

This is Exhibit "DD" referred to in the
Affidavit of Waleed Malik, solemnly affirmed before me,
this 8th day of August, 2019

A handwritten signature in blue ink, appearing to be 'J. G.', written over a horizontal dotted line.

A Commissioner for Taking Affidavits

A handwritten signature in blue ink, appearing to be 'David Rosenthal', written below the text 'A Commissioner for Taking Affidavits'.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	
)	Chapter 11
JACK COOPER VENTURES, INC., <i>et al.</i> , ¹)	
)	Case No. 19-62393 (PWB)
Debtors.)	
)	(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO MAINTAIN AND CONTINUE
CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO, AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Jack Cooper Ventures, Inc. (0805); Jack Cooper Diversified, LLC (9414); Jack Cooper Enterprises, Inc. (3001); Jack Cooper Holdings Corp. (2446); Jack Cooper Transport Company, Inc. (3030); Auto Handling Corporation (4011); CTEMS, LLC (7725); Jack Cooper Logistics, LLC (3433); Auto & Boat Relocation Services, LLC (9095); Axis Logistic Services, Inc. (2904); Jack Cooper CT Services, Inc. (3523); Jack Cooper Rail and Shuttle, Inc. (7801); Jack Cooper Investments, Inc. (6894); North American Auto Transportation Corp. (8293); Jack Cooper Transport Canada Inc. (8666); Jack Cooper Canada GP 1 Inc. (7030); Jack Cooper Canada GP 2 Inc. (2373); Jack Cooper Canada 1 Limited Partnership (3439); and Jack Cooper Canada 2 Limited Partnership (7839). The location of the Debtors’ corporate headquarters and service address is: 630 Kennesaw Due West Road NW, Kennesaw, Georgia 30152.

Relief Requested²

1. By this motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “Interim Order” and “Final Order,” respectively), (a) authorizing the Debtors, in their sole discretion, to honor or pay all prepetition obligations arising under the Customer Programs (as defined herein) (the “Customer Obligations”) and to continue the Customer Programs in the ordinary course of business, and (b) granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Northern District of Georgia has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a) and 363(b), of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure the (“Bankruptcy Rules”) , and *General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 4, 2019 (the “Complex Case Procedures”).

² A description of the Debtors’ businesses, the reasons for commencing these chapter 11 cases, the relief sought from the Court to allow for a smooth transition into chapter 11, and the facts and circumstances supporting this motion are set forth in the *Declaration of Greg May, the Debtors’ Chief Financial Officer, in Support of First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith. Capitalized terms used in this Relief Requested section of the Motion but not otherwise defined therein shall have the meanings ascribed to such terms later in the Motion, and any other capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the First Day Declaration.

The Debtors' Customer Programs Obligations

5. In the ordinary course of business, the Debtors maintain certain programs pursuant to customer contracts, which include, without limitation, the Debtors' (a) payments to customers for on account of damages that may occur to cargo while in the Debtors' possession, and (b) reimbursable obligations with respect to services the Debtors provide on their terminals and lots (collectively, the "Customer Programs").

6. The Debtors' businesses are highly dependent on positive relationships with customers. The Debtors operate in the finish vehicle logistics ("FVL") market, which serves a very small set of large automobile manufacturers ("OEMs"). In 2018, Ford Motor Company, Toyota Motor Sales, USA, Inc., and General Motors Company constituted a vast majority of the Debtors' total revenues. As a result, the Debtors compete with many other service providers for a select number of customer contracts. If certain of the Customer Obligations remain unpaid or otherwise unfulfilled, the Debtors' core customers may opt to take their business to the Debtors' competitors, thereby weakening the Debtors' ability to maximize value for all stakeholders in these chapter 11 cases. The Customer Programs are more particularly described as follows:

I. Cargo Claims

7. Under the Debtors' customer contracts, the Debtors are often liable to customers for damages that may occur to cargo while in the Debtors' possession (the "Cargo Claims"). As of the Petition Date, the Debtors estimate that approximately \$5,000,000 has accrued on account of the Cargo Claims. This amount includes specific claims that the Debtors have received, reviewed and approved for payment, as well as unapproved claims that may have been incurred, but not yet reported or fully assessed. The Debtors estimate that approximately \$800,000 of

Cargo Claims will become due and owing within twenty-one (21) days after the Petition Date (the “Interim Period”).

8. In order to maintain relationships with customers, which is crucial to companies in the FVL market, payment of the Cargo Claims is highly important. Although the Cargo Claims will likely be paid upon assumption of the Debtors’ customer contracts in connection with the sale of the Debtors’ assets, the Debtors, out of an abundance of caution, seek the authority, but not direction, to honor or pay the Cargo Claims in a timely manner to preserve positive relationships with customers.

II. Reimbursable Obligations

9. In the ordinary course of business, the Debtors’ provide various services to its customers, such as renting off-site yard space to accommodate overflow vehicles from its terminals, procuring security services, and providing shuttle and driveaway services for off-site yard space. Under the customer contracts, costs incurred from these services are initially paid by the Debtors, and are then reimbursed by the customer (collectively the “Reimbursable Obligations”). As such, the payment of such claims will not prejudice any party-in-interest because the Debtors will be reimbursed for such amounts from their customers. Year to date, the Debtors have incurred approximately \$4,000,000 on account of Reimbursable Obligations. Again, in order to continue to maintain good relationships with their customers and continue performing under their customer contracts without interruption, the Debtors, seek the authority, but not direction, to incur costs relating to the Reimbursable Obligations in the ordinary course of business.

Basis for Relief

10. Courts have authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497–502 (Bankr. N.D. Tex. 2002) (granting authority to pay prepetition claims to certain vendors).

11. Further, the Court may authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a), which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Under section 105(a), courts may permit preplan payments of prepetition obligations when essential to the continued operation of a debtor’s business. Specifically, the Court may use its power under section 105(a) to authorize payment of prepetition obligations pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”).

