

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

In re:)	
)	
JHL INDUSTRIAL SERVICES, LLC)	Case No. 17-14141 JGR
d/b/a PLATT ROGERS CONSTRUCTION,)	Chapter 11
)	
Debtor.)	

**PLATT ROGERS CONSTRUCTION’S FOURTH AMENDED PLAN OF
REORGANIZATION**

JHL INDUSTRIAL SERVICES, LLC, debtor-in-possession, by and through its undersigned counsel, proposes the following Fourth Amended Plan of Reorganization (the “Plan”) pursuant to Section 1121(a) of the Bankruptcy Code.

**ARTICLE I
DEFINITIONS**

Unless otherwise provided in this Plan, all terms used herein that are defined or used in the Bankruptcy Code are intended to be used in this Plan as defined or used in the Bankruptcy Code. The following capitalized terms shall have the respective meanings set forth below, and such meanings shall be equally applicable to the singular and plural forms of the terms.

“Administrative Claim” shall mean (i) a Claim for a cost or expense of administration of the Chapter 11 Case as contemplated in Section 503(b) of the Bankruptcy Code and entitled to priority pursuant to Section 507(a)(2) of the Bankruptcy Code; and (ii) all fees due under 28 U.S.C. § 1930. Administrative Claims must be submitted within sixty (60) days after the Effective Date.

“Allowed” when used with respect to a Claim other than an Administrative Claim, shall mean a Claim (i) to the extent it is not a Contested Claim; or (ii) a Contested Claim, proof of which was filed with the Bankruptcy Court on or before any applicable Bar Date, and (x) as to which no objection has been filed by the Objection Date, unless such Claim is to be determined in a forum other than the Bankruptcy Court, in which case such Claim shall not become Allowed until determined by Final Order of such other forum and allowed by Final Order of the Bankruptcy Court; or (y) as to which an objection was filed by the Objection Date, to the extent allowed by a Final Order. “Allowed” when used with respect to a Claim that is an Administrative Claim, shall mean an Administrative Claim that has been allowed pursuant to Article V of the Plan.

“Bankruptcy Code” shall mean Title 11 of the United States Code.

“Bankruptcy Court” shall mean the Bankruptcy Court unit of the United States District Court for the District of Colorado.

“Bar Date” shall mean July 20, 2017, the last date set by the Bankruptcy Court for filing Claims that are not Administrative Claims.

“Chapter 11 Case” shall mean the case commenced under Chapter 11 of the Bankruptcy Code for the Debtor.

“Claim” shall mean a claim, as defined in Section 101(5) of the Bankruptcy Code, against the Debtor.

“Confirmation” shall mean the entry by the Bankruptcy Court of an order confirming the Plan in accordance with Chapter 11 of the Bankruptcy Code; “Confirmation Order” shall mean such order; and “Confirmation Date” shall mean the date on which such order is entered.

“Contested” when used with respect to a Claim as to which a proof of claim has been timely filed with the Bankruptcy Court, shall mean a Claim that has not been Allowed: (i) that is listed in any of Debtor’s schedules of liabilities as disputed, unliquidated, or contingent; (ii) to the extent the proof of claim exceeds the scheduled amount; (iii) that is not listed in any such schedules; or, (iv) as to which an objection has been filed and as to which no Final Order allowing such Claim has been entered.

“Debtor” shall mean JHL Industrial Services, LLC d/b/a Platt Rogers Construction.

“Disclosure Statement” shall mean the disclosure document describing the Plan as required to be filed by the Debtor, approved by the Court, and distributed to the various classes of Claims under the Plan as provided in Section 1125 of the Bankruptcy Code.

“Distribution Date” when used with respect to an Allowed Administrative or Priority Claim, shall mean as soon as practicable after the later of (i) the Effective Date, or (ii) if the Administrative or Priority Claim is Allowed after the Effective Date, the fifth day of the next calendar month after the date upon which such Claim is Allowed.

“Effective Date” shall mean the first business day after the passage of thirty (30) days from the date the Confirmation Order becomes a Final Order.

“Equity Interest” shall mean the respective membership interests, if any, in the Debtor.

“Fee Claim” shall mean a Claim under Section 330 or 503 of the Bankruptcy Code for allowance of compensation and reimbursement of expenses in the Chapter 11 Case.

“Final Order” shall mean an order or judgment of the Bankruptcy Court or other court of competent jurisdiction which has not been reversed, stayed, modified, or amended and as to which (i) the time to appeal or seek review, rehearing, or certiorari has expired (without regard to whether the time to seek relief of a judgment under Rule 60(b) of the Federal Rules of Civil Procedure has expired); and (ii) no appeal or petition for review, rehearing, or certiorari is pending, or if pending as to which no bond or other stay has been issued, or as to which any right to appeal or seek review, rehearing, or certiorari has been waived.

