

1 **THE LAW OFFICES OF C.R. HYDE, PLC**
 2 **ATTORNEY AT LAW**
 3 **2810 NORTH SWAN ROAD SUITE 160**
 4 **TUCSON, ARIZONA 85712**
 5 **TELEPHONE: (520) 270-1110**
 6 **SBA # 22512**

7 **UNITED STATES BANKRUPTCY COURT**
 8 **DISTRICT OF ARIZONA**

9 In re: 10 AVALON MOBILITY, INC., 11 Debtor.		In Proceedings under Chapter 11 Case No. 4:18-bk-00503-SHG DISCLOSURE STATEMENT
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 13 **DISCLOSURE STATEMENT FOR DEBTOR'S CHAPTER 11 PLAN**

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- EXHIBIT A Plan of Reorganization
- EXHIBIT B Liquidation Analysis
- EXHIBIT C Financial Projections

1 **I. Introduction**

2 Avalon Mobility, Inc., as debtor and debtor-in-possession (the “Debtor”),
3 proposes the following chapter 11 Plan of Reorganization (the “Plan”) pursuant to
4 section 1121(a) of the United States Bankruptcy Code. All capitalized terms used in
5 the Plan are defined either in section 101 of the Bankruptcy Code or in Article I to
6 the Plan. The Plan sets forth how Administrative Expenses, Claims against and
7 Equity Interests in the Debtor will be treated upon the Debtor’s emergence from
8 chapter 11 if the Plan is confirmed by the Bankruptcy Court and is thereafter
9 consummated. This Disclosure Statement describes certain aspects of the Plan, the
10 Debtor’s business operations, significant events leading to the Chapter 11 Cases, and
11 related matters. For a complete understanding of the Plan, you should read this
12 Disclosure Statement, the Plan and all of their related exhibits and schedules in their
13 entirety. The Debtor believes that the Plan complies with all provisions of the
14 bankruptcy code and will enable it to restructure its debt successfully and accomplish
15 the objectives of Chapter 11, and therefore that acceptance of the Plan is in the best
16 interest of the Debtor, the Debtor’s estate and creditors.
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21 **A. General Information**

22 The Debtor submits this disclosure statement to holders of Claims against and
23 Interests in the Debtor for the purpose of soliciting acceptance of the Plan.
24

25 The Debtor believes this Disclosure Statement contains the material, important, and
26 necessary information for creditors to arrive at an informed decision in exercising their right
27 to vote for acceptance or rejection of the Plan.
28

1 Most words or phrases in this Disclosure Statement have their usual and customary
2 meanings. Certain capitalized terms have the same meaning as defined in the Plan. If not
3 otherwise defined, certain terms in this Disclosure Statement have the meaning provided in
4 the Bankruptcy Code or Bankruptcy Rules.
5

6 Unless otherwise noted, those portions of the Plan and this Disclosure Statement
7 providing factual information concerning the Debtor, including assets and liabilities, have
8 been prepared from information submitted by the Debtor and professionals retained by the
9 Debtor.
10

11 The financial information contained in this Disclosure Statement has not been
12 subjected to an audit by an independent certified public accountant. For that reason, neither
13 the Debtor nor Debtor's Counsel are able to warrant or represent the information contained
14 in this Disclosure Statement is without any inaccuracy. To the extent practicable, the
15 information has been prepared from the Debtor's financial books and records and great
16 effort has been made to ensure that all such information is accurate.
17

18 The Disclosure Statement and the Plan will classify all creditors into Classes. The
19 treatment of each class of creditors will be set forth in this Disclosure Statement and in the
20 Plan. You should carefully examine the treatment of the Class to which your claim will be
21 assigned.
22

23 This Disclosure Statement must be approved by the Bankruptcy Court after notice
24 and a hearing pursuant to section 1125 of the Bankruptcy Code. Approval of the Disclosure
25 Statement by the Bankruptcy Court does not constitute either certification or approval of the
26
27

1 Debtor's Plan or that the Disclosure Statement is without any inaccuracy. Creditors may
2 vote on the Plan once the Disclosure Statement is approved by the Bankruptcy Court.

3 No representations concerning the Debtor or the Plan are authorized other than as set
4 forth in this Disclosure Statement.
5

6 **B. Classification of Claims and Interests**

7 The following table designates the Classes of Claims and Interests in the Debtor, and
8 specifies the Classes that are impaired by the Plan and entitled to vote to accept or reject the
9 Plan. A detailed description of the Classes of Claims and Interests is provided in Section
10 VII below.
11

12 Class	Description	Impairment	Entitled to Vote
13 1	Priority Claims	Unimpaired	No
14 2	Prepetition Arrearage 15 Claim of Landlords	Unimpaired	No
16 3	Secured Claim of JP 17 Morgan Chase Bank, 18 N.A.	Unimpaired	No
19 4	General Unsecured 20 Claims	Unimpaired	Yes
21 5	Unsecured Claim of 22 Smith Trust	Unimpaired	No
23 6	Contingent, 24 Unliquidated and Disputed Claims	Unimpaired	No
25 7	Debtor's Interest	Impaired	No