12. The “doctrine of necessity” or the “necessity of payment” rule has long been recognized by bankruptcy courts. *See Ionosphere*, 98 B.R. at 175–76. Today, the rationale for the necessity of payment rule—the rehabilitation of a debtor in reorganization cases—is “the paramount policy and goal of Chapter 11.” *Id.*; *see also Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 287 (S.D.N.Y. 1987)

(authorizing payment of prepetition workers' compensation claims on grounds that the fundamental purpose of reorganization and equity powers of bankruptcy courts "is to create a flexible mechanism that will permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately"); *In re Just For Feet*, 242 B.R. 821, 824–25 (D. Del. 1999) (finding that payment of prepetition claims to certain trade vendors was "essential to the survival of the debtor during the chapter 11 reorganization"); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) ("[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code," but "[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment."); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of prepetition unsecured claims of tool makers as "necessary to avert a serious threat to the Chapter 11 process"); *Burchinal v. Cent. Wash. Bank (In re Adams Apple, Inc.)*, 829 F.2d 1484, 1490 (9th Cir. 1987) (recognizing that allowance of "unequal treatment of pre-petition debts when necessary for rehabilitation" is appropriate); 2 COLLIER ON BANKRUPTCY, 105.02[4][a] (16th ed. rev. 2015) (discussing cases in which courts have relied on the "doctrine of necessity" or the "necessity of payment" rule to pay prepetition claims immediately).

13. The success and viability of the Debtors' businesses is critically dependent upon the loyalty of their customers. As discussed above, because the Debtors operate in the FVL market, which serves a very small set of OEMs, the Debtors compete with many other service providers for a select number of customer contracts. If the Debtors do not fulfill their Customer

Obligations, the Debtors' core customers may seek to take their business to the Debtors' competitors, thereby weakening the Debtors' prospects for a successful reorganization through these chapter 11 cases. Furthermore, deteriorating business relationships with the Debtors' core customers would likely distract the Debtors' officers, directors, and key employees when their efforts should be focused on ensuring the long-term viability of the Debtors' businesses. Any such distraction of the Debtors and their personnel would be to the detriment of all parties in interest as the dedicated and active participation of the Debtors' officers and employees is integral to the Debtors' continued operations and essential to the orderly administration and, ultimately, the success of these chapter 11 cases. In short, the Debtors' ability to pay the Customer Obligations and continue the Customer Programs in the ordinary course is critical to their continued and uninterrupted operations. Accordingly, the Court should grant the Debtors authority to pay the prepetition Customer Obligations and to continue the Customer Programs in the ordinary course.

14. Courts in this district have routinely granted relief similar to that requested herein in other chapter 11 cases. *See, e.g., In re Beaulieu Grp., LLC*, Case No. 17-41677 (PWB) (Bankr. N.D. Ga. July 20, 2017) [Docket No. 47]; *In re AstroTurf, LLC*, Case No. 16-41504 (PWB) (Bankr. N.D. Ga. July 7, 2016) [Docket No. 57]; *In re Cagle's, Inc.*, Case No. 11-80202 (JB) (Bankr. N.D. Ga. Oct. 20, 2011) [Docket No. 25]; *In re Pike Nursery Holding, LLC*, Case No. 07-79129 (MGD) (Bankr. N.D. Ga. Nov. 16, 2007) [Docket No. 33]; *In re Rhodes, Inc.*, Case No. 04-78434 (MGD) (Bankr. N.D. Ga. Nov. 8, 2004) [Docket No. 49].

Processing of Checks and Electronic Fund Transfers Should Be Authorized

15. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral. Also, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment made relating to the Customer Programs or Customer Obligations. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that this Court should authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested herein.

Emergency Consideration

16. The Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case "to the extent that relief is necessary to avoid immediate and irreparable harm." Here, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors' operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

17. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

18. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' or any party in interest's rights to dispute and/or contest any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their right to contest any claim related to the relief sought herein. Likewise, if the Court grants the relief sought herein, any payment made pursuant to an order of the Court is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute and/or contest such claim.

Notice

19. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors' thirty (30) largest unsecured creditors; (c) counsel to the Prepetition Secured Parties; (d) counsel to the administrative agents for the Debtors' prepetition credit facilities; (e) counsel to the administrative agents for the Debtors' debtor-in-possession financing facilities; (f) the United States Securities and Exchange Commission; (g) the Internal Revenue Service; (h) the Georgia Department of Revenue; (i) the Attorney General for the State of Georgia; (j) the United States Attorney for the Northern

District of Georgia; (k) the state attorneys general for states in which the Debtors conduct business; (l) the Pension Benefit Guaranty Corporation; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

No prior request for the relief sought in the motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of the Interim and Final Order, substantially in the form attached hereto as **Exhibit A** and **Exhibit B**, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

Dated: August 6, 2019
Atlanta, Georgia

/s/ Sarah R. Borders

Sarah R. Borders
Georgia Bar No. 610649
Leia Clement Shermohammed
Georgia Bar No. 972711
Britney Baker
Georgia Bar No. 625752
KING & SPALDING LLP
1180 Peachtree Street NE
Atlanta, Georgia 30309
Telephone: (404) 572-4600
Email: sborders@kslaw.com
Email: lshermohammed@kslaw.com
Email: bbaker@kslaw.com

-and-

Kelley A. Cornish (*pro hac vice* pending)
New York Bar No. 1930767
Brian S. Hermann (*pro hac vice* pending)
New York Bar No. 2810232
**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Email: kcornish@paulweiss.com
Email: bhermann@paulweiss.com

Proposed Counsel for the Debtors in Possession

Exhibit A

Interim Order

Exhibit B

Final Order

This is Exhibit "EE" referred to in the
Affidavit of Waleed Malik, solemnly affirmed before me,
this 8th day of August, 2019

A handwritten signature in blue ink, appearing to be "D. P. Smith", is written over a horizontal dotted line.

A Commissioner for Taking Affidavits

A handwritten signature in blue ink, appearing to be "D. P. Smith", is written below the text "A Commissioner for Taking Affidavits".