“Impaired” A class of claims or interests is “impaired” in accordance with 11 U.S.C. §

1124 if the Plan alters the legal, equitable and/or contractual rights of the holders of such claims or interests.

“Insider” shall mean any Person defined in Section 101(31)(B) of the Bankruptcy Code.

“Late Filed Claims” shall mean any claim filed in the Chapter 11 Case after the Bar Date.

“Litigation” shall mean any civil action pending on the Confirmation Date or commenced thereafter by the Reorganized Debtor, including any preference or avoidance actions under the Bankruptcy Code, any state and federal court proceedings, and any matters submitted to binding arbitration.

“Net Profits” shall mean the Reorganized Debtor’s revenues received from gross revenues, reduced by cost of goods sold, operating and administrative expenses, all taxes, and all Plan payments. The net proceeds from any Litigation, after payment of legal fees and expenses, will be included in the calculation of Net Profits. Funds subject to the trust provisions of C.R.S. § 38-22-127 or C.R.S. § 38-26-109 shall not be included in the calculation of Net Profits.

“Net Profits Fund” shall mean that fund established by the Debtor funded by 25% percent of its Net Profits, calculated annually for the prior 12 months (or any portion thereof), for each year of the Plan.

“Objection Date” shall mean, with respect to a Claim other than a Claim that is an Administrative Claim, the first business day following the passage of ninety (90) days from the Effective Date.

“Person” shall mean an individual, corporation, partnership, joint venture, trust, estate, unincorporated association, unincorporated organization, cooperative, limited liability company, governmental entity or political subdivision thereof, or any other legally recognized entity.

“Plan” shall mean this Plan of Reorganization for the Debtor, as amended from time to time.

“Plan Proponent” shall mean the Debtor.

“Post-petition” shall mean anytime on or subsequent to May 5, 2017 and prior to the Confirmation Date.

“Pre-petition” shall mean any time prior to May 5, 2017.

“Priority Claim” shall mean a Claim entitled to priority in payment pursuant to Section 507(a)(4) or 507(a)(5) of the Bankruptcy Code.

“Pro Rata” shall mean with respect to any Person entitled to distribution, the percentage which such Person’s Allowed Claim bears to the sum of all Allowed Claims in the same class.

“Reorganized Debtor” shall mean the reorganized Debtor under the confirmed Plan.

“Secured Claim” shall mean any Claim secured by a valid and enforceable lien against the property of the Debtor, but only to the extent of the value of the collateral securing such Claim.

“Tax Claim” shall mean any Claim of a governmental unit for taxes entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

“Unsecured Claim” shall mean a Claim that is not secured by a valid and enforceable lien against the property of the Debtor, other than Administrative Claims, Priority Claims, and Equity Interests.

“Unimpaired” A class of claims or interests is “unimpaired” in accordance with 11 U.S.C. § 1124 if the legal, equitable and/or contractual rights of the holders of such claims or interests are not altered under the Plan.

ARTICLE II CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following is a designation of all classes of Claims and Equity Interests other than those Claims of a kind specified in Sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code.

<u>Class 1</u>	Allowed Impaired Secured Claim of the Colorado Department of Revenue
<u>Class 2</u>	Allowed Impaired Secured and Unsecured Claim of Old Republic Surety Company
<u>Class 3</u>	Allowed Impaired Secured and Unsecured Claim of Wells Fargo Bank, N.A.
<u>Class 4</u>	Allowed Impaired Secured Claim of US Bank
<u>Class 5</u>	Allowed Impaired Secured and Unsecured Claim of Komatsu
<u>Class 6</u>	Executory Contracts and Unexpired Leases
<u>Class 7</u>	General Unsecured Claims
<u>Class 8</u>	Equity Interests
<u>Class 9</u>	Late Filed Claims

ARTICLE III TREATMENT OF UNCLASSIFIED PRIORITY CLAIMS

As provided in Section 1123(a)(1) of the Bankruptcy Code, the Claims against the Debtor covered in this Article III are not classified. The holders of such Claims are not entitled to vote on the Plan.

3.1 *Allowed Administrative Claims.*

The holders of Allowed Administrative Claims of the type specified in Section 507(a)(2) of the Bankruptcy Code shall receive cash equal to the allowed amount of such Claim or a lesser amount or different treatment as may be acceptable and agreed to by particular holders of such Claims. Such Claims shall be paid in full on the Effective Date or treated as otherwise agreed to by the holders of such Claims. The payment of professionals is subject to Court approval.

3.2 *Allowed Unsecured Tax Claims.*

The Debtor believes the only Section 507(a)(8) Claims are held by the Internal Revenue Service and the Colorado Department of Labor and Employment. The Debtor shall pay 100% of the Section 507(a)(8) Claims through monthly installment payments of a value, as of the Effective Date, equal to the amount of such claim, over a period of 5 years from the Petition Date at 4% interest or as otherwise agreed by the Reorganized Debtor and the Section 507(a)(8) claimant. Claims for penalties not related to actual pecuniary loss shall be treated under Class 7.

