IN THE UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF ALABAMA

|  |  |  |
| --- | --- | --- |
| IN RE:  Debtor(s). | )  )  )  )  ) | Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |

**PLAN OF REORGANIZATION UNDER SUBCHAPTER V OF CHAPTER 11**

**(SMALL BUSINESS REORGANIZATION ACT)**

**Background**

Description and history of the Debtor’s business. The Debtor is a [corporation, partnership, etc.]. Since [insert year operations commenced], the Debtor has been in the business of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. [Describe the Debtor’s business].

Liquidation analysis. To confirm the Plan, the court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to the Plan as Exhibit \_\_\_.

Ability to make future plan payments and operate without further reorganization. The Plan Proponent must also show that it will have enough cash over the life of the Plan to make the required Plan payments and operate the debtor’s business. The Plan Proponent has provided projected financial information as Exhibit \_\_\_. The Plan Proponent’s financial projections show that the Debtor will have projected disposable income (as defined by Bankruptcy Code § 1191(d)) for the period described in § 1191(c)(2) of $\_\_\_\_\_\_\_\_\_\_\_. The final Plan payment is expected to be paid on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[Summarize the numerical projections, and highlight any assumptions that are not in accord with past experience. Explain why such assumptions should now be made.]

You should consult with your accountant or other financial advisor if you have any questions pertaining to these projections.

**Article 1: Summary**

This Plan of Reorganization (“the Plan”) under chapter 11 of the Bankruptcy Code (“the Code”) proposes to pay creditors of [insert the name of the Debtor] (“the Debtor”) from [specify sources of payment, such as an infusion of capital, loan proceeds, sale of assets, cash flow from operations, or future income].

This Plan provides for: \_\_\_\_\_ classes of priority claims;

\_\_\_\_\_ classes of secured claims;

\_\_\_\_\_ classes of non-priority unsecured claims; and

\_\_\_\_\_ classes of equity security holders.

Non-priority unsecured creditors holding allowed claims will receive distributions which the proponent of this Plan has valued at approximately \_\_\_\_\_ cents on the dollar. This Plan also provides for the payment of administrative and priority claims.

All creditors and equity security holders should refer to Articles 3 through 6 of this Plan for information regarding the precise treatment of their claim. Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.

**Article 2: Classification of Claims and Interests**

2.01 Class 1. All allowed claims entitled to priority under Code § 507(a) (except administrative expense claims under § 507(a)(2) and priority tax claims under § 507(a)(8)).

[Add classes of priority claims, if applicable]

2.02 Class 2. The claim of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to the extent allowed as a secured claim under Code § 506.

[Add other classes of secured creditors, if any.]

2.03 Class 3. All non-priority unsecured claims allowed under Code § 502.

[Add other classes of unsecured claims, if any.]

2.04 Class 4. Equity interests of the Debtor. [If the Debtor is an individual, change this heading to *The interests of the individual Debtor in property of the estate.*]

**Article 3: Treatment of Administrative Expense Claims, Priority Tax Claims,**

**and Court Fees**

3.01 Unclassified claims. Under Code § 1123(a)(1), administrative expense claims and priority tax claims are not in classes.

3.02 Administrative expense claims. Each holder of an administrative expense claim allowed under Code § 503 will be paid in full on the effective date of this Plan, in cash, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.

or

Each holder of an administrative expense claim allowed under Code § 503 will be paid [specify terms of treatment, including the form, amount, and timing of distribution, consistent with Code § 1191(e)].

[Note: the second provision is appropriate only in a subchapter V plan that is confirmed non-consensually under § 1191(b).]

3.03 Priority tax claims. Each holder of a priority tax claim will be paid [specify terms of treatment consistent with Code § 1129(a)(9)(C)].

3.04 Statutory fees. All fees required to be paid under 28 U.S.C. § 1930 that are owed on or before the effective date of this Plan have been paid or will be paid on the effective date.

**Article 4: Treatment of Claims and Interests Under the Plan**

Claims and interests shall be treated as follows under this Plan:

|  |  |  |
| --- | --- | --- |
| Class | Impairment | Treatment |
| Class 1 – Priority claims  excluding those in Article 3 | \_\_ Impaired  \_\_ Unimpaired | [Insert treatment of priority claims in this Class, including the form, amount and timing of distribution, if any.  For example: “Class 1 is unimpaired by this Plan, and each holder of a Class 1 Priority Claim will be paid in full, in cash, upon the later of the effective date of this Plan, or the date on which such claim is allowed by a final non-appealable order. Except: \_\_\_\_\_\_\_.”]  [Add additional classes of priority claims if applicable] |
| Class 2 – Secured claim of [insert name of secured creditor.] | \_\_ Impaired  \_\_ Unimpaired | [Insert treatment of secured claim in this Class, including the form, amount and timing of distribution, if any.]  [Add additional classes of secured claims if applicable] |
| Class 3 – Non-priority unsecured creditors | \_\_ Impaired  \_\_ Unimpaired | [Insert treatment of unsecured creditors in this Class, including the form, amount and timing of distribution, if any.]  [Add administrative convenience class if applicable] |
| Class 4 – Equity security holders of the Debtor | \_\_ Impaired  \_\_ Unimpaired | [Insert treatment of equity security holders in this Class, including the form, amount and timing of distribution, if any.] |

**Article 5: Allowance and Disallowance of Claims**

5.01 Disputed claim. A disputed claim is a claim that has not been allowed or disallowed by a final non-appealable order, and as to which either: (i) a proof of claim has been filed or deemed filed, and the Debtor or another party in interest has filed an objection; or (ii) no proof of claim has been filed, and the Debtor has scheduled such claim as disputed, contingent, or unliquidated.

