

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

IN RE:

CJ MICHEL INDUSTRIAL SERVICES, LLC

CASE NO: 17-51611  
CHAPTER 11

DEBTOR IN POSSESSION

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**DEBTOR'S FIRST AMENDED SMALL BUSINESS  
CHAPTER 11 PLAN WITH DISCLOSURES**

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Respectfully submitted,

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DATED: January 25, 2018

**FIRST AMENDED SMALL BUSINESS CHAPTER 11 PLAN WITH DISCLOSURES  
OF  
CJ MICHEL INDUSTRIAL SERVICES, LLC  
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CJ Michel Industrial Services, LLC, as a debtor and debtor in possession (the "Debtor"), a small business debtor, provides the following Disclosures pursuant to 11 U.S.C. § 1125(f)(1) and proposes the following First Amended Small Business Chapter 11 Plan to its Creditors pursuant to the provisions of 11 U.S.C. § 1121(a):

**ARTICLE I  
DISCLOSURES**

1.1 Introduction. The Debtor provides general information herein to all its known Creditors in order to disclose that information deemed by the Debtor to be material, important and necessary to the Creditors to arrive at a reasonably informed decision in exercising rights to vote on the Debtor's First Amended Small Business Chapter 11 Plan.

You should read this entire document before voting on the Plan. As a Creditor your vote is important. The Plan will be confirmed by the Bankruptcy Court if it is accepted by the holders of two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Creditors' Claims in each class voting on the Plan. However, the provisions of 11 U.S.C. § 1129(b) may be invoked in order to obtain Confirmation of the Plan. These provisions permit Confirmation even though a class or classes reject the Plan if the Bankruptcy Court finds that the Plan provides fair and equitable treatment for the rejecting class.

The Disclosures contained herein are provided to enable holders of Claims to make an informed judgment whether to accept or reject the Plan. Whether or not you expect to be present at the Confirmation Hearing, you are urged to fill in, date, sign, and promptly return the ballot. Holders of Claims in a class that is Impaired may vote to accept or reject the Plan by completing and delivering or transmitting their ballots to the Attorneys for the Debtor, DelCotto Law Group PLLC, 200 North Upper Street, Lexington, Kentucky 40507, telephone (859) 231-5800, fax

(859) 281-1179, Attention: Jamie L. Harris, email: [jharris@dlgfirm.com](mailto:jharris@dlgfirm.com). **Only ballots received on or before the deadline of 5:00 p.m. (ET) on February 15, 2018, will be counted in determining whether a class has accepted or rejected the Plan.**

The Disclosures herein have been prepared by the Debtor unless noted otherwise using financial information and other information available to it through its books and records. The valuations placed upon Assets are based upon its best estimate of values. NO INFORMATION CONTAINED IN THESE DISCLOSURES HAS BEEN PREPARED BY AN INDEPENDENT PUBLIC ACCOUNTANT TO THE KNOWLEDGE OF THE DEBTOR.

THE DEBTOR IS REPRESENTED BY THE LAW FIRM OF DELCOTTO LAW GROUP PLLC, 200 NORTH UPPER STREET, LEXINGTON, KENTUCKY 40507, WHICH HAS NOT EXPRESSED AN OPINION ON ANY INFORMATION SET FORTH HEREIN. CERTAIN INFORMATION PROVIDED HEREIN HAS BEEN PROVIDED BY THIRD PARTIES AND MAY RELATE TO NON-DEBTOR ENTITIES.<sup>1</sup> DELCOTTO LAW GROUP PLLC IS NOT LEGAL COUNSEL TO ANY OF THESE THIRD PARTIES.

#### 1.2 Principal Factors Leading To The Chapter 11 Bankruptcy Filing.

The Debtor, a Louisiana entity, has provided contracting services for customers in the construction and industrial sector for the past few years. Services are not limited to the electrical trade but include OSHA certified, trade licensed and fully insured low-E, data/communications service technicians, pipefitters, welders, iron workers, riggers, millwrights, concrete tradesmen, and general tradesmen. The company offers complete design/build services as the general contractor, sub-contracting and support staffing to its clients. The Debtor has been unable to reach out-of-court workout agreements with its creditors which are primarily merchant cash advance lenders and seeks a “breathing spell” to reorganize its business under Chapter 11 of the Bankruptcy Code in order to restructure its debts, reorganize as a going concern, and maximize value for the benefit of the creditors of its Estate.

1.3 Summary of Assets and Liabilities. The following is a summary of the Debtor’s primary Assets and liabilities according to the Debtor’s books and records and its bankruptcy Schedules. THIS SUMMARY DOES NOT TAKE INTO CONSIDERATION ALL OF THE PROOFS OF CLAIM FILED HEREIN NOR CLAIMS FOR LEASE OR CONTRACT REJECTION DAMAGES. THE ASSET VALUES CONTAINED HEREIN AND/OR IN THE DEBTOR’S SCHEDULES ARE BASED ON THE DEBTOR’S BEST ESTIMATES OF MARKET VALUES, AND MAY NOT AND IN ALL LIKELIHOOD DO NOT ACCURATELY REFLECT LIQUIDATION VALUES OR WHAT MAY ULTIMATELY BE ACHIEVED FOR THESE ASSETS.

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<sup>1</sup> Data contained in the Debtor’s general ledger provided to the UST office is not verifiable as it contains numerous errors made by the prior CFO who was terminated in 2017. The Debtor’s internal accountant is currently attempting to correct errors. Additionally, the disclosures contained in paragraphs 1.4.9 through 1.4.12 are narrative explanations provided from Thomas Wilkins, a Kentucky- entity employee and Mr. Michel in response to various allegations in the United States Trustee’s objection to confirmation.

## **SUMMARY OF PRIMARY ASSETS**

### Prepetition Assets

The Debtor's Assets as of the Petition Date totaled \$445,557.86 including the following: (a) checking accounts valued at \$96.00; (b) accounts receivable valued at \$303,212.17; (c) automobiles valued at \$131,262; and (d) tools valued at \$10,987.68. For more details, see the Debtor's Schedules [ECF 41].

## **SUMMARY OF LIABILITIES**

### Prepetition Liabilities

The Debtor's estimated liabilities as of the Petition Date totaled \$1,675,121.28, which includes (a) Secured Claims totaling \$373,288.67; (b) Priority Claims totaling \$0.00; and (c) Unsecured Claims totaling \$1,301,832.61.

The Debtor has filed monthly operating reports with the Court for the time period from August 10, 2017 through December 31, 2017 [ECFs 58, 65, 82, 110, and 133], which can be reviewed as to the Debtor's August (\$175,400), September (\$26,250.50), October (\$30,160.36), November (\$35,848) and December (\$98,733.25) income and the Debtor's August (\$106,045.73), September (\$19,130.90), October (\$27,818.84), November (\$27,215.01) and December (\$100,932.11) expenses since the Petition Date.

#### 1.4 Significant Events Occurring During Pendency of Bankruptcy Case.

1.4.1 Employment of Professionals by Debtor. The Debtor employed the law firm of DelCotto Law Group PLLC ("DelCotto"), as its counsel for general bankruptcy matters in the Bankruptcy Case [Order entered August 17, 2017; ECF 32]. Debtor's counsel filed a fee application through December 5, 2018 in the amount of \$35,858.73 and an order [ECF 127] was entered on January 2, 2018 approving the fee application. The Debtor escrowed \$11,763 with Debtor's counsel toward payment of professional fees and this was applied to the fee application. The additional balance of the fee application was paid from DIP loan proceeds from CJ Michel, Debtor's majority owner. The Debtor estimates that professional fees will not exceed \$55,000.00 at Confirmation.

1.4.2 Postpetition Operations. Following the Petition Date, the Debtor continued to operate its business as a debtor in possession under Chapter 11 of the Bankruptcy Code. The Debtor has continued its contracting operations.

1.4.3 Unsecured Creditors Committee. The U.S. Trustee has not appointed an Unsecured Creditors Committee in this case.

1.4.4 Cash Collateral/Adequate Protection. The Court has entered orders [ECF 37, 52,

71, 103, 110, and 133] authorizing the Debtor to use cash collateral and granting adequate protection to the Gulf Coast Bank and Trust Company (“Gulf Coast”). The Debtor has used cash collateral in the manner provided by this order. The Debtor factors with Gulf Coast pursuant to the terms of a factoring agreement- see ECF 38-2. The factoring agreement [ECF 38-2] states:

1. Paragraph 2.2 – The payment term of any Receivable offered for purchase must be NET 30 DAYS.
2. Paragraph 5.1 —Company will pay to GCBC an amount equal to the Fixed Discount Percentage
  - a. Schedule A \_ Definitions – “Fixed Discount Percentage” -- . . . the percentage is calculated as follows: (i) if paid in the first 30 days of the period, then 1.00%, (ii) if after 30 days, then 1.00% PLUS an additional .5% for each successive fifteen day period.

The Debtor believes in the exercise of its business judgment that continuation of this agreement is in the best interests of operations as the Debtor has not been able to locate a factoring company offering more favorable terms.

1.4.5 Payment of Employee Wages, Benefits and Related Taxes/Ordinary Course of Business. The Debtor has managed its affairs as a debtor in possession under the protection and supervision of the Bankruptcy Court. The Debtor has continued to operate its operations in the ordinary course. The Debtor states that no other transactions have occurred which were outside the ordinary course of the Debtor’s affairs during the time period from the Petition Date through the filing of this Plan. All postpetition taxes and wages shall be paid on or before the Confirmation Date. The Debtor believes all such postpetition Claims have been paid.

1.4.6 Motion for Voluntary Dismissal. Debtor filed an initial motion to voluntarily dismiss the bankruptcy case [ECF 27] on August 16, 2017 but Debtor withdrew the motion and has elected to remain in bankruptcy to submit this plan of reorganization that proposes to pay all Creditors in full.

1.4.7 United States Trustee Office (“UST”) Motion to Appoint a Trustee or Examiner. On November 2, 2017, the UST filed a motion to appoint a trustee or examiner in this case citing prior criminal convictions unrelated to the bankruptcy and alleged fraudulent behavior and/or gross mismanagement by Debtor’s management in relation to obtaining loans and the use of bank accounts that commingled funds of multiple related entities. See ECF 76 for specific allegations in the motion or email Debtor’s counsel at [jharris@dlgfir.com](mailto:jharris@dlgfir.com) for a copy of the pleading. Debtor believes the reorganization is preferable to appointment of a trustee or examiner as the Plan proposes to pay creditors in full within 12-18 months.

1.4.8 UST Combined Objection to Chapter 11 Plan and Disclosure Statement. On December 12, 2017, the UST objected to the Debtor’s Plan and Disclosure Statement on the following grounds: (i) lack of information regarding source of majority of Plan payments; (ii) lack of information regarding Debtor’s need to factor its receivables; (iii) inadequate information regarding Debtor’s need to enter into contracts with merchant cash advance companies and the use of funds received (iv) lack of information regarding alleged false information provided to

merchant cash advance lenders in obtaining loans from them; (v) failure to include the UST motion to appoint a trustee or examiner as an exhibit; (vi) failure of the Plan to disclose the size of insider payments- UST office highlights in its objection that Michel took withdrawals of \$3.4M from the CJ Michel entities in 2016 and an additional \$941,000 between January 1, 2017 and June 30, 2017. In its objection, the UST also alleges the Plan violates the best interests of creditors test in that the chapter 11 payment stream must be at least equal to the amount distributed in a chapter 7 liquidation. The UST also alleges the Plan was not filed in good faith due to the size of insider transfers prior to the bankruptcy and the agreement to release Claims against Mr. Michel for his cooperation in funding the majority of the Plan payments. A copy of the objection may be requested by emailing Debtor's counsel: [jharris@dlgfirm.com](mailto:jharris@dlgfirm.com).