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:

JACK COOPER VENTURES, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-62393 (PWB)
)
) (Joint Administration Requested)
)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS APPROVING NOTIFICATION AND HEARING
PROCEDURES FOR CERTAIN TRANSFERS OF AND DECLARATIONS OF
WORTHLESSNESS WITH RESPECT TO COMMON STOCK**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Jack Cooper Ventures, Inc. (0805); Jack Cooper Diversified, LLC (9414); Jack Cooper Enterprises, Inc. (3001); Jack Cooper Holdings Corp. (2446); Jack Cooper Transport Company, Inc. (3030); Auto Handling Corporation (4011); CTEMS, LLC (7725); Jack Cooper Logistics, LLC (3433); Auto & Boat Relocation Services, LLC (9095); Axis Logistic Services, Inc. (2904); Jack Cooper CT Services, Inc. (3523); Jack Cooper Rail and Shuttle, Inc. (7801); Jack Cooper Investments, Inc. (6894); North American Auto Transportation Corp. (8293); Jack Cooper Transport Canada Inc. (8666); Jack Cooper Canada GP 1 Inc. (7030); Jack Cooper Canada GP 2 Inc. (2373); Jack Cooper Canada 1 Limited Partnership (3439); and Jack Cooper Canada 2 Limited Partnership (7839). The location of the Debtors' corporate headquarters and service address is: 630 Kennesaw Due West Road NW, Kennesaw, Georgia 30152.

Relief Requested¹

1. By this motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “Interim Order” and “Final Order,” respectively): (a) approving certain notification and hearing procedures related to certain transfers of, or declarations of worthlessness with respect to, Debtor Jack Cooper Investments, Inc.’s existing common stock and warrants to acquire common stock (the “Common Stock”) or any Beneficial Ownership² thereof as detailed in **Exhibit 1** to the Interim Order (the “Procedures”); (b) directing that any purchase, sale, other transfer of, or declaration of worthlessness with respect to, Common Stock in violation of the Procedures shall be null and void *ab initio*; (c) scheduling a final hearing to consider approval of this motion on a final basis; and (d) granting related relief.

¹ A description of the Debtors’ businesses, the reasons for commencing these chapter 11 cases, the relief sought from the Court to allow for a smooth transition into chapter 11, and the facts and circumstances supporting this motion are set forth in the *Declaration of Greg May, the Debtors’ Chief Financial Officer, in Support of First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith. Capitalized terms used in this Relief Requested section of the Motion but not otherwise defined therein shall have the meanings ascribed to such terms later in the Motion, and any other capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the First Day Declaration.

² “Beneficial Ownership” will be determined in accordance with the applicable rules of section 382 of the Internal Revenue Code (the “IRC”), and the Treasury Regulations thereunder (other than Treasury Regulations Section 1.382-2T(h)(2)(i)(A)) and includes direct, indirect, and constructive ownership (e.g., (1) a holding company would be considered to beneficially own all equity securities owned by its subsidiaries, (2) a partner in a partnership would be considered to beneficially own its proportionate share of any equity securities owned by such partnership, (3) an individual and such individual’s family members may be treated as one individual, (4) persons and entities acting in concert to make a coordinated acquisition of equity securities may be treated as a single entity, and (5) to the extent set forth in Treasury Regulations Section 1.382-4, a holder would be considered to beneficially own equity securities that such holder has an Option (as defined herein) to acquire). An “Option” to acquire stock includes all interests described in Treasury Regulations Section 1.382-4(d)(9), including any contingent purchase right, warrant, convertible debt, put, call, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Northern District of Georgia has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 362 and 541 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and *General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 4, 2019 (the “Complex Case Procedures”).

The Tax Attributes

5. Generally, a company generates net operating losses (“NOLs”) if the operating expenses it has incurred exceed the revenues it has earned during a single tax year. A company may apply, or “carry forward,” NOLs to reduce future tax payments in a tax year or years after the year in which the NOLs were generated (subject to certain conditions as discussed below). I.R.C. § 172. In addition, business interest expense in excess of certain thresholds is disallowed as a deduction (such disallowed business interest expense, together with NOLs and certain other tax attributes, “Tax Attributes”) but may generally be carried forward and deducted in future tax years (subject to certain conditions). I.R.C. § 163(j).

6. The Debtors believe that, as of December 31, 2018, they had state NOLs in the amount of approximately \$238.1 million, federal NOLs in the amount of approximately \$23 million and disallowed business interest carryforwards of approximately \$80 million. These

NOLs and certain other Tax Attributes provide the potential for material future tax savings or other tax structuring possibilities in these chapter 11 cases. The Tax Attributes may be of significant value to the Debtors and their estates because the Debtors can generally carry forward their Tax Attributes to offset their future taxable income, thereby reducing their future aggregate tax obligations. In addition, such Tax Attributes may generally be utilized by the Debtors to offset any taxable income generated by transactions consummated during these chapter 11 cases. The value of the Tax Attributes will inure to the benefit of all of the Debtors' stakeholders.

I. An "Ownership Change" May Negatively Impact the Debtors' Utilization of the Tax Attributes.

7. Section 382 of the IRC limits the amount of NOLs and certain other Tax Attributes that a corporation can use to offset its taxable income if the corporation undergoes an "ownership change." Generally, an "ownership change" occurs if the percentage (by value) of the stock of a corporation owned by one or more 5% shareholders has increased by more than 50 percentage points over the lowest percentage of stock owned by such shareholders at any time during the three-year testing period ending on the date of the ownership change. For example, an ownership change would occur in the following situation:

An individual ("A") owns 50.1% of the stock of corporation XYZ. A sells her 50.1% interest to another individual ("B"), who owns 5% of XYZ's stock. Under section 382, an ownership change has occurred because B's interest in XYZ has increased more than 50 percentage points (from 5% to 55.1%) during the testing period. The same result would follow even if B owned no XYZ stock prior to the transaction with A because B both becomes a 5% shareholder and increases his ownership by more than 50 percentage points during the testing period.

8. An "ownership change" can also occur as a result of a "worthless stock deduction" claimed by any "50-percent shareholder." A 50-percent shareholder is any person

that owned 50% or more of a corporation's stock "at any time during the 3-year period ending on the last day of the taxable year" with respect to which the worthless stock deduction is claimed. I.R.C. § 382(g)(4)(D). If the 50-percent shareholder still owns the corporation's stock at the end of the taxable year, section 382 of the IRC essentially treats the person as newly-purchasing the stock on the first day of the next taxable year. For example, if a person with 50% of a corporation's stock claims a worthless stock deduction in 2019 but does not sell such stock that year, that person is treated (a) as not having owned the stock at the end of 2019 and (b) as having purchased the stock on January 1, 2020. That deemed purchase would cause an ownership change, because the 50-percent shareholder would be deemed to have a 50 percentage point increase in its stock ownership. Notably, while the seminal case of *In re Prudential Lines, Inc.*, 928 F.2d 565 (2d Cir. 1991) is generally relied upon to support equity trading motions in general, the specific issue in *Prudential Lines* was, in fact, a worthless stock deduction.

