debtor, as otherwise agreed to by the Plan Administrator, and in the event of a dispute that cannot be resolved, the parties shall seek to resolve such dispute in the Bankruptcy Court;

(n) disposing of, and delivering title to others of, or otherwise realizing the value of all the remaining Assets;

(o) objecting to, compromising and settling Claims;

(p) acting on behalf of the Debtor in all adversary proceedings and contested matters, then pending or that can be commenced in the Bankruptcy Court and in all actions and proceedings pending or commenced elsewhere, and to settle, retain, enforce, dispute or adjust any claim and otherwise pursue actions involving Assets of the Debtor that could arise or be asserted at any time under the Bankruptcy Code, unless otherwise waived or relinquished in the Plan;

(q) implementing and/or enforcing all provisions of the Plan; and

(r) such other powers as may be vested in or assumed by the Plan Administrator pursuant to the Plan or Bankruptcy Court Order or as may be needed or appropriate to carry out the provisions of the Plan.

8. *Appointment of the Plan Administrator.* The Confirmation Order shall provide for the appointment of Robbin Hodges, the Debtor's current Chief Financial Officer, as the Plan Administrator. The compensation for the Plan Administrator shall be \$50 per hour, subject to the review and approval of the Bankruptcy Court. The Plan Administrator shall be deemed the Estate's representative in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified in the Plan, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code.

9. *Funding for Plan Administrator.* Except for the hiring of professionals, the expenses associated with the exercise by the Plan Administrator are not anticipated to be significant. The payments due the creditors (other than unsecured creditors) will be paid at closing of the Sale. Subsequent to closing attorney fees will be primarily for the collection of accounts receivables. It is expected that the Plan Administrator will employ a collection firm to help collect

these receivables on a contingency fee basis. The cost for preparation of the final tax return is estimated to be \$1,500 and will be paid from Debtor's operating account. Similarly, all charges incurred by the Plan Administrator will be paid from the Debtor's operating account, to the extent that funds are available.

E. Distributions to Holders of Claims.

1. *Estimation of Claims.* The Plan Administrator may, at any time, request that the Bankruptcy Court estimate any Claim not expressly Allowed by the terms of the Plan and otherwise subject to estimation under section 502(c) of the Bankruptcy Code and for which the Debtor may be liable under the Plan to the extent permitted by section 502(c) of the Bankruptcy Code, regardless of whether any party-in-interest previously objected to such Claim; and the Bankruptcy Court will retain jurisdiction to estimate any Claim pursuant to section 502(c) of the Bankruptcy Code at any time prior to the time that such Claim becomes an Allowed Claim. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate allowance of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. Claims may be estimated by the Bankruptcy Court and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

2. *No Recourse.* Notwithstanding that the allowed amount of any particular disputed claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by the Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Debtor, the Estate, the Plan Administrator, or any of their respective professionals, consultants, officers, directors or members or their successors or assigns, or any of their respective property.

3. *Objections to Claims.* Unless otherwise ordered by the Bankruptcy Court, on and after the Effective Date, the Plan Administrator shall have the exclusive right to make, file and prosecute objections to and settle, compromise or otherwise resolve disputed claims, except that as to applications for allowances of Professional Fee Claims, objections may be made in accordance with the applicable Bankruptcy Rules by parties-in-interest. Subject to further extension by the Bankruptcy Court, the Plan Administrator shall file and serve a copy of each objection upon the holder of the Claim to which an objection is made on or before the latest to occur of: (i) forty five (45) days after the Effective Date, (ii) thirty (30) days after a request for payment or proof of claim is timely Filed and properly served upon the Plan Administrator, or (iii) such other date as may be fixed by the Bankruptcy Court either before or after the expiration of such time periods.