Due to the UST objections, the Debtor has amended its current Plan to provide that payments will be made over 12-18 months and not three years. Debtor believes the expedited repayment period is evidence of its good faith. Additionally, no Claims will be released against Mr. Michel until all Plan payments required by him under the Plan have been made. The source of the Plan payments from Mr. Michel will be funds and profits from the sale<sup>2</sup> of his KY entity with the same name or if the sale does not close from funding (either draws or loans or combination) from the KY entity. Debtor has included the terms of its factoring agreement in this Plan and any Creditor desiring to obtain a copy of the agreement may request by email through Debtor's counsel: [jharris@dlgfirm.com](mailto:jharris@dlgfirm.com). Debtor has been unable to obtain more favorable factoring terms from any other company.

#### 1.4.9. Disclosures Regarding Funds Received from Merchant Cash Advance Lenders:

The UST claims the Michel entities received \$775,000.00 cash in May and June of 2017 from cash advance lenders. The total used by the UST was likely tallied from the purchase prices listed on each agreement. However, the listed purchase price is never the actual cash amount wired into any Michel-related entity bank account. This total fails to consider that there are fees subtracted (from either the merchant cash advance companies, the loan broker, or both) from that purchase price amount before any funds are deposited. These fees are listed in various places on each contract. The only agreement in which the fees are not detailed in total on the contract is with Yellowstone Capital, but the difference in the balance deposited into the Michel entity bank account cannot be found to be deposited anywhere else, including Mr. Michel's personal checking account. Based on information from Debtor's employees and bank statements, when you take into account the actual amount that was deposited into a Michel entity account, subtract the broker's fees that were withdrawn after the funds were deposited, and subtract the total amount of daily withdrawals by the merchant cash advance companies before the bank account was closed by the bank itself (the account was not closed by Mr. Michel), the amount of funds totals \$499,940.90. Each of these transactions are detailed on the Michel entity bank account ending in 2572. If the UST is using the general ledger to derive his figures (including "only \$371,000 of the money received from the merchant creditors was received by the CJ Michel Entities"), he is using incomplete and incorrect documents. The general ledger (which contains numerous errors) was provided to UST with full disclosure that the former CFO and bookkeeper,

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<sup>2</sup> Current sale negotiations are for \$7M purchase price to be paid from 90% weekly profits until purchase price paid in full. This amount is estimated to be \$40,000-50,000 weekly. In 2016, the KY entity as reported on its tax return had gross receipts of \$18,889,239.

Mr. Bidwell, had co-mingled accounts and kept increasingly inconsistent and inaccurate records for the companies, as his time with the company came to an end. Mr. Bidwell was dismissed from his position and employment with the company at the end of May 2017. Ms. Stinnett, the current internal accountant is still working to distinguish and properly assign transactions to the appropriate company, as well as enter any missing transactions based on bank records for the various companies and accounts. Still, each of the transactions listed above and below in the table can be found on the bank statements for the account ending in 2572.

Merchant Cash Company	Date on Agreement	Purchase Price Amount	Amount Deposited and Date on Bank Record	Merchant Cash Company Fees	Broker Fees withheld prior to Deposit	Broker Fees withdrawn from Account and Date on Bank Record	Total Daily Merchant Cash Company Withdrawals
Capital Stack	May 9, 2017	\$200,000	\$197,547.50 5/11/17	\$2,452.50		\$10,000.00* 5/12/17	\$34,047.60
Yellowstone Capital	May 19, 2017	\$250,000	\$170,107.00 5/23/17		\$25,000.00		\$52,908.00
Ace Funding	June 2, 2017	\$125,000	\$112,500.00 6/12/17		\$12,500.00		\$15,700.00
WG Financing	June 6, 2017	\$100,000	\$77,000.00 6/8/17	\$23,000.00			\$9,058.00 (represents withdrawals for both WG loans)
WG Financing	June 6, 2017	\$100,000	\$97,000.00 6/9/17	\$3,000.00		\$27,500.00** 6/9/17	

• Lee Gold of Fig Capital functioned as the broker for the Capital Stack loan.

\*\*HOP Capital, represented by Steve Rosen, functioned as the broker for all the other loans. Chart information provided by Thomas Wilkins, KY entity employee.

#### 1.4.10 Disclosures Regarding False Information Provided to Merchant Lenders:

The UST claims Mr. Michel intentionally provided merchant cash advance companies and other creditors misinformation (including incorrect bank records and incorrect EIN information) in order to deceptively secure funds to be used, as implied by the UST in various places of his objection, for personal or fraudulent means. Mr. Michel has admitted on record at a 2004 examination conducted by the UST that he did not read the agreements before signing them. Mr. Michel attests that Mr. Bidwell (the former CFO) is the one who completed the agreements and provided the required bank records. All communication and transactions in the process of securing the funds from the various companies took place through Mr. Rosen or Mr. Gold (the brokers). No agreement or bank record was ever sent directly to the creditors. In fact, any of the information on each agreement that is typed in would have been completed by the brokers, including incorrect EIN numbers for the company on the WG Financing agreements. Mr. Michel concedes he should have carefully reviewed all agreements before signing or submitting them, but he mistakenly trusted Mr. Bidwell to inform him on the details of the agreements and advise him on the company's and Mr. Michel's best interests. Additionally, Mr. Michel was aware the broker generally requested bank records to secure funds from the various companies, but again, Mr. Michel did not oversee which bank statements were provided to the broker and, thereby, the creditors. The account ending in 3969, which was opened on May 11, 2017, was opened in order to separate income from the LA entity and its customers from the income from the KY entity and its customers (VOS and Spirit). In the records for the 3969



account, you can see Gulf Coast wiring deposits. As previously explained, Gulf Coast is the factoring company Mr. Michel used for the LA entity customers. Prior to May 11, 2017, Gulf Coast was wiring money to the 2572 account. For the loans secured prior to May 11, 2017, Mr. Bidwell should have used bank records from the 2572 account but should have indicated which transactions pertained to the LA entity.

1.4.11 Disclosures Regarding Co-Mingling of Bank Accounts and Multiple EINs for Related Entities with Same Name:

(i) The KY entity (which is not in bankruptcy but shares the same name as the Debtor) has been Mr. Michel's most successful entity, due almost entirely to the customers VOS Electric and Spirit Construction. Mr. Michel has nurtured and maintained those relationships for many years. The KY entity functions primarily as a subcontractor providing primarily electricians for most every job VOS Electric and Spirit Construction secures. Part of the reason these relationships are successful is because Mr. Michel does not take on other customers with the KY entity, assuaging any fears VOS or Spirit may have that the company would be unable to always complete the jobs with enough manpower. Thus, when Mr. Michel has endeavored to pursue additional avenues of income, such as general contracting and construction, he has done so through a separate entity. Because his reputation has been built on the specific name of CJ Michel Industrial Services, he has used this name to open doors and start relationships with new customers in this different area of work.

(ii) Due to the KY entity providing the primary and almost exclusive source of income for companies owned by Mr. Michel, it has functioned similar to a parent company. In addition to covering its own operating costs and draws by the owner, the profit from that entity has been used to support other companies or endeavors. This support could come in the form of an inter-company loan or it could also come in the form of a personal loan from Mr. Michel to one of his companies, which may or may not be repaid.

(iii) Mr. Michel relies heavily on his staff to provide him information. With respect to the opening of bank accounts, Mr. Michel would have asked Mr. Bidwell, the CFO, for the articles of incorporation required to open a bank account. Why Mr. Bidwell would have provided an LA entity EIN (see PBK account ending in 6013) or a FL entity EIN (see Chase account ending in 2572) for a bank account intended for a KY entity or the same FL entity EIN (see Chase account ending in 3969) intended for the LA entity is without explanation. But, there would be no fraudulent or deceptive reason to do so. Simply, there would be no reason or benefit to not open the PBK 6013 or Chase 2572 accounts with the accurate EIN. At the times each of the bank accounts were opened, VOS and Spirit (KY entity customers) were the sole customers for any company with the name CJ Michel Industrial Services. Additionally, at the times of opening the bank accounts 6013 and 2572, funding from merchant cash advance companies or any other source was *not* being pursued. Mr. Michel did not pursue funding sources until late April/early May of 2017, almost two years after opening the PBK 6013 account and almost one year after opening the Chase 2572 account. Again, Mr. Michel may have not been diligent in

reviewing and confirming the correct EIN to open a bank account but was not intentionally deceptive in doing so.

(iv) The switch from using the PBK 6013 account to the Chase 2572 account was instigated by PBK's wiring system.<sup>3</sup> VOS Electric and Spirit Construction wire funds weekly for that week's invoices directly to the CJ Michel Industrial Services account. PBK is such a small bank that they use a third party bank to initially receive an incoming wire before then forwarding to PBK's wiring department, who will then deposit the funds in the appropriate PBK account. Mr. Michel's company relied on those weekly wires in order to cover weekly payroll, so delays due to PBK's wiring system often jeopardized payroll being completed on time each week. As a larger bank, Chase eliminated any delays in receiving the wires from VOS Electric and Spirit Construction into the Chase CJ Michel Industrial Services account. Thus, beginning in August of 2016, VOS Electric and Spirit Construction wired funds for the weekly invoices into the Chase 2572 account, an account Mr. Michel believed was a Kentucky entity account receiving funds from Kentucky entity customers.