1
2 **C. Voting**

3 As a Creditor, your vote is important. All Holders of Claims are encouraged to vote.
4 All Creditors entitled to vote must cast their vote by completing, dating, and signing the
5 ballot mailed to them with the Disclosure Statement once it is approved. The ballot will
6 contain instructions concerning the deadline for submitting the ballot and the address where
7 the ballot should be mailed.
8

9
10 The Court will confirm the Plan if the requirements of section 1129 of the
11 Bankruptcy Code are met. The Court must determine whether the Plan has been accepted
12 by each impaired Class entitled to vote. Impaired Classes entitled to vote are those Classes
13 of Claims and Interests whose legal, equitable or contractual rights are altered, as defined by
14 section 1124 of the Bankruptcy Code.
15

16 Pursuant to section 1126(c) of the Bankruptcy Code, for a Class of Claims to accept
17 the Plan, there must be acceptance by Holders of: (a) at least two-thirds of the dollar amount
18 of the Allowed Claims of such class that actually vote on the Plan; and (b) more than one-
19 half in number of the Allowed Claims of such class that actually vote on the Plan. Failure
20 to vote does not constitute either an acceptance or a rejection of the Plan.
21

22 The Plan may be confirmed under section 1129(b) of the Bankruptcy Code even if
23 each class of Creditors does not accept the Plan, so long as one impaired class of Creditors
24 accepts the Plan. Only the votes of Creditors or Interested parties whose ballots are timely
25 received will be counted in determining acceptance of the Plan. Ballots must be received by
26
27

1 counsel for the Debtor no later than 5:00 p.m., Arizona time, on _____, 2018 at the
2 following address:

3 The Law Offices of C.R. Hyde, PLC
4 2810 North Swan Road Suite 160
5 Tucson, Arizona 85712

6 **D. Confirmation Hearing**

7 In accordance with section 1128 of the Bankruptcy Code and Bankruptcy Rule
8 3017(c), a hearing will be held before the Honorable Scott Gan, 38 S. Scott, Ave., Tucson,
9 AZ 85701, Courtroom 329 at a time and date to be set by this Court and noticed out to all
10 interested parties. At such hearing, the Court will consider whether the requirements for
11 confirmation have been met and whether the Plan has received the requisite acceptance, or
12 whether the Plan can be confirmed pursuant to section 1129(b) of the Bankruptcy Code. At
13 the Confirmation Hearing, the Debtor will request confirmation of the Plan.
14
15

16 **II. Description of the Debtor**

17 **A. History of the Debtor**

18 Debtor has been involved in the interstate and intrastate moving, shipping and
19 storage business since 2004. Debtor acts as an agent for United Van Lines, .
20

21 **B. Events Precipitating the Bankruptcy Case**

22 During most recent lease negotiations with 34th Street Investment Partners, LLC
23 (“Tucson Lease”), Debtor employed an commercial leasing agent to negotiate a modified
24 lease without a triple net due to Debtor’s experience of receiving notices demanding monies
25 related to common area expenses like a \$50,000.00 repaving project.
26
27

1 In April of 2016 Debtor hired GPS Business Consultant (“GPS”) to render a
2 complete evaluation of Debtor’s business operations. GPS Business Consultant determined
3 the viability of the Debtor and advised on how to make improvements in processes and
4 procedures that would result in increased sales and net revenue. During the evaluation
5 process, GPS advised a change in management, which was put in place immediately. Prior
6 to the change a manager was in charge of both Tucson and Phoenix locations. Additionally,
7 during the review of Debtor’s shipping pricing GPS discovered that the prior
8 management had been intentionally pricing the services of the business at rates below its
9 competition and below that which was necessary to meet the costs of the freight contract.
10 GPS recommended that the Vice President, Valaryee Huffman, serve as the general
11 manager and deal directly with the setting of pricing with their various carriers. Replacing
12 management and with the expiration of the profitless pricing agreements has significantly
13 changed the financial health of the company.

14
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16
17 **III. Significant Events During the Bankruptcy Case**

18
19 **A. Administrative Proceedings**

20 On January 18, 2018, the Debtor commenced the instant bankruptcy case under
21 Chapter 11 of Title 11 of the United States Code. The filing of the case stayed the Campbell
22 one landlord lockout. A motion to assume the executory contract between Debtor and
23 Campbell One was filed on May 18, 2018. Operating Reports for the months of January,
24 February, March, and April of 2018 will be filed before the close of business on May 18,
25 2018 or before the close of business Monday May 21, 2018.
26
27

1 Lift stay motions were filed by both commercial landlords, and final hearings are
2 scheduled for May 22, 2018.

3 Debtor's monthly income for 2018 is far in excess of the monthly income generated
4 by Debtor for the same months in 2017.