F. Miscellaneous Distribution Provisions.

1. *Method of Cash Distributions.* All Distributions of Cash pursuant to the Plan shall be made by the Plan Administrator or a duly-appointed disbursing agent to the holders of Allowed

Claims entitled to receive Cash under the Plan. Cash payments made pursuant to the Plan shall be in United States dollars by checks drawn on a domestic bank selected by the Plan Administrator or by wire transfer from a domestic bank, at the option of the Plan Administrator; provided, however, that cash payments made to foreign creditors, if any, holding Allowed Claims may be (but are not required to be) paid, at the option of the Plan Administrator in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

2. *Accrual of Postpetition Interest.* Unless otherwise provided for in the Plan or the Bankruptcy Code, no holder of a pre-petition Allowed Claim shall be entitled to the accrual of post-petition interest on account of such Claim.

3. *No Distribution in Excess of Allowed Amount of Claim.* Notwithstanding anything to the contrary herein or in the Plan, no holder of an Allowed Claim shall receive in respect of such Claim any Distribution in excess of the Allowed amount of such Claim.

4. *De Minimus Distributions.* Notwithstanding anything to the contrary contained herein or in the Plan, if the amount of Cash to be distributed to the holder of an Allowed Claim is less than \$25, the Plan Administrator may hold the Cash Distributions to be made to such holder until the aggregate amount of Cash to be distributed to such holder is in an amount equal to or greater than \$25, if the Plan Administrator determines that the cost to distribute such Cash is unreasonable in relation to the amount of Cash to be distributed. Notwithstanding the preceding sentence, if the amount of Cash Distribution to such holder never aggregates to more than \$25, then on the final Distribution Date, the Plan Administrator shall distribute such Cash to the holder entitled thereto.

5. *Allocation of Payments.* Amounts paid to holders of Allowed Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess allocated to interest that has accrued on such Claims but remains unpaid.

6. *Setoffs.* The Plan Administrator is authorized, pursuant to and to the extent permitted by section 553 of the Bankruptcy Code, to set off against any Allowed Claim and the Distributions to be made on account of such Allowed Claim, the claims, rights and Causes of Action of any nature that the Plan Administrator may hold against the holder of such Allowed Claim; provided that the Plan Administrator gives the holder of such Allowed Claim notice of the proposed setoff and the holder of such Allowed Claim does not object to the proposed setoff within thirty (30) days; provided that if an objection is timely raised to a proposed setoff, the Plan Administrator may seek relief from the Bankruptcy Court to effectuate the setoff; provided, further, that neither the failure to effect such a setoff nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtor or the Plan Administrator of any such claims, rights and Causes of Action that the Debtor may possess against such holder.

7. *Unclaimed Property.* Subject to Bankruptcy Rule 9010, all Distributions to any holder of an Allowed Claim shall be made at the Distribution Address unless the Debtor and/or the Plan Administrator, as the case may be, have been notified in writing of a change of address. In the event that any Distribution to any holder of an Allowed Claim is returned as undeliverable, no further Distributions to such holder shall be made unless and until the Plan Administrator is notified of such holder's then-current address, at which time all eligible missed Distributions shall

be made to such holder, without interest. All demands for undeliverable Distributions shall be made on or before one hundred and twenty (120) days after the date such undeliverable Distribution was initially made. Thereafter, the amount represented by such undeliverable Distribution shall irrevocably revert to the Debtor and be treated as Available Cash. Any Claim in respect of such undeliverable Distribution shall be discharged and forever barred from assertion against the Debtor and its property or the Plan Administrator.

8. *Cancellation of Equity Interests.* As of the Effective Date, by virtue of the Plan and in all events without any action on the part of the holders thereof, to the extent not previously cancelled, all Equity Interests issued and outstanding shall be cancelled and retired.

9. *Disputed Payments.* If any dispute arises as to the identity of a holder of an Allowed Claim who is to receive any Distribution, the Plan Administrator may, in lieu of making such Distribution to such Person, make such Distribution into an escrow account to be held in trust for the benefit of such holder and such Distribution shall not constitute property of the Debtor and its Estate. Such Distribution shall be held in escrow until the disposition thereof shall be determined by order of the Bankruptcy Court or other court of competent jurisdiction or by written agreement assigned by all of the interested parties to such dispute.