(v) The short time before January of 2017, when the LA entity begins receiving POs from its first customer Shermco, Mr. Michel's focus had been on securing that customer, as well as other customers that would quickly follow, and establishing a contract with Gulf Coast, so that invoices could be purchased and factored. The weekly wires from customers like VOS Electric and Spirit Construction are far from the norm. Typically, most customers will have a minimum of Net 30 to pay an invoice and can be as much as Net 90. The new customers and the work for these new customers were located in Texas and Louisiana, so travel for meetings and supervision were required. As you will see below, the work and customers increased rapidly, as well. January had one new customer, February added another, and March added two more. Hiring crews and supervisors, securing the necessary materials and supplies for the various jobs, attempting to maintain some kind of oversight of the independently contracted salesmen, and managing the different customers' various methods of billing, invoicing, and securing new POs and future work consumed all of Mr. Michel's and his small support staff's time and attention. Arguably, opening a bank account for the LA entity and its new customers is an easy task and does not require much time, but in those first few months of new customers, it did not seem such a pressing issue compared the other demands of making the LA entity operational. Mr. Michel also assumed Mr. Bidwell was keeping all transactions in the bookkeeping and accounting separate

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<sup>3</sup> Until about April or May of 2016, the company had solely used paper checks and FedExed them to the various job sites each week for all of the field employees. The weekly FedEx charges were a huge weekly cost to the company, so the decision was made to switch all employees to direct deposit, either into their bank accounts or a pre-paid card, such as the Green Dot Card. When using paper checks, the wires from VOS and Spirit would be in the CJ Michel Industrial Services account by the time the employees received and began cashing their paychecks on Fridays. With direct deposits, payroll has to send the ACH payments on Wednesday afternoon to ensure that the funds hit the employees' bank accounts by Friday. When payroll sends an ACH payment, that amount is immediately removed from the company's bank account; therefore, CJ Michel Industrial Services had to have the wires from VOS and Spirit in its bank account on Wednesday before ACH payments could be sent. Thus, the issue with PBK's wiring system did not become a problem until May or June of 2016 when the switch to direct deposits began.

and easily discernible. There is no deceptive or fraudulent reason for Mr. Michel intentionally to co-mingle the income from both entities into the same bank account. At the beginning of the LA entity’s operations, Mr. Michel had no intentions to secure outside funding from merchant cash advance companies or any other sources. Looking at the timeline, the first attempt to secure any funding occurred in early May, after four full months of LA entity operations and using the same 2572 bank account to receive income from customers. When the work began to slow down in May (The LA entity was getting no new customers at this point and the work for Shermco had ended. Crews were in place and billing practices were routine. All of the demands on Mr. Michel’s time and attention during the previous months were diminishing.), Mr. Michel had the time and attention to devote to overlooked matters, such as opening a bank account specifically for the LA entity. The Chase 3969 account was opened on May 11. This account was opened with the full intention of operating as the LA entity bank account for LA entity operations, receiving funds from Gulf Coast Bank from purchased invoices to LA entity customers. At this point in time, Mr. Michel was still hopeful and determined to pick up more new customers and additional work with current customers, based in large part on the reports from the employees he had in the field and independently contracted salesmen allegedly working on his company’s behalf.

Month	Customer	Terms	Sales by Customer	Total Sales for Month
January 2017	Shermco	Net 30	\$287,569.00*	\$287,569.00
February 2017	Shermco	Net 30	\$80,000.00	
	Praxair	Net 90	\$17,250.00	\$97,250.00
March 2017	Shermco	Net 30	\$17,603.25	
	Praxair	Net 90	\$3,250.00	
	Martco	Net 30	\$29,486.09	
	Honeywell	Net 90	\$15,136.00	\$65,475.34
April 2017	Shermco	Net 30	\$20,660.75	
	Martco	Net 30	\$15,590.70	
	Honeywell	Net 90	\$120,824.50	\$157,075.95
May 2017	Praxair	Net 90	\$6,000.00	
	Martco	Net 30	\$36,378.30	
	Honeywell	Net 90	\$51,141.17	\$106,311.97
June 2017	Praxair	Net 90	\$3,440.00	
	Honeywell	Net 90	\$17,780.00	\$25,494.31

\*Note this amount reflects the total amount invoiced to that customer for the entire month. The amount does not reflect what was received by any Michel entity from Gulf Coast Bank (90% of the purchased invoices) weekly to cover operating costs, including any weekly payroll. Chart information provided by Thomas Wilkins, employee of KY entity.

1.4.12 Disclosures Regarding the Need for Additional Funding from Merchant Lenders, Drops in Sales and Mr. Michel’s Draws:

To understand why Mr. Michel would need to pursue funding from merchant cash advance companies to supplement the income from the LA entity customers, several factors should be considered.

(i) Prior to securing a contract and receiving income for the first LA entity customer Shermco, time and money was spent in pursuit of customers for the LA entity, including paying an independently contracted salesman, Kenneth Templet. Mr. Michel and Mr. Templet are originally from the same small parish in Louisiana and grew up together. Mr. Michel, as one of the most financially successful members of his childhood friends, has consistently tried to support several of them in their own business endeavors or hired them directly or as independent contractors. Mr. Templet began working as an independent contractor for Mr. Michel around June 2016 with the charge of securing work and contracts for the LA entity general construction and contracting company. In addition to the pay Mr. Templet received as an independent contractor, Mr. Michel covered travel, lodging, and meal expenses, as Mr. Templet pursued this work. Because most of the work Mr. Templet was supposedly pursuing on Mr. Michel's behalf took place in Louisiana and Texas, oversight was problematic. Mr. Templet consistently talked of big leads and nearly-secured work with nothing to show for it for almost six months. Mr. Templet used his personal history and relationship with Mr. Michel to extend his employment as an independent contractor. We now know that Mr. Templet was also working for and securing work for competitive companies. Additionally, the work Mr. Templet secured for Mr. Michel's company often ended in a damaged relationship and loss of future work with the customer. For example, the LA entity's first customer Shermco employed a supervisor Travis Schuerg. Mr. Templet knew Mr. Schuerg personally. He suggested Mr. Michel hire Mr. Schuerg directly to help ensure further work with Shermco and other potential customers in the Texas area. Mr. Templet and Mr. Schuerg both assured Mr. Michel Shermco was amenable to the direct hire agreement. Shermco was in fact never informed about the situation until after Mr. Michel directly hired Mr. Schuerg. Shermco immediately cut all ties with Mr. Schuerg and Mr. Michel's company. Mr. Templet and Mr. Schuerg convinced Mr. Michel to keep Mr. Schuerg on the payroll because of big contracts he could help secure with companies like Texas-New Mexico. Mr. Schuerg also convinced Mr. Michel to hire Randall Smith as another salesman with very promising leads in the Texas area. Mr. Schuerg does not disclose that Mr. Smith is his cousin. Similar situations occurred with Honeywell and Martco.

(ii) The damaging relationships with most of the customers caused directly or indirectly by Mr. Templet's involvement led to the significant decrease in sales for the LA entity. The Praxair customer was never a large contract, but you can see that it remains a consistent, albeit small customer. Mr. Templet had nothing to do with that customer. Additionally, Amteck, the company's newest customer, is based in Kentucky and was secured by Mr. Michel personally. They, too, remain a small but consistent customer with potential to grow exponentially as Mr. Michel builds that relationship.

(iii) Mr. Michel endeavored to supplement the financial liabilities of the LA entity with profits from his KY entity as long as possible, but it became increasingly difficult, as payroll and the need for materials, tools, and rentals increased. When the opportunity for supplemental funding from a merchant cash advance company presented itself, Mr. Michel took it, again with promises of continuing and upcoming work that would be able to easily manage the daily withdraws and quickly repay the loan. Mr. Michel had no prior experience or history of using these types of companies for any type of funding. He was unfamiliar with the terms and

fees and, as previously disclosed and admitted, did not take the time to carefully review such terms. With the profits from KY entity remaining mostly consistent (and, therefore, not a viable source for increased supplemental funds) and the sales from the LA entity customers growing stagnant, Mr. Michel took the risk of securing subsequent funding loans from additional merchant cash advance companies with the hope of securing more contract and customers himself. Unfortunately, he was unable to do so with enough time to keep the repayment of the loans manageable. The broker Mr. Rosen insisted he would be able to renegotiate the original contracts to extend the timeframe for repayment, lowering the amount of the withdrawals, and switching them to weekly rather than daily withdrawals. Mr. Michel suddenly realized the weekly costs of all the daily ACH withdraws by the multiple companies. His CFO and Mr. Bidwell was terminated as an employee. The ongoing work with some of the larger LA entity customers was finished or coming to a close. He soon thereafter terminated Mr. Templet as an independent contractor, as well as Mr. Schuerg and Mr. Smith as salesmen. He also terminated the majority of the crews employed for the LA entity, as well as reducing the payroll of the support staff for his KY entity, all in an effort lower overhead in order to avoid filing bankruptcy and repay the loans on his own.

(iv) Below is a table that details sales from the KY entity’s customers VOS Electric and Spirit Construction for 5 months prior to the first sales of the LA entity and 7 months during the LA entity sales and the receipt of funds from the merchant cash advance companies. Prior to January 2017, there were no sales and, thereby, profits from which Mr. Michel could take a personal draw. His largest monthly total draw during the previous 5 months was \$277,000.00 taken during the month of October. He put \$6,000.00 back into the 2572 account during that month. Also not accounted for were the expenses on any of the corporate American Express cards paid for by Mr. Michel out of his personal checking account. October is the highest month of sales for VOS Electric and Spirit Construction, so the highest personal draw corresponds with those sales. The extremely high monthly draw in June of \$524,500.00 is during the same time that deposits are received from the merchant cash advance companies, but a total of \$502,071.13 is returned to the business account. In addition, note the other business expenses paid from Mr. Michel’s personal account. These expenses leave him with less than \$0 in personal draws for the month of June.

Month	VOS Sales	Spirit Sales	Personal Draw Amount	Business Expenses Paid with Personal Account	Amount Invested Back into the Company Account	Actual Draw Amount
Aug. 2016	\$699,259.20	\$389,243.73	\$184,700.00			\$184,700.00*
Sept. 2016	\$1,263,374.90	\$40,126.90	\$85,000.00		\$9,200.00	\$75,800.00*
Oct. 2016	\$1,812,547.30	\$125,615.55	\$277,000.00		\$6,000.00	\$271,000.00*
Nov. 2016	\$1,583,825.40	\$228,118.47	\$274,000.00		\$65,000.00	\$209,000.00*
Dec. 2016	\$778,132.60	\$199,961.35	\$74,700.00			\$74,700.00*
Jan. 2017**	\$761,064.94	\$220,351.31	\$84,500.00	\$26,902.74***-Amex Business	\$12,900.00	\$44,697.26
Feb. 2017	\$1,017,300.30	\$389,745.80	\$128,100.00	\$30,593.53-Amex Business		\$97,506.47
Mar. 2017	\$1,508,051.40	\$499,455.05	\$120,683.19	\$59,731.22-Amex Business	\$10,000.00	\$50,951.97
Apr. 2017	\$1,127,832.30	\$243,385.34	\$14,000.00	\$16,794.01-Amex Business		-\$2,794.01
May 2017	\$1,380,922.70	\$213,770.59	\$194,000.00	\$20,000.00-HOP Capital-Broker Fee \$13,203.52-Amex Business		\$160,796.48
June 2017	\$794,432.56	\$69,732.50	\$524,500.00	\$34,842.50-Payroll and Wire Fees for Payroll \$50,000-Payroll Solutions	\$502,071.13	-\$75,436.79

				\$3,456.51-Company Truck Payments		
				\$5,566.65-Amex Business		
July 2017	\$876,694.22	\$41,872.47	\$97,494.00			\$97,494.00

\*Business expenses paid out of Mr. Michel’s personal account were not researched prior to January of 2017, but it is reasonable to assume that his actual draws were less than the amounts listed from August 2016-December 2016.

\*\*January 2017 is the month when the LA entity first began receiving income from LA entity customers. From January 2017 until May 2017, those funds were deposited into the Chase 2572 account, the same account receiving deposits from VOS Electric and Spirit Construction. During that time period, Mr. Michel’s draws do not differ greatly from prior to January 2017. And, when considering the amounts used to pay business expenses and the amounts put back into the 2572 business account, the draws are generally smaller than prior to January 2017. Thus, co-mingling funds from the KY and LA entity and receiving deposits from the merchant cash advance companies into the 2572 bank account did not affect the actual amounts of the personal draws Mr. Michel took during that period. Additionally, based on the sales from the KY entity customers VOS Electric and Spirit Construction during this time period, it is reasonable to assume that personal draws came from those funds.

