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8 **UNITED STATES BANKRUPTCY COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 In re) CASE NO. 17-05475-CL11
12)
LIGNUS, INC,) Chapter 11
13)
Debtor.) **DISCLOSURE STATEMENT TO**
14) **DEBTOR'S PLAN OF REORGANIZATION**
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I.

INTRODUCTION

Lignus, Inc. (“Lignus” or “the Debtor”)¹ is the Debtor-in-Possession in this Chapter 11 bankruptcy case, which was commenced by it on September 8, 2017, when it filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the U.S. Bankruptcy Court for the Southern District of California (the “Bankruptcy Court”). Chapter 11 allows the Debtor, and under some circumstances, creditors and other parties in interest, to propose a plan of reorganization (“Plan”). A Plan may provide for the Debtor to reorganize its affairs and continue to operate. The Debtor in this case, Lignus, is proposing a Plan that will allow it to continue to operate and pay all of its creditors in full over time, with interest.

The purpose of this Disclosure Statement is to provide creditors and other parties in interest with adequate information regarding the Debtor’s Plan, and other aspects of the Plan confirmation process. A ballot accompanies this Disclosure Statement which allows Creditors to vote to accept or reject the Debtor’s Plan. **THE DEBTOR RECOMMENDS THAT YOU VOTE TO ACCEPT ITS PLAN.** The Plan is a “full payment” Plan, meaning that it proposes to pay all Creditors their Allowed Claims in full, over time with interest.

A copy of the Plan is attached as Exhibit “A” to this Disclosure Statement. The Debtor is the proponent of the Plan (i.e., the party proposing the Plan attached as Exhibit “A”). The date on the Plan will be referred to in this Disclosure Statement as the “Plan Date.” Be sure to read the Plan as well as the Disclosure Statement. If there are any inconsistencies between the Plan and the Disclosure Statement, the Plan provisions will govern and control.

Whether the Plan is confirmed is subject to complex legal rules that cannot be fully described here. **YOU ARE STRONGLY ENCOURAGED TO READ THE PLAN CAREFULLY AND TO CONSULT AN ATTORNEY TO HELP YOU DETERMINE HOW TO VOTE AND WHETHER TO OBJECT TO CONFIRMATION OF THE PLAN.**

¹ All capitalized terms not otherwise defined in this Disclosure Statement are defined in the Debtor’s Plan of Reorganization (the “Plan”). In the event of a conflict, the terms of the Plan control.

1 If the Plan is confirmed, the payments promised in the Plan constitute new contractual
2 obligations that replace the Debtor's pre-confirmation debts. The Plan payments shall begin on
3 the Effective Date as defined in the Plan. Creditors may not seize their collateral or enforce their
4 pre-confirmation debts so long as Debtor performs all obligations under the Plan. If the Debtor
5 defaults in performing Plan obligations, any creditor can file a motion to have the case dismissed
6 or converted to a Chapter 7 liquidation, or enforce their non-bankruptcy rights. Enforcement of
7 the Plan and creditors' remedies, if Debtor defaults, are described in detail in Article 4 of the Plan
8 and in this Disclosure Statement.

9 **A. Purpose of This Document.**

10 This Disclosure Statement summarizes what is in the Plan, and tells you certain
11 information relating to the Plan and the process the Court follows in determining whether or not
12 to confirm the Plan.

13 READ THIS DISCLOSURE STATEMENT CAREFULLY TO KNOW ABOUT:

- 14 (1) WHO CAN VOTE OR OBJECT,
15 (2) WHAT THE TREATMENT OF YOUR CLAIM IS (i.e., what your Claim will
16 receive if the Plan is confirmed), AND HOW THIS TREATMENT COMPARES TO WHAT
17 YOUR CLAIM WOULD RECEIVE IN LIQUIDATION,
18 (3) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS
19 DURING THE BANKRUPTCY,
20 (4) WHAT THINGS THE COURT WILL LOOK AT TO DECIDE WHETHER OR
21 NOT TO CONFIRM THE PLAN,
22 (5) WHAT IS THE EFFECT OF CONFIRMATION, AND
23 (6) WHETHER THE DEBTOR'S PLAN IS FEASIBLE.

24 This Disclosure Statement cannot tell you everything about your rights. You should
25 consider consulting your own lawyer to obtain more specific advice on how this Plan will affect
26 you and what is the best course of action for you.

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1 **II.**

2 **VOTING PROCEDURES AND INSTRUCTIONS**

3 **A. Voting Instructions.**

4 A ballot accompanies this Disclosure Statement and Plan for creditors to use in voting on
5 the Plan. To vote on the Plan, indicate the amount of your Claim, and whether you accept or
6 reject the Plan on the ballot. If a Creditor has a Claim in more than one Class, such Creditor may
7 vote multiple ballots. Creditors entitled to vote to accept or reject the Plan may vote by
8 completing, dating, signing and returning via mail, personal delivery, facsimile, or email the
9 accompanying ballot to Law Offices of Kit J. Gardner, 501 W. Broadway, Suite 800, San Diego,
10 CA 92101, ATTENTION: Kit James Gardner; facsimile number (619) 374-2241; email:
11 kgardner@gardnerlegal.com.

12 A ballot can only be changed or withdrawn after submission for cause shown after notice
13 and a hearing before the Court. Please see Federal Rule of Bankruptcy Procedure 3018.

14 IN ORDER TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED NOT LATER
15 THAN XX/XX/XXXX OR IT WILL NOT BE COUNTED. The risk of non-receipt or late
16 receipt of ballots, whether due to Post Office error or any other reason, is entirely on the voting
17 Creditor. The failure of a Creditor to vote on the Plan may affect its substantive and/or
18 procedural rights.

19 **B. Confirmation Hearing.**

20 The Court will hold a hearing with respect to confirmation of the Plan to determine
21 whether the Plan has been accepted by the requisite number of Creditors and whether the other
22 requirements for confirmation of the Plan have been satisfied. The issues to be determined
23 through the confirmation hearing include (without limitation) issues relating to notice, value of
24 property, and feasibility of the Plan. The Debtor must also establish, among other things, that the
25 Plan does not discriminate unfairly against, and is fair and equitable to, any nonaccepting
26 Class(es). A hearing to confirm the Plan will be held on _____, at _____ in
27 Department 5 of the Bankruptcy Court, located at 325 West F Street, in San Diego, California.
28

1 **C. Identity of Person to Contact for More Information Regarding the Plan.**

2 Any interested party desiring further information about the Plan should contact the
3 Debtor's general bankruptcy counsel, the Law Offices of Kit J. Gardner, 501 W. Broadway, Suite
4 800, San Diego, CA 92101, ATTENTION: Kit James Gardner; facsimile number (619) 374-
5 2241; email: kgardner@gardnerlegal.com.

6 **III.**

7 **BACKGROUND OF THE DEBTOR AND ITS BANKRUPTCY PROCEEDINGS**

8 **A. Pre-Bankruptcy History.**

9 Lignus has been a successful and profitable wholesaler of lumber and related hardware
10 accessories for approximately 13 years. In 2015, Lignus expanded and scaled-up its operations
11 by employing more personnel and renting a warehouse with approximately 19,000 square feet.
12 Rent for that warehouse was \$13,500.00 per month in 2017. The expanded operations also
13 resulted in greater liabilities from, for example, increased payroll costs. The increased costs of
14 operation were not offset by significantly greater revenues, so Lignus began experiencing fiscal
15 constraints and an inability to timely pay its creditors, primarily consisting of trade vendors
16 supplying goods to Lignus on credit.

17 **B. Events Leading to Bankruptcy.**

18 In order to obtain a reprieve from threatened creditor actions and increased pressure
19 against it, and with the intention of repaying all of its debt in an orderly and planned fashion,
20 Lignus filed a voluntary Chapter 11 bankruptcy petition in the Bankruptcy Court. In Chapter 11,
21 Lignus has remained in business, continued its day-to-day normal operations (albeit on a
22 downsized basis), and proposes to restructure its debts pursuant to the Plan accompanying this
23 Disclosure Statement. Pursuant to the proposed Plan, Lignus expects seeks to pay all Creditors
24 with allowed claims in full, with interest.