3.3 *Fees Due Under 28 U.S.C. § 1930(a)(6).*

The Reorganized Debtor shall make all payments required to be made to the U.S. Trustee program pursuant to 28 U.S.C. § 1930(a)(6) until the Chapter 11 Case is closed, converted, or dismissed. All payments due to the U.S. Trustee program pursuant to 28 U.S.C. § 1930(a)(6) shall be paid on the Effective Date, and the U.S. Trustee shall thereafter be paid fees due on a quarterly basis until the Chapter 11 Case is closed, converted, or dismissed. The Debtor will also timely file all required post-confirmation reports.

ARTICLE IV IDENTIFICATION OF UNIMPAIRED AND IMPAIRED CLASSES

All Classes except for Class 3 are impaired under the Plan.

ARTICLE V TREATMENT OF CLAIMS AND EQUITY INTERESTS

Class 1. (*Allowed Impaired Secured Claim of the Colorado Department of Revenue*). As of the Petition Date, the Colorado Department of Revenue held a first priority Allowed Impaired Secured Claim of \$25,148.00 against the Debtor's personal property. The Class 1 Claim of the Colorado Department of Revenue is fully Secured. The Debtor and the Colorado Department of Revenue obtained Bankruptcy Court approval of a Stipulated Order Authorizing Debtor's Use of Cash Collateral regarding the Colorado Department of Revenue's Claim on August 25, 2017 (Docket No. 85). Under the stipulated order, the Debtor will resolve the Colorado Department of Revenue's Claim by paying \$25,148.00 over 58 months with 7% interest as follows:

Due Date	Payment Amount	Principal	Interest	Balance
8/1/17	\$512.31	\$365.61	\$146.70	\$24,782.39
9/1/17	\$512.31	\$367.75	\$144.56	\$24,414.64

10/1/17	\$512.31	\$369.89	\$142.42	\$24,044.75
11/1/17	\$512.31	\$372.05	\$140.26	\$23,672.70
12/1/2017	\$512.31	\$374.22	\$138.09	\$23,298.48
1/1/2018	\$512.31	\$376.40	\$135.91	\$22,922.08
2/1/2018	\$512.31	\$378.60	\$133.71	\$22,543.48
3/1/2018	\$512.31	\$380.81	\$131.50	\$22,162.67
4/1/2018	\$512.31	\$383.03	\$129.28	\$21,779.64
5/1/2018	\$512.31	\$385.26	\$127.05	\$21,394.38
6/1/2018	\$512.31	\$387.51	\$124.80	\$21,006.87
7/1/2018	\$512.31	\$389.77	\$122.54	\$20,617.10
8/1/2018	\$512.31	\$392.04	\$120.27	\$20,225.06
9/1/2018	\$512.31	\$394.33	\$117.98	\$19,830.73
10/1/2018	\$512.31	\$396.63	\$115.68	\$19,434.10
11/1/2018	\$512.31	\$398.94	\$113.37	\$19,035.16
12/1/2018	\$512.31	\$401.27	\$111.04	\$18,633.89
1/1/2019	\$512.31	\$403.61	\$108.70	\$18,230.28
2/1/2019	\$512.31	\$405.97	\$106.34	\$17,824.31
3/1/2019	\$512.31	\$408.33	\$103.98	\$17,415.98
4/1/2019	\$512.31	\$410.72	\$101.59	\$17,005.26
5/1/2019	\$512.31	\$413.11	\$99.20	\$16,592.15
6/1/2019	\$512.31	\$415.52	\$96.79	\$16,176.63
7/1/2019	\$512.31	\$417.95	\$94.36	\$15,758.68
8/1/2019	\$512.31	\$420.38	\$91.93	\$15,338.30
9/1/2019	\$512.31	\$422.84	\$89.47	\$14,915.46
10/1/2019	\$512.31	\$425.30	\$87.01	\$14,490.16
11/1/2019	\$512.31	\$427.78	\$84.53	\$14,062.38
12/1/2019	\$512.31	\$430.28	\$82.03	\$13,632.10
1/1/2020	\$512.31	\$432.79	\$79.52	\$13,199.31
2/1/2020	\$512.31	\$435.31	\$77.00	\$12,764.00
3/1/2020	\$512.31	\$437.85	\$74.46	\$12,326.15
4/1/2020	\$512.31	\$440.41	\$71.90	\$11,885.74
5/1/2020	\$512.31	\$442.98	\$69.33	\$11,442.76
6/2/2020	\$512.31	\$445.56	\$66.75	\$10,997.20
7/1/2020	\$512.31	\$448.16	\$64.15	\$10,549.04
8/1/2020	\$512.31	\$450.77	\$61.54	\$10,098.27
9/1/2020	\$512.31	\$453.40	\$58.91	\$9,644.87
10/1/2020	\$512.31	\$456.05	\$56.26	\$9,188.82
11/1/2020	\$512.31	\$458.71	\$53.60	\$8,730.11
12/1/2020	\$512.31	\$461.38	\$50.93	\$8,268.73
1/1/2021	\$512.31	\$464.08	\$48.23	\$7,804.65
2/1/2021	\$512.31	\$466.78	\$45.53	\$7,337.87
3/1/2021	\$512.31	\$469.51	\$42.80	\$6,868.36
4/1/2021	\$512.31	\$472.24	\$40.07	\$6,396.12
5/1/2021	\$512.31	\$475.00	\$37.31	\$5,921.12
6/1/2021	\$512.31	\$477.77	\$34.54	\$5,443.35