\*\*\*Mr. Michel has a personal and a corporate account with American Express. He has consistently paid the balances for both from his personal checking account. The amounts listed in the table above are totals from the corporate cards only. If you look at the balances paid to American Express on his personal checking bank statements, they are generally higher than the amounts listed in the table, because those amounts would include balances from his personal American Express account. The charges on the corporate account include travel, lodging, materials, advertising, supplies, materials for jobs, and rentals. Table information provided by Thomas Wilkins, KY-entity employee.

1.5 Voting Procedure.

**ACCEPTANCE OR REJECTION OF THE PLAN WILL BE DETERMINED, PURSUANT TO THE BANKRUPTCY CODE, BASED UPON THE BALLOTS OF THE CREDITORS HOLDING ALLOWED CLAIMS THAT ACTUALLY VOTE ON THE PLAN. THEREFORE, IT IS IMPORTANT THAT CLAIMANTS EXERCISE THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN.**

1.5.1 Classes Entitled to Vote on the Plan. All Creditors who have an Impaired Claim are entitled to vote to accept or reject the Plan.

1.5.2 General Provisions. Any Creditor holding a Claim that does not vote will not be counted in the percentage or number requirements for voting. A Claim that has been objected to is not an Allowed Claim unless and until the Court rules on the objection. The Court may temporarily set an amount for such an objected Claim for purposes of voting on the Plan. The allowance or disallowance of any Claim for voting purposes does not necessarily mean that all or a portion of the Claim or interest will be allowed or disallowed for distribution purposes under the Plan.

1.5.3 Requirements for Class Acceptance. As a condition of Confirmation, the Bankruptcy Code requires that each class of Claims that is Impaired vote to accept the Plan, subject to the exception of 11 U.S.C. § 1129(b), which still requires one (1) class of Claims that is Impaired to have voted to accept the Plan. A class of Claims accepts the Plan if (i) the Creditors holding Allowed Claims in the class casting votes in favor of the Plan hold at least two-thirds (2/3) of the total Allowed Claims voting in that class and (ii) more than one-half (1/2) in number of Creditors holding Allowed Claims in the class and casting votes vote in favor of the Plan.

1.5.4 Confirmation Pursuant to 11 U.S.C. §§ 1129(a)(10) and 1129(b). The terms of 11 U.S.C. § 1129(a)(10) shall be satisfied for purposes of Confirmation by acceptance of the Plan by an Impaired class. The Debtor shall seek Confirmation of the Plan pursuant to 11 U.S.C. § 1129(b) with respect to any rejecting class of Claims. The Debtor also reserves the right to modify the Plan and seek Confirmation consistent with the Bankruptcy Code.

1.5.5 Contested, Disputed, Contingent or Unliquidated Claims. Contested, disputed, contingent, and/or unliquidated Claims are not entitled to vote to accept or reject the Plan. If your Claim has been estimated for voting purposes, then you will be allowed to vote your Claim in the amount estimated by that order. If a ballot is erroneously sent to a Creditor not entitled to vote, then the ballot will not be counted in the calculation of the Creditors voting to accept or reject the Plan. If you are a Creditor holding a contested, contingent, disputed, or unliquidated Claim, you may ask the Court to have your Claim temporarily allowed for the purpose of voting, pursuant to Fed. R. Bankr. P. 3018. The Debtor believes it has no contingent, disputed, or unliquidated Claims against it.

1.5.6 Ballots and Voting. Creditors holding Allowed Claims entitled to vote on the Plan have been sent a ballot, together with instructions for voting, with this Plan. Creditors should read the ballot carefully and follow the instructions contained therein. In voting to accept or reject the Plan, you must use only the ballot sent to you with this Plan. Creditors entitled to vote must complete, sign, and return their ballots by delivering or transmitting their ballots to the Attorneys for the Debtor, DelCotto Law Group PLLC, 200 North Upper Street, Lexington, Kentucky 40507, telephone (859) 231-5800, fax (859) 281-1179, Attention: Jamie L. Harris, email: jharris@dlgfirm.com, **on or before 5:00 p.m. (ET) on the deadline of February 15, 2018**. Fed. R. Bankr. P. 3018(a) permits a creditor, for cause, to petition the court to permit it to change or withdraw its vote on a plan. Any such petition must be made before the Confirmation Hearing, unless otherwise permitted by the Court. The Debtor will present the results of the voting to the Bankruptcy Court at the Confirmation Hearing.

## 1.6 Confirmation of the Plan/Liquidation Analysis.

1.6.1 The Bankruptcy Court will confirm the Plan only if it finds that the Plan complies with the requirements of Chapter 11 of the Bankruptcy Code. The Debtor has asked the Bankruptcy Court to confirm its Plan, pursuant to 11 U.S.C. § 1129(b), if all the requirements for Confirmation are met as set forth in 11 U.S.C. § 1129(a). Although the Debtor believes that the Plan meets the necessary requirements, there can be no assurance that the Bankruptcy Court will reach the same conclusion. The Debtor has requested that, even if the Creditors do not vote in favor of the Plan, the Court nevertheless confirm the Plan pursuant to 11 U.S.C. § 1129(b) as being fair and equitable to all Creditors.

1.6.2 If the Plan is not confirmed and consummated, the alternatives include preparation and presentation of an alternative plan of reorganization or a conversion of the Bankruptcy Case to one under Chapter 7 of the Bankruptcy Code. If the Court denies Confirmation, the Debtor or any other party in interest could propose a different plan. The Debtor believes not only that the Plan, as described herein, fairly adjusts the rights of various classes of Creditors and enables Creditors to realize the most possible under the circumstances,

but also that rejection of the Plan in favor of an alternative arrangement will require, at the very least, an expensive and time-consuming negotiation process and will not result in a better recovery for any class as the Plan already requires substantial contributions from Debtor's equity ownership.

1.6.3 Liquidation Analysis. In order to confirm the Plan, it must be in the best interests of Creditors and equity security holders of the Debtor who are Impaired by the terms of the Plan. The Plan is in the best interests of Creditors if the Creditors in an Impaired class receive under the Plan at least as much as they would receive under a liquidation of the Debtor under Chapter 7 of the Bankruptcy Code. To calculate what recovery members of each Impaired class of Creditors would receive if the Assets of the Debtor were liquidated, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated if the Debtor's Chapter 11 case was converted to a Chapter 7 case under the Bankruptcy Code and the Assets were liquidated by a trustee in bankruptcy (the "Liquidation Value").

The Liquidation Value available to general Creditors would be reduced by (i) the Claims of Secured Creditors to the extent of the value of their collateral and (ii) the costs and expenses of liquidation, as well as other administrative expenses of the Estate. The cost of liquidation under Chapter 7 would include the compensation of a trustee, as well as the expenses of counsel and other Professionals retained by the trustee; disposition expenses; all unpaid expenses incurred by the Debtor during its Chapter 11 case (such as compensation for attorneys and accountants) which are allowed in the Chapter 7 proceeding; litigation costs; and Claims arising from the operations of the Debtor during the pendency of this Chapter 11 case and the Chapter 7 liquidation proceedings. These prior Claims would be paid in full out of the liquidation proceeds before the balance would be made available to pay general Claims or to make any distribution with respect to the equity interests.

For the Debtor, the Liquidation Value would be the net proceeds realized from the disposition of all Assets, and recoveries on actions against third parties, if any. To the extent any third party recovery could be obtained against an insider, the Plan requires substantial insider payments (Mr. Michel is required to make these payments in order to get a release of any Claims against him) and Debtor believes any recovery under the Plan would be not be lesser than what a trustee could recover in a chapter 7 proceeding. The Insider Payments under the Plan are voluntary and no litigation costs have been incurred to obtain these payments. In order to calculate the Liquidation Value of the Assets, the Debtor has utilized the valuation figures contained in the Schedules accompanying its bankruptcy petition.

According to the estimated values set forth in the Schedules, the total fair market value of the Assets is approximately \$445,557.86 (based on the Debtor's best estimate of fair market value). The Debtor's primary Assets are its tools, vehicles, and receivables.

The Debtor's liquidation valuation figure is based on a thirty percent (30%) reduction in vehicle and tool value. Said liquidation value, being the distressed sale value of the personal property, would not yield funds in excess of secured liens. Debtor's receivables which are its largest asset are factored and encumbered to its factoring company. The Debtor's tangible assets



are encumbered by the Liens of Gulf Coast Bank and Trust Company in excess of the liquidation value.

Additionally, administrative expenses have accrued during the case in the form of Professional Fees for DelCotto, which the Debtor estimates will not exceed \$55,000.00 at Confirmation.

Thus, it is evident that under Chapter 7 liquidation, the Unsecured Creditors would receive nothing since there would only be sufficient funds available to satisfy Secured Claims. In contrast, the Debtor's proposed Plan provides for a projected 100% distribution on Allowed Unsecured Claims with the Debtor devoting its Net Profits to the Plan and Debtor's ownership (Mr. Michel) committing an estimated \$72,000-\$108,000 monthly from funds either from the sale of the KY entity or funding from the KY entity if sale does not close) to the Plan to pay the balance of any Allowed Claims not paid by the Debtor's Net Profits. See Exhibit 1 for an itemization of income and expenses. Net Profits will be first allocated toward payment of Priority and Administrative Claims and then to Unsecured Claims *pro rata*. The income assumption is based on the current sales from the customers Amteck and Praxair. Amteck is projected to provide consistent income. Conservatively and based on current trends, it is foreseen that at a minimum Amteck should provide about \$15,000.00 a month in sales. This assumes a 10% increase in sales for two years then the company would expect to plateau. This is based on increasing the amount of work with Amteck once the company solidifies a strong business relationship and also the potential for new customers. The customer Praxair is not as consistent and therefore was not factored into the budget. The Debtor had gross income of \$16,861 in 2016 according to its tax return and \$651,396.07 in 2017 through Petition Date according to its records. Expense assumptions are also itemized on Exhibit 1.

The Debtor has therefore determined that the percentage recoveries in a Chapter 7 liquidation to Secured Creditors, Priority claimants, general Creditors and the equity security holders will be less than the distributions offered each of these classes of Claims and interests under the Plan. The Debtor's liquidation analysis is attached hereto as Exhibit 2. Since the Plan provides more of a recovery than a Chapter 7 liquidation, the Debtor is hopeful that Unsecured Creditors will vote in favor of the Plan.

1.7 Conclusion. The materials provided in these Disclosures are intended to assist you in reviewing the Plan in an informed manner. Where appropriate, additional Disclosures are marked in the text of the Plan. If the Plan is confirmed, you will be bound by the terms of the Plan. You are urged to study these materials and make such further inquiries as you may deem appropriate. In the event of any inconsistencies between the Plan provisions and the Disclosures contained in this Article or those labeled "Disclosures" in the subsequent provisions, the provisions of the Plan shall control.

## ARTICLE II DEFINITIONS

2.1 Defined Terms. All capitalized terms used herein and not otherwise defined have the meanings given to them in the Definitions attached hereto as Exhibit A or, if not defined in Exhibit A, then as defined in the Bankruptcy Code, unless the context clearly requires otherwise.

2.2 Rules of Construction. The rules of construction used in 11 U.S.C. § 102 shall apply to the construction of this Plan.