25 Lignus' management has already begun measures to rescale its operations by, for
26 example, negotiating an exit from its existing warehouse lease. Lignus has returned to its initial
27 business model, which was based on a smaller center of operations and direct shipping of goods
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1 from suppliers to its customers (also known as "drop shipping"), thereby reducing reliance on
2 warehousing and staffing. In addition, the Debtor will be generating additional revenue by
3 brokering sales between third parties, which is expected to yield an additional profit of
4 approximately \$100,000.00 per year over the lifetime of the Plan. The expected revenue from
5 brokering sales for the year 2018 is listed as "Other Income" in Exhibit D to this Disclosure
6 Statement. This other income is included and reflected in the "Gross Profit" expected throughout
7 the life of the Plan as set forth in Exhibit E to this Disclosure Statement.

8 **C. Proceedings in Bankruptcy.**

9 After filing its bankruptcy petition, the Chief Financial Officer of Lignus attended the
10 "First Meeting of Creditors" held pursuant to Section 341(a) of the Bankruptcy Code, and
11 answered questions of a representative of the Office of the United States Trustee. Lignus also
12 provided the Office of the United States Trustee with information concerning its operations,
13 insurance, and financial condition. Lignus is current on filing all necessary monthly operating
14 reports, and paying all quarterly fees required to be paid to the United States Trustee.

15 During the case, Lignus' management continued the process of downsizing its business
16 overhead and cutting expenses. In the first three full months of its operations in bankruptcy,
17 Lignus was profitable in that its income exceeded its expenses. Lignus' management intends to
18 continue operating at a cost-effective threshold, as well as locate other areas of income with
19 which to fund its Plan and pay ongoing operating expenses.

20 **D. Debtor's Current Assets / Liabilities and Operations.**

21 Lignus' current assets and liabilities are set forth in the Schedules filed with the
22 Bankruptcy Court, and Creditors should review those documents for particular descriptions of
23 assets and liabilities. Lignus' balance sheet as of the Petition Date is attached hereto as Exhibit
24 "B". (The balance sheet lists assets at their current estimated fair market values, and lists
25 accounts receivable and accounts payable on an accrual basis.) Lignus' management believes
26 that the information contained in the attached balance sheet, the within liquidation analysis, and
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1 the Schedules (to the extent supplemented by information contained herein) accurately describe
2 its assets and liabilities.

3 Generally speaking, Lignus' primary asset consists of its accounts receivable, which are
4 generated as Lignus purchases and resells inventory. Currently, Lignus has very low inventory,
5 since it no longer keeps substantial inventory on hand. Instead, Lignus primarily 'drop ships' its
6 inventory, which results in a more immediate and direct delivery to its customers. This reduces
7 the need to have a substantial build-up of inventory, and consequent need for storage space,
8 although Lignus still maintains a small inventory (approximately 10 percent of sales at any given
9 time), which it stores at the yard of an affiliate, JC Logistics, Inc.

10 **E. Insiders / Debtor's Transactions With Insiders.**

11 Lignus' central management consists of Carmen Hernandez and her husband, Jose Gaitan.
12 The company also employs their son as an administrator. As Chief Executive Officer, Ms.
13 Hernandez leads all areas of the company. She has 10 years of experience in the industry and
14 two years with the company. As Chief Financial Officer, Jose Gaitan coordinates and manages
15 the financial affairs of the company, and its domestic and foreign export sales departments. He
16 has more than 27 years of experience in the industry and 12 years with the company. His son,
17 Jose Carlos Gaitan, leads the purchasing and logistics aspects of the company. He has two years
18 of experience in the field and one year with the company.

19 On September 11, 2017, the Bankruptcy Court approved interim proposed compensation
20 to the management insiders, which became final pursuant to an Order entered on October 6,
21 2017. The chart below summarizes each insider's relationship to the Debtor, and current Court-
22 approved compensation. Following confirmation of the Debtor's Plan, the Debtor will continue
23 to employ the insiders at the rates set forth below; however, the rates may be subject to future
24 adjustments.

Name	Relationship to Debtor	Compensation
Carmen Hernandez, CEO	Officer and 35% shareholder	\$1,800/week
Jose Gaitan,CFO	Officer and 35% shareholder	\$1,800/week

1	Jose C. Gaitan, Administrator	Administrator and 30% shareholder	\$634.48/week
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3 Furthermore, as already mentioned, Lignus stores a small amount of inventory at the yard
4 of an affiliate, JC Logistics, Inc. (“JC”), and rents office space from JC for \$1,900.00 per month,
5 which includes space at JC’s yard where Lignus stores its inventory. Lignus also occasionally
6 hires JC for trucking and shipping services at fair market rates.

7 **IV.**

8 **SUMMARY OF THE DEBTOR’S PLAN OF REORGANIZATION**

9 **A. General Overview of the Plan.**

10 As required by the Bankruptcy Code, the Plan classifies Claims in various Classes
11 according to their right to priority. The Plan states whether each Class of Claims is impaired or
12 unimpaired. The Plan provides the treatment each Class will receive.

13 The Plan proposes to pay all Allowed Unsecured Claims of Creditors in full over time,
14 with interest. With respect to Secured Creditors, the Plan proposes paying the same monthly
15 rates as set forth in the Debtor’s contracts with its Secured Creditors. The Debtor believes that its
16 Plan is in the best interests of Creditors, and urges all Classes of Creditors to vote in favor of it.

17 The source of paying the Claims will be income generated from operation of the Debtor’s
18 business, which will continue to be managed by Carmen Hernandez and Jose Gaitan. The
19 Debtor’s financial projections indicate that, for example in 2018, the Debtor will generate
20 approximately \$289,691.23 in net profit with which to pay the claims of creditors. *See* Exhibit D
21 attached to this Disclosure Statement. Thereafter, the Debtor is expected to generate similar
22 significant profits with which to pay creditors until all claims are paid in full. *See* Exhibit E
23 attached to this Disclosure Statement.

24 It should also be noted that as certain claims are paid off, such as Administrative Claims
25 and the Claims of Secured Creditors, additional funds will freed up with which to pay the claims
26 of General Unsecured Creditors. *See id.* ~~FUnder the Debtor presently expects~~Plan, the claims of
27 all creditors holding Allowed Claims to will be fully satisfied ~~within seven years from the~~

1 ~~Effective Date of the Plan, but in no event any~~ later than eight years from ~~the Effective Date of~~
2 ~~the Plan, at which time any Allowed Claims that are still unpaid will be fully satisfied on the~~
3 ~~eightth year anniversary of~~ the Effective Date of the Plan.

4 **B. Unclassified Claims.**

5 Certain types of Claims are not placed into voting Classes; instead they are unclassified.
6 They are not considered impaired and do not vote on the Plan because they are automatically
7 entitled to specific treatment provided for them in the Bankruptcy Code. As such, the Debtor has
8 not placed the following Claims in separate Classes:

9 **1. Administrative Expense Claims.**

10 **a. Nature and Amount.**

11 Administrative expenses are claims for costs or expenses of administering the
12 Debtor's Chapter 11 case which are allowed under Bankruptcy Code section 507(a)(2). The
13 Bankruptcy Code requires that all administrative claims be paid on the Effective Date of the
14 Plan, unless a particular claimant agrees to a different treatment.

15 With the exception of professional fees and costs, the Debtor does not anticipate that it
16 will incur significant administrative expenses beyond those expenses incurred in the ordinary
17 course of its financial affairs. The Debtor expects to remain current with respect to such post-
18 petition third-party Claims, as well as payment of fees to the United States Trustee, such that the
19 Debtor does not expect there to be any overdue Administrative Expense Claims other than those
20 owing to professionals employed by the Debtor whose compensation is subject to prior
21 Bankruptcy Court approval. A more detailed discussion of Administrative Expense Claims
22 expected to be owing as of the Effective Date of the Plan is discussed in Part V.E. of this
23 Disclosure Statement.

24 **b Court Approval of Professional Fees Required.**

25 The Court must rule on all professional fees before the fees will be due and
26 payable by the Debtor's bankruptcy estate. For all fees except the Clerk's Office fees and U.S.
27 Trustee's fees, the professional in question must file and serve a properly noticed fee application
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1 and the Court must rule on the application. Only the amount of fees allowed by the Court will be
2 due and payable by the Debtor's bankruptcy estate and therefore required to be paid pursuant to
3 the Plan.