7/1/2021	\$512.31	\$480.56	\$31.75	\$4,962.79
8/1/2021	\$512.31	\$483.36	\$28.95	\$4,479.43
9/1/2021	\$512.31	\$486.18	\$26.13	\$3,993.25
10/1/2021	\$512.31	\$489.02	\$23.29	\$3,504.23
11/1/2021	\$512.31	\$491.87	\$20.44	\$3,012.36
12/1/2021	\$512.31	\$494.74	\$17.57	\$2,517.62
1/1/2022	\$512.31	\$497.62	\$14.69	\$2,020.00
2/1/2022	\$512.31	\$500.53	\$11.78	\$1,519.47
3/1/2022	\$512.31	\$503.45	\$8.86	\$1,016.02
4/1/2022	\$512.31	\$506.38	\$5.93	\$509.64
5/1/2022	\$512.31	\$509.64	\$2.97	\$0.00

The Debtor has already made several payments under the payment schedule listed above and will receive credit for any such payment made prior to the Effective Date.

Class 2. (*Allowed Impaired Secured Claim of Old Republic Surety Company*). Old Republic Surety Company asserts a Secured Claim against all the Debtor's pre-petition personal property including certain pre-petition accounts receivable. Such Secured Claim is junior to the Secured Claim of the State of Colorado and Wells Fargo Bank, N.A. However, Old Republic claims that it holds rights of equitable subrogation to receivables on bonded construction contracts on which Old Republic Surety Company has paid or may pay bond claims, which rights are superior to the claims of all other parties in this bankruptcy case as to those receivables under the United States Supreme Court authority of *Pearlman v. Reliance Insurance Company*, 371 U.S. 132 (1962). The value of any uncollected prepetition receivables (including those from bonded construction contracts for which Old Republic Surety Company has paid bond claims) is uncertain but secures Old Republic's claim to an unknown extent. In addition, Old Republic may still have liability under bonds issued for Debtor and to the extent it suffers additional losses, Old Republic asserts that Debtor's indemnity obligations apply to those additional losses are not waived. The value of any personal property that will remain with the Debtor after the sale approved by the Court on May 4, 2018 (Docket No. 178) is nominal after application of Wells Fargo's lien. Accordingly, the Debtor estimates that the Claim of Old Republic Surety Company is undersecured and no additional interest or attorneys fees have accrued in connection with the Class 2 Claim after the Petition Date pursuant to 11 U.S.C. § 506(b). Old Republic asserts that the Debtor's sole member, Jason Grubb, and his wife are also personally liable to Old Republic under an indemnity agreement.

Mr. Grubb and his wife (the "Indemnitors") have reached a settlement agreement (the "O.R. Agreement") with Old Republic to resolve Old Republic's claims against the Indemnitors, effective upon certain payments being made to Old Republic. Pursuant to the O.R. Agreement, Mr. Grubb and his wife will cause Old Republic to be paid \$30,000.00 within five days of the O.R. Agreement and an additional \$22,500.00 within two years of the O.R. Agreement for a total of \$52,500.00. Upon timely payment of the \$52,500.00, Old Republic will release its claims against the Indemnitors and so long as the Reorganized Debtor has timely paid \$90,820.19 as set forth below, will also assign its Claim against the Reorganized Debtor to the Indemnitors or their assignee(s).

The Reorganized Debtor will pay Old Republic its net recovery for uncollected prepetition receivables for which Old Republic has paid bond claims in connection with the VA Medical Center in Aurora, Colorado and the Buckley AFB, Mountainview Project until Old Republic receives \$90,820.00. In the event that after one year from the Effective Date, the Reorganized Debtor has not paid \$90,820.00 to Old Republic in this manner, the Reorganized Debtor will pay Old Republic \$90,820.19 over 48 months (so that the total amount of \$90,820.19 must be paid within 5 years of the Effective Date).