10. *Withholding Taxes.* In connection with the Plan, to the extent applicable, the Plan Administrator shall comply with all withholding and reporting requirements imposed on it by federal, state and local taxing authorities, and all Distributions shall be subject to such withholding and reporting requirements.

11. *Resignation of Directors and Officer.* Upon the Effective Date of the Plan, the Debtor's directors and officers shall be deemed to have resigned as the directors and officers of the Debtor.

12. *Resignation, Death or Removal of Plan Administrator.* The Plan Administrator may resign at any time upon not less than 30 days' written notice to the Bankruptcy Administrator. The Plan Administrator may be removed at any time by the Bankruptcy Administrator for cause upon application to the Bankruptcy Court on 5 days' written notice to the Plan Administrator and his counsel. In the event of the resignation, removal, death or incapacity of the Plan Administrator, the Bankruptcy Administrator shall designate another Person to become the Plan Administrator and thereupon the successor Plan Administrator, without further act, shall become fully vested with all of the rights, powers, duties and obligations of his predecessor. No successor Plan Administrator hereunder shall in any event have any liability or responsibility for the acts or omissions of any his or her predecessors.

13. *No Agency Relationship.* The Plan Administrator shall not be deemed to be the agent for any of the holders of Claims in connection with the funds held or distributed pursuant to the Plan. The Plan Administrator shall not be liable for any mistake of fact or law or error of judgment or any act or omission of any kind unless it constitutes gross negligence or willful misconduct or breach of fiduciary duty on the part of the Plan Administrator. The Plan Administrator shall be indemnified and held harmless, including the cost of defending such claims and attorneys' fees in seeking indemnification, by the Estate against any and all claims arising out of his duties under the Plan, except to the extent his actions constitute gross negligence or willful

misconduct or breach of fiduciary duty. The Plan Administrator may conclusively rely, and shall be fully protected personally in acting upon any statement, instrument, opinion, report, notice, request, consent, order, or other instrument or document which he believes to be genuine and to have been signed or presented by the proper party or parties. The Plan Administrator may rely upon information previously generated by the Debtor and such additional information provided to him by former employees of the Debtor.

V.

EFFECT OF THE PLAN ON CLAIMS, INTERESTS AND CAUSES OF ACTION

A. Jurisdiction of Bankruptcy Court.

Until the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Debtor and its Estate. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matters set forth in Article VIII of the Plan and as specified in the Confirmation Order.

B. Binding Effect.

Except as otherwise provided in section 1141(d) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against the Debtor who held such Claim at any time during the Chapter 11 Case and their respective successors and assigns, whether or not the Claim of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

C. Term of Injunctions or Stays.

Unless otherwise provided in the Plan, all injunctions or stays provided for in the Chapter 11 Case pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Chapter 11 Case is closed.

D. Retention of Rights and Causes of Action.

All present or future rights, claims or causes of action against any Person that existed and which have not been released on or prior to the Effective Date are preserved for the Debtor and its Estate. On the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Debtor shall have possession and control of, and the Plan Administrator shall have the right to enforce and pursue, any and all present or future rights, claims or causes of action, against any Person and with respect to any rights of the Debtor that arose before or after the Petition Date. In pursuing any claim, right or cause of action, the Plan Administrator, as the representative of the Estate, shall be entitled to the extensions provided under section 108 of the Bankruptcy Code. Except as otherwise provided in the Plan, all causes of action shall survive confirmation and the commencement or prosecution of causes of action shall not be barred or limited by any estoppel, whether judicial, equitable or otherwise.