5
6 A third party injunction was issued in related adversary matter 4:18-ap-00 enjoining
7 Dean Cameron from litigating his prepetition unpaid wage claim in district court for 120
8 days from February 15, 2018. No resolution of that claim has been reached as of this filing.
9

10 **B. Retention of Professionals**

11 The Court approved the employment of C.R. Hyde of the Law Offices of C.R. Hyde,
12 PLC as the attorney for the Debtor and J. Michale Haubert, CPA for the Debtor.

13 **C. Preparation and Filing of Delinquent Tax Returns**

14 Debtor was current on the filing and payment of any and all tax liability owing by the
15 Debtor to various taxing authorities.
16

17 **IV. Description of Assets**

18 **A. Real and Personal Property**

19 Debtor's assets consist of rolling stock, receivables, office equipment, packing
20 supplies, security deposits with two landlords and other sundry items of de minimis value.
21 Attached hereto as Exhibit "A" is an itemized list of the debtor's assets as of the date of this
22 filing.
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B. Accounts Receivable and Affiliates

The Debtor has substantial accounts receivable. See Exhibit “B”. Debtor’s “good” receivables has grown since the filing to over \$400,000.00.

C. Preference/Fraudulent Transfer Causes of Actions

Debtor does not hold any 11 U.S.C. § 544, 545 or 549 claims against any third party.

V. Summary of the Plan

THE FOLLOWING IS ONLY A SUMMARY OF THE PLAN OF REORGANIZATION. IN THE EVENT OF ANY INCONSISTENCY, THE EXPRESS TERMS OF THE PLAN ITSELF SHALL GOVERN.

A. Overview

The goal of the Plan is to provide for repayment of all claims against the Debtor to the extent repayment is required under the Bankruptcy Code.

B. Classification and Treatment of Claims and Interests

All Claims and Interests, except administrative expense and priority tax claims, are placed into classes as set forth below. A Claim or Interest is placed in a particular class, only to the extent that the Claim or Interest falls within the description of that class, and is classified in all other classes to the extent that any portion of the Claim or Interest falls within the description of such other class.

A Claim or Interest is placed into a particular class for all purposes, including voting on this Plan, confirmation, and receiving distributions pursuant to this Plan, only to the

1 extent that such Claim or Interest is an Allowed Claim in that class, and such claim has not
 2 been paid, released, or otherwise settled prior to the Effective Date. The establishment of
 3 particular Classes or categories of Unclassified Priority Claims does not mean or imply that
 4 there are any Allowed Claims that fall into each such Class or category, and the Debtors,
 5 may later contend there are no such Allowed Claims in any given Class or category.
 6

7 The following table provides only a summary of the classification, impairment, and
 8 entitlement to vote of Claims, and Interests under the Plan. For a complete description of
 9 the classification and treatment of Claims and Interests, reference should be made to the
 10 entire Disclosure Statement and the Plan and all exhibits attached thereto.
 11

Class	Description	Impairment	Entitled to Vote
1	Priority Claims	Unimpaired	No
2	Prepetition Arrearage Claim of Landlords	Unimpaired	No
3	Secured Claim of JP Morgan Chase Bank	Impaired	Yes
4	General Unsecured Claims	Unimpaired	No
5	Unsecured Claim of Smith	Unimpaired	No
6	Contingent, Unliquidated and Disputed Claims	Impaired	No
7	Debtor's Interest	Impaired	No

1 **C. Unclassified Claims**

2 Pursuant to 11 U.S.C. § 1123(a)(1), Administrative Expense Claims pursuant to
3 section 507(a)(2) and (a)(4)(A) of the Bankruptcy Code are not classified under the Plan.
4 These Claims are not considered impaired and holders of such Claims do not vote on the
5 Plan. They may, however, object if, in their view, their treatment under the Plan does not
6 comply with that required by the Code.
7

8 **1. Administrative Expenses**

9 **Generally.** Except to the extent that a Holder of an Administrative Expense Claim
10 agrees to different treatment, or as otherwise provided for in the Plan, the Holders of
11 Administrative Expense Claims will receive cash on account of and in the amount of such
12 Administrative Expenses. Payment of Administrative Expenses will be made: (a) on the
13 Effective Date; or (b) or as otherwise provided for in the Plan. A notice setting forth the
14 Administrative Expense Bar Date will be filed on the Bankruptcy Court’s docket.
15
16

17 **34th Street Investment Partners and CLPF-Durango, LP.** Administrative claims
18 of 34th Street Investment Partners and CLPF-Durango, LP shall be paid on or before the
19 Effective Date and paid as a condition of any Order permitting the Debtor to assume the
20 respective unexpired leases. The sixty month financial projections contemplate this fact and
21 provide for the respective amounts owed to each commercial lessor. These amounts shall be
22 paid prior to and in advance of the estate paying any allowed administrative professional
23 claim.
24
25