Upon timely payment of the \$90,820.00 from the Reorganized Debtor and the Indemnitors' timely compliance with the O.R. Agreement, Old Republic will assign its Claim against the Reorganized Debtor to the Indemnitors or their assignee. After assignment of the Old Republic Claim to the Indemnitors, to the extent the Debtor collects any additional prepetition receivables on bonded construction contracts for which Old Republic has paid bond claims, such funds will be used to first satisfy the assigned Claim of Old Republic Surety Company. Any other prepetition receivables collected will be used first to satisfy the remaining Claims of the State of Colorado, then Wells Fargo Bank, N.A., and then the (assigned) claims of Old Republic Surety Company. To the extent it is Allowed, the remaining amount of Old Republic Surety Company's Claim (the amount that remains unpaid after collection and distribution of prepetition accounts receivable) is Unsecured and shall be treated as a general Unsecured Claim under Class 7. Other than prepetition accounts receivable, the Debtor shall take title to its property free and clear of the Class 2 Claim a upon confirmation of the Plan.

Class 3. (*Allowed Impaired Secured and Unsecured Claim of Wells Fargo Bank, N.A.*). The Debtor has reached an agreement with Wells Fargo Bank, N.A. regarding the treatment of Wells Fargo's Claim under this Plan. Pursuant to such agreement, Wells Fargo will have a continuing security interest in the Debtor's pre-petition accounts receivable subject to any senior liens. The Debtor shall make quarterly payments of principal and interest to Wells Fargo in the amount of \$8,700.00 based on \$150,000.00 principal accruing interest at 6% amortized over 5-years commencing no later than December 31, 2018, and continuing until the \$150,000.00, plus accrued interest, is paid in full. To the extent the Debtor collects any prepetition receivables on bonded construction contracts for which Old Republic has paid bond claims, such funds will be used to first satisfy the remaining Claim of Old Republic Surety Company or its assignee(s). In addition to the payments to Wells Fargo set forth above, to the extent the Debtor collects any prepetition receivables for which Old Republic does not have a senior security interest, the Debtor's net recovery will be used first to satisfy the remaining Claims of the State of Colorado, then Wells Fargo Bank, N.A., and then Old Republic Surety Company, or its assignees. In no event will Wells Fargo's recovery exceed the amount of its Claim, with credit given for the amounts paid by the indemnitor under the settlement agreement referenced above.

Class 4. (*Allowed Secured Claim of US Bank*). US Bank holds a first priority Allowed Secured Claim of \$5,102.98 (as of the Petition Date) against the Debtor's 2014 Jeep Grand Cherokee motor vehicle pursuant to a purchase money security agreement. The Class 4 Claim of US Bank is fully secured.

The Class 4 Claim shall be paid pursuant to the terms of the original financing agreement between the Debtor and U.S. Bank.

Class 5. (*Allowed Impaired Secured and Unsecured Claim of Komatsu Financial Limited Partnership*). On the Petition Date, the Debtor was party to two separate financial transactions or agreements with Komatsu Financial Limited Partnership (“Komatsu”). One related to the Debtor’s purchase of an excavator using the proceeds of a loan from Komatsu and the other related to an equipment lease for a wheel loader. Regarding the secured loan for the Debtor’s purchase of the excavator, Komatsu has entered into a Stipulation and Settlement Agreement with the Debtor that was approved by the Court. The Stipulation and Settlement Agreement are attached hereto as **Exhibit 1** and the terms thereof are incorporated herein by this reference. Regarding the equipment lease for the wheel loader, the Debtor and Komatsu have entered into and obtained Bankruptcy Court approval of a Stipulation and Joint Motion for Entry of Order (i) Authorizing Rejection of Lease Agreement with Komatsu Financial Limited partnership; and (ii) Terminating the Automatic Stay with Respect to Certain Leased Equipment (“Stipulation and Joint Motion”). Under the order approving the Stipulation and Joint Motion, the equipment lease is rejected and the equipment has been returned to Komatsu. After effectuation of the terms of the Stipulation and Settlement Agreement and Stipulation and Joint Motion, any remaining Unsecured portion of Komatsu’s Claim shall be treated as a rejected lease under Class 6.

Class 6. (*Executory Contracts and Unexpired Leases*). Any unexpired leases or executory contracts not otherwise dealt with in the Plan shall be deemed rejected. Under the terms of any lease agreements, in the event that a lease is rejected, the equipment or property will be returned to the lessor, unless Debtor and the lessor otherwise agree.

Any Class 6 claimant asserting a claim for damages arising from rejection of a lease shall file a proof of claim with the Bankruptcy Court by the later of the Effective Date or thirty days after entry of the Order granting the motion to reject or the claim shall be forever barred. The claims held by holders of rejected leases or executory contracts shall be treated as Class 7 Unsecured Claims subject to the limitations of Section 502 of the Bankruptcy Code.