4 **2. Priority Tax Claims.**

5 Priority tax claims are certain unsecured income, employment and other taxes described
6 by Bankruptcy Code Section 507(a)(8). The Bankruptcy Code requires that each holder of such a
7 Section 507(a)(8) priority tax claim receive the total value of such claim in deferred cash
8 payments, over a period not exceeding five years from the Petition Date and in a manner not less
9 favorable than the most favored nonpriority Unsecured Claim provided for by the Plan. The
10 following lists all of the Debtor's Section 507(a)(8) priority tax claims and their treatment under
11 the Plan:

12 **a. Internal Revenue Service.**

13 On or about October 6, 2017, The Internal Revenue Service ("IRS") filed ~~an~~
14 ~~amended~~ a Proof of Claim in the total amount of \$101,487,587.39 (which the IRS later amended
15 to reflect a slightly lower amount allegedly owing), designating that amount as a Priority Tax
16 Claim. However, the Debtor ~~does not believe that any amount is owing to the IRS, and has filed~~
17 ~~or will file an objection to~~ believes that the IRS's Proof of Claim. ~~In the event that pre-petition~~
18 ~~priority taxes payable to the IRS remain outstanding, the Plan provides that the Allowed Claim of~~
19 ~~the IRS shall be paid as follows: The IRS shall receive monthly payments on account of any~~
20 ~~Allowed Priority Claim in equal installments for 60 months, with interest thereon at the statutory~~
21 ~~rate.~~

22 ~~— Except to the extent that an agreement between the Debtor and the IRS provides~~
23 ~~otherwise, monthly payments shall commence on the later of (i) the Effective Date, or (ii) 30~~
24 ~~days after such Claim becomes an Allowed Claim. Payments shall continue each month~~
25 ~~thereafter until such Claim is paid in full~~ was filed in error. Indeed, on February 9, 2018, in a
26 filing with the Bankruptcy Court, the IRS acknowledged that the Debtor is not liable for the
27 amount shown on the IRS's Proof of Claim, and that the "claim is no longer in force and effect."
28

1 Consequently, the Plan does not propose to pay the IRS anything on account of its Proof of
2 Claim.

3 **b. County of San Diego.**

4 The County of San Diego (the “County”) filed a Proof of Claim in the amount of
5 \$214.80, representing personal property taxes owing, and designating that amount as a Priority
6 Claim. The Plan provides that the Allowed Claim of the County shall be paid as follows: The
7 County shall receive a payment of \$214.80, which shall be paid on the later of (i) the Effective
8 Date, or (ii) 30 days after such Claim becomes an Allowed Claim.

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11 **3. Priority Non-Tax Claims.** Priority Non-Tax Claims consists of certain priority
12 Claims pursuant to Bankruptcy Code Section 507, other than Administrative Expense Claims and
13 Priority Tax Claims. The Debtor does not believe that there are any Priority Non-Tax Claims.

14 **C. Classification and Treatment of Claims and Interests.**

15 The following is a brief description of all Classes of Claims other than the unclassified
16 Claims. You should review the Plan itself to determine all of the specific terms that are proposed
17 with respect to your Claim.

18 **1. Class 1 - Wells Fargo Equipment Finance, Inc.**

19 Class 1 consists of the Secured Claim of Wells Fargo Equipment Finance, Inc. (“Wells
20 Fargo”) with respect to certain equipment financed by it. According to Wells Fargo’s Proof of
21 Claim, it is owed \$109,227.30. Under the Plan, Wells Fargo will retain its lien and be paid
22 \$2,600.65 each month until its Claim is satisfied in full. Upon full satisfaction of its Claim,
23 Wells Fargo’s lien shall be released.

24 The monthly amount to be paid to Wells Fargo is the same amount called for in the
25 “Supplement to Master Lease” between Wells Fargo and the Debtor. However, the Plan treats
26 the purported lease as a financing agreement, and dispenses with the requirement that the Debtor
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1 pay \$1.00 at the end of the term in order to own the Wells Collateral. Class 1 is impaired and
 2 entitled to vote on the Plan.

3 **2. Class 2 - Toyota Industries Commercial Finance, Inc.**

4 Class 2 consists of the Secured Claim(s) of Toyota Industries Commercial Finance, Inc.
 5 (“Toyota”) with respect to various items of equipment. Each item of equipment listed below is
 6 the subject of a separate contract executed on separate dates (in most, but not all cases), and
 7 encumbered with a separate UCC-1 filing. Toyota filed a separate Proof of Claim with respect to
 8 each item of equipment. Each item of equipment, the Claim amount set forth in each Proof of
 9 Claim, and the contractual monthly payment amount is set forth below:

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Description of Collateral	Proof of Claim Amount	Contractual Monthly Payment Amount
Forklift Serial # 7FGU35-62436	\$841.70	\$420.35
Forklift Serial # 7FBEU20-12451	\$1,208.01	\$302.65
Forklift Serial # 8FGCU30-11702	\$4,873.58	\$293.91
Forklift Serial # 7FGCU35-71131	\$14,283.46	\$374.50
Forklift Serial # 8FGCU30-16308	\$11,967.36	\$313.77

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 21 As a result of their similarities, Toyota’s Claim(s) with respect to each piece of equipment
 22 will be aggregated within a single Class, which is Class 2 in the Plan. Pursuant to the Plan,
 23 Toyota shall retain its full lien in each item of equipment, and be paid the contractual monthly
 24 amounts set forth hereinabove with respect to each item of equipment until Toyota’s Claim(s)
 25 is/are satisfied in full. With respect to each item of equipment, once Toyota’s Claim concerning
 26 that particular item of equipment is satisfied in full, Toyota’s lien shall be released.

27 Pre-confirmation, the Debtor and Toyota entered into a Stipulation for the Debtor to
 28 provide adequate protection payments to Toyota (the “Stipulation”). Any and all pre-

1 confirmation payments made to Toyota by the Debtor shall be credited against Toyota’s Claims.
2 In fact, Toyota’s Claims with respect to two of the forklifts listed above (Serial #7FGU35-62436
3 and Serial #7FBEU20-12451) are expected to be fully satisfied prior to Plan confirmation.

4 The monthly amount to be paid to Toyota under the Plan is the same amount called for in
5 the contracts between Toyota and the Debtor. However, the Plan treats the purported leases as
6 financing agreements, and dispenses with the requirement that the Debtor pay \$1.00 at the end of
7 the term in order to own the foregoing items of equipment. Class 2 is impaired and entitled to
8 vote on the Plan.

9 **3. Class 3 - Toyota Industries Commercial Finance, Inc.**

10 Class 3 consists of the Secured Claim of Toyota Industries Commercial Finance, Inc.
11 (“Toyota”) with respect to two vehicles. Each vehicle listed below is the subject of a separate
12 contract, and separately encumbered. The description of the vehicles, the Claim amount set forth
13 in each Proof of Claim, and the contractual monthly payment amount is set forth below:

Description of Collateral	Proof of Claim Amount	Contractual Monthly Payment Amount
HINO VIN # JHHSPM2HXGK001778	\$41,251.64	\$857.98
HINO VIN # JHHSPM2H9GK001769	\$41,251.64	\$857.98

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20 As a result of their similarities, Toyota’s Claim(s) with respect to each vehicle will be
21 aggregated within a single Class, which is Class 3 in the Plan. Pursuant to the Plan, Toyota shall
22 retain its full lien in each of the foregoing vehicles and be paid the contractual monthly rate set
23 forth hereinabove until Toyota’s Claim(s) is/are paid in full. With respect to each vehicle, once
24 the Allowed Claim concerning that particular vehicle is satisfied in full, Toyota’s lien shall be
25 released.

26 Pre-confirmation, the Debtor and Toyota entered into a Stipulation for the Debtor to
27 provide adequate protection payments to Toyota (the “Stipulation”). Any and all pre-
28

1 confirmation payments made to Toyota by the Debtor shall be credited against Toyota's Claims.

2 Class 3 is impaired and entitled to vote on the Plan.

3 **4. Class 4 - Direct Capital Corporation.**

4 Class 4 consists of the Secured Claim of Direct Capital Corporation ("Direct Capital")
5 with respect to a counter-top saw financed by it. The Debtor's Schedules list Direct Capital's
6 claim in the amount of \$2,449.29. Under the Plan, Direct Capital will retain its lien and be paid
7 \$349.37 each month until its Claim is satisfied in full. Upon full satisfaction of its Claim, Direct
8 Capital's lien shall be released.