## ARTICLE III TREATMENT OF UNCLASSIFIED CLAIMS<sup>4</sup>

Unclassified Claims consist of Allowed Administrative Claims, Priority Claims, and Tax Claims, which shall be paid from the Debtor's operations as set forth below. Unclassified Claims do not vote on the Plan.

3.1 Administrative Claims. All fees payable to the United States Trustee have been paid or shall be paid in full on or before the Confirmation Date of the Plan. Thereafter, the Debtor's obligation to pay United States Trustee fees shall continue until the Bankruptcy Case is closed, dismissed, or converted, whichever occurs first, and said fees will be paid from the Debtor's operations. The Debtor shall timely file all reports required by the United States Trustee until the case is closed, dismissed, or converted. Administrative Claims shall be paid first from the insider payments required by Mr. Michel under the Plan.

3.2 Professional Claims shall be paid by the Debtor or from Mr. Michel as soon as practical after notice and hearing and upon approval of this Court. Post-Effective Date Professional Claims shall not require Court approval.

Disclosure: The Debtor estimates Professional Fees for DelCotto will not exceed \$55,000.00 at Confirmation.

3.3 Each Claimant holding an Administrative Claim shall be paid in full the amount of its Allowed Administrative Claim, without interest, (i) in cash at the later of (a) the Effective Date or as soon thereafter as is practicable or (b) the date on which each Allowed Claim becomes due and payable pursuant to the terms thereof or the agreement upon which such Allowed Claim is based; and (ii) with respect to Administrative Claims that become Allowed Claims after the Effective Date, the amount of such claimant's Allowed Claim as soon as practicable; or (iii) such other treatment agreed upon by the Debtor and such claimant.

**Except for Administrative Claims incurred in the ordinary course of the Debtor's business postpetition, all requests for allowance of Administrative Claims shall be filed with the Court no later than thirty (30) days following the Effective Date, or at such other date as the Court may otherwise order, or be forever barred.**

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<sup>4</sup> The Debtor reserves the right to object any Tax or Priority Claim proof of Claim.

3.4 Administrative Tax Claims. Allowed Administrative Claims of a Tax Creditor shall be paid in full, plus interest thereon at the rate prescribed by 11 U.S.C. § 511 from its due date until paid, on the later of (a) the Effective Date or (b) the date on which such Allowed Claim becomes due and payable pursuant to the terms thereof.

Disclosure: The Debtor believes there are no claimants in this class and that all postpetition taxes have been paid in full.

3.5 Priority and Secured Tax Claims. Allowed Priority and Secured Tax Claims will be paid through equal monthly deferred cash payments over five (5) years with interest at the rate prescribed in 11 U.S.C. § 511 until paid in full with payments commencing the month after the Effective Date with payments commencing the month after the Effective Date. Allowed Secured Tax Claims will be reduced by any adequate protection payments made by the Debtor.

Disclosure: The Debtor believes there are no claimants in this class.

3.6 Discharge/Retention of Liens. Notwithstanding any provision hereof to the contrary, the discharge of an Allowed Tax Claim provided for under the Plan shall not be effective until that Allowed Tax Claim has been paid in full. All Tax Creditors shall retain any Liens securing such Claims until the Allowed Tax Claim has been paid in full.

3.7 Default. Notwithstanding any provision hereof, if the Debtor (a) fails to make any deposits of any currently accruing federal income, employment, or other tax liability, (b) fails to make payment of any tax within ten (10) days of the due date of such deposit or payment, (c) fails to make payments to the Tax Creditors as provided by this Plan, or (d) fails to file any required tax return by the due date of such return, then the Tax Creditors may, following written notification of default to the Debtor providing a minimum thirty (30) day opportunity to cure the default, declare that the Debtor is in default of the Plan and the entire assessed and accrued liability due the Tax Creditor shall become due and payable immediately and the Tax Creditor may collect any unpaid liabilities through the administrative collection provisions of the Internal Revenue Code or other applicable tax codes, regulations or procedures. Failure to pursue remedies for default as detailed herein shall not constitute a waiver by a Tax Creditor of the right to pursue any such default remedies.

3.8 Net Profits. The Debtor's annual net profits shall be first applied to the payment of any outstanding Allowed Administrative Claims and Allowed Priority Claims, and next to Allowed Unsecured Claims on a *pro rata* basis.

3.9 Insider Plan Payments. Mr. Michel shall pay an estimated \$72,000-\$108,000 monthly commencing on April 1, 2018 to provide that Allowed Unsecured Claimants are paid in full within 12-18 months of the Effective Date of the Plan. Based on Debtor's Plan projections, its projected net profits are reflected on Exhibit 1. Debtor will its profits on an annual basis *pro rata*. Mr. Michel will pay the balance of the Allowed Class B Claims in the \$72,000-\$108,000 estimated monthly installments. Mr. Michel should have the resources to make the Plan payments from the sale of his KY entity that shares the same legal name as the Debtor or if that sale does not close then from funding from the KY entity. In the event Mr. Michel defaults on any payments, the Debtor shall continue to make payments on Allowed Class B Claims for a

period of 5 years. If Debtor receives higher income than projected during the Plan period, it will devote those net profits to the Plan and the contributions by Mr. Michel will be reduced to correspond to the amount of the difference between the Debtor's net profits and the amount required to pay Allowed Class B Claims in full within 12-18 months of the Effective Date. Mr. Michel's payments shall be a new value contribution and consideration for the Debtor not pursuing any Claims against Mr. Michel including but not limited to Avoidance Actions provided Mr. Michel is not in default under the Plan.

Payments made by Mr. Michel under this section shall first be applied to Allowed Administrative Claims, then to Allowed Priority Claims and then to Allowed Unsecured Claims.

#### **ARTICLE IV CLASSIFICATION OF CLAIMS AND INTERESTS**

Under 11 U.S.C. § 1122, a plan of reorganization must classify the claims of a debtor's creditors and the interests of its equity holders. The Bankruptcy Code also provides that, except for certain claims classified for administrative convenience, a plan of reorganization may place a claim of a creditor or an interest of an equity claimant in a particular class only if such claim or interest is substantially similar to the other claims of such class. The Bankruptcy Code also requires that a plan of reorganization provide the same treatment for each claim or interest of a particular class unless the claimant of a particular claim or interest agrees to a less favorable treatment of its Claim or interest.

4.1 Class A-1: Allowed Secured Claim of Gulf Coast Bank and Trust Company ("Gulf Coast"): Class A-1 shall consist of the Allowed Secured Claim of Gulf Coast secured by a UCC-1 filing on all assets of the Debtor and a sale of the accounts receivable pursuant to the current factoring agreement.

4.2 Class A-2: Allowed Secured Claim of AmeriCredit Financial Services, Inc. dba GM Financial ("GM"): Class A-2 shall consist of the Allowed Secured Claim of GM secured by a 2017 GMC Sierra 2500HD - VIN 1GT12REG2HF114213.

4.3 Class A-3: Allowed Secured Claim of The Huntington National Bank ("Huntington"): Class A-3 shall consist of the Allowed Secured Claim of Huntington secured by a 2017 GMC Sierra.

4.4 Class A-4: Allowed Secured Claim of Class A-4: Allowed Secured Claim of AmeriCredit Financial Services, Inc. dba GM Financial ("GM"): Class A-4 shall consist of the Allowed Secured Claim of GM secured by a 2017 GMC Sierra 2500HD - VIN 1GT12REG2HF104345.

4.5 Class A-5: Allowed Claims of Other Secured Creditors ("Other Secured Creditors"): Class A-5 shall consist of holders of all Other Secured Claims valued at \$0.00 which include Ace Funding, Inc., Capital Stack, WG Financing and Yellowstone Capital. Each of the Other Secured Creditors are secured by a UCC-1 and/or judgment lien, which is junior to Gulf Coast's security interest thus have no value to attach to.

4.6 Class B: Allowed Unsecured Claims. Class B shall consist of the Allowed Unsecured Claims against the Debtor other than Administrative Claims, Tax Claims, and Priority Claims.

Disclosure: See Exhibit 3 attached for a schedule of Creditors holding Unsecured Claims that have filed proofs of Claims. Allowed Unsecured Claims are estimated at \$ 1,300,483.79.

4.7 Class C: Equity. Class C shall consist of the equity membership interest of Clarence J. Michel, Jr. (90%) in the Debtor and Michael Wilson<sup>5</sup>(10%) in the Debtor.

4.8 Class D: Insider Claims. Insider Claims shall consist of any Claims between the Debtor and Insiders including its member or any intercompany claims of the Debtor. This includes all related entities of the Debtor including the Kentucky entity with the same name as the Debtor and 4-MMS Industrial Staffing, LLC.

## **ARTICLE V TREATMENT OF CLASSIFIED CLAIMS**

The Debtor reserves the right to object to any Claim except as provided herein. Nothing herein shall constitute an admission as to the validity of any Claim or a waiver of any rights of the Debtor to object thereto except as provided herein or pursuant to previous Orders of the Court. On the respective dates set forth herein, or as soon as practicable following the date a classified Claim becomes an Allowed Claim, whichever is later, the Reorganized Debtor shall make the following payments, undertake the considerations hereinafter set forth, and be obligated with respect to such Claims, as follows:

5.1 Class A-1: Allowed Secured Claim of Gulf Coast Bank and Trust (“Gulf Coast”): The Class A-1 Claim shall be paid according to the terms of the existing factoring agreement. The Class A-1 Claim is not Impaired.

5.2 Class A-2: Allowed Secured Claim of AmeriCredit Financial Services, Inc. dba GM Financial (“GM”): The Class A-2 Claim shall be allowed as set forth in its proof of Claim (POC 6) in the amount of \$43,182.74 (minus any adequate protection payments). The Class A-2 Claim shall be paid according to the terms of the existing note. The Class A-2 Creditor shall retain its liens securing the Class A-2 Claim until paid pursuant to the terms hereof. The Class A-2 Claim is not Impaired.

5.3 Class A-3: Allowed Secured Claim of The Huntington National Bank (“Huntington”): Class A-3 shall consist of the Allowed Secured Claim of Huntington secured by

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<sup>5</sup> Mr. Michel transferred 10% ownership interest to Mr. Wilson on December 27, 2017 in consideration of \$1,000 and Mr. Wilson holds a current and valid statewide electrical contractor's license. As an equity member, he can become the qualified party on the CJ Michel Industrial Services, LLC state of Louisiana contractor's license. This licensing will allow the Louisiana entity to pursue other customers and bid new projects.

a 2017 GMC Sierra. The Class A-3 Claim shall be allowed as set forth in its proof of Claim (POC 2) in the amount of \$45,324.36 (minus any adequate protection payments) The Class A-3 Claim shall be paid according to the terms of the existing note. The Class A-3 Creditor shall retain its liens securing the Class A-3 Claim until paid pursuant to the terms hereof. The Class A-3 Claim is not Impaired.

5.4 Class A-4: Allowed Secured Claim of AmeriCredit Financial Services, Inc. dba GM Financial (“GM”): The Class A-4 Claim shall be allowed as set forth in its proof of Claim (POC 7) in the amount of \$42,933.99 (minus any adequate protection payments). The Class A-4 Claim shall be paid according to the terms of the existing note. The Class A-4 Creditor shall retain its liens securing the Class A-4 Claim until paid pursuant to the terms hereof. The Class A-4 Claim is not Impaired.