Class 7. (*Unsecured Claims*). Class 7 is comprised of creditors holding Allowed Unsecured Claims against the Debtor, including any allowed penalty Claims held by any taxing authority which are not related to actual pecuniary loss. Allowed Class 7 Claims shall receive their pro rata share of the Net Profits Fund. Distributions from the Net Profits Fund shall continue for 5 years following the Effective Date. Distributions to Class 7 claimants shall not exceed the amount of the Allowed Unsecured Claims plus interest calculated at two and a half percent (2.5%) per annum. Distributions to the Allowed Class 7 claimants shall be made annually on the anniversary of the Effective Date and shall begin in 2019. In the alternative, at any time during the term of the Plan and at its sole discretion, the Debtor may distribute \$40,000.00 (the approximate amount projected to be distributed to unsecured creditors under the Plan) less any payments already made to Class 7 claimants under the Plan, as a lump-sum payment to the allowed Class 7 claimants on a pro-rata basis, in full, final, and complete satisfaction of their unsecured claims.

Class 8. (*Equity Interests*). On the Effective Date, the member of the Debtor shall retain his Equity Interests. The “Absolute Priority Rule” of 11 U.S.C. § 1129(b) is not applicable where the class of unsecured creditors has accepted the Plan. “[I]f a class of creditors accepts the plan under section 1129(a)(8), the bankruptcy court may confirm the plan without showing that the plan satisfies the ‘unfair discrimination’ and ‘fair and equitable’ standards of section 1129(b).” *In re*

Ruti-Sweetwater, Inc., 836 F.3d 1263 (10th Cir. 1988).

Class 9. (Late Filed Claims). Class 9 is comprised of all Late Filed Claims against Debtor. The Class 9 claims shall be disallowed and shall receive no distribution under the Plan.

ARTICLE VI DEFAULT AND PLAN MODIFICATION

6.1 Default and Right to Cure.

In the event of any default by the Reorganized Debtor of any payment to any class of claimants arising under the terms of the Plan, the Reorganized Debtor shall have thirty (30) days within which to cure any default in payments due under this Plan after the date of issuance of written notice from any claim holder. Written notice shall be provided to the Reorganized Debtor and to Debtor's counsel as provided in paragraph 12.7 herein, unless written notice of substitution of legal counsel is served upon the claim holder at least fifteen (15) days prior to the date notice is sent.

6.2 Failure to Cure Default.

In the event that the Reorganized Debtor fails to cure any default in the requirements to make payment under the Plan, within thirty (30) days from the date that written notice is sent in compliance with paragraph 6.1, the Reorganized Debtor shall be in default under the terms of the Plan.

6.3 Plan Modification.

At any time after Confirmation of the Plan but before the completion of payments under the Plan, the Plan may be modified upon the request of the Reorganized Debtor, after notice and a hearing, only to the extent allowed by 11 U.S.C. § 1127.

ARTICLE VII MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN

7.1 Asset Transfer to Reorganized Debtor.

On or about the Effective Date, all assets of the Debtor shall be transferred to the Reorganized Debtor free and clear of all liens, claims, and interests of creditors, equity holders, and other parties in interest, except as otherwise provided herein. Specifically, the assets shall be transferred subject to the liens held by secured creditors as discussed in the treatment of their claims. The Reorganized Debtor shall not, except as otherwise provided in this Plan, be liable to repay any debts which accrued prior to the Confirmation Date. Except as provided in this Plan, on the Confirmation Date, the Debtor shall be granted a discharge under 11 U.S.C. § 1141.

7.2 Means for Implementation.

The Debtor shall fund its Plan obligations with cash from operations and proceeds from

litigation. Such funds shall be sufficient to pay in full all amounts due on the Effective Date, and, as applicable, priority claimants treated under Article III herein.

7.3 *Execution of Plan.*

Thirty days after the Effective Date, the Reorganized Debtor shall implement its Plan of Reorganization pursuant to the terms for each class of claimants set forth above. Payments under the Plan shall come from the cash flow of the Reorganized Debtor generated by the Reorganized Debtor's business and from the net proceeds of litigation to recover pre-petition accounts receivable. On the due date for payments as set forth in Article V above, the Reorganized Debtor shall immediately distribute the required pro rata amount to each claimant holding an Allowed Secured or Unsecured Claim and escrow the same pro rata amount to creditors holding Contested Claims as provided in Article X herein.

In the alternative, at any time during the term of the Plan and at its sole discretion, the Debtor may distribute \$40,000.00 to the allowed Class 7 Claims on a pro-rata basis in full, final, and complete satisfaction of their unsecured claims.

7.4 *Net Profits Fund.*

7.4.1 On the first anniversary of the Effective Date, and each year thereafter for 5 years, the Reorganized Debtor shall calculate its Net Profits for the prior 12-month period and deposit 25% percent of the Net Profits into the Net Profits Fund for distribution to the Class 7 Claimants.

7.4.2 Upon request by an Allowed Class 7 claimant, the Reorganized Debtor shall provide its calculation of Net Profits for the period requested.