26 **Professional Compensation.** Professionals employed at the expense of the Estates
27 and entities who may be entitled to reimbursement or the allowance of fees and expenses
28

1 from the Estates pursuant to section 503(b)(2)-(6) of the Bankruptcy Code shall receive cash
2 in the amount awarded to such professionals and entities at such times and only in
3 accordance with a Final Order entered pursuant to section 330 or 503(b)(2)-(6) of the
4 Bankruptcy Code.
5

6 Any application for payment of an Administrative Expense must be filed within sixty
7 days of the Effective Date (the “**Administrative Expenses Bar Date**”), or such other date
8 as may be fixed by the Bankruptcy Court. The application for payment of an
9 Administrative Expense will be paid by or on behalf of the Debtor or Reorganized Debtor
10 on the (i) date of the order granting such award becomes a Final Order, (ii) or as soon
11 thereafter as is practicable, (iii) or such other terms as may be mutually agreed upon by the
12 Professional and the Debtor or Reorganized Debtor.
13

14 The anticipated Administrative Expenses on the Effective Date include (1) Debtor's
15 counsel's outstanding fees in the approximate amount of \$30,000.00; however, this amount
16 may vary depending on the plan confirmation process and related proceedings; however,
17 this amount may vary depending on the extend of the work necessary to prepare prior
18 unfiled tax returns of the Debtor; (2) As of May 18, 2018 post-petition taxes are owed in the
19 amount of \$25,000.00 are owed to the IRS and/or Arizona Department of Revenue and/or
20 the Department of Economic Security as and for payroll taxes for the second quarter of
21 2018.
22

23 The anticipated Administrative Expenses are an estimate and the Debtor reserves all
24 rights to submit additional Administrative Expenses to the Bankruptcy Court for approval.
25 Post-confirmation, the Debtor and their counsel will continue to incur fees, and it is
26
27

1 anticipated the accountant will continue to be employed and incur fees. Notwithstanding
2 any of the foregoing, the applicable Debtor or Reorganized Debtor shall assume all post-
3 petition liabilities, fees and expenses for, and make payment in the ordinary course to any
4 Professional retained by the applicable Debtor or Reorganized Debtor as an ordinary course
5 professional pursuant to that certain order of the Bankruptcy Court.
6

7 **U.S. Trustee's Fees.** All fees and charges assessed against the Estates pursuant to
8 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Debtors will file with
9 the Court and serve on the U.S. Trustee a quarterly financial report for each quarter that the
10 Case remains open in the format prescribed by the U.S. Trustee, and the Debtor will pay
11 such quarterly fees as due for each post-confirmation quarter the case remains open.
12

13 **D. Classified Claims**

14 Claims against the Debtor, are classified for all purposes, including voting (unless
15 otherwise specified), confirmation, and distribution pursuant to the Plan, as follows:
16

17 **Class 1 – Priority Tax Claims**

18 (a) **Impairment and Voting.** Class 1 is unimpaired under the Plan. Class 1 is not
19 entitled to vote to accept or reject the Plan.
20

21 (b) **Class Members.** Class 1 consists of the priority tax claims of former employee
22 Patricia Merwin (Claim #1), and the Internal Revenue Service (Claim #2).

23 (c) **Distributions.** Claims not exceeding \$1,000.00 shall be paid within forty five
24 (45) days of the Effective Date. If the allowed Class 1 claims exceed \$1,500.00, the holders
25 of Class 1 claims shall receive, in full and complete satisfaction, settlement and release of
26 and in exchange for such Allowed Claim, from the Debtor obligated for the payment of
27

1 such claim, following the Effective Date, monthly payments in an aggregate amount equal
2 to such Allowed Priority Tax Claim, together with a rate of interest determined under
3 applicable non-bankruptcy law pursuant to section 511 of the Bankruptcy Code or such
4 other amount as determined by the Bankruptcy Court in the Confirmation Order, over a
5 period not exceeding five (5) years after the Order For Relief which was January 18, 2018.
6

7 In the event the Debtor defaults on any payment due to the holder of a Class 1 Claim
8 as required under the confirmed plan, and in the event the Debtor fail to cure said default
9 within thirty days after written notice of the default is mailed to the Debtor and the Debtor's
10 attorney, the entire imposed liability together with any unpaid current liabilities, shall
11 become due and payable immediately. The holders of Class 1 Claims may collect unpaid
12 liabilities that become due as a result of the default through the administrative collection
13 provisions or the judicial remedies as set forth in the Internal Revenue Code and applicable
14 state law. Holders of Class 1 claims shall not be required to seek a modification from the
15 automatic stay to collect any tax liabilities that were not discharged by the entry of an order
16 of discharge and from property that has re-vested with the Debtor.
17
18

19
20 **Class 2 – Prepetition Arrearage Claim of Landlords**

21 (a) **Impairment and Voting.** Class 2 is unimpaired under the Plan. Class 2 is not
22 entitled to vote to accept or reject the Plan.