E. Preservation of Avoidance Actions.

Notwithstanding anything in the Plan to the contrary, all of the Debtor's avoidance actions under chapter 5 of the Bankruptcy Code are preserved for the Debtor and its Estate and may be pursued by the Debtor through the Plan Administrator.

VI. **EXECUTORY CONTRACTS**

A. Executory Contracts and Unexpired Leases.

To the extent not previously rejected, on the Confirmation Date, but subject to the occurrence of the Effective Date, all executory contracts and unexpired leases of the Debtor entered into prior to the Petition Date shall be deemed rejected by the Debtor pursuant to the provisions of section 365 of the Bankruptcy Code, except any executory contract or unexpired lease that has been or is the subject of a motion to assume or assume and assign Filed pursuant to section 365 of the Bankruptcy Code by the Debtor before the Effective Date.

B. Rejection Damages Bar Date.

If the rejection by the Debtor, pursuant to the Plan or otherwise, of an executory contract or unexpired lease, results in a Claim, then such Claim shall be forever barred and shall not be enforceable against the Debtor or its property or the Plan Administrator unless a proof of claim is Filed with the clerk of the Bankruptcy Court and served upon the Debtors and/or Plan Administrator, as applicable, not later than thirty (30) days after the date of service of notice of entry of the Confirmation Order, or such other period set by the Bankruptcy Court.

C. Effect of Post-Confirmation Rejection.

The entry by the Bankruptcy Court on or after the Confirmation Date of an Order authorizing the rejection of an executory contract or unexpired lease shall result in such rejection being a pre-petition breach under sections 365(g) and 502(g) of the Bankruptcy Code.

VII. **CONFIRMABILITY AND SEVERABILITY OF A PLAN AND CRAMDOWN**

A. Confirmability and Severability of a Plan.

Subject to Section 12.11 of the Plan, the Debtor reserves the right to alter, amend, modify, revoke or withdraw the Plan. If the Debtor revokes or withdraws from the Plan then nothing contained herein or in the Plan shall be deemed to constitute a waiver or release of any Claims by or against the Debtor, or to prejudice in any manner the rights of the Debtor or any persons in any further proceedings involving the Debtor. A determination by the Bankruptcy Court that the Plan is not confirmable pursuant to section 1129 of the Bankruptcy Code shall not limit or affect the Debtor's ability to modify the Plan to satisfy the confirmation requirements of section 1129 of the Bankruptcy Code. Each provision of the Plan shall be considered separable and, if for any reason

any provision or provisions therein are determined to be invalid and contrary to any existing or future law, the balance of the Plan shall be given effect without relation to the invalid provision.

B. Cramdown.

The Debtor shall have the right to request and does hereby request, if necessary, that the Bankruptcy Court to confirm the Plan in accordance with section 1129(b) of the Bankruptcy.

VIII.
ADMINISTRATIVE PROVISIONS

A. Retention of Jurisdiction.

Notwithstanding confirmation of the Plan or occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction for all purposes permitted under applicable law, including, without limitation, the following purposes:

1. To determine any motion, adversary proceeding, avoidance action, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;

2. To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

3. To ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

4. To hear and determine objections to the allowance of Claims, whether Filed, asserted or made before or after the Effective Date;

5. To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;

6. To enter, implement, or enforce such Orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

7. To issue injunctions, enter and implement other Orders, and take such other actions as may be necessary or appropriate to restrain interference by any person with the consummation, implementation, or enforcement of the Plan, the Confirmation Order or any other Order of the Bankruptcy Court;

8. To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, this Disclosure Statement, or any Order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

9. To hear and determine all Professional Fee Claims;

10. To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, or any transactions or payments contemplated hereby or thereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

11. To take any action and issue such Orders as may be necessary to construe, enforce, implement, execute, and consummate the Plan, including any release or injunction provisions set forth herein or in the Plan, or to maintain the integrity of the Plan following consummation;

12. To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

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

14. To enter a final decree closing the Chapter 11 Case;

15. To recover all assets of the Debtor and property of the Estate, wherever located; and

16. To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code, title 28 of the United States Code and other applicable law.