7.5 *Financial Records.*

The Reorganized Debtor's financial records shall be available for review by creditors upon reasonable notice to counsel for the Reorganized Debtor subject to execution of an appropriate confidentiality agreement.

7.6 *Avoidance and Recovery Actions.*

The Reorganized Debtor may pursue any claims or recovery actions held by the Debtor, including but not limited to recovery under 11 U.S.C. §§ 544, 547, 548 and 549. The Reorganized Debtor may abandon any claim it has against any third party if it determines that the claim is burdensome or of inconsequential value and benefit. The Reorganized Debtor is authorized to employ counsel to represent it in litigation or any cause of action or claims held by the Debtor.

7.7 *Deposit Accounts.*

All funds held by the Reorganized Debtor for distribution under the Plan shall be held in accounts which meet the insurance and guaranty requirements 11 U.S.C. § 345(b).

7.8 *Claims Objections.*

Following the Effective Date, the Reorganized Debtor may compromise objections to Claims or causes of action referred to in this Plan without notice and hearing for claims or causes of action asserted in the original amount of \$50,000.00 or less. Settlements or compromises of any claims or causes of action asserted in the amount of \$50,000.00 or more shall be subject to notice and an opportunity for hearing under the provisions after notice in compliance with the Federal and Local Rules of Bankruptcy Procedure.

7.9 *Continued Operations.*

After the Effective Date, the Reorganized Debtor exercising its business judgment may continue operations.

7.10 *Discharge and Injunctive Relief.*

The Reorganized Debtor shall receive a discharge to the extent permitted by 11 U.S.C. § 1141 and the Reorganized Debtor shall be entitled to seek injunctive relief from the Court, if necessary, to enforce any and all provisions of the Plan.

**ARTICLE VIII
EFFECT OF CONFIRMATION**

Upon Confirmation, the provisions of this Plan shall bind the Debtor and any creditor or equity security holder of the Debtor, whether or not the Claim or Equity Interest of such Person is impaired under this Plan and whether or not such Person has accepted this Plan. Upon Confirmation, all of the property of the Debtor's estates shall be vested in the Reorganized Debtor as provided in this Plan, free and clear of all Claims and Equity Interests, except as specifically provided in this Plan. Upon Confirmation, all creditors and equity security holders of the Debtor are permanently enjoined from commencing or pursuing any action against the Reorganized Debtor, other than an action to enforce the provisions of this Plan. The previous sentences shall in no way alter or impair the rights of the State of Colorado available under applicable state law.

**ARTICLE IX
PROVISION FOR ASSUMPTION OR
REJECTION OF EXECUTORY CONTRACTS**

All unexpired leases and executory contracts between the Debtor and any other Person (if any) which have not prior to the Effective Date of the Plan been affirmatively assumed by the Debtor, are hereby rejected.

**ARTICLE X
PROVISION AS TO DISPUTED CLAIMS**

10.1 *Objections.*

The Reorganized Debtor may, at any time within ninety (90) days after the Effective Date, file an objection to any claim which in its opinion should be objected to as improper, in whole or in part. The Reorganized Debtor may further designate claims held by creditors against whom the Reorganized Debtor believes actions may be brought under Sections 544, 547, 548 or 549 of the Bankruptcy Code as Contested Claims by sending notice in writing to the Claimant within ninety (90) days after the Effective Date.

Upon the filing of such objection or service of said written notice, such claim shall be considered a Contested Claim, and any cash or other instruments or property otherwise distributable to such creditor under this Plan shall be held by the Reorganized Debtor in escrow until final disposition of the objection to the claim either by settlement or entry of a Final Order. If the claim is only contested in part, payment shall be made to the claimant on the uncontested portion under the provisions of Article V and the balance shall be treated as a Contested Claim under the provisions of Article X. If the objection is overruled or denied, in whole or in part, or the claim is allowed by stipulation of the Reorganized Debtor and the claimant, such claimant shall receive the amount of cash provided in this Plan to the extent of the amount of the claim finally allowed, including back installments.

10.2 *Contested Claims Escrow.*

From and after the Effective Date, the Reorganized Debtor shall reserve and hold for the benefit of each holder of a Contested Claim cash in an amount equal to the pro rata payments which would have been made to the holder of such Contested Claim if it were an Allowed Claim in an amount equal to the lesser of: (i) the amount of the Contested Claim or (ii) the amount in which the Contested Claim shall be estimated by the Bankruptcy Court pursuant to § 502 of the Bankruptcy Code for purposes of allowance, which amount shall constitute and represent the maximum amount in which such claim may ultimately become an Allowed Claim. No payments or distributions shall be made with respect to all or any portion of any Contested Claim pending the entire resolution thereof by Final Order.

**ARTICLE XI
AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS OF DEBTOR**

As may be required, the Articles and Bylaws of the Debtor shall be amended on or before the Effective Date to the extent necessary to effectuate the provisions of the Plan.