23 (b) **Class Members.** Existing Class 2 claims in this category include 34th Street
24 Investment Partners, LLC and could include CLPF-Durango, L.P.
25
26
27

1 (c) **Distributions.** Prepetition arrearage claims in connection with two commercial
2 leases in the approximate total combined amount of approximately \$10,000.00 shall be paid
3 upon the Effective Date.

4
5 **Class 3 – Secured Claims of JP Morgan Chase Bank, N.A.**

6 (a) **Impairment and Voting.** Class 3 is impaired under the Plan. Class 3 is entitled
7 to vote to accept or reject the Plan.

8 (b) **Class Members.** Class 3 includes J.P. Morgan Chase Bank, N.A.

9
10 (c) **Distributions.** Class 3 Claimants shall have an allowed unsecured claim in the
11 sum of ninety five thousand and 00/100 dollars (\$95,000.00) shall be paid the sum of
12 \$95,000.00 at the fixed rate of interest of 4% per annum in full satisfaction of their Class 3
13 claim. Payments on the Allowed Class 3 claim shall commence the first full month after the
14 Effective Date and the claim shall be paid in full on or before the ten (10) year anniversary
15 of the Order for Relief in this matter. The minimum monthly payment shall be \$1,000.00
16 per month.

17
18 **Class 4 – General Unsecured Claims**

19
20 (a) **Impairment and Voting.** Class 4 is impaired by the Plan. Each Holder of an
21 Impaired Allowed General Unsecured Claim is entitled to accept or reject the Plan.

22 (b) **Class Members.** Class 4 includes all Allowed Claims in the Debtor that are not
23 entitled to priority, are not secured by an interest in the Debtor's property, and are not
24 contingent, unliquidated or disputed. Insider claims that are entitled to Class 4 treatment
25 shall only participate upon the full satisfaction of all Class 4 claims held by non-insiders. A
26 complete list of all Class 9 claims is set forth in the Disclosure Statement at Section VII.C.
27

1 (c) **Treatment.** All allowed Class 4 claims shall participate in the pro-rata
2 disbursement of: \$1,000.00 per month for a period of twelve months commencing the first
3 full month following the Effective Date; \$2,000.00 per month for a period of twelve months
4 commencing the thirteenth full month following the Effective Date; \$2,500.00 per month
5 for a period of twelve months commencing the twenty fifth full month following the
6 Effective Date until all claims are paid in full.
7

8 **Class 5 – Unsecured Claim of the Smith Family Trust**
9

10 (a) **Impairment and Voting.** Class 5 is unimpaired by the Plan. Each Holder of an
11 Class 7 Claim is not entitled to accept or reject the Plan.

12 (b) **Class Members.** Class 5 includes all Allowed Claim held by the Smith Family
13 Trust, who holds a deed of trust against the home of Debtor's principal Brenda Huffman
14 which secures a note in their favor executed by Debtor in the approximate amount of
15 \$120,000.00. The loan proceeds were used to retain the consultant GPS primarily.
16

17 (c) **Treatment.** All allowed Class 5 claims shall be paid the sum of \$1,500.00 per
18 month which is the principal and interest owed under the note.
19

20 **Class 6– Contingent, Unliquidated, and Disputed Claims**

21 (a) **Impairment and Voting.** Class 6 is impaired by the Plan. Class 6 is not entitled
22 to vote to accept or reject the Plan.

23 (b) **Class Members.** Class 6 consists of claims that are either contingent,
24 unliquidated, disputed, or any combination of the foregoing, claims in the Debtor.
25

26 (c) **Treatment.** Class 6 shall receive no distribution under the Plan. In the event that
27 any claims in Class 6 become liquidated, noncontingent or undisputed they shall be entitled
28

1 to treatment as Class 4 claims, or if determined to be secured, shall be entitled to have any
2 secured claim reamortized over a period of fifteen (15) years at the rate of five (5) percent
3 per annum until paid in full. Any holder of a class six (6) claim that is determined to be
4 unsecured shall be entitled to an allowed Class 4 claim and notice is hereby given that
5 holders of Class 4 claims could have their anticipated share of Class 4 distributions
6 proportionally diluted as a result of any post-confirmation determination that a holder of a
7 Class 6 claim holds an unsecured claim.
8

9
10 **Class 7 – Debtor's Interest**

11 (a) **Impairment and Voting.** Class 7 is Impaired by the Plan. The Debtor is not
12 entitled to vote to accept or reject the Plan.