5.02 Delay of distribution on a disputed claim. No distribution will be made on account of a disputed claim unless such claim is allowed by a final non-appealable order.

5.03 Settlement of disputed claims. The Debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Federal Rule of Bankruptcy Procedure 9019.

**Article 6: Provisions for Executory Contracts and Unexpired Leases**

6.01 Assumed executory contracts and unexpired leases. The Debtor assumes (and if applicable assigns) the following executory contracts and unexpired leases as of the effective date: [List assumed (or if applicable assigned) executory contracts and unexpired leases.]

6.02 Rejected executory contracts and unexpired leases. Except for executory contracts and unexpired leases that have been assumed (and if applicable assigned) before the effective date or under section 6.01 of this Plan, or that are the subject of a pending motion to assume (and if applicable assign), the Debtor will be conclusively deemed to have rejected all

executory contracts and unexpired leases as of the effective date. A proof of a claim arising from the rejection of an executory contract or unexpired lease under this section must be filed no later than 60 days after the date of the order confirming this Plan.

**Article 7: Means for Implementation of the Plan**

[Insert provisions regarding how the plan will be implemented as required under Code § 1123(a)(5). For example, provisions may include those that set out how the plan will be funded, including any claims reserve to be established in connection with the plan, as well as who will be serving as directors, officers, or voting trustees of the reorganized Debtor.]

**Article 8: General Provisions**

8.01 Definitions and rules of construction. The definitions and rules of construction set forth in Code §§ 101 and 102 shall apply when terms defined or construed in the Code are used in this Plan, and they are supplemented by the following definitions: [Insert additional definitions if necessary.]

8.02 Effective date. The effective date of this Plan is the first business day following the date that is 14 days after the entry of the confirmation order. If, however, a stay of the confirmation order is in effect on that date, the effective date will be the first business day after the date on which the stay expires or is otherwise terminated.

8.03 Severability. If any provision in this Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

8.04 Binding effect. The rights and obligations of any entity named or referred to in this Plan will be binding upon and will inure to the benefit of the successors or assigns of such entity.

8.05 Captions. The headings contained in this Plan are for convenience or reference only and do not affect the meaning or interpretation of this Plan.

8.06 Controlling effect. Unless a rule of law or procedure is supplied by federal law (including the Code or the Federal Rules of Bankruptcy Procedure), the laws of the State of Alabama govern this Plan and any agreements, documents, and instruments executed in connection with this Plan, except as otherwise provided in this Plan.

8.07 Corporate governance. If the Debtor is a corporation (including an LLC), then in accordance with Code § 1123(a)(6), the Debtor’s articles of incorporation or articles or organization are deemed amended as of the effective date to prohibit the issuance of nonvoting equity securities or membership interests.

8.08 Retention of jurisdiction. The court retains jurisdiction with respect to matters involving the interpretation, consummation, execution, or administration of the confirmed plan.

**Article 9: Discharge**

[If the Debtor is an individual]

If the Debtor’s Plan is confirmed consensually under § 1191(a), on the effective date of the Plan, the Debtor will be discharged from any debt that arose before confirmation of this Plan, to the extent specified in Code § 1141(d)(1)(A). The Debtor will not be discharged from any debt: (i) imposed by this Plan; or (ii) excepted from discharge under Code § 523(a), except as provided in Federal Rule of Bankruptcy Procedure 4007(c).

If the Debtor’s Plan is confirmed nonconsensually under § 1191(b), confirmation of the Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments due within the first 3 years of this Plan, or as otherwise provided in Code § 1192. The Debtor will not be discharged from any debt: (i) on which the last payment is due after the first 3 years of the plan, or as otherwise provided in § 1192; or (ii) excepted from discharge under § 523(a) of the Code, except as provided in Federal Rule of Bankruptcy Procedure 4007(c).

[If the Debtor is a partnership]

If the Debtor’s Plan is confirmed consensually under § 1191(a), on the effective date of the Plan, the Debtor will be discharged from any debt that arose before confirmation of this Plan, to the extent specified in Code § 1141(d)(1)(A). The Debtor will not be discharged from any debt imposed by this Plan.

If the Debtor’s Plan is confirmed nonconsensually under § 1191(b), confirmation of the Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments due within the first 3 years of this Plan, or as otherwise provided in Code § 1192. The Debtor will not be discharged from any debt: (i) on which the last payment is due after the first 3 years of the plan, or as otherwise provided in § 1192; or (ii) excepted from discharge under Code § 523(a), except as provided in Federal Rule of Bankruptcy Procedure 4007(c).

[If the Debtor is a corporation (including LLC)]

If the Debtor’s Plan is confirmed consensually under § 1191(a), on the effective date of the Plan, the Debtor will be discharged from any debt that arose before confirmation of this Plan, to the extent specified in Code § 1141(d)(1)(A), except that the Debtor will not be discharged of any debt: (i) imposed by this Plan; or (ii) to the extent provided in § 1141(d)(6).

If the Debtor’s Plan is confirmed nonconsensually under § 1191(b), confirmation of this Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments due within the first 3 years of this Plan, or as otherwise provided in Code § 1192. The Debtor will not be discharged from any debt: (i) on which the last payment is due after the first 3 years of the plan, or as otherwise provided in § 1192; or (ii) excepted from discharge under Code § 523(a), except as provided in Federal Rule of Bankruptcy Procedure 4007(c).

**Article 10: Other Provisions**

[Insert other provisions, as applicable.]

Respectfully submitted,

[Signature of the Plan Proponent] [Printed Name]

[Signature of the Attorney for [Printed Name]

the Plan Proponent]