**ARTICLE XII
MISCELLANEOUS PROVISIONS**

12.1 *Retention of Jurisdiction.*

The Reorganized Debtor reserves the right to reopen the Chapter 11 Case after Confirmation and dismissal for the purposes set forth in this paragraph. The Bankruptcy Court shall retain jurisdiction over the Chapter 11 Case for the following purposes:

- (a) To hear and determine any and all objections to the allowance of Claims or Interests.
- (b) To determine any and all applications for allowances of compensation and reimbursement of expenses and any other fees and expenses authorized to be paid or reimbursed under the Bankruptcy Code or the Plan, to the extent such claim was incurred prior to the Effective Date.
- (c) To hear and determine any and all pending applications for the rejection or assumption, or for the assumption and assignment, as the case may be, of executory contracts or unexpired leases to which the Debtor is a party, and to hear and determine any and all Claims arising therefrom.
- (d) To hear and determine any and all applications, adversary proceedings, and contested or litigated matters that may be pending on the Effective Date or instituted by the Reorganized Debtor thereafter.
- (e) To consider any modifications of the Plan, to remedy any defect or omission, or reconcile any inconsistency in the Plan or in any order of the Bankruptcy Court, including the Confirmation Order.
- (f) To hear and determine any application to sell the Debtor's property free and clear of liens.
- (g) To hear and determine all controversies, suits, and disputes that may arise in connection with the interpretation, enforcement, or consummation of the Plan.
- (h) To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtor where the original claim or cause of action is in excess of \$50,000.00.
- (i) To issue orders in aid of execution of the Plan as contemplated by Section 1142 of the Bankruptcy Code.
- (j) To determine such other matters as may be set forth in the Confirmation Order or which may arise in connection with the Plan or the Confirmation Order.

12.2 *Vesting of Property.*

The Reorganized Debtor shall be vested with ownership to all property of the estate upon the Effective Date.

12.3 *Satisfaction of Claims.*

The payment of Allowed Claims, Allowed Administrative Claims and Allowed Secured Claims shall be in exchange for all claims against the Debtor and shall constitute full settlement, release, discharge, and satisfaction of all such claims against the Debtor. Confirmation of the Plan shall constitute a modification of any note or obligation for which specification and treatment is provided under the Plan as set forth in the Plan. Any obligation or note, previously in default, so modified, shall be cured as modified as of the Confirmation Date. This provision shall be operable regardless of whether the Plan provides for any obligation to be evidenced by a rewritten loan or security document following confirmation of the Plan.

12.4 *Pre-Existing Causes of Action.*

Nothing herein contained shall prevent the Reorganized Debtor from taking any action as may be necessary to the enforcement of any cause of action which may exist on behalf of the Reorganized Debtor and which may not have been enforced or prosecuted by the Debtor prior to the Effective Date.

12.5 *Reservation of Rights.*

The Reorganized Debtor reserves the right to modify the Plan prior to the Confirmation, and thereafter to modify the Plan in accordance with 11 U.S.C. § 1127(b) and paragraph 6.3 herein.

12.6 *Headings.*

The headings used in the Plan are for convenience of reference only and shall not limit or in any manner affect the meaning or interpretation of the Plan.

12.7 *Notices.*

All notices, request, demands, or other communications required or permitted in this Plan must be given in writing to the party(ies) to be notified. All communications will be deemed delivered when received at the following addresses:

(a) To Debtor:

JHL Industrial Services, LLC d/b/a Platt Rogers Construction
jg@plattrogers.com

With a copy to:

David J. Warner
Wadsworth Warner Conrardy, P.C.
2580 W. Main St., Ste. 200
Littleton, CO 80120

dwarner@wwc-legal.com

- (b) To an allowed claimant, at the addresses set forth in the allowed Proof of Claim, if filed, or, if no Proof of Claim is filed, at the address set forth for the claimant in the Debtor's Schedules filed with the Bankruptcy Court.

12.8 *Successors and Assigns.*

The Plan will be binding upon the Reorganized Debtor, any creditor affected by the Plan and their heirs, successors, assigns and legal representatives.

12.9 *Unclaimed Payments.*

If a Person entitled to receive a payment or distribution pursuant to this Plan fails to negotiate a check, accept a distribution, or provide a forwarding address, the person or entity is deemed to have released and abandoned any right to payment or distribution under the Plan.

DATED: September 20, 2018.

JHL INDUSTRIAL SERVICES, LLC D/B/A
PLATT ROGERS CONSTRUCTION



By: Jason Grubb
Its: Managing Member

WADSWORTH WARNER CONRARDY, P.C.

/s/David J. Warner

David J. Warner, #38708
2580 W. Main St.
Littleton, Colorado 80120
(303) 296-1999, Fax: (303) 296-7600
ATTORNEYS FOR DEBTOR