5.5 Class A-5: Allowed Claims of Other Secured Creditors (“Other Secured Creditors”): The Class A-5 Claims are valued at \$0.00 as any Secured Creditor rights of the Other Secured Creditors against the Debtor are inferior to Gulf Coast (there is no value to attach to the alleged liens). Class A-5 Creditors will be paid as Class B Claimants and receive their *pro rata* share of funds (“Net Profits” as defined below) after satisfaction of any Allowed Priority Claims and Allowed Administrative Claims on or before August 30th of the following year. Class A-5 Creditors shall retain their liens until Plan payments are completed. Upon completion of Plan payments, the Class A-5 Creditors shall release their liens upon notification from the Debtor, or if any Class A-5 Creditor refuses to release its lien, Debtor or its representative shall release such liens including judgment liens and/or UCC-1 filings.

Notwithstanding anything in this Plan to the contrary, nothing herein shall be deemed to release or discharge any third party guaranty including Mr. Michel of any Class A-5 Claim (a “Guaranty”), provided that Class A-5 Claimants agree to forbear from declaring any default under any Guaranty for so long as Debtor and Mr. Michel fully comply with their obligations under the Plan. For the avoidance of doubt, nothing in this paragraph shall require Class A-5 Claimants to forbear with respect to any default resulting from Debtor’s breach of any of the terms of, or failure to comply with, the Plan.

5.6 Class B: Allowed Unsecured Claims. Each holder of an Allowed Claim in Class B shall receive its distribution equal to its pro rata share of 100% of the Debtor’s Net Profits from its operations for a period of 12-18 months post-Confirmation after satisfaction of any Allowed Administrative, Priority, and Tax Claims and each holder shall also receive a pro rata payment on account of the Insider Payments from Mr. Michel on a monthly basis in an estimated pool amount of \$72,000-\$108,000 commencing on April 1, 2018. “Net Profits” as used herein shall mean the cash remaining at calendar year end after payment of all ongoing company obligations, including costs of goods, payroll, operating expenses, debt service and leases, capital expenditures, and taxes. Net Profits for each year shall be determined and distributions made to the Class B Claims on or before August 30th of the following year. The projected yearly Net Profits are set forth in Exhibit 1. The Class B Claims are Impaired.

Disclosure: The Debtor believes that the total of all valid Unsecured Claims is approximately \$1,300,483.79. Allowed Unsecured Claims shall be paid in full within 12-18

months under the Plan from a combination of Debtor's annual Net Profits and the monthly Insider Payments (from sale of or funding from KY entity) required by Mr. Michel under the Plan.

5.7 Class C: Equity. Mr. Michel and Mr. Wilson shall retain their equity interest in the Debtor. No distributions shall be made on account of the equity interest of the Debtor unless and until the Debtor has made all distributions required and otherwise fully complied with all terms and conditions of the Plan. Mr. Michel shall make a new value contribution by paying an estimated \$72,000-\$108,000 monthly commencing on April 1, 2018 until Allowed Claims are paid in full within 12-18 months of the Effective Date of the Plan.

5.8 Class D: Insider Claims. Class D Claims shall not receive any distributions under the Plan. Class D is Impaired. Any intercompany Claims shall be cancelled under the Plan.

5.9 Valuation of Secured Claims. Under 11 U.S.C. § 506, a secured creditor has a secured claim to the extent of the creditor's interest in the debtor's interest in the collateral and an unsecured claim for the balance, if any, unless the creditor, if eligible, elects to have its claim treated as fully secured. Except as set forth herein, the allowed amount of a Creditor's secured Claim will be the lesser of the value of the Creditor's interest in the Debtor's interest in the property as determined under 11 U.S.C. § 506, or the allowed amount of the Creditor's Claim. Under the Plan, the Debtor proposes to allow all Secured Creditors to retain their Liens in the amount equal to the lesser of the value of the property or the full amount of their Claim on the Petition Date without benefit of appraisal except as set forth herein. If a dispute over valuation occurs with any Secured Creditor, the Debtor reserves the right to request that the Court determine the value of the Creditor's interest in the collateral which secures the Creditor's Claim.

5.10 Provisions applicable to all Claims.

5.10.1 Satisfaction of Claims. The payments, distributions and other treatment provided in respect to each Allowed Claim in this Plan shall be in complete satisfaction, discharge, and release of such Allowed Claim. Notwithstanding any other provision of the Plan specifying a date or time for payment or distributions hereunder, no payment or distribution shall be made on any portion of a Claim which is disputed, unliquidated, contingent or subject to objection until such Claim becomes an Allowed Claim, whereupon it shall be paid pursuant to the terms of the Plan.

5.10.2 Injunction. Except as otherwise provided in the Confirmation Order and in Section 11.12 herein, the entry of the Confirmation Order shall constitute an injunction against all Persons from taking any actions to commence or continue any action or proceeding that arose before the Effective Date against or affecting the Debtor, the Estate, or the Assets, so long as the Reorganized Debtor is in compliance with the Plan provisions.

5.10.3 Claims Objections. Unless otherwise ordered by the Bankruptcy Court, all objections to Claims, including determinations regarding the secured status of any Claim, shall

be filed on or before sixty (60) days after the Effective Date, or thirty (30) days following the filing of any Claim, whichever is later; provided, however, any Claim listed in the Schedules as disputed, and for which no proof of claim has been filed shall be deemed a Disallowed Claim without the necessity of filing an objection thereto. The Debtor may seek to extend this objection deadline by appropriate motion.

Disclosure: On December 11, 2017, the Court entered an order [ECF 107] disallowing the Claims of Wells Fargo as those Claims are not obligations of the Debtor but of a related entity, CJ Michel Industrial Group, LLC. On December 20, 2017, the Court entered an order [ECF 115] sustaining an objection to the secured status of the Claim of Ace Funding Source, LLC. On January 8, 2018, the Court entered an order [ECF 130] disallowing the Claims of the Texas Workforce Commission as those Claims are obligations of a non-debtor entity. Debtor may object to any proof of claim improperly filed against the Debtor or improperly filed as secured.

5.10.4 Procedure for Contingent or Unliquidated Claims. Creditors holding contingent or unliquidated Claims shall have sixty (60) days from the Confirmation Date to file a motion or adversary action with the Court to have their Claim estimated for payment, liquidated, or otherwise allowed. Upon the allowance of a contingent or unliquidated Claim, it shall be entitled to distribution under the Plan consistent with the treatment of other Claims in the class in which the contingent or unliquidated Claim is ultimately allowed. The contingent or unliquidated Claim of any Creditor who fails to initiate action pursuant to this provision for the allowance of its Claim shall have its Claim disallowed and be forever barred from seeking any recovery from the Debtor, the Estate, and the Assets. Notwithstanding this provision, (a) the holders of any contingent or unliquidated Claims for which insurance coverage may exist may be allowed and paid to the extent of such liability insurance and (b) Tax Creditors shall have until ninety (90) days after the filing of any return in which to file a Claim arising from the filed return for any claims which are contingent or unliquidated as of the Confirmation Date.

## **ARTICLE VI MEANS OF IMPLEMENTATION OF PLAN**

6.1 Operations. The Debtor shall continue its contracting operations. Notwithstanding any prior order, as of the Effective Date, the Debtor shall have the right to collect and use all revenues and other cash collateral derived from the operation of the Assets.

Disclosure: The Debtor's projections illustrating yearly revenue and expenses for the Plan period are set forth in Exhibit 1 attached hereto. Based on the financial projections and Insider Payments, the Debtor should have sufficient cash flow to pay all normal and customary operating expenses and be capable of funding its Plan of reorganization. Assumptions regarding income and expenses are listed on Exhibit 1. In addition to the Debtor's Net Profits, Mr. Michel will contribute an estimated \$72,000-\$108,000 monthly in Plan payments (from the sale of the KY entity or from funding from the KY entity) commencing on April 1, 2018.

6.2 Authority for Debtor. Mr. Michel shall act as agent for the Debtor and the Estate as set forth below and will be primarily responsible for accounting for and making distributions required under the Plan. Mr. Michel shall have full authority for the Debtor and the Estate to



perform any act that the Debtor is authorized or required to perform to implement the Plan and administer the Estate subject to the monitoring of the independent accountant/examiner. The Debtor shall retain the Estate's and the Debtor's capacity to litigate Claims or interests as retained herein and shall have authority to hire Professionals to prepare the required tax returns for usual and reasonable fees therefor, payable out of the proceeds of the Debtor's operations. Mr. Michel shall not be liable in any manner in the performance of his duties, except for criminal acts, malfeasance, or gross recklessness, and no bond shall be required. Mr. Michel shall be authorized and directed to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions on behalf of the Debtor or the Estate as may be necessary or appropriate to effectuate and further evidence the provisions of this Plan.

6.3 Vesting and Reservation of Other Assets. At the Confirmation Date, all Assets of the Debtor and the Estate, including all Avoidance Actions and Causes of Action, will revest in and remain with the Reorganized Debtor, free and clear of all liens, claims, interests and encumbrances except for those liens provided for in the Plan. The Reorganized Debtor will remain subject to the jurisdiction of this Court until the Bankruptcy Case is closed or dismissed.

6.4 Prosecution of Claims and Causes of Action and Objections to Claims. The Debtor's rights, duties and obligations to investigate, prosecute, and collect the entire Debtor's and Estate's Causes of Action, including Avoidance Actions, shall pass to and vest in the Reorganized Debtor as of the Effective Date. The Debtor may, but shall not be required, to prosecute any Avoidance Action in its sole discretion. Claims to be considered by the Debtor include, but are not limited to, preferential and fraudulent conveyance Claims under state and federal law against all Persons. If a motion or suit has not been filed to collect, prosecute, or liquidate any action within one hundred and eighty (180) days after the Effective Date, it shall be deemed abandoned unless the Claim is against Mr. Michel and he subsequently defaults on Plan payments. Any Claims are preserved against Mr. Michel in the event of a default under the Plan. Notwithstanding any provision relating to their Claims under the Plan, any Person or Creditors having received a transfer of Estate property during the relevant look-back period of ninety (90) days before the Petition Date should assume they are subject to an Avoidance Action.

Disclosure: The Debtor's preliminary investigation indicates that Avoidance Actions exist against merchant cash advance lenders who received payments within 90 days of the filing; however, since the Plan is proposing to pay creditors back in full within 12-18 months, Debtor will not pursue these actions. With respect to Insider transfers, historically, it appears the Debtor and the Kentucky entity (of the same name as the Debtor) and other related entities transferred monies to each other to address cash flow issues primarily related to payroll; however, there are no documented loans between the entities or the granting of any security between the entities. The extent of any intercompany transfers is somewhat difficult to ascertain due to issues with the Debtor's previous CFO who commingled the books and records for the Debtor and the Kentucky entity. There was one general ledger for both entities and the Debtor's current internal accountant is trying to analyze and correct any ledger errors. It also appears the Kentucky entity and the Debtor commingled funds in bank accounts further complicating understanding the extent of intercompany transfers. There is a third entity with the same name as the Debtor but it is a Florida entity. It does not appear the Florida entity ever did any business and was set up for a project in Florida that did not occur; however, bank accounts utilized by the Debtor

inadvertently used the tax ID number of this entity. Various companies that may have received intercompany transfers from the Debtor are no longer operational or have no significant assets to collect against. Additionally, the Plan provides for no distributions on account of Insider Claims and requires substantial payments by Mr. Michel, the majority owner of the Debtor and the related entities, to be made monthly. Debtor will not pursue any Claims against Mr. Michel so long as he is current in his Insider Plan payments.