B. Governing Law.

Except to the extent the Bankruptcy Code, Bankruptcy Rules, or other federal laws apply, the rights and obligations arising under the Plan shall be governed by the laws of the State of Alabama, without giving effect to principles of conflicts of law of Alabama.

C. Effectuating Documents; Further Transactions.

The Debtor or the Plan Administrator, as applicable, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

D. Waiver of Bankruptcy Rules 3020(e) and 7062.

The Debtor may request that the Confirmation Order include (i) a finding that Bankruptcy Rule 7062 shall not apply to the Confirmation Order; and (ii) authorization for the Debtor to consummate the Plan immediately after entry of the Confirmation Order.

E. No Admissions.

Notwithstanding anything herein or in the Plan to the contrary, nothing contained in the Plan or in this Disclosure Statement shall be deemed as an admission by any Person with respect to any matter set forth herein.

F. Payment of Statutory Fees.

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court on the Confirmation Date, shall be paid on the Effective Date. Any statutory fees accruing after the Confirmation Date shall be paid in accordance with Article IV of the Plan.

G. Amendments.

1. *Pre-confirmation Amendment.* The Debtor may modify the Plan at any time prior to the entry of the Confirmation Order provided that the Plan, as modified, and the Disclosure Statement pertaining thereto meet applicable Bankruptcy Code requirements of section 1125 of the Bankruptcy Code, among others.

2. *Post-confirmation Amendment Not Requiring Resolicitation.* After the entry of the Confirmation Order, the Debtor may modify the Plan to remedy any defect or omission or to reconcile any inconsistencies in the Plan or in the Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan, provided that: (i) the Debtor obtain approval of the Bankruptcy Court for such modification, after notice and a hearing; and (ii) such modification shall not materially and adversely affect the interests, rights, treatment, or Distributions of any Class under the Plan.

3. *Post-confirmation Amendment Requiring Resolicitation.* After the Confirmation Date and before the Effective Date of the Plan, the Debtor may modify the Plan in a way that materially or adversely affects the interests, rights, treatment, or Distributions of a class of Claims provided that: (i) the Plan, as modified, meets applicable Bankruptcy Code requirements; (ii) the Debtor obtain Bankruptcy Court approval for such modification, after notice to all creditors entitled to receive notice pursuant to the Bankruptcy Code and the Bankruptcy Rules and a hearing; (iii) such modification is accepted by at least two-thirds in amount, and more than one-half in number, of Allowed Claims voting in each class affected by such modification; and (iv) the Debtor comply with section 1125 of the Bankruptcy Code with respect to the Plan as modified.

H. Successors and Assigns.

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

I. Confirmation Order and Plan Control.

To the extent the Confirmation Order and/or the Plan is inconsistent with this Disclosure Statement, any other agreement entered into between the Debtor and any third party, the Plan controls the Disclosure Statement and any such agreements and the Confirmation Order controls the Plan.

IX.