9. If an ownership change occurs, section 382 of the IRC limits the amount of a corporation's future taxable income that may be offset by its "pre-change losses" to an annual amount based on the fair market value of all stock of the corporation prior to the ownership change multiplied by the long-term tax-exempt rate that applies to the month of the ownership change (for August 2019, 2.09%). Pre-change losses include the Debtors' NOLs, certain other Tax Attributes, and any net unrealized built-in loss (as defined in section 382(h)(3) of the IRC). "Net unrealized built in losses" include, among other things, certain tax losses resulting from the disposition of assets. Once an NOL or other Tax Attribute is limited under section 382 of the IRC, its use is limited forever. Thus, certain transfers of or worthless stock deductions with respect to Common Stock effected before the effective date of the Debtors' emergence from

chapter 11 protection or the consummation of a taxable sale of assets of the Debtors may trigger an “ownership change” for IRC purposes, severely endangering the Debtors’ ability to utilize the Tax Attributes and causing substantial damage to the Debtors’ estates. Likewise, if a 50% or greater shareholder of Jack Cooper Investments, Inc. were, for federal or state tax purposes, to treat its Common Stock as having become worthless prior to its emerging from chapter 11 protection or the consummation of a taxable sale of assets of the Debtors, such a claim could trigger an ownership change under section 382(g)(4)(D) of the IRC, thus causing an adverse effect on the Debtors’ ability to use the NOLs.

10. To maximize the use of the Tax Attributes and potentially enhance recoveries for the Debtors’ stakeholders, the Debtors seek limited relief that will enable them to establish Procedures to closely monitor certain transfers of Common Stock and claims of worthless stock deductions so as to be in a position to act expeditiously to prevent such transfers or claims of worthless deductions, if necessary, with the purpose of preserving the Tax Attributes. By establishing and implementing such Procedures, the Debtors will be in a position to object to “ownership changes” that threaten their ability to preserve the value of their NOLs for the benefit of the estates.

11. Notably, the Debtors have limited the relief requested herein to the extent necessary to preserve estate value. Specifically, the Interim Order and Final Order will affect only (a) holders of the equivalent of 4.5 percent or more of outstanding Common Stock, (b) parties who are interested in purchasing sufficient Common Stock to result in such party becoming a holder of 4.5 percent or more of outstanding Common Stock, and (c) any “50-percent shareholder” seeking to claim a worthless stock deduction.

II. Proposed Procedures for Transfers of, or Declaration of Worthlessness with Respect to, Common Stock.

12. The Procedures are the mechanism by which the Debtors propose that they will monitor, and, if necessary, object to, certain transfers of Common Stock and declarations of worthlessness with respect to the Common Stock to ensure preservation of the Tax Attributes. The Procedures, which are fully set forth in **Exhibit 1** to the Interim Order, are summarized below for illustrative purposes only.

Procedures for Transfers of Common Stock

- a. Any entity (as defined in section 101(15) of the Bankruptcy Code) who currently is or becomes a Substantial Shareholder (as defined herein), must file with the Court, and serve upon: (i) the Debtors, 630 Kennesaw Due West Road, Kennesaw, Georgia 30152, Attn.: Theo Ciupitu; (ii)(A) proposed counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, Attn.: John T. Weber, and (B) King & Spalding LLP, 1180 Peachtree Street NE, Atlanta, Georgia 30309, Attn.: Sarah R. Borders and Britney Baker; (iii) the Office of the United States Trustee for the Northern District of Georgia, 75 Ted Turner Dr. S.W., Room 362, Atlanta, Georgia 30303; (iv) counsel to the Debtors' prepetition secured revolving lenders, Buchalter, P.C., 1000 Wilshire Blvd., 15th Floor, Los Angeles, California 90017, Attn.: Robert J. Davidson and Julian Gurule; (v) counsel to the Debtors' prepetition first lien term loan lenders, Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn.: Adam Harris; (vi) counsel to the Debtors' prepetition junior lien term loan lenders (the "Junior Lenders"), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Jonathan Henes, and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654, Attn.: Marc Kieselstein and Alexandra Schwarzman; (vii) counsel to the official committee of unsecured creditors (if any) appointed in these chapter 11 cases; and (viii) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"), a declaration of such status, substantially in the form of **Exhibit 1A** attached to the Procedures (each, a "Declaration of Status as a Substantial Shareholder"), on or before the later of (A) 30 calendar days after the date of the Notice of Interim Order (as defined herein), or (B) 10 calendar days after becoming a Substantial Shareholder; *provided* that each of Michael Riggs, TMR Holding Company, LLC and the T.

Michael Riggs Irrevocable Trust of 2014 (the “Riggs Shareholders”), shall be deemed a Substantial Shareholder and shall not be required to file a Declaration of Status as a Substantial Shareholder.