9 The monthly amount to be paid to Direct Capital is the same amount called for in the
10 contract between Direct Capital and the Debtor. However, the Plan treats the purported lease as
11 a financing agreement, and dispenses with the requirement that the Debtor pay \$1.00 at the end
12 of the term in order to own the Direct Capital Collateral. Class 4 is impaired and entitled to vote
13 on the Plan.

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16 **5. Class 5 - Direct Capital Corporation.**

17 Class 5 consists of the potential Secured Claim of Direct Capital Corporation ("Direct
18 Capital") with respect to two International Prostar trucks described more particularly in that
19 certain Master EFA Agreement #ME00231412 and related addenda, including the "Addendum to
20 Schedule" thereto (the "Trucks"). On or about February 23, 2015, Direct Capital and the Debtor
21 entered into an agreement for Direct Capital to finance the purchase of the Trucks. The Trucks
22 were purchased by the Debtor and titled in its name. On or about October 24, 2016, a separate
23 agreement was entered into between Direct Capital and a third-party affiliate of the Debtor, JC
24 Logistics, Inc. ("JC"), with respect to the financing of the same two Trucks. It was the intention
25 of the Debtor, Direct Capital, and JC to assign the Trucks to JC, but the Debtor continues to hold
26 legal title to the Vehicles.

1 Under the Plan, Direct Capital shall receive no distributions or other remuneration from
2 the Debtor for the Trucks. However, on the Effective Date, title to the Trucks may be transferred
3 from the Debtor to JC. The Debtor shall undertake all reasonable efforts to accomplish the
4 transfer of title. To the extent that Direct Capital possesses a Claim against the Debtor as
5 described in this Class 5, this Class is impaired.

6 **6. Class 6 - General Unsecured Claims.**

7 Class 6 consists of all Allowed Unsecured Claims. The Debtor believes that Class 6
8 Claims total approximately \$2,137,609.79. The Debtor's Plan proposes to pay the holder of an
9 Allowed Class 6 Claim in full by making quarterly *Pro Rata* payments from 100 percent of the
10 Net Proceeds of the Debtor's operations until each such Claim is paid in full, with interest
11 thereon at the rate of 1.73 percent per annum, which is approximately equivalent to the currently
12 prevailing 1-year Treasury yield. Interest will be amortized monthly, but payments may be made
13 quarterly for convenience.

14 The ~~Debtor expects~~Plan proposes to pay all such Claims ~~to be paid~~ in full, with interest,
15 within ~~approximately seven~~eight years after the Plan if confirmed. *See* Exhibit E hereto.
16 ~~However, in no event shall such payments extend beyond a term of eight (8) years from the~~
17 ~~Effective Date of the Plan. Any and all amounts still due and owing to the holder of an Allowed~~
18 ~~Class 6 Claim~~The Debtor may be required on the eighth (8th) year anniversary date of the
19 Effective Date ~~shall be paid in full~~to secure funding of a small amount from one or more sources
20 of revenue outside of its normal business operations in order to fully pay all Allowed Claims on
21 the eighth year anniversary date. The Debtor believes that the amount will be small enough and
22 manageable enough (currently estimated to be approximately \$25,000.00) to be able to secure
23 such funding from lending sources or otherwise. Class 6 is impaired and entitled to vote on the
24 Plan.

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26 **7. Class 7 - Administrative Convenience Class.**
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1 Class 7 is comprised of all Allowed Class 6 Claims of Creditors aggregating \$2,000.00 or
2 less which elect to irrevocably limit and reduce their Claim to 80% of the amount owed on
3 account of such Claim. This is a so-called “administrative convenience class,” since it allows the
4 Debtor to quickly satisfy small claims of Creditors who elect to reduce their claims in exchange
5 for a more immediate payment by the Debtor by paying the full amount of the reduced Claim
6 within 30 days of the Effective Date of the Plan. Class 7 is impaired and entitled to vote on the
7 Plan.

8 **8. Class 8 - Equity Interests.**

9 Class 8 consists of all shareholder interests (i.e. equity interests) in the Debtor
10 corporation. Equity interest holders shall receive and retain an equity ownership interest in the
11 Debtor / Reorganized Debtor equal to his/her/its present ownership interest in the Debtor. The
12 rights of Class 8 interest holders shall continue to be determined in accordance with any existing
13 shareholder’s agreement, operating agreement and/or applicable non-bankruptcy law. Class 8 is
14 unimpaired.

15 **D. Miscellaneous Provisions of the Plan.**

16 **1. Assumption or Rejection of Unexpired Leases and Executory Contracts.**

17 The following describe unexpired leases and/or executory contracts existing as of the
18 Plan Date, and their treatment under the Plan:

Party to Lease with Debtor	Type of Lease
Ally Financial (as assignee)	Vehicle lease (Maserati Lease)
JPMorgan Chase Bank, N.A. (as assignee)	Vehicle lease (Land Rover Lease)

19 Pursuant to Section 365 of the Bankruptcy Code and under the Plan, the Debtor shall:

20 (1) assume that certain Lease Agreement dated July 21, 2015 (“Land Rover Lease”),
21 originally between the Debtor and Jose Gaitan Gallardo, on the one hand, and Land Rover San
22 Diego, on the other hand, and subsequently assigned by Land Rover San Diego to JP Morgan
23 Chase Bank, N.A., concerning that certain 2015 Land Rover RR Sport HSE, Vin. #
24 SALWR2VFXFA627907; and assign such Land Rover Lease to Jose Gaitan Gallardo,
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1 whereupon any and all liability of the Debtor under such Land Rover Lease, whether for past
2 amounts due or for future amounts coming due, shall cease; and

3 (2) assume that certain Lease Agreement dated November 28, 2015 (“Maserati Lease”),
4 originally between the Debtor and Jose Gaitan, on the one hand, and Ferrari of Newport Beach,
5 on the other hand, and subsequently assigned by Ferrari of Newport Beach to Ally Bank Lease
6 Trust aka Ally Financial, concerning that certain 2015 Maserati Ghibli, VIN #
7 ZAM57XSA4F1151891; and assign such Maserati Lease to Jose Gaitan, whereupon any and all
8 liability of the Debtor under the Maserati Lease, whether for past amounts due or for future
9 amounts coming due, shall cease.

10 Furthermore, the following describe agreements between the Debtor and certain Creditors
11 which are ostensibly in the form of a lease, but that the Debtor treats as a traditional financing
12 arrangement under the Plan. The Plan treats each such Creditor as a Secured Creditor under the
13 Plan and, as a result, does not propose to either assume or reject the contracts upon which their
14 Claims are based.

Party	Description of Collateral
Wells Fargo Equipment Finance, Inc.	Various items of equipment
Toyota Industries Commercial Finance, Inc.	Forklifts
Direct Capital Corporation	Counter-top saw

19 On the Effective Date, all executory contracts and unexpired leases not expressly being
20 assumed by the Plan or pursuant to a Motion shall be deemed rejected. The order confirming the
21 Plan shall constitute an Order approving the rejection of the lease or contract. If you are a party
22 to a contract or lease to be rejected and you object to the rejection of your contract or lease, you
23 must file and serve your objection to the Plan within the deadline for objecting to the
24 confirmation of the Plan.

25 EACH ENTITY THAT IS A PARTY TO AN EXECUTORY CONTRACT OR
26 UNEXPIRED LEASE REJECTED PURSUANT TO THE PLAN, AND ONLY SUCH ENTITY,
27 SHALL BE ENTITLED TO FILE, NOT LATER THAN THIRTY (30) DAYS AFTER THE
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1 CONFIRMATION DATE, A PROOF OF CLAIM FOR DAMAGES ALLEGED TO ARISE
2 FROM THE REJECTION OR TERMINATION OF THE CONTRACT OR LEASE TO WHICH
3 SUCH ENTITY IS A PARTY. Any claim based on the rejection of a contract or lease will be
4 barred if the proof of claim is not timely filed, unless the Court later orders otherwise.
5 Damages arising from the rejection of any contracts or leases are treated as having arisen
6 immediately prior to the Petition Date. Under the Plan, such Claims are classified as Class 6
7 General Unsecured Claims.