**VOTING REQUIREMENTS, ACCEPTANCE, CONFIRMATION AND
CONSUMMATION OF THE PLAN**

A. General.

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtor, including that: (i) the Plan classifies Claims in a permissible manner; (ii) the Plan complies with the applicable provisions of the Bankruptcy Code; (iii) the Debtor comply with the applicable provisions of the Bankruptcy Code; (iv) the Debtor have proposed the Plan in good faith and not by any means forbidden by law; (v) the disclosure required by section 1125 of the Bankruptcy Code has been made; (vi) the Plan has been accepted by the requisite votes of holders of Claims, except to the extent that “cram-down” is available under section 1129(b) of the Bankruptcy Code (see below discussion on “Cram-down,” Section G), (vii) the Plan is feasible and confirmation of the Plan will not likely be followed by the liquidation or the need for further financial reorganization of the Debtor, unless such liquidation is proposed under the Plan; (viii) the Plan is in the “best interests” of all holders of Claims in an impaired Class by providing to such holders on account of their Claims property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each holder of a Claim in such Class has accepted the Plan (see Section XII.I entitled “Best Interests of Creditors”); (ix) all fees and expenses payable under 28 U.S.C. § 1930 (relating to bankruptcy fees payable to the clerk of the Bankruptcy Court) have been paid or the Plan provides for the payment of such fees on the Effective Date; (x) if applicable, the Plan provides for the continuation after the Effective Date of all retiree benefits, as defined in section 1114 of the Bankruptcy Code, at the level established at any time prior to confirmation of the Plan pursuant to section 1114 of the Bankruptcy Code, for the duration of the period that the Debtor has obligated itself to provide such benefits; and (xi) the Debtor must have disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director or officer of the Debtor or as successor to the Debtor under the Plan, and the appointment to or continuance in such office by such individual must be consistent with public policy.

The Debtor believes that the Plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code. Certain of these requirements are discussed in more detail below. The Debtor has proposed the Plan in good faith.

B. Intentionally Omitted.

C. Acceptance Requirements.

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by creditors that hold at least two-thirds in dollar amount and more than one-half in number of the allowed claims of such class who actually vote for acceptance or rejection of a plan. The vote of a holder of a claim may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that the acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

D. Confirmation Without Acceptance of All Impaired Classes (“Cram-down”).

In the event that a plan otherwise satisfies the Bankruptcy Code’s requirements for confirmation, but one or more classes of Claims votes to reject the Plan, a debtor has the right to seek confirmation of its plan under the “cram-down” provisions of the Bankruptcy Code.

The Bankruptcy Court can “cram-down” the Plan at the Debtor’s request only if at least one impaired Class of Claims, (excluding the votes of insiders), has accepted the Plan and all other requirements of section 1129(a) of the Bankruptcy Code are satisfied.

In addition, the Bankruptcy Court must find that, as to each impaired Class that has not accepted the Plan, the Plan does not “discriminate unfairly” and is “fair and equitable” with respect to such non-accepting Class.

A plan does not “discriminate unfairly” within the meaning of the Bankruptcy Code if the dissenting class will receive value relatively equal to the value given to all other similarly situated classes. A plan is “fair and equitable” within the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims or interests.

A plan is “fair and equitable” as to a class of secured claims that rejects a plan if the plan provides (a)(i) that the holders of claims included in the rejecting class retain the liens securing those claims whether the property subject to those liens is retained by the debtors or transferred to another entity, to the extent of the allowed amount of such claims, and (ii) that each holder of a claim of such Class receives on account of that claim deferred cash payments totaling at least the allowed amount of that claim, of a value, as of the effective date of the plan, equal to at least the value of the holder’s interest in the estate’s interest in such property; or (b) for the realization by such holders of the indubitable equivalent of such claims.

If a class of unsecured claims rejects a plan, the plan may still be confirmed as long as the plan provides (a) for each holder of a claim included in the rejecting class to receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim, or (b) that the holder of any claim or any interest that is junior to the claims of such class will not receive or retain on account of such junior claim or interest any property at all.

If a class of interests rejects a plan, the plan may still be confirmed as long as the plan provides (a) that each holder of an interest included in the rejecting class receive or retain on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest, or (b) that the holder of any interest that is junior to the interest of such class will not receive or retain under the plan on account of such junior interest any property at all.

Under the Plan, no holder in a Class of Claims is to receive Cash or other property in excess of the full amount of its Allowed Claim. Moreover, no claim or interest that is junior to the holders of General Unsecured Claims or Litigation Claims will receive any distribution under the Plan. Accordingly, the Debtor believe that the Plan does not discriminate unfairly as to any

impaired Class of Claims and is fair and equitable with respect to each such Class under section 1129(b) of the Bankruptcy Code.