- b. Prior to effectuating any transfer of Beneficial Ownership of Common Stock that would result in an increase in the amount of Common Stock of which a Substantial Shareholder has Beneficial Ownership or would result in an entity or individual becoming a Substantial Shareholder, such Substantial Shareholder or potential Substantial Shareholder must file with the Court, and serve upon the Notice Parties, an advance written declaration of the intended transfer of Common Stock, substantially in the form of **Exhibit 1B** attached to the Procedures (each, a “Declaration of Intent to Accumulate Common Stock”).
- c. Prior to effectuating any transfer of Beneficial Ownership of Common Stock that would result in a decrease in the amount of Common Stock of which a Substantial Shareholder has Beneficial Ownership or would result in an entity or individual ceasing to be a Substantial Shareholder, such Substantial Shareholder must file with the Court, and serve upon the Notice Parties, an advance written declaration of the intended transfer of Common Stock, substantially in the form of **Exhibit 1C** attached to the Procedures (each, a “Declaration of Intent to Transfer Common Stock” and together with a Declaration of Intent to Accumulate Common Stock, each, a “Declaration of Proposed Transfer”).
- d. The Debtors shall have 15 calendar days after receipt of a Declaration of Proposed Transfer to file with the Court and serve on such Substantial Shareholder or potential Substantial Shareholder an objection to any proposed transfer of Beneficial Ownership of Common Stock described in the Declaration of Proposed Transfer on the grounds that such transfer might adversely affect the Debtors’ ability to utilize their Tax Attributes. If the Debtors file an objection, the proposed transaction will remain ineffective unless such objection is withdrawn by the Debtors or such transaction is approved by a final and nonappealable order of the Court. If the Debtors do not object within such 15-day period, the proposed transaction can proceed solely as set forth in the Declaration of Proposed Transfer. Further transactions within the scope of this paragraph must be the subject of additional notices in accordance with the procedures set forth herein, with an additional 15-day waiting period for each Declaration of Proposed Transfer.
- e. For purposes of the Procedures: (i) a “Substantial Shareholder” is any entity or individual that has Beneficial Ownership of at least 133,466 shares and warrants exercisable for shares of Common Stock (representing

approximately 4.5% of all issued and outstanding shares of Common Stock, treating each warrant exercisable for shares as an outstanding share for this purpose),³ including, for the avoidance of doubt, each of the Riggs Shareholders; (ii) “Beneficial Ownership” shall be determined in accordance with the applicable rules of section 382 of the Internal Revenue Code and the Treasury Regulations thereunder (other than Treasury Regulations Section 1.382-2T(h)(2)(i)(A)) and includes direct and indirect ownership (e.g., a holding company would be considered to beneficially own all shares owned or acquired by its subsidiaries and a partner in a partnership would be considered to own its proportionate share of any equity securities owned by such partnership), ownership by such holder’s family members and entities acting in concert with such holder to make a coordinated acquisition of equity securities, and to the extent set forth in Treasury Regulations Section 1.382-4, ownership of equity securities that such holder has an Option to acquire; and (iii) an “Option” to acquire stock includes any contingent purchase right, warrant, convertible debt, put, call, stock subject to risk of forfeiture, contract to acquire stock, or similar interest, regardless of whether such interest is contingent or otherwise not currently exercisable.

Procedures for Declarations of Worthlessness of the Common Stock

- a. Any person or entity that currently is or becomes a 50% Shareholder (as defined below) must file with the Court, and serve the Notice Parties, a notice of such status, in the form of **Exhibit 1D** attached to the Procedures, on or before the later of (i) 30 calendar days after the date of the Notice of Interim Order and (ii) 10 calendar days after becoming a 50% Shareholder; *provided* that each of the Riggs Shareholders shall be deemed a 50% Shareholder and shall not be required to file a notice of such status.
- b. Prior to filing any federal, state or local tax return, or any amendment to such a return, claiming any deduction for worthlessness of the Common Stock, for a tax year ending before the earlier of (i) the Debtors’ emergence from chapter 11 protection and (ii) a taxable sale of substantially all of the assets of the Debtors, such 50% Shareholder must file with the Court, and serve upon the Notice Parties, an advance written notice in the form of **Exhibit 1E** attached to the Procedures (a “Declaration of Intent to Claim a Worthless Stock Deduction”) of the intended claim of worthlessness.

³ Based on approximately 2,965,909 shares (and warrants exercisable for shares) of Common Stock outstanding as of the Petition Date.

- c. The Debtors will have 15 calendar days after receipt of a Declaration of Intent to Claim a Worthless Stock Deduction to file with the Court and serve on such 50% Shareholder an objection to any proposed claim of worthlessness described in the Declaration of Intent to Claim a Worthless Stock Deduction on the grounds that such claim might adversely affect the Debtors' ability to utilize their Tax Attributes. During such 15-day period, and while any objection by the Debtors to the proposed claim is pending, such 50% Shareholder shall not claim, or cause to be claimed, the proposed worthless stock deduction to which the Declaration of Intent to Claim a Worthless Stock Deduction relates and thereafter in accordance with the Court's ruling, and, as applicable, any appellate rules and procedures. If the Debtors do not object within such 15-day period, the filing of the tax return with such claim would be permitted solely as set forth in the Declaration of Intent to Claim a Worthless Stock Deduction. Additional tax returns within the scope of this paragraph must be the subject of additional notices as set forth herein, with an additional 15-day waiting period.
- d. For purposes of these Procedures, a "50% Shareholder" is any person or entity that currently is or becomes a "50-percent shareholder" (within the meaning of section 382(g)(4)(D) of the IRC and the applicable Treasury Regulations), including, for the avoidance of doubt, each of the Riggs Shareholders.

Other Procedures

- a. No later than two business days following entry of the interim order, the Debtors shall serve by overnight mail, postage prepaid a notice, substantially in the form of **Exhibit 1F** attached to the Procedures (the "Notice of Interim Order"), on: (i) the Office of the United States Trustee for the Northern District of Georgia; (ii) the Debtors' thirty (30) largest unsecured creditors; (iii) counsel to the Prepetition Secured Parties; (iv) counsel to the administrative agents for the Debtors' prepetition credit facilities; (v) counsel to the administrative agents for the Debtors' debtor-in-possession financing facilities; (vi) the United States Securities and Exchange Commission; (vii) the Internal Revenue Service; (viii) the Georgia Department of Revenue; (ix) the Attorney General for the State of Georgia; (x) the United States Attorney for the Northern District of Georgia; (xi) the state attorneys general for states in which the Debtors conduct business; (xii) the Pension Benefit Guaranty Corporation; (xiii) any official committees appointed in these chapter 11 cases; and (xiv) all registered holders of Common Stock. Additionally, no later than two business days following entry of the final order, the Debtors shall serve a Notice of Interim Order modified to reflect that the final order has been

entered (as modified, the “Notice of Final Order”) on the same entities that received the Notice of Interim Order.