8 **2. Objections to Claims.**

9 The Debtor shall file objections to Claims within 30 days after the Effective Date, unless
10 the Court, upon request, extends such period. Such extension may be granted on an *ex parte*
11 basis and without notice to the affected claimants. Filing, service, and prosecution of such
12 objections shall be subject to and in accordance with the Federal Rules of Bankruptcy Procedure
13 and appropriate Local Rules and Procedures. The Plan provides that the Debtor will segregate
14 and hold all payments otherwise due to the claimant holding a Claim subject to objection, and
15 that such Claim will be paid when a Final Order is entered by the Court allowing it.

16 Disputes regarding the validity or amount of Claims shall be resolved pursuant to the
17 procedures established by the Court, the Plan, the Bankruptcy Code, the Federal Rules of
18 Bankruptcy Procedure, and other applicable law, and such resolution shall not be a condition
19 precedent to confirmation or consummation of the Plan.

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22 **3. Avoidance Actions / Other Litigation.**

23 The Debtor reserves the right to investigate and, if necessary and appropriate, to prosecute
24 any Causes of Action. The proceeds of any such Causes of Action (net of recovery costs,
25 including attorneys' fees) shall remain with the Debtor and be used by the Debtor in the ordinary
26 course of its financial affairs or to fund payments under the Plan. The Debtor is not relying on
27 the recovery of any Cause of Action to make any payments due under the Plan. The Debtor is
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1 presently unaware of any potential causes of action that it may possess against others, besides
2 potential actions to avoid allegedly preferential transfers pursuant to Section 547 of the
3 Bankruptcy Code. The potential preferential transferees are listed in the Debtor's Statement of
4 Financial Affairs at Paragraphs 3 and 4 of the Statement of Financial Affairs, which are
5 incorporated herein by reference (the "Transferees"). However, it is unlikely that the Debtor will
6 pursue such causes of action, since any person Transferee required to return a preferential transfer
7 also has the right to submit a Claim for a like amount. Furthermore, all Transferees can be
8 expected to assert defenses. Since the Debtor's Plan is a full payment Plan, it would not make
9 sense to incur additional administrative expenses in pursuing the allegedly preferential transfers.
10 Nonetheless, any and all claims against the Transferees for return of a preferential transfer
11 pursuant to Sections 547 and 550 of the Bankruptcy Code shall be preserved. Furthermore, to
12 the extent that the Debtor otherwise possesses Causes of Action against any person or entity, the
13 Cause(s) of Action shall be retained by the Reorganized Debtor.

14 **4. Settlement of Claims and Disputes.**

15 The Debtor may compromise, liquidate, or otherwise settle any undetermined Claim or
16 Cause of Action pursuant to Federal Rule of Bankruptcy Procedure 9019.

17 **5. Payment of Administrative Expenses.**

18 As required by Bankruptcy Code Section 1129(a)(4), any payment made or to be made by
19 the Debtor for pre-confirmation attorneys' services or for costs or expenses in connection with
20 such services is subject to approval of the Bankruptcy Court. Any attorneys' or accountants' fees
21 and expenses payable by the Debtor under the Plan will be preceded by a fee application and
22 Court order approving the payment of such fees and expenses.

23 **6. Payment of Fees Owed to the U.S. Trustee and Clerk's Office.**

24 Pre-confirmation fees pursuant to 28 U.S.C. § 1930 shall be paid in full on or before the
25 Confirmation Date; to the extent, if any, that such fees are not so paid, such fees shall be paid in
26 full on or before the Effective Date. The Reorganized Debtor shall pay post-confirmation fees
27 pursuant to 28 U.S.C. § 1930 to the extent required by law. The amount of fees due the United
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1 States Trustee will be calculated based on applicable bankruptcy law as of the Confirmation
2 Date. The Debtor intends to seek issuance of a final decree as soon as possible after the Effective
3 Date to minimize liability for post-confirmation quarterly U.S. trustee fees.

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7 **7. Retention of Jurisdiction.**

8 Under the Plan, the Court will retain jurisdiction over the Reorganization Case after the
9 Confirmation Date to the fullest extent permitted under Section 1334 of Title 28 United States
10 Code.

11 **8. Default Under the Plan.**

12 The Plan provides that if an event of default occurs and is not cured within thirty (30)
13 days after service of written notice of default on the Debtor, any Creditor may, without further
14 order of the Court, immediately pursue its rights and remedies under applicable nonbankruptcy
15 law including, but not limited to, instituting levy or foreclosure proceedings, judicial or
16 nonjudicial, in accordance with applicable nonbankruptcy law.

17 Notwithstanding the foregoing, the Reorganized Debtor or another party in interest may
18 seek an order of the Bankruptcy Court staying any Creditor from pursuing its default rights and
19 remedies based on appropriate grounds. Except as otherwise specified in the Plan, such grounds
20 may include, among others: (1) that no uncured default has occurred; and (2) that the Creditor is
21 adequately protected and the Reorganized Debtor is likely to be able to cure any default within a
22 reasonable period of time taking into account the Reorganized Debtor's right to seek
23 modification of the Plan in accordance with applicable bankruptcy law. The party or parties
24 requesting a stay shall bear the burden of proof with respect thereto.

25 In the event of an uncured default, the adversely affected party may file a motion with the
26 Court to determine what relief may be appropriate because of such default, including but not
27 limited to the entry of an order to timely perform under the Plan, dismissal of the case, or
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1 conversion of the case to one under Chapter 7; provided, however, that if a final decree closing
2 this case has been entered by the Court, the adversely affected party may seek relief in state
3 court under some circumstances.

4 A Creditor or party in interest may bring a motion to convert or dismiss the case under
5 Bankruptcy Code Section 1112(b), after the Plan is confirmed, if there is a default in performing
6 the Plan. If the Court orders the case converted to Chapter 7 after the Plan is confirmed, then all
7 property that had been property of the Chapter 11 estate and that has not been disbursed pursuant
8 to the Plan will revert in the Chapter 7 estate. The automatic stay will be reimposed upon the
9 revested property, but only to the extent that relief from stay was not previously authorized by the
10 Court during the bankruptcy case.

11 The order confirming the Plan also may be revoked under very limited circumstances.
12 The Court may revoke the order if the order of confirmation was procured by fraud and if a party
13 in interest brings an adversary proceeding to revoke confirmation within 180 days after the entry
14 of the order of confirmation.

15 **E. Tax Consequences of the Plan.**

16 ANY PERSON CONCERNED WITH THE TAX CONSEQUENCES OF THE PLAN
17 SHOULD CONSULT WITH HIS/HER OWN ACCOUNTANTS, ATTORNEYS, AND/OR
18 ADVISORS TO DETERMINE HOW THE PLAN MAY AFFECT HIS/HER TAX LIABILITY.
19 The following disclosure of possible tax consequences is intended solely for the purpose of
20 alerting readers about possible tax issues the Plan may present to the Debtor. The Plan
21 Proponent CANNOT and DOES NOT represent that the tax consequences contained below are
22 the only tax consequences of the Plan because the Tax Code embodies many complicated rules
23 which make it difficult to completely and accurately state all of the tax implications of any action
24 or transaction.

25 The Debtor generally is unaware of any adverse tax consequences of the Plan to itself or
26 to Creditors. The Debtor will incur typical taxes incurred in the operation of its business
27 including but not limited to income taxes and personal property taxes. Under the circumstances,
28

1 the Debtor does not believe it is necessary or practicable to present a detailed explanation of the
2 federal or state income tax aspects of the Plan or the related bankruptcy tax matters involved in
3 this Chapter 11 case.

4 Creditors may realize taxable income with respect to some or all of their Claims when
5 and as payments are received, unless income on account of such payment already has been
6 recognized. Creditors are urged to seek advice from their own counsel or tax advisor with
7 respect to any tax consequences resulting from confirmation of the Plan.

8 **F. Risk Factors.**

9 There is a risk that the actual or projected income of the Debtor may decline in the future
10 either due to a business downturn or other factors. There is also a risk that the Debtor's expenses
11 will increase. The assumptions made in this Disclosure Statement concerning the Plan are based
12 upon the best information available to the Debtor at this time. The Debtor reserves the right to
13 revise the information contained herein as more accurate information becomes available. In
14 addition, the listing of a particular Claim for a specific amount in this Disclosure Statement or
15 the Plan is not an admission by the Debtor as to either liability or amount, and the Debtor
16 reserves the right to object to any and all Claims in accordance with the Plan.