6.5 Post-Effective Date Professional Fees. The Debtor shall be authorized to continue the engagement of DelCotto and such other Professionals as the Debtor may deem necessary for the purposes of rendering services in connection with implementing the Plan, resolving Claims, and performing routine Chapter 11 administration upon terms and conditions acceptable to the Debtor. After the Effective Date, the Debtor or Mr. Michel shall pay the reasonable fees and expenses of DelCotto or any other Professional rendering services after the Effective Date within thirty (30) days after submission of a detailed invoice therefor to the Debtor with a copy to any other party in interest who requests same, without Court approval. If a party in interest disputes the reasonableness of an invoice (which must be done within fifteen (15) days after service of same by written notice to the invoicing Professional), the Debtor or Mr. Michel shall pay the undisputed portion thereof and the affected party may, if unable to resolve the dispute by negotiation, submit such dispute to the Court for a determination of reasonableness by motion, notice, and hearing.

6.6 Anticipated Federal Tax Consequences of the Plan. Tax consequences resulting from Confirmation of the Plan can vary greatly among the various classes of Creditors and holders of interests, or within each class. Significant tax consequences may occur as a result of Confirmation of the Plan under the Internal Revenue Code and pursuant to state, local, and foreign tax statutes. Because of the various tax issues involved, the differences in the nature of Claims of various Creditors, the taxpayer status and methods of accounting and prior actions taken by Creditors with respect to their Claims, as well as the possibility that events subsequent to the date hereof could change the tax consequences, this discussion is intended to be general in nature only. No specific tax consequences to any Creditor or of an interest are represented, implied, or warranted. The Debtor makes no representations of tax consequences to Creditors, and Creditors should consult their own accountants as to tax consequences to them on their Claims herein.

6.7 Final Distribution. The final distribution to Creditors under the Plan will occur as set forth herein.

6.8 Use of Independent Examiner/Auditor to Monitor Plan Compliance. The Debtor shall select an accountant or a consultant to serve as a consultant/examiner to monitor MR. Michel and Debtor's compliance with the Plan and payments thereunder. This selection shall be subject to the rights of the U.S. Trustee and other creditors to object to the qualifications of the designee. The examiner shall be independent and have no connection to the Debtor's insiders. The Plan shall constitute a motion to retain the examiner/consultant and the examiner will be retained subject to the authority in the confirmation order. The Debtor shall file in the record prior to the confirmation hearing on February 22, 2018, the qualifications and contact information of the proposed examiner/consultant and the retention terms of the employment. The

examiner/consultant shall be paid a reasonable hourly rate unless a flat fee rate can be negotiated that is more affordable than a comparable hourly rate.

The examiner/consultant will have complete access (including computer login access) to the Debtor's books and records including monthly bank statements including those of the insiders, quickbooks, and any and all other financial software, data, and/or records generated in the ordinary course of business. The credit card statements of any credit card paid by the Debtor may be reviewed by the examiner/consultant. The duties of the examiner/consultant include monitoring Plan compliance by review and examination of the Debtor's financial records and the records of the insiders, if necessary. The examiner shall prepare periodic reports in such frequency in the examiner's discretion. These reports shall be made available to Creditors, Debtor's counsel and the U.S. Trustee upon request. The examiner shall report any substantial noncompliance to the U.S. Trustee and Debtor's counsel. The U.S. Trustee and Creditors reserve the right to seek redress with the Court upon a finding of substantial noncompliance with the Plan. Failure to the Debtor or its insiders to comply with a request from the examiner shall constitute a Plan default. Any Plan default must be cured within a 30-day period or Creditors may exercise their rights and remedies under applicable state law.

6.9 Monitoring of Plan Payments. Any Creditor may request ongoing copies of bank statements or other proof of Plan payment compliance post-Confirmation to monitor Plan compliance in addition to the examiner/consultant monitoring.

## **ARTICLE VII IMPAIRED CLASSES**

All classes of Creditors are Impaired except A-1, A-2, A-3, A-4, and C.

## **ARTICLE VIII MANAGEMENT OF DEBTOR**

Post-Confirmation, the Debtor will be managed by CJ Michel, the Managing Member of the Debtor subject to the supervision/monitoring of the independent examiner/accountant. Mr. Michel shall not receive annual draws/salary from the Debtor during the Plan period. Management will have the authority to take any and all actions desirable or necessary in its business judgment to continue the operations of the Debtor.

## **ARTICLE IX NOTICES**

Except as otherwise specified, all notices and requests shall be given by any written means, including but not limited to facsimile, first-class mail, express mail or similar overnight delivery service, and hand-delivery letters, and any such notices or requests shall be deemed to have been given when received. Notices shall be delivered as follows:

To the Debtor:

C. J. Michel  
CJ Michel Industrial Services, LLC  
P.O. Box 690  
Lancaster, KY 40444

With a copy to:

Jamie L. Harris, Esq.  
DelCotto Law Group PLLC  
200 North Upper Street  
Lexington, KY 40507  
Telephone: (859) 231-5800  
Facsimile: (859) 281-1179  
jharris@dlgfirm.com

**ARTICLE X  
EXECUTORY CONTRACTS AND LEASES**

10.1 As of the date of the filing of this Plan, the Debtor has not filed a motion to assume or reject any executory contracts or unexpired leases. The Debtor reserves the right to apply to this Court at any time prior to Confirmation for authority to assume or reject any and all executory contracts and unexpired leases in whole or in part as provided in 11 U.S.C. §§ 365 and 1123. All remaining executory contracts and leases for which the Debtor has not so moved on or before the Confirmation Date shall be deemed rejected as of said date (the “Rejection Date”).

Disclosure: To the extent its factoring agreement with Gulf Coast may be deemed an executory contract, the Plan shall constitute a motion to assume the contract.

10.2 Unless a different time period is set forth in any separate order, the lessor of any equipment or other personal property deemed rejected under an order of the Court or by virtue of Section 10.1 above shall have fifteen (15) days following the Rejection Date (the “Repossession Date”) in which to take possession of said equipment. If said equipment or property is not taken by said lessor by the Repossession Date, then said equipment shall be deemed abandoned by lessor to the Debtor, free and clear of any Liens, Claims, encumbrances or interests which may be claimed by a lessor.

10.3 Any proof of claim which any Person has with respect to the rejection of any unexpired lease or executory contract must be filed no later than thirty (30) days after the later of (i) entry of a Final Order of this Court authorizing such rejection or (ii) the Rejection Date. Any such Claim for rejection damages shall be treated as a Class B Unsecured Claim.

**ARTICLE XI  
MISCELLANEOUS PLAN PROVISIONS**

11.1 Effectuating Documents; Exemption from Certain Transfer Taxes. The Debtor is hereby authorized to execute, deliver, file or record such documents, contracts, releases and other agreements, and take all such further action as may be necessary, to effectuate and further evidence the terms of this Plan.

11.2 Discharge of Debtor. Pursuant to 11 U.S.C. § 1141(d)(1), the Confirmation Order herein shall discharge Claims against the Reorganized Debtor; provided, however, the discharge of any IRS Allowed Tax Claim under this Plan shall not be effective until the IRS Allowed Tax Claim(s) provided for under this Plan have been paid in full. No Creditor of the Reorganized Debtor may receive any payment from, or seek recourse against, any Assets which are to be distributed under the Plan, except for those distributions expressly provided for in the Plan.

11.3 Closing of the Bankruptcy Case. On or after the Confirmation Date, the Debtor shall expeditiously move to close the Bankruptcy Case if so allowed by the Court; provided, however, that any closing shall be subject to the following conditions authorized by 11 U.S.C. § 349(b): (a) said closing shall not alter, amend, revoke, or supersede the terms of the confirmed Plan; (b) all rights of the Debtor, Creditors or any other Person treated under the Plan shall remain unaffected by said closing except as provided herein; (c) the terms of the confirmed Plan shall be binding on all Persons; (d) all Orders previously entered by the Court, unless altered by the Plan, shall remain in full force and effect; and (e) the Court shall retain all jurisdiction set forth herein.

11.4 Modification of Plan. The Debtor may propose amendments to or modifications of this Plan under 11 U.S.C. § 1127 at any time prior to the Confirmation Date. The Debtor may revoke or withdraw the Plan at any time prior to the Confirmation Hearing. After the Confirmation Date the Debtor may remedy any defects or omissions or reconcile any inconsistencies in this Plan or in the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of this Plan so long as the interests of the Creditors are not materially and adversely affected.

11.5 Condition of the Effective Date. The Confirmation Order shall have become a Final Order.

11.6 Consummation of the Plan. Substantial consummation shall occur when the first payments on Allowed Claims are made or reserved for.

11.7 Minimum Distributions. If a distribution to be made to a Creditor holding an Allowed Claim would be \$1.00 or less in the aggregate, notwithstanding any contrary provision of this Plan, no such distribution will be made to such Creditor.

11.8 Late Claims. Disallowed Claims shall be expunged from the claims register in the Bankruptcy Case without need for any further notice, motion, or order.

11.9 Copies of Confirmation Order Sufficient Evidence of Plan Terms. Upon Confirmation of this Plan, a true and correct copy of the Confirmation Order shall be legally sufficient evidence of the terms, provisions, and effects of this Plan for all purposes in any subsequent judicial proceeding or official record.

11.10 Binding Effect. The rights and obligations of any Person named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, the successors, heirs, and assigns of such Person.

11.11 Unclaimed Funds. All unclaimed payments or distributions made to any Creditor under the Plan, including but not limited to, unnegotiated checks or drafts, shall revert, after ninety (90) days, to the Debtor, and shall be preserved and paid out for the benefit of Class B Allowed Unsecured Claims. Any Creditor whose payment is forfeited under this provision will thereafter be treated as having a Disallowed Claim. The Debtor will utilize addresses used by Creditors in proofs of claim or in the Schedules for distribution.

11.12 Notice of Default. In the event of any alleged default under the Plan, any affected Claimant or party in interest must give a written default notice to the Reorganized Debtor with copies to counsel of record for the Debtor, specifying the nature of the default. The Reorganized Debtor shall have thirty (30) days to cure such default from the first date either the Reorganized Debtor or its counsel receives the default notice. If such default has not been cured within the 30-day cure period, then the claimant shall have the right to immediately enforce its liens, mortgages, and security interests in compliance with Kentucky or other applicable law, including without limitation, foreclosure, repossession, and the sale of the collateral securing its Claim. Any such action shall not be deemed in any way a violation of the Plan or Plan injunction and shall be permitted without need for further Court order. **The Injunction in Section 5.10.2 shall expire as to the defaulted claimant if any noticed default remains uncured after the 30-day cure period.**

11.13 Setoff and Recoupment Rights. Except as specifically provided in the Plan, no Person shall retain any contractual or statutory right to set off or recoup any Asset in which the Debtor has an interest in satisfaction of that Claimant's prepetition Claim. Any right to set off or recoup a Claim against an Asset of the Debtor that is not specifically retained is waived and forever barred; provided, however, that if the Reorganized Debtor should fail to comply with the terms of any confirmed Chapter 11 plan, nothing herein shall be deemed to prohibit a Creditor's right to recoup its collateral by self-help or any other rights available to it pursuant to state law. Furthermore, no provision herein shall be construed to be a waiver or bar of any right of setoff the IRS may have under 11 U.S.C. § 553 or Title 26 of the United States Code.