- b. All registered holders of Common Stock shall be required to serve the Notice of Interim Order or Notice of Final Order, as applicable, on all holders for whose benefit such registered holder holds such Common Stock down the chain of ownership.
- c. Any entity or broker or agent acting on such entity’s or individual’s behalf who sells in excess of 133,466 shares and warrants exercisable for shares of Common Stock (*i.e.*, approximately 4.5% of all issued and outstanding shares of Common Stock, treating each warrant exercisable for shares as outstanding for this purpose) to another entity shall be required to serve a copy of the Notice of Interim Order or Notice of Final Order, as applicable, on such purchaser of such Common Stock or any broker or agent acting on such purchaser’s behalf.
- d. To the extent confidential information is required in any declaration described in the Procedures, such confidential information may be filed and served in redacted form; *provided, however*, that any such declarations served on the Debtors ***shall not*** be in redacted form. The Debtors shall keep all information provided in such declarations strictly confidential and shall not disclose the contents thereof to any person except (i) to the extent necessary to respond to a petition or objection filed with the Court (ii) to the extent otherwise required by law or (iii) to the extent that the information contained therein is already public; *provided, however*, that the Debtors may disclose the contents thereof to their professional advisors, who shall keep all such declarations strictly confidential and shall not disclose the contents thereof to any other person, subject to further Court order. To the extent confidential information is necessary to respond to a petitioner objection filed with the Court, such confidential information shall be filed under seal or in a redacted form. For the avoidance of doubt, to the extent confidential information is required in any declaration described in these Procedures, such confidential information shall be served in redacted form to the Notice Parties.
- e. The Debtors may, solely with the Junior Lenders’ consent (not to be unreasonably withheld, conditioned or delayed) waive, in writing, any and all restrictions, stays, and notification Procedures contained in this Notice.

Basis for Relief

13. Section 541 of the Bankruptcy Code provides that property of the estate comprises, among other things, “all legal or equitable interests of the debtor in property as of the

commencement of the case.” 11 U.S.C. § 541. The Tax Attributes are property of the Debtors’ estates. *See In re Prudential Lines, Inc.*, 107 B.R. 832, 839 (Bankr. S.D.N.Y. 1989) (“[D]ebtor’s potential ability to utilize NOLs is property of an estate.”), *aff’d*, 119 B.R. 430 (S.D.N.Y. 1990), *aff’d*, 928 F.2d 565 (2d Cir. 1991), *cert. denied*, 502 U.S. 821 (1991); *see also In re Forman Enters., Inc.*, 273 B.R. 408, 416 (Bankr. W.D. Pa. 2002) (holding that NOLs are property of the debtors’ estates); *In re Delta Air Lines, Inc.*, No. 05-17923 (PCB) (Bankr. S.D.N.Y. Sept. 16, 2005) (same); *In re White Metal Rolling & Stamping Corp.*, 222 B.R. 417, 424 (Bankr. S.D.N.Y. 1998) (same). Section 362(a)(3) of the Bankruptcy Code, moreover, stays “any act [of an entity] to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” 11 U.S.C. § 362(a)(3). Accordingly, any act of a holder of a debtor’s equity securities that causes the termination, or limits use, of the NOLs violates the automatic stay. *In re Grossman’s, Inc.*, No. 97-695 (PJW), 1997 WL 33446314, at *1 (Bankr. D. Del. Oct. 9, 1997) (holding that the debtors’ NOLs were property of the debtors’ estates and protected by the automatic stay); *In re Phar-Mor, Inc.*, 152 B.R. 924, 927 (Bankr. N.D. Ohio 1993) (“[T]he sale of stock is prohibited by § 362(a)(3) as an exercise of control over the NOL, which is property of the estate.”).

14. Implementation of the Procedures is necessary and appropriate to enforce the automatic stay and, critically, to preserve the value of the Tax Attributes for the benefit of the Debtors’ estates. Under section 382 of the IRC, certain transfers of, or declarations of worthlessness with respect to, the Common Stock prior to the consummation of a chapter 11 plan could cause the termination, or limit the use, of the Tax Attributes. As stated above, the Debtors believe that, as of December 31, 2018, they had state NOLs of approximately \$238.1 million and

federal NOLs of approximately \$23 million and disallowed business interest carryforwards of approximately \$80 million. The Tax Attributes translate to the potential for material future tax savings or other potential tax structuring opportunities in these chapter 11 cases. The termination or limitation of the Tax Attributes could be materially detrimental to all parties in interest. Thus, granting the relief requested herein will preserve the Debtors' flexibility in operating the Debtors' businesses during the pendency of these chapter 11 cases and implementing an exit plan that makes full and efficient use of the Tax Attributes and maximizes the value of the Debtors' estates.

15. Additionally, the Procedures do not bar all transfers of, or declarations of worthlessness with respect to Beneficial Ownership of Common Stock. The Debtors seek to establish procedures only to monitor those types of transactions that would pose a risk under the ownership change test pursuant to section 382 of the IRC to preserve the Debtors' ability to seek substantive relief if it appears that a proposed transfer or declaration of worthlessness could jeopardize the Debtors' utilization of the Tax Attributes.

16. Courts in this jurisdiction and others have routinely restricted transfers of equity interests in, and declarations of worthlessness with respect to, stock of a debtor, or instituted notice procedures regarding proposed transfers and declarations of worthlessness, to protect a debtor against the possible loss of its tax attributes. *See, e.g., In re Gymboree Group, Inc.*, Case No. 19-30258 (KLP) (Bankr. D. Del Jan. 17, 2019) [Docket No. 82]; *In re Parker Drilling Company*, Case No. 18-36958 (MI) (Bankr. S.D. Tex. Jan. 3, 2019) [Docket. No. 177]; *In re Bon-Ton Stores, Inc.*, Case No. 18-10248 (MFW) (Bankr. D. Del. Mar. 6, 2018) [Docket. No. 287]; *In re iHeartMedia, Inc.*, Case No. 18-31274 (MI) (Bankr. S.D. Tex. April 12, 2018)

[Docket. No. 455]; *In re Payless Holdings, LLC*, Case No. 17-42267-659 (KAS) (Bankr. E.D. Mo. May 9, 2017) [Docket No. 640]; *In re Arch Coal, Inc.*, Case No. 16-40120 (CER) (Bankr. E.D. Mo. Jan. 14, 2016 [Docket. No. 92]; *In re Walter Energy, Inc.*, 15-02741 (TOM11) (Bankr. N.D. Ala. July 16, 2015) [Docket No. 72].⁴