17 **G. Disclaimers.**

18 The financial data relied upon in formulating the Plan is based upon the Debtor's books
19 and records as of the close of the periods reported in its financial statements, some of which are
20 attached hereto. The Debtor, as Plan Proponent, represents that everything stated in the
21 Disclosure Statement is true to the Debtor's best knowledge and belief. The Debtor has based its
22 Plan on certain assumptions relating to liquidation of assets and generation of income after
23 confirmation of the Plan. Those assumptions represent a prediction of future events. Those
24 anticipated or expected future events may or may not occur, and the assumptions may not be
25 relied upon as either a guarantee or as other assurance that the projected results will actually
26 occur. Thus, while the Debtor believes that such assumptions are reasonable, there is no
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1 assurance that they will prove to be the case. Because of all the uncertainties inherent in any
2 predictions of future events, all Creditors and other interested parties should be aware of the risk
3 associated with these assumptions and the possibility that the actual experience of the Debtor in
4 the future may differ in a material or adverse way.

5 No statements or information concerning the Debtor or its assets or securities are
6 authorized, other than those set forth in the Disclosure Statement.

7 The information contained in this Disclosure Statement has been provided by the Debtor,
8 unless specifically stated to be from other sources.

9 You may not rely upon this Disclosure Statement for any purpose other than to decide
10 how to vote on the Plan. In other words, nothing contained in the Plan or Disclosure Statement
11 shall constitute an admission of any fact or liability for purposes of, for example, any proceeding
12 involving the Debtor or another party, other than the Plan confirmation proceedings to be held in
13 the Bankruptcy Court.

14 THE BANKRUPTCY COURT HAS NOT APPROVED ANY REPRESENTATIONS
15 CONCERNING THE DEBTOR OR THE VALUE OF ITS ASSETS. THE DEBTOR HAS NOT
16 AUTHORIZED ANY REPRESENTATIONS OR INDUCEMENT TO SECURE
17 ACCEPTANCE OR REJECTION OF THE PLAN OTHER THAN AS CONTAINED HEREIN.

18 THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE
19 MADE AS OF THE DATE HEREOF UNLESS ANOTHER DATE IS SPECIFIED. NEITHER
20 DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS
21 MADE IN CONNECTION WITH THIS DISCLOSURE STATEMENT AND PLAN SHALL
22 UNDER ANY CIRCUMSTANCES CREATE AN IMPLICATION THAT THERE HAS BEEN
23 NO CHANGE IN THE FACTS SET FORTH SINCE THE DATE THE DISCLOSURE
24 STATEMENT WAS PREPARED.

25 ALTHOUGH THE DEBTOR BELIEVES THAT THE CONTENTS OF THIS
26 DISCLOSURE STATEMENT ARE COMPLETE AND ACCURATE TO THE BEST OF ITS
27 KNOWLEDGE, INFORMATION, AND BELIEF, THE DEBTOR IS UNABLE TO WARRANT
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1 OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY
2 INACCURACY. ANY STATEMENTS REGARDING PROJECTED AMOUNTS OF CLAIMS
3 AND DIVIDENDS ARE THE DEBTOR'S ESTIMATES BASED UPON CURRENTLY
4 AVAILABLE INFORMATION AND ARE NOT A REPRESENTATION THAT SUCH
5 AMOUNTS ULTIMATELY WILL PROVE CORRECT.

6 THE BANKRUPTCY COURT HAS NOT YET CONFIRMED THE PLAN
7 DESCRIBED IN THIS DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF
8 THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE BANKRUPTCY
9 COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON ALL
10 CREDITORS IN THIS CASE.

11 THE PLAN IS INTENDED TO RESOLVE, COMPROMISE, AND SETTLE ALL
12 CLAIMS, DISPUTES, AND CAUSES OF ACTION BETWEEN AND AMONG ALL
13 PARTICIPANTS AND AS TO ALL MATTERS RELATING TO THESE PROCEEDINGS,
14 EXCEPT AS EXPRESSLY PROVIDED IN THE PLAN. THEREFORE, APPROVAL OF THE
15 PLAN, THE DEBTOR'S FULL PERFORMANCE UNDER THE PLAN, AND THE
16 GRANTING OF A DISCHARGE BY THE COURT AFTER SUCH FULL PERFORMANCE,
17 SHALL EFFECT THE DISCHARGE AND RELEASE OF THE DEBTOR AND SETTLE ALL
18 CLAIMS OF CREDITORS, EXCEPT AS EXPRESSLY PROVIDED IN THE PLAN. IF THE
19 BANKRUPTCY COURT CONFIRMS THE PLAN, CREDITORS' CLAIMS, IF AND TO THE
20 EXTENT ALLOWED, WILL BE PAID IN ACCORDANCE WITH THE TERMS OF, AND AT
21 SUCH TIME(S) SPECIFIED IN, THE PLAN.

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23
24 **V.**

25 **CONFIRMATION REQUIREMENTS AND PROCEDURES**

26 PERSONS OR ENTITIES CONCERNED WITH THE CONFIRMATION
27 REQUIREMENTS SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE
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1 LAW ON CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The
2 following discussion is intended solely for the purpose of alerting readers about basic
3 confirmation issues, which they may wish to consider, as well as certain deadlines for filing
4 claims. The Plan Proponent CANNOT and DOES NOT represent that the discussion contained
5 below is a complete summary of the law on this topic.

6 Many requirements must be met before the Court can confirm a Plan. Some of the
7 requirements include that the Plan must be proposed in good faith, that the Plan be accepted, that
8 the Plan pays creditors at least as much as creditors would receive in a Chapter 7 liquidation, and
9 that the Plan is feasible. These requirements are not the only requirements for confirmation.

10 **A. In General.**

11 Those Creditors who are entitled to vote are asked to vote to accept or reject the Plan.
12 The Court will examine whether each Class has accepted the Plan by the requisite majority. If all
13 Classes vote to accept the Plan, the Plan will be confirmed if the Court determines the Plan meets
14 certain legal requirements. *See generally*, Bankruptcy Code Section 1129(a). If at least one
15 Class of Creditors, but fewer than all Classes, has voted to accept the Plan without considering
16 the vote of any insiders, the Debtor will seek confirmation of the Plan pursuant to the
17 “cramdown” provisions of Bankruptcy Code Section 1129(b). Under such circumstances, the
18 Court must also find that each Creditor that has rejected the Plan will receive at least as much
19 under the Plan as it would in a liquidation case under Chapter 7 of the Bankruptcy Code. These
20 matters are explained in greater detail below.

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24 **B. Who May Vote or Object.**

25 **1. Who May Object to Confirmation of the Plan.**

26 Any party in interest may object to confirmation of the Plan, but as explained below, not
27 everyone is entitled to vote to accept or reject the Plan.
28

1 **2. Who May Vote to Accept / Reject the Plan.**

2 A Creditor has a right to vote for or against the Plan if that Creditor has a Claim which is
3 both (i) allowed (or allowed for voting purposes), and (ii) classified in an impaired Class.

4 **a. What is An Allowed Claim.**

5 As noted above, a Creditor must first have an allowed Claim to have the right to vote.
6 Generally, any proof of claim will be allowed, unless a party in interest objects to the Claim.
7 When an objection to a Claim or interest is filed, the Creditor holding the Claim cannot vote
8 unless the Court, after notice and hearing, either overrules the objection or allows the Claim for
9 voting purposes. The Bar Date for filing a Proof of Claim in this Case was November 28, 2017.

10 If you did not timely file a Proof of Claim, your Claim might still be allowed for voting
11 and distribution purposes in the amount and to the extent that it is listed in the Debtor's
12 Schedules if such Claim is not listed as being disputed, contingent, or unliquidated. You should
13 consult the Debtor's Schedules to see how your Claim has been characterized.

14 **b. What is an Impaired Claim.**

15 As noted above, an allowed Claim only has the right to vote if it is in a Class that is
16 impaired under the Plan. A Class is impaired if the Plan alters the legal, equitable, or contractual
17 rights of the members of that Class. In this case the Debtor believes that all Classes are impaired
18 and that any holders of Claims in each of these Classes are therefore entitled to vote to accept or
19 reject the Plan.