13 (b) **Treatment.** On the Effective Date, all estate property shall vest in the Debtor.
14

15 **E. General Unsecured Claims**

16 To date, the following general unsecured claims and amounts have either been
17 scheduled by the Debtor or filed as a proof of claim in this case:

- 18 • RYDER TRUCK RENTAL, INC. (POC #4) \$10,000.00
- 19 • Penske Truck Leasing Co., L.P. (POC #3) \$414.00
- 20
- 21 • Affordable Forklift & Equipment Repair \$2,370.00
- 22 • Brenda Huffman (\$300,000.00)
- 23 • CDS Moving Equipment, Inc. \$31,885.00
- 24 • City of Phoenix \$1,728.00
- 25 • Dean G. Cameron \$13,000.00 (estimated)
- 26
- 27

- 1 • JP Morgan Chase Bank, N.A. \$23,000.00
- 2 • National Van Lines \$0.00
- 3 • Noelle Wilford \$unknown
- 4 • Pioneer Direct Supply \$4,042.00
- 5 • Smith Family Trust \$120,000.00 (Paid from class 4)
- 6 • The Estate of Linda Leon (\$15,000.00)
- 7
- 8

9 **VI. Executory Contracts and Unexpired Leases**

10 The Debtor shall assume as of the Effective Date each Executory Contract and
11 Unexpired Lease listed in Schedule G, as amended, whether written or oral, except as
12 otherwise provided for in the Plan. Assumption means that the Debtor has elected to
13 continue to perform obligations under such contracts and leases, and to cure defaults of the
14 type that must be cured under the Code, if any. Entry of the Confirmation Order shall
15 constitute approval of such assumption pursuant to sections 365 and 1123 of the Code.
16

17 After the Effective Date, the Debtor may enter into new leases of Property without
18 approval by the Court in the ordinary course of business as is necessary and proper to bring
19 additional income into the Estates. Such new leases will be in writing, and pre-petition
20 leases may be formalized in new written leases.
21

22 Unless a rejection motion is filed prior to the Confirmation Hearing, no executory
23 contracts or unexpired leases will be rejected.
24

25 Any individual or entity that is a party to an executory contract or unexpired lease
26 assumed pursuant to the Plan who objects to such assumption must file with the Court a
27

1 written statement stating the basis for the objection. This statement must be filed and
2 served within the deadline for objecting to the confirmation of the Plan, unless the Court has
3 set an earlier time. Any individual or entity that fails to file timely and serve such a
4 statement will be deemed to have waived any objection to the proposed assumption.
5

6 There are two commercial leases that Debtor is seeking to assume for its two
7 business premises in Phoenix and Tucson. Their claims, pre and post petition are
8 contemplated by the Plan.
9

10 **VII. Means for Executing and Implementing the Plan**

11 **A. Means of Funding the Plan**

12 The Plan will be funded and made feasible from the net income derived by Debtor
13 the operation of its moving and storage business. It is possible that the Debtor may
14 liquidate some rolling stock from time to time to satisfy administrative or class claim
15 obligations.
16

17 **B. Causes of Action**

18 Pursuant to section 1123(b)(3) of the Bankruptcy Code, the Reorganized Debtor shall
19 retain all of the Debtor's causes action pursuant to applicable local, state or federal law.
20 Specifically, Debtor reserves the right to assert a breach of contract and/or tort claim against
21 34th Street Investment Partners, LLC and any damages recovered would be contributed to
22 the funding of the Plan if necessary.
23

24 **C. Objections to Claims and Estimates of Claims**

25 **Objections.** The Reorganized Debtor or any other party in interest shall serve a copy
26 of an objection upon the Holder of the Claim that was not scheduled, or was scheduled as
27

1 disputed, contingent, or unliquidated, that has not been allowed by a Final Order of the
2 Bankruptcy Court, as soon as is practicable. Any Claim that was not scheduled and for
3 which no Proof of Claim was filed will be disallowed.
4

5 There shall be no distribution to the holder of a Disputed Claim until the Objection to
6 the Claim has been resolved by a Final Order of the Bankruptcy Court and the Claim has
7 become an Allowed Claim. Payments and distributions on account of each Disputed Claim
8 that is allowed shall be made in accordance with the provisions of the Plan relating to the
9 class of creditors to which the holder belongs.
10

11 **Estimations.** The Debtor or Reorganized Debtor may, at any time, request the
12 Bankruptcy Court to estimate any Claim, under section 502(c) of the Bankruptcy Code,
13 regardless of whether the Debtor or Reorganized Debtor previously have objected to such
14 Claim, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim, at any time,
15 including during litigation concerning any objection to such Claim.
16

17 **D. Tax Compliance**

18 The Reorganized Debtor will comply with all tax withholding and reporting
19 requirements, including in regards to all distributions and receipts pursuant to this Plan, as
20 applicable. All Holders of Allowed Claims and Interests shall have sole responsibility for
21 any tax obligation imposed by any Governmental Unit pursuant to a distribution received
22 under the Plan.
23

24 **E. Vesting**

25 Except as provided for in the Plan or Confirmation Order, on the Effective Date, the
26 Debtor shall be vested with the remaining property or assets from the Estate, free and clear
27

1 of all claims, liens, charges, and other interests of creditors arising prior to the filing date,
2 except as provided by the Plan.