The Requirements of Bankruptcy Rule 6003 are Satisfied

17. Under Bankruptcy Rule 6003, the Court may grant relief regarding a motion to use, sell, or lease property of the estate within 21 days after the Petition Date if the relief is necessary to avoid immediate and irreparable harm. The Debtors respectfully submit that Bankruptcy Rule 6003 does not apply to this motion because the Debtors are not seeking to use, sell, or lease property of the estate. *See* Advisory Comm. Note to 2011 Amendment to Fed. R. Bankr. P. 6003 (“[T]he rule does not prohibit the court from entering orders in the first 21 days of the case that *may relate* to the motions and applications set out in (a), (b), and (c); it is only prohibited from granting the relief requested by those motions or applications.” (emphasis added)). Even if Bankruptcy Rule 6003 were applicable to this motion, however, the “immediate and irreparable” harm standard is satisfied. As discussed herein, the NOLs are a key asset of the Debtors’ estates and essential to the Debtors’ restructuring. The loss of the NOLs would therefore cause immediate and irreparable harm to the Debtors’ estates. Accordingly, to the extent Bankruptcy Rule 6003 applies to the relief requested herein, its requirements are satisfied.

⁴ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

18. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

19. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' or any party in interest's rights to dispute and/or contest any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their right to contest any claim related to the relief sought herein. Likewise, if the Court grants the relief sought herein, any payment made pursuant to an order of the Court is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute and/or contest such claim.

Notice

20. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors' thirty (30) largest unsecured creditors; (c) counsel to the Prepetition Secured Parties; (d) counsel to the administrative agents for the Debtors' prepetition credit facilities; (e) counsel to the administrative agents for the Debtors' debtor-in-possession financing facilities; (f) the United States Securities and Exchange Commission; (g) the Internal Revenue Service; (h) the Georgia Department of Revenue; (i) the Attorney General for the State of Georgia; (j) the United States Attorney for the Northern

District of Georgia; (k) the state attorneys general for states in which the Debtors conduct business; (l) the registered and nominee holders of the Common Stock; (m) the Pension Benefit Guaranty Corporation; and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

21. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request that the Court enter the Interim Order and Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

Dated: August 6, 2019
Atlanta, Georgia

/s/ Sarah R. Borders

Sarah R. Borders
Georgia Bar No. 610649
Leia Clement Shermohammed
Georgia Bar No. 972711
Britney Baker
Georgia Bar No. 625752
KING & SPALDING LLP
1180 Peachtree Street NE
Atlanta, Georgia 30309
Telephone: (404) 572-4600
Email: sborders@kslaw.com
Email: lshermohammed@kslaw.com
Email: bbaker@kslaw.com

-and-

Kelley A. Cornish (*pro hac vice* pending)
New York Bar No. 1930767
Brian S. Hermann (*pro hac vice* pending)
New York Bar No. 2810232
**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Email: kcornish@paulweiss.com
Email: bhermann@paulweiss.com

Proposed Counsel for the Debtors in Possession

Exhibit A

Interim Order

Exhibit B

Final Order

This is Exhibit "FF" referred to in the
Affidavit of Waleed Malik, solemnly affirmed before me,
this 8th day of August, 2019



A Commissioner for Taking Affidavits



**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:

JACK COOPER VENTURES, INC., *et al.*¹

Debtors.

)
) Chapter 11
)
) Case No. 19-62393 (PWB)
)
) (Joint Administration Requested)
)

**DEBTORS' APPLICATION FOR APPOINTMENT OF
PRIME CLERK LLC AS CLAIMS, NOTICING AND SOLICITATION AGENT**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) file this application (the “Application”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Retention Order”), pursuant to section 156(c) of title 28 of the United States Code and section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), appointing Prime Clerk LLC (“Prime Clerk”) as claims, noticing and solicitation agent (“Claims and Noticing Agent”) in the Debtors’ chapter 11 cases effective *nunc pro tunc* to the Petition Date (as defined below). In support of this Application, the Debtors submit the Declaration of Benjamin J. Steele, Vice President of Prime Clerk (the “Steele Declaration”), attached hereto as

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Jack Cooper Ventures, Inc. (0805); Jack Cooper Diversified, LLC (9414); Jack Cooper Enterprises, Inc. (3001); Jack Cooper Holdings Corp. (2446); Jack Cooper Transport Company, Inc. (3030); Auto Handling Corporation (4011); CTEMS, LLC (7725); Jack Cooper Logistics, LLC (3433); Auto & Boat Relocation Services, LLC (9095); Axis Logistic Services, Inc. (2904); Jack Cooper CT Services, Inc. (3523); Jack Cooper Rail and Shuttle, Inc. (7801); Jack Cooper Investments, Inc. (6894); North American Auto Transportation Corp. (8293); Jack Cooper Transport Canada Inc. (8666); Jack Cooper Canada GP 1 Inc. (7030); Jack Cooper Canada GP 2 Inc. (2373); Jack Cooper Canada 1 Limited Partnership (3439); and Jack Cooper Canada 2 Limited Partnership (7839). The location of the Debtors’ corporate headquarters and service address is: 630 Kennesaw Due West Road NW, Kennesaw, Georgia 30152.

Exhibit B, and respectfully represent as follows:

Jurisdiction and Venue

1. The United States Bankruptcy Court for the Northern District of Georgia (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Application is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are section 156(c) of title 28 of the United States Code, sections 105(a) and 327 of the Bankruptcy Code and Rules 2002(f), 2014(a), and 2016 of the Federal Rules of Bankruptcy Procedure.

Background

4. On the date hereof (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

7. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these chapter 11 cases, is set forth in more detail in the *Declaration of Greg May, the Debtors’ Chief Financial Officer, in Support of First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith and incorporated herein by reference.

Relief Requested

8. The Debtors request entry of an order appointing Prime Clerk as the Claims and Noticing Agent for the Debtors and their chapter 11 cases, to, among other tasks, (i) serve as the noticing agent to mail notices to the estates' creditors, equity security holders, and parties in interest; (ii) provide computerized claims, objection, solicitation, and balloting database services; and (iii) provide expertise, consultation, and assistance in claim and ballot processing and other administrative services with respect to the Debtors' chapter 11 cases, pursuant to the provisions of the Engagement Agreement (defined below). The Debtors' selection of Prime Clerk to act as the Claims and Noticing Agent is appropriate under the circumstances and in the best interest of the estates. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that Prime Clerk's rates are competitive and reasonable given Prime Clerk's quality of services and expertise. The terms of Prime Clerk's retention are set forth in the Engagement Agreement attached hereto as **Exhibit C** (the "Engagement Agreement").