20 The Debtor does not believe that any Classes are not impaired. Parties who dispute the
21 Debtor's characterization of their Claim as being impaired or unimpaired may file an objection to
22 the Plan contending that the Debtor have incorrectly characterized the Class.

23
24 **3. Who is Not Entitled to Vote.**

25 The following four types of Claims are not entitled to vote: (i) Claims that have been
26 disallowed; (ii) Claims in unimpaired Classes; (iii) Claims entitled to priority pursuant to
27 Bankruptcy Code Section 507(a)(2), (a)(3) and (a)(8); and (iv) Claims in Classes that do not
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1 receive or retain any value under the Plan. Claims in unimpaired Classes are not entitled to vote
2 because such Classes are deemed to have accepted the Plan. Claims entitled to priority pursuant
3 to Bankruptcy Code Section 507(a)(2), (a)(3), and (a)(8) are not entitled to vote because such
4 Claims are not placed in Classes and they are required to receive certain treatment specified by
5 the Bankruptcy Code. Claims in Classes that do not receive or retain any value under the Plan do
6 not vote because such Classes are deemed to have rejected the Plan. EVEN IF YOUR CLAIM IS
7 OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO
8 CONFIRMATION OF THE PLAN.

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11 **4. Voting in More Than One Class.**

12 A Creditor who possesses a Claim in more than a single Class may vote as many times as
13 may be ballowed in each Class. For example, a Creditor who possesses a Secured Claim in part
14 and an Unsecured Claim in part is entitled to accept or reject a Plan in both capacities by casting
15 one ballot for the secured part of the Claim and another ballot for the Unsecured Claim.

16 In this case, the Debtor’s Plan does not bifurcate the Claims of Secured Creditors into
17 Secured and Unsecured Classes, so the Debtor does not believe that any Creditor will have the
18 right to vote more than once.

19 **5. Votes Necessary to Confirm the Plan.**

20 If impaired Classes exist, the Court cannot confirm the Plan unless either: (1) all
21 impaired Classes have voted to accept the Plan; or (2) at least one impaired Class has accepted
22 the Plan without counting the votes of any insiders within that Class, and the Plan is eligible to
23 be confirmed by “cramdown” on nonaccepting Classes, as discussed later in paragraph 7 of this
24 Part.

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26 **6. Votes Necessary For a Class to Accept the Plan.**
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1 A Class of Claims is considered to have accepted the Plan if more than one-half in
2 number and at least two-thirds in dollar amount of the Claims which actually voted, voted
3 in favor of the Plan.

4 **7. Treatment of Nonaccepting Classes: Absolute Priority Rule.**

5 As noted above, even if all impaired Classes do not accept the proposed Plan, the Court
6 may nevertheless confirm the Plan if the nonaccepting Classes are treated in the manner required
7 by the Bankruptcy Code. The process by which nonaccepting Classes are forced to be bound by
8 the terms of a Plan is commonly referred to as “cramdown.” The Bankruptcy Code allows the
9 Plan to be “crammed down” on nonaccepting Classes of Claims if it meets all requirements
10 except the voting requirements of Bankruptcy Code Section 1129(a)(8), and if the Plan does not
11 “discriminate unfairly” and is “fair and equitable” toward each impaired Class that has not voted
12 to accept the Plan as referred to in Bankruptcy Code Section 1129(b) and applicable case law.

13 **a. Secured Claims.**

14 There are three ways to satisfy the fair and equitable standard with respect to a
15 dissenting Class of Secured Claims. The first way is to provide that Class members retain their
16 security interests (whether the collateral is kept or is transferred by the Debtor) to the extent of
17 their Allowed Secured Claims and to give each Secured Creditor in the Class deferred cash
18 payments that aggregate to at least the amount of the Allowed Secured Claim and which have a
19 present value equal to the value of the collateral. This method of satisfying the fair and equitable
20 standard may be complicated by the application of Bankruptcy Code Section 1111(b)(2). The
21 meaning of
22 “Allowed Secured Claim” as used in this paragraph will depend upon whether the secured Class
23 makes a Section 1111(b)(2) election to be treated as fully secured despite the fact that the
24 collateral may be worth less than the amount of the Claim, and whether the secured Class so
25 making the election is entitled to make the election.

26 The Section 1111(b)(2) election converts the Unsecured Claim for a deficiency into a
27 Claim secured by the collateral of the electing Creditor. If a Creditor so elects, the Debtor must
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1 treat the Creditor's entire Claim as a Secured Claim and the Plan must provide for the Creditor to
2 receive, on account of its Claim, payments, either present or deferred, of a principal face amount
3 equal to the amount of the Claim and of a present value equal to the value of the collateral.

4 A second alternative for complying with the fair and equitable standard with respect to a
5 Class of dissenting Secured Creditors is for the Plan to provide for the realization of the
6 "indubitable equivalent" of their secured Claims.

7 The third alternative for satisfying the fair and equitable standard is to provide in the plan
8 for the sale of the collateral free and clear of liens, with the liens to attach to the sale
9 proceeds.

10 **b. Unsecured Claims.**

11 There are two ways of satisfying the fair and equitable standard with respect to a
12 dissenting Class of Unsecured Claims. The first way is for the Plan to provide for distributions
13 to the dissenting Class worth the full amount of their Allowed Claims. The Allowed Claims
14 need not be paid in full on the effective date of the Plan. If the Plan provides for deferred
15 payments, an appropriate discount factor must be used so that the present value of deferred
16 payments equals the full amount of the Allowed Unsecured Claims of the dissenting Class.

17 The second way to satisfy the fair and equitable test with respect to a dissenting Class of
18 Unsecured Creditors is for the Plan to provide that all Claims that are junior to the dissenting
19 Class (which junior Class would include the Debtor's ownership interest) do not receive or retain
20 any property on account of their Claims.

21 The Debtor's Plan proposes to pay all Secured and Unsecured Claims in full, with
22 interest, so the "Absolute Priority Rule" will thereby be satisfied in that manner.

23 **8. Request for Confirmation Despite Nonacceptance By Impaired Class(es).**

24 If any impaired Class does not accept the Plan, the Debtor will seek confirmation by the
25 cramdown provisions of Section 1129(b), provided that all of the applicable requirements of
26 Section 1129(a), other than Section 1129(a)(8), have been met. The Debtor will ask the Court to
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1 confirm the Plan by cramdown on impaired Classes if any of these Classes do not vote to accept
2 the Plan.

3 **C. Liquidation Analysis.**

4 Another confirmation requirement is the “Best Interest Test”, which requires a liquidation
5 analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and
6 that claimant or interest holder does not vote to accept the Plan, then that claimant or interest
7 holder must receive or retain under the Plan property of a value not less than the amount that
8 such holder would receive or retain if the Debtor were liquidated under Chapter 7 of the
9 Bankruptcy Code.

10 In a Chapter 7 case, the Debtor’s assets are usually sold by a Chapter 7 trustee. Secured
11 creditors are paid first from the sales proceeds of properties on which the secured creditor has a
12 lien. Administrative claims are paid next. After that, unsecured creditors are paid from any
13 remaining sales proceeds, according to their rights to priority. Unsecured creditors with the same
14 priority share in proportion to the amount of their allowed claim in relationship to the amount of
15 total allowed unsecured claims. Finally, equity interest holders receive the balance that remains
16 after all creditors are paid, if any.

17 For the Court to be able to confirm the Debtor’s Plan, the Court must find that all
18 creditors and interest holders who do not accept the Plan will receive at least as much under the
19 Plan as such holders would receive under a Chapter 7 liquidation. As shown in Exhibit “C”
20 attached hereto, in the Debtor’s case, according to the Debtor’s estimate of its assets and
21 liquidation expenses, the Claims of all Creditors would likely not be satisfied in full in the event
22 of a liquidation under Chapter 7. On the other hand, because the Debtor’s Plan proposes to pay
23 all Claims in full, Creditors will receive more than they would have received in a Chapter 7
24 liquidation case. Therefore, the Debtor believes that this requirement has been satisfied.

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27 **D. Good Faith.**

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Under Bankruptcy Code Section 1126(e), the Court may designate any entity whose acceptance or rejection of the Plan was not in good faith or was not solicited or procured in good faith or in accordance with the Bankruptcy Code. Those acceptances or rejections so designated are not then included in the tally of acceptances or rejections of the Plan. The Debtor expressly reserves the right to ask the Court to so designate any such acceptances or rejections not obtained or procured in good faith.