E. Feasibility of the Plan.

In connection with confirmation of the Plan, the Bankruptcy Court will have to determine that the Plan is feasible pursuant to section 1129(a)(11), which means that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor unless the Plan provides for the liquidation of the Debtor. Since the Plan provides for the liquidation of the Debtor, the Bankruptcy Court will find that the Plan is feasible if it determines that the Debtor will be able to satisfy the conditions precedent to the Effective Date and otherwise have sufficient funds to meet its post-Confirmation Date obligations to pay for the costs of administering and fully consummating the Plan, including the backing of the Plan Administrator with sufficient funds to proceed with the liquidation of the Debtor's remaining assets. The Debtor believes that the Plan satisfies the financial feasibility requirement imposed by the Bankruptcy Code.

F. Best Interests of Creditors.

To confirm the Plan over the objections of dissenting holders of impaired Claims, the Bankruptcy Court must also independently determine that the Plan is in the "best interests" of all dissenting holders of Claims impaired under the Plan. Under the "best interests" test, the Bankruptcy Court must find that the Plan provides to each dissenting holder of an impaired Claim a recovery of a value at least equal to the value, as of the Effective Date, of the distribution that each such holder would receive were the Debtor liquidated under chapter 7 of the Bankruptcy Code. Since it is the Debtor's belief that the Plan is comparable to a liquidation, a liquidation under chapter 7 of the Bankruptcy Code would merely increase administrative costs in the form of chapter 7 trustee's fees and other professional fees.

X.

CERTAIN RISK FACTORS TO BE CONSIDERED

The formulation of a plan of reorganization or liquidation is the principal purpose of a chapter 11 case. The Plan sets forth the means for satisfying the holders of Claims against the Debtor.

The recovery projections included in this Disclosure Statement are dependent upon certain matters, most of which are beyond the control of the Plan Administrator and some of which may well not materialize. Unanticipated events and circumstances occurring subsequent to the preparation of the projections may affect the actual recoveries. Therefore, the actual recoveries achieved by the Plan Administrator may vary from the projected recoveries included herein. These variations may be material.

XI.

FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The federal income tax consequences of the Plan are complex and subject to significant uncertainties. This Disclosure Statement does not address foreign, state or local tax consequences of the Plan, nor does it purport to address all of the federal income tax consequences of the Plan. This Disclosure Statement also does not purport to address the federal income tax consequences of the Plan to taxpayers subject to special treatment under the federal income tax laws, such as broker-dealers, tax exempt entities, financial institutions, insurance companies, S corporations, small business investment companies, mutual funds, regulated investment companies, foreign corporations, and non-resident alien individuals.

EACH HOLDER OF A CLAIM IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISOR REGARDING THE POTENTIAL FEDERAL, STATE, LOCAL OR FOREIGN TAX CONSEQUENCES OF THE PLAN.

IRS Circular 230 Notice: To ensure compliance with requirements imposed by the IRS in Circular 230, you are hereby informed that (i) any tax advice contained in this Disclosure Statement is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Code, (ii) the advice is written to support the promotion or marketing of the transactions or matters addressed in this Disclosure Statement, and (iii) each holder of a Claim should seek advice based on its particular circumstances from an independent tax advisor.

The Debtor is exempt from federal income tax pursuant to Section 501 of the Code. Accordingly, the Debtor does not believe that the implementation of the Plan, including the extinguishment of the Debtor's outstanding indebtedness pursuant to the Plan, will result in any material tax liability to the Debtor.

XII.

ALTERNATIVES TO CONFIRMATION OF THE PLAN

The Debtor believes that the Plan affords the holders of Claims the potential for the greatest realization on the Debtor's Assets and, thus, is in the best interests of such holders. If the Plan is not confirmed, however, the alternative would be the liquidation of the Debtor's remaining Assets and distribution to creditors under chapter 7. As discussed, the Debtor believes that the Plan is significantly better for creditors than a chapter 7 liquidation.