11.14 No Admissions or Waivers. Neither the filing of this Plan (as may be modified or amended), the taking of any action by the Debtor or a Creditor with respect to the Plan, nor any Disclosure herein, shall be deemed an admission or waiver of any of the Debtor's rights or defenses. In the event Confirmation does not occur or the Plan does not become effective, no statement contained herein may be used or relied on in any manner as against the Debtor in any suit, action, proceeding, or controversy within or outside of the Bankruptcy Case. The Debtor further reserves any and all of its rights against all Persons in the event the Plan is not confirmed or does not become effective.

## ARTICLE XII RETENTION OF JURISDICTION

The Bankruptcy Court shall retain jurisdiction of this Bankruptcy Case after Confirmation of the Plan with respect to the following matters.

12.1 To hear and determine all controversies relating to or concerning the classification or allowance of Claims, including disputed, contingent, or unliquidated Claims.

12.2 To determine and fix all Claims arising from the rejection of any executory contracts or leases.

12.3 To hear any pending motions for rejection, assumption, or assignment of any executory contract or lease and to fix and determine any amounts alleged due and owing thereunder in order to cure defaults.

12.4 To enable the Debtor to consummate any and all proceedings to set aside Liens or encumbrances, to pursue Causes of Action, to recover any Avoidance Actions, Assets, or damages to which the Debtor may be entitled under applicable provisions of the Bankruptcy Code or other federal, state, or local law.

12.5 To recover all Assets and properties of the Debtor, wherever located.

12.6 To permit amendments to the Schedules.

12.7 To make such orders as are necessary or appropriate to carry out the provisions of this Plan.

12.8 To modify this Plan pursuant to the Bankruptcy Code and the Bankruptcy Rules.

12.9 To hear any matters regarding interpretation, implementation, or consummation of the Plan and to correct any defect, cure any omission, or reconcile any inconsistency in this Plan or the Confirmation Order.

12.10 To decide issues concerning federal tax liability, reporting, and withholding that may arise in connection with the Confirmation or consummation of this Plan.

12.11 To enter a final decree closing this Bankruptcy Case.

CJ MICHEL INDUSTRIAL SERVICES, LLC

By: /s/ Clarence J. Michel, Jr.  
Member

Date: January 25, 2018

Tendered by:

DELCOTTO LAW GROUP PLLC

/s/ Jamie L. Harris

KY Bar No. 91387

Jamie L. Harris, Esq.

200 North Upper Street

Lexington, KY 40507

Telephone: (859) 231-5800

Facsimile: (859) 281-1179

[jharris@dlgfirm.com](mailto:jharris@dlgfirm.com)

COUNSEL FOR DEBTOR

AND DEBTOR IN POSSESSION



**CJ MICHEL INDUSTRIAL SERVICES, LLC  
PLAN DEFINITIONS**

1. “Administrative Claim” shall mean any Claim that is defined in 11 U.S.C. § 503(b) as being an “administrative expense” and granted priority under 11 U.S.C. § 507(a)(1) and including: (i) a Claim for any cost or expense of administration in connection with the Bankruptcy Case, including, without limitation, any actual, necessary cost or expense of preserving the Debtor’s Estate and of operating the business of the Debtor incurred on or before the Effective Date; and (ii) all fees and charges assessed against the Debtor’s Estate under Chapter 123 of Title 28 of the United States Code.

2. “Allowed Administrative Claim” shall mean an Administrative Claim for which the Bankruptcy Court has entered a Final Order allowing such Claim as an Administrative Claim provided that a request for payment of an Administrative Claim is filed with the Bankruptcy Court prior to thirty (30) days after the Effective Date of the Plan.

3. “Allowed Claim” shall mean (a) a Claim which has been scheduled by the Debtor as undisputed, and as to which Claim no objection has been made within the time allowed for the making of objections, (b) a Claim allowed by a Final Order, (c) a Claim as to which a timely and proper proof of claim or application for payment has been filed, and as to which proof of claim or application for payment no objection has been made within the time allowed for the making of objections or (d) a Claim allowed under the Plan, notwithstanding any objection filed thereto. Interest accrued after the Petition Date of the Bankruptcy Case shall not be part of any Allowed Claim against the Debtor, except as required under the Plan or permitted by law.

4. “Assets” shall mean, with respect to the Debtor, all of the right, title and interest in and to property of whatsoever type or nature, owned by the Debtor, as of the Effective Date, as well as the proceeds, products, rents and profits from all of the foregoing. Assets include, but are not limited to, property as defined in 11 U.S.C. § 541 (each identified item of property being herein sometimes referred to as an Asset).

5. “Avoidance Actions” shall mean any Claims of the Debtor to avoid transfers or to recover money or property pursuant to 11 U.S.C. §§ 542, 543, 544, 545, 546, 547, 548, 549, 550, 551 or 553, including applicable state law Claims.

6. “Bankruptcy Case” shall mean as to the Debtor its case under Chapter 11 of the Bankruptcy Code.

7. “Bankruptcy Code” or “Code” shall mean the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, as in effect from time to time.

8. “Bankruptcy Court” or “Court” shall mean the United States Bankruptcy Court for the Eastern District of Kentucky.

9. “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure and Interim Bankruptcy Rules applicable to cases pending before the Bankruptcy Court and local

rules applicable to cases pending before the Bankruptcy Court (“Local Rules”), as the same may from time to time be in effect and applicable to proceedings under the Plan.

10. “Business Day” shall mean a day other than a Saturday, Sunday or other day on which national commercial banks are authorized or required by law to close.

11. “Causes of Action” shall mean all of the Debtor’s and Estate’s Claims and rights, both in law and in equity, including but not limited to, any and all Claims, demands, damages, actions, Causes of Action and expenses of any nature or kind, which the Debtor and its Estate has, may have, has asserted.

12. “Claim” shall mean (a) a right to payment, setoff or recoupment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured (including potential and unmatured tort and contract Claims), disputed, undisputed, legal, equitable, secured, or unsecured, or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right of payment, setoff or recoupment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured (including potential and unmatured tort and contract Claims), disputed, undisputed, secured or unsecured.

13. “Confirmation” shall mean confirmation of the Plan pursuant to 11 U.S.C. § 1129, which shall occur upon entry of the Confirmation Order.

14. “Confirmation Date” shall mean the date on which the Bankruptcy Court enters the Confirmation Order.

15. “Confirmation Hearing” shall mean the Bankruptcy Court’s Hearing under 11 U.S.C. § 1128 and Fed. R. Bankr. P. 3020(b) on confirmation of the Plan.

16. “Confirmation Order” shall mean the Order of the Bankruptcy Court confirming the Plan with such modifications as may be agreed to or approved prior to the Effective Date by the Debtor.

17. “Creditor” shall mean the owner or holder of a Claim.

18. “Debtor” shall mean CJ Michel Industrial Services, LLC.

19. “Deficiency Claim” shall mean an Allowed Claim of a Creditor, equal to the amount by which the aggregate Allowed Claim of such Creditor exceeds the sum of (a) any setoff rights of the Creditor permitted under 11 U.S.C. § 553 plus (b) the Secured Claim of such Creditor.

20. “Disallowed Claim” shall mean a Claim, or any portion thereof, that has (a) been disallowed by a Final Order; (b) withdrawn by a Creditor; (c) been scheduled as contingent, disputed, or unliquidated, and as to which no proof of claim has been timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy

Court; or (d) not otherwise deemed timely filed under applicable law or the provisions of a confirmed Plan.

21. “Disclosures” shall mean the provisions of Article I of the Plan and other provisions labeled “Disclosure” marked in the text of the Plan.

22. “Effective Date” shall mean the date that is the earlier of April 1, 2018 or such date as Mr. Michel makes his first required monthly Insider Payment under the Plan in an estimated amount of \$72,000-\$108,000.

23. “Final Order” shall mean an order or judgment of a court which (a) shall not have been reversed, stayed, modified or amended and the time to appeal from, or to seek review or rehearing of, shall have expired and as to which no appeal or petition for review, rehearing, or certiorari is pending, or (b) if appealed from, shall have been affirmed and no further hearing, appeal, or Petition for Certiorari can be taken or granted.

24. “Impaired” shall mean any class of Claims that is impaired within the meaning of 11 U.S.C. § 1124.

25. “Lien” shall have the meaning assigned to it in 11 U.S.C. § 101(37).

26. “Person” shall mean any individual, corporation, limited liability corporation or partnership, general partnership, limited partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, governmental unit or any political subdivision thereof or other entity.

27. “Petition Date” shall mean August 10, 2017 being the date of the filing of the voluntary Petition for relief by the Debtor under the Bankruptcy Code.

28. “Plan” shall mean this Plan proposed by the Debtor, excluding the Disclosures, and filed in this Bankruptcy Case and as it may be further amended, modified or supplemented from time to time as provided therein.

29. “Priority Claim” shall mean a Claim entitled to priority pursuant to 11 U.S.C. § 507(a)(4) or (5).

30. “Professional Claims” shall mean the allowances made by the Court to the Professionals, each of which allowance shall be an Administrative Claim.

31. “Professionals” shall mean DelCotto in its capacity as counsel for the Debtor; and all attorneys, accountants, appraisers, examiners, consultants, and other professional Persons properly retained by the Debtor and approved by the Court under the Code who performed professional services for or on behalf of the Debtor, from the Petition Date through and including the Confirmation Date, whose services and expenses are allowable by the Court under 11 U.S.C. § 330.

32. “Pro rata” shall mean ratable payment, without preference.

33. “Schedules” shall mean those Schedules and statements of financial affairs filed by the Debtor under Fed. R. Bankr. P. 1007, as same may be amended from time to time.

34. “Secured Claim” shall mean (a) a Claim secured by a Lien on property of the Debtor, which Lien is valid, superior, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or other applicable non-bankruptcy law, and which is duly established in the Debtor’s Bankruptcy Case, but only to the extent that such Claim does not exceed the value of the Debtor’s Assets which the Bankruptcy Court finds are valid collateral for such Claim (except, if the class of which such Claim is a part makes the election provided for in 11 U.S.C. § 1111(b)(2), the entire amount of the Claim shall be a Secured Claim) and (b) a Claim allowed under the Plan as a Secured Claim.

35. “Secured Creditor” shall mean the owner or holder of a Secured Claim.

36. “Tax Claims” shall mean Claims of any Person for the payment of taxes (a) accorded priority pursuant to 11 U.S.C. §§ 507(a)(1) and (8), or (b) those secured by valid Liens on Assets of the Debtor as of the Confirmation Date.

37. “Tax Creditor” shall mean the holder of a Tax Claim.

38. “Unsecured Claims” shall mean all Claims held by Creditors of the Debtor, including Deficiency Claims and Claims arising out of the rejection of executory contracts, other than Secured Claims, Administrative Claims, Priority Claims, and Tax Claims.

39. “Unsecured Creditor” shall mean the owner or holder of an Unsecured Claim.