E. Means for Effectuating the Plan / Feasibility of the Plan.

Another requirement for confirmation involves the feasibility of the Plan, 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 or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan.

There are at least two important aspects of a feasibility analysis. The first aspect considers whether the Plan Proponent (in this case the Debtor) will have enough cash on hand on the Effective Date of the Plan to pay all the claims and expenses which are entitled to be paid on such date. The Plan Proponent maintains that this aspect of feasibility is satisfied. The following summarizes anticipated administrative expenses accruing up to the plan confirmation date:

Claimant	Description	Estimated Amount
Law Offices of Kit J. Gardner	Debtor's General Bankruptcy Counsel	\$35,000.00
Curry Advisors	Debtor's Special Bankruptcy Counsel	\$5,000.00
Integro	Debtor's Accountant	\$1,100.00
United States Trustee	Quarterly Fees <u>(assumes two quarters in 2018)</u>	\$613,500 <u>000.00</u>

Thus, the Plan Proponent estimates that there will be approximately ~~\$47~~\$54,600100.00 in Administrative Expenses to be satisfied on the Effective Date, \$15,532.75 of which may be paid with the Debtor's pre-petition retainer to its counsel. The balance, together with other expenses to be paid on the Effective Date, may be paid from cash that the Debtor will have on hand as of the Effective Date. In particular, the Debtor expects to have approximately

1 ~~\$123,566.42~~ \$56,468.066.4209 on hand as of the Effective Date (presently estimated to be approximately
2 May 1, 2018).

3 The second aspect considers whether the Plan Proponent will have enough cash over the
4 life of the Plan to make the required Plan payments. The Plan Proponent has provided financial
5 statements which include both historical and projected financial information. Please refer to
6 Exhibits D and E for the relevant information. In particular, Exhibit D provides an example of
7 the Debtor's projected gross revenue, expenses, and profit for the calendar year 2018. The
8 Debtor's financial operations are not expected to fluctuate significantly after 2018, except that
9 the Debtor expects that the strong market for its lumber products will continue and increase in
10 years two and three of the Plan, as shown in the projections attached as Exhibit E. The Debtor
11 also expects that normal business downturns will also affect its financial operations, as shown
12 too in Exhibit E.

13 It should also be noted that the Debtor expects to realize at least approximately
14 \$150,000.00 from the sale of pre-petition existing inventory and equipment, in addition to profits
15 obtained through its normal business operations.

16 In addition, the Debtor will be generating additional revenue by brokering sales between
17 third parties, which is expected to yield an additional profit of approximately \$100,000.00 per
18 year over the lifetime of the Plan. The expected revenue from brokering sales for the year 2018
19 is listed as "Other Income" in Exhibit D to this Disclosure Statement. This other income is
20 included and reflected in the "Gross Profit" expected throughout the life of the Plan as set forth
21 in Exhibit E to this Disclosure Statement.

22 The Debtor may be required on the eighth (8th) year anniversary date of the Effective
23 Date to secure funding of a small amount from one or more sources of revenue outside of its
24 normal business operations in order to fully pay all Allowed Claims on the eighth year
25 anniversary date. The Debtor believes that the amount will be small enough and manageable
26 enough (currently estimated to be approximately \$25,000.00) to be able to secure such funding
27 from lending sources or otherwise.

1 The information concerning the Debtor's finances and projections has been provided by
2 the Debtor, based on information reasonably available at this time to the Debtor's management.

3 YOU ARE ADVISED TO CONSULT WITH YOUR ACCOUNTANT OR FINANCIAL
4 ADVISOR IF YOU HAVE ANY QUESTIONS PERTAINING TO THESE FINANCIAL
5 STATEMENTS.

6 **VI.**
7 **EFFECT OF CONFIRMATION OF PLAN**

8 **A. Discharge.**

9 Except as otherwise provided in the Plan, the rights afforded in the Plan shall be in
10 exchange for and in complete satisfaction, discharge, and release of all Claims of any nature or
11 kind whatsoever, including any interest accrued thereon, from and after the Confirmation Date,
12 against the Debtor, the Debtor-In-Possession, or the Reorganized Debtor, and any of their assets
13 or properties. The discharge and release granted under the Plan is intended to be as broad as
14 permissible by the Bankruptcy Code and will forever bar any Claim, suit, demand, or action by
15 any person on account of a Claim which arose prior to confirmation of the Plan. The discharge
16 granted pursuant to confirmation of the Plan will affect all Claims held by third parties as of the
17 Confirmation Date. It will not affect or modify the rights granted to Creditors pursuant to the
18 Plan itself.

19 **B. Injunction.**

20 Except as otherwise provided in the Plan, as of the Confirmation Date, but subject to the
21 occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against the
22 Debtor or the Estate will be, with respect to any such Claims, permanently enjoined from and
23 after the Confirmation Date from: (a) commencing, conducting or continuing in any manner,
24 directly or indirectly, any suit, action or other proceeding of any kind (including, without
25 limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or
26 affecting the Debtor or the Reorganized Debtor or any of its property or any direct or indirect
27 successor in interest to the Debtor or the Reorganized Debtor or any property of any such
28

1 successor; (b) enforcing, levying, attaching (including, without limitation, any pre judgment
2 attachment), collecting or otherwise recovering by any manner or means, whether directly or
3 indirectly, any judgment, award, decree or order against the Debtor or the Reorganized Debtor or
4 any of its property or any direct or indirect successor in interest to the Debtor or the Reorganized
5 Debtor or any property of any such successor; (c) creating, perfecting or otherwise enforcing in
6 any manner, directly or indirectly, any encumbrance of any kind against the Debtor or the
7 Reorganized Debtor or any of its property or any direct or indirect successor in interest to the
8 Debtor or the Reorganized Debtor or any property of any such successor. The injunction set
9 forth in the Plan enjoins, to the fullest extent permitted by applicable law, all Persons from acting
10 or proceeding in any manner, in any place whatsoever, that does not conform or comply with the
11 provisions of the Plan.

12 **C. Revesting of Property in the Debtor.**

13 Confirmation of the Plan revests all of the property of the estate in the Reorganized
14 Debtor.

15 **D. Modification of the Plan.**

16 The Plan Proponent may modify the Plan at any time before confirmation. However, the
17 Court may require a new disclosure statement and/or re-balloting on the Plan if such
18 modification is sought. The Plan Proponent may also seek to modify the Plan at any time after
19 confirmation so long as the Plan has not been substantially consummated, and if the Court
20 authorizes the proposed modifications after notice and a hearing.

21 **E. Post-Confirmation Status Reports and Final Decree.**

22 The Reorganized Debtor shall file status reports with the Bankruptcy Court on a
23 quarterly basis after entry of the Confirmation Order, describing the progress toward
24 consummation of the Plan. The status reports shall be served on, among others, counsel for the
25 United States Trustee. When the Plan is fully administered in all material respects, the
26 Reorganized Debtor shall file an application for a final decree and a proposed final decree
27
28

1 closing this Reorganization Case. A final decree may be issued notwithstanding that future
2 payments remain due under the Plan.

3 **F. Bar Date For Administrative Expense Claims / Other Claims Related to**
4 **Reorganization Case.**

5 All Administrative Claimants shall file motions for allowance of their Administrative
6 Expense Claims not later than 45 days after the Effective Date of the Plan or such Administrative
7 Expense Claims shall be disallowed and forever barred.

8 The Debtor, any Creditor, or a party in interest having any Claim or cause of action
9 against the Debtor or against any Professional Person relating to any actions or inactions in
10 regard to the Reorganization Case must pursue such Claim or cause of action by the
11 commencement of an adversary proceeding within 45 days after the Effective Date of the Plan or
12 such Claim or cause of action shall be forever barred and released.

13 **VII.**

14 **CONCLUSION AND RECOMMENDATION**

15 The Debtor believes that the text of this Disclosure Statement, its Exhibits, and the Plan
16 itself as incorporated herein demonstrate that the Debtor’s Plan will provide the greatest amount
17 of funds for the payment of the Allowed Claims of Creditors. The Debtor strongly urges all
18 Creditors to vote to accept the Plan.

19 LIGNUS, INC.

20
21 Dated: January 5, 2018

22 By: /s/ Jose Gaitan
23 Jose Gaitan, Chief Financial Officer

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