3 **VIII. Distributions Under the Plan**

4 **A. Manner of Payments**

5 All distributions will be made in the form of cash payments to entities holding
6 Claims at the addresses listed on the Proof of Claim filed by such entity as the address
7 where payments are to be sent, unless other instructions are received in writing by the
8 Debtor. If no written instruction is given by an entity to the Debtor as to a change of
9 address, and if that entity failed to file Proof of Claim, but such entity is entitled to payment
10 under the Plan, Plan payments due to that entity shall be mailed to the address contained in
11 the Debtor's Schedules. Payments will be made by check, cashier's check, or wire transfer
12 at the option of the Debtor.
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16 **B. Post-Petition Interest, Fees, and Costs**

17 Interest on and fees and expenses, if any, with respect to any Allowed Secured
18 Claim, including but not limited to unpaid professional fees due the Holders of such Claims,
19 shall be paid only to the extent permitted by section 506(b) of the Bankruptcy Code from
20 the proceeds of the Collateral securing such Claims. Allowance thereof shall be determined
21 separately for each Class and each subclass. Any interest, fees and expenses paid during the
22 pendency of these Cases to the Holder of any Allowed Secured Claim that are not allowable
23 pursuant to Section 506(b) of the Bankruptcy Code shall be credited against and shall
24 reduce the principal amount of any such Allowed Secured Claim.
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1 **IX. Effect of Plan on Claims**

2 **A. Effect of Confirmation**

3 Except for continuing liens, claims, rights, and interests of the Secured Creditors
4 against the Debtor, the Debtor's Estate, and the Property as only provided for by the Plan, or
5 in the Confirmation Order, the confirmation of the Plan is a discharge, on the Effective
6 Date, of any and all debts of the Debtor that arose any time prior to confirmation, including,
7 but not limited to, all principal and all interest accrued thereon, pursuant to section
8 1141(d)(1) of the Bankruptcy Code. Such discharge shall be effective as to each Claim,
9 regardless of whether a proof of claim thereof was filed, whether the Claim is an allowed
10 claim or whether the holder thereof votes to accept the Plan.
11
12

13 Holders of claims against the Debtor may not receive any payment or distribution
14 except as otherwise provided for in the Plan, and may not seek any recourse against the
15 Debtors or its assets except as provided for in the Plan. After the Confirmation Date, all
16 holders of Claims will be forever enjoined from taking any action against the Debtors or its
17 property on account of such claim; including the commencement or continuation of any
18 proceeding; enforcing any judgment or award; creating, perfecting, or enforcing any lien; or
19 any other action inconsistent with the terms of the Plan.
20
21

22 The Reorganized Debtors will move the Court to close the Cases once the Plan has
23 been substantially consummated. Until substantial consummation, the Reorganized Debtors
24 will be responsible for filing pre- and post-confirmation reports required by the United
25 States Trustee and paying the quarterly post-confirmation fees of the United States Trustee.
26 Alternatively, the Court may enter a final decree closing the case on its own motion.
27

1 **X. Liquidation Analysis**

2 Pursuant to 11 U.S.C. § 1129(a)(7), the Plan must provide that Creditors not
3 accepting the Plan will receive at least as much under the Plan as they would receive in a
4 hypothetical liquidation of the Debtor under Chapter 7 of the Bankruptcy Code. Attached is
5 such a liquidation analysis for the Debtor (**Exhibit B**). This is a 100% Plan.
6

7 **XI. Risk Analysis**

8 **A. General**

9 The Debtor's financial projections and history of business operations demonstrate
10 that there will be sufficient assets to satisfy all proposed payments under the Plan.
11 Consequently, the Debtor believes there is little to no risk associated with this Plan. Any
12 risk that may exist is not any greater under this Plan than it would be in a Chapter 7
13 liquidation or if the Case were dismissed and creditors were forced to collect through state
14 law procedures. In such a scenario, only the IRS' secured claim would likely be paid, and
15 even that would only be paid in part as demonstrated by the Liquidation Analysis.
16
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18 **B. Financial Projections**

19 The Debtor has prepared the Financial Projections for the next 60 months in order to
20 demonstrate the Debtor's anticipated income and expenses over that period. While the
21 Debtor has meticulously prepared the Financial Projections, the Debtor cannot guarantee
22 that actual income and expense projections will conform to the Financial Projections.
23
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25 **C. Alternatives to the Confirmation of the Plan**