XIII.

ALTERNATIVE PLANS OF REORGANIZATION

If the Plan is not confirmed, the Debtor or any other party-in-interest in the Chapter 11 Cases could propose a different plan or plans. Since the Plan proposed by the Debtor is a plan of liquidation, the Debtor does not believe that an alternative plan could provide greater recoveries than those provided in the Plan. Moreover, the filing of alternative plans would result in

additional costs in administering the Chapter 11 Case and significant delays in making distributions.

XIV.
CONFIRMATION HEARING

The Court shall set a date and time for hearing on confirmation of the Plan. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing or any adjourned hearing. Any objection to confirmation must be made in writing, filed with the Clerk of the Bankruptcy Court and served upon the following parties, together with proof of service thereof, so as to be ACTUALLY RECEIVED on or before the date stated in this Disclosure Statement Order.

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

At the Confirmation Hearing, the Bankruptcy Court must determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied and, upon demonstration of such compliance, the Bankruptcy Court will enter the Confirmation Order.

XV.
CONCLUSION

The Debtor submits that the plan complies in all respects with chapter 11 of the Bankruptcy Code and the Debtor recommends to holders of Claims who are entitled to vote on the plan that they vote to accept the plan.

Respectfully submitted on this 22nd day of September, 2017.

By: /s/ Mark Schwartz
Shadrach, Meshach & Abednego, Inc.

/s/ Kevin D. Heard
Kevin D. Heard
Attorney for Debtor

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of September, 2017, I served a copy of the foregoing **Debtor's Second Amended Disclosure Statement Dated September 22, 2017**, on the parties listed below and on the attached matrix by depositing the same in the United States Mail, postage prepaid and properly addressed, via electronic mail at the e-mail address below, unless the party being served is a registered participant in the CM/ECF System for the United States Bankruptcy Court for the Northern District of Alabama, service has been made by a "Notice of Electronic Filing" pursuant to FRBP 9036 in accordance with subparagraph II.B.4. of the Court's Administrative Procedures as indicated below:

Notice will be electronically mailed to:

James T. Baxter, III on behalf of Creditor OES Industries, LLC
jkey@ablesbaxter.com, tbaxter@ablesbaxter.com

Richard M Blythe
Richard_Blythe@alnba.uscourts.gov, courtmaildec@alnba.uscourts.gov

Cullen J. Brown on behalf of Creditor Master Sweeping & Maintenance, Inc.
cbrown@babco.com, arhodes@babco.com

Kevin C Gray on behalf of Creditor Master Sweeping & Maintenance, Inc.
kgray@bradley.com, kevingray671@gmail.com; ttatum@bradley.com

Thomas J House on behalf of Creditor Meltdown Asphalt, Inc.
lwhpz@bellsouth.net

Stuart M Maples on behalf of Creditor Program One Professional Building Services, Inc.
smaples@mapleslawfirm.com, kwalker@mapleslawfirm.com;
kpickett@mapleslawfirm.com; dmaples@mapleslawfirm.com

Richard E. O'Neal on behalf of Creditor Insolvency Section Internal Revenue Service
USAALN.BANKRUPTCY@usdoj.gov

Sarah Bell Wills on behalf of Creditor State of Alabama Department of Revenue
sarah.wills@revenue.alabama.gov

Thomas Riley Wolfe on behalf of Creditor Qualex Manufacturing, LLC
rwolfe@wolfejones.com, bankruptcy@wolfejones.com

Notice will not be electronically mailed to:

Donald M. Lewis, III on behalf of Creditor Stewart-Amos Equipment Co.
Keefer Wood Allen & Rahal, LLP
417 Walnut Street, 4th Floor
PO Box 11963
Harrisburg, PA 17108-1963

All parties on the attached matrix were served via U.S. Mail.

/s/ Kevin D. Heard

Kevin D. Heard