26 If the Plan is not confirmed, there are several possible alternatives. First is to convert
27 the Chapter 11 case to a Chapter 7 cases, have Chapter 7 Trustees appointed, and the
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1 Debtor's estate liquidated. The Debtor does not believe this is a suitable alternative.
2 Considerable investigation, time, and effort have been put into evaluating the assets of the
3 Debtor and determining the best course of action. It would be time-intensive for Chapter 7
4 Trustees to become familiar with the case, causing substantial delay and expense in the
5 payment of Creditors. The second alternative is to dismiss the case, leaving Creditors to
6 resort to state law collection procedures, which is not a viable option for many of Unsecured
7 Creditors.
8

9 **XII. Tax Consequences**

10 Pursuant to § 1125(a)(1) of the Bankruptcy Code, the Disclosure Statement is to
11 provide a discussion of the possible material tax consequences of the Plan to the Debtor,
12 any successor to the Debtor and a hypothetical investor typical of the Holders of Claims or
13 Interests in the cases, such that would enable such investor to make an informed judgment
14 about the Plan. The Debtor has not obtained a tax opinion and does not express any opinion
15 as to the tax consequences to the Creditors or equity security Holders. Interested parties are
16 encouraged to obtain their own professional counsel to determine the tax consequences of
17 the Plan. In particular, to the extent any Creditor is not paid in full on its Allowed Claim,
18 such Creditor should consult with a tax advisor concerning the potential for any write off of
19 such Claim. It is generally anticipated that any discharge of debt will not have to be
20 recognized as income for the Debtor for income tax purposes. It is anticipated that all
21 Allowed Claims will be paid in full and thus no debts will be discharged.
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1 **XIII. Confirmation Process**

2 The Plan may be corrected or modified, prior or subsequent to Confirmation, or prior
3 to consummation, after notice to interested parties and by Court order as provided by law.
4 The Trustee further retains all rights to modify the Plan prior to Confirmation as permitted
5 by 11 U.S.C. § 1127. The Plan may be amended or modified prior to Confirmation without
6 leave of Court, so long as notice is provided to Creditors. After Confirmation and with
7 approval of the Court and upon notice to creditors, the Reorganized Debtors may remedy
8 any defect or omission, or may reconcile any inconsistencies in the Plan or Confirmation
9 Order, so long as such modification does not materially alter or adversely affect the interests
10 of Creditors, to the extent it may be necessary to carry out the purposes and intent of the
11 Plan.
12

13
14 The Court will be asked to confirm the Plan as to any Class of Claims or Interests
15 that does not accept the Plan. In order to do so, the Court must find (1) that the Plan is fair
16 and equitable to each class of Claims or Interests that is impaired and has not accepted the
17 Plan and that the classification of claims is not discriminatory; and (2) that each claimant or
18 interest-holder receives, under the Plan, property of a value as of the Effective Date that is
19 not less than what would be received or retained if the Property were liquidated pursuant to
20 Chapter 7 of the Bankruptcy Code.
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23 The first requirement is satisfied with respect to any class that might not accept the
24 Plan because the classification has not been designed in a discriminatory manner and any
25 similar claims classified separately have been treated in this manner because they are either
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1 an administrative classification or arise from a substantially different economic basis. The
2 second requirement is satisfied as demonstrated by the Liquidation Analysis provided.

3 If a Class of Secured Claims does not accept the Plan, the Bankruptcy Code provides
4 that the fair and equitable requirement is satisfied if the class retains its lien and receives
5 deferred cash payments of a present value equal to the value of the claimant's secured
6 interest in the collateral. This requirement may be satisfied as to each class treated as a
7 Secured Claim because the Plan provides for them to receive the value of their interest in
8 their collateral together with interest.
9

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11 If a Class of unsecured Claims does not accept the Plan, the fair and equitable rule
12 requires that (1) each impaired Unsecured Creditor receives or retains, under the Plan,
13 Property of a value equal to the amount of its allowed Claim; or (2) the Holders of Claims
14 and Interests that are junior to the Claims of the dissenting Class will not receive any
15 Property under the Plan if Claims in the dissenting Class are not paid in full.
16

17 The Debtor recommends that the Plan and Amended Disclosure Statement be
18 approved as it is in the best interests of the Estate and all creditors. The alternatives to
19 confirmation of the Plan include dismissal or conversion to Chapter 7 liquidation.
20 Dismissal would result in creditors having to resort to other legal proceedings to collect
21 debts, and Chapter 7 liquidation would delay distributions and result in a slower and
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2 possibly lower recovery for unsecured creditors especially due to lease rejection
3 damages claims that the estate would sustain. For these reasons, the Debtor recommends all
4
5 Creditors accept the Plan and return ballots timely so that the votes can be counted.
6

7 RESPECTFULLY SUBMITTED this 18th day of May 2018
8

9
10 The Law Offices of C.R. Hyde, PLC

11 By: /s/ C.R. Hyde

12 Charles R. Hyde, Attorney for the Debtor
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