9. Although the Debtors have not yet filed their schedules of assets and liabilities, they anticipate that there will be thousands of persons and entities to be noticed and that many of these parties will file claims. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of a claims and noticing agent will provide the most effective and efficient means of, and relieve the Debtors and/or the Clerk's Office of the administrative burden of, noticing, administering claims, and soliciting and tabulating votes and is in the best interests of both the Debtors' estates and their creditors.

Prime Clerk's Qualifications

10. Prime Clerk is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. Prime Clerk's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Prime Clerk's professionals have acted as debtor's counsel or official claims and noticing agent in many large bankruptcy cases in various districts nationwide. Prime Clerk's active cases include: *In re Bristow Group Inc.*, No. 19-32713 (DRJ) (Bankr. S.D. Tex.); *Parker Drilling Company*, No. 18-36960 (MI) (Bankr. S.D. Tex.); *In re iHeartMedia, Inc.*, No. 18-31274 (MI) (Bank. S.D. Tex.), *Fieldwood Energy LLC*, No. 18-30648 (DRJ) (Bankr. S.D. Tex.); *Castex Energy Partners, L.P.*, No. 17-35835 (MI) (Bankr. S.D. Tex.); *In re Vanguard Natural Resources, LLC*, No. 17-30560 (MI) (Bankr. S.D. Tex.); *TK Holdings Inc.*, No. 17-11375 (BLS) (Bankr. D. Del.); *Checkout Holding Corp.*, No. 18-12794 (KG) (Bankr. D. Del.); *Fairway Energy, LP*, No. 18-12684 (LSS) (Bankr. D. Del.); *Dixie Electric, LLC*, No. 18-12477 (KG) (Bankr. D. Del.); *New MACH Gen GP, LLC*, No. 18-11369 (MFW) (Bankr. D. Del.); *Gibson Brands, Inc.*, No. 18-11028 (CSS) (Bankr. D. Del.); *Bertucci's Holdings, Inc.*, No. 18-10894 (MFW) (Bankr. D. Del.); *Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del.); *Sears Holdings Corporation*, No. 18-23538 (RDD) (Bankr. S.D.N.Y.); *Aralez Pharmaceuticals US Inc.*, No. 18-12425 (SMB) (Bankr. S.D.N.Y.); *Relativity Media, LLC*, No. 18-11358 (MEW) (Bankr. S.D.N.Y.); *Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y.); *Rentech WP U.S., Inc.*, No. 17-12958 (CSS) (Bankr. D. Del.); *Appvion, Inc.*, No. 17-12082 (KJC) (Bankr. D. Del.); *Global Brokerage, Inc.*, No. 17-13532 (MEW) (Bankr. S.D.N.Y.); *Global A&T*

Electronics Ltd., No. 17-23931 (RDD) (Bankr. S.D.N.Y.); *Pacific Drilling S.A.*, No. 17-13193 (MEW) (Bankr. S.D.N.Y.); *Walter Investment Management Corporation*, No. 17-13446 (JLG) (Bankr. S.D.N.Y.); *Toys “R” Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va.).

Services to Be Provided

11. This Application pertains to the work to be performed by Prime Clerk under 11 U.S.C. § 327(a) and under the delegation of duties by the Office of the Clerk of the Bankruptcy Court (the “Clerk”) permitted by 28 U.S.C. § 156(c). Under the Engagement Agreement, Prime Clerk will perform the following services, as the Notice and Claims Agent, at the request of the Debtors or the Clerk’s Office:

- (a) assist the Debtors with the preparation and distribution of all required notices and documents in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including: (i) notice of any claims bar date, (ii) notice of any proposed sale of the Debtor’s assets, (iii) notices of objections to claims and objections to transfers of claims, (iv) notices of any hearings on a disclosure statement and confirmation of any plan or plans of reorganization, including under Bankruptcy Rule 3017(d), (v) notice of the effective date of any plan, and (vi) all other notices, orders, pleadings, publications and other documents as the Debtors, Court, or Clerk may deem necessary or appropriate for an orderly administration of these chapter 11 cases;
- (b) maintain an official copy of the Debtors’ schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules”), listing the Debtors’ known creditors and the amounts owed thereto;
- (c) maintain (i) a list of all potential creditors, equity holders and other parties-in-interest and (ii) a “core” mailing list consisting of all parties described in Bankruptcy Rule 2002(i), (j) and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update and make said lists available upon request by a party-in-interest or the Clerk;
- (d) furnish a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Court, and notify said potential creditors of the existence, amount and

classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;

- (e) maintain a post office box or address for receiving claims and returned mail, and process all mail received;
- (f) for all notices, motions, orders or other pleadings or documents served, prepare and file or cause to be filed with the Clerk an affidavit or certificate of service within seven (7) days of service which includes (i) either a copy of the notice served or the docket number(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;
- (g) receive and process all proofs of claim received, including those received by the Clerk, check said processing for accuracy and maintain the original proofs of claim in a secure area;
- (h) provide an electronic interface for filing proofs of claim;
- (i) maintain the official claims register for each Debtor (collectively, the “Claims Registers”) on behalf of the Clerk; upon the Clerk’s request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the address for payment, if different from the notice address; (v) the amount asserted, (vi) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.), and (vii) any disposition of the claim;
- (j) implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (k) record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (l) relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Prime Clerk, not less than weekly;
- (m) monitor the Court’s docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Registers and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;

- (n) identify and correct any incomplete or incorrect addresses in any mailing or service lists;
- (o) assist in the dissemination of information to the public and respond to requests for administrative information regarding these chapter 11 cases as directed by the Debtors or the Court, including through the use of a case website and/or call center;
- (p) monitor the Court's docket in these chapter 11 cases and, when filings are made in error or containing errors, alert the filing party of such error and work with them to correct any such error;
- (q) comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders, and other requirements;
- (r) if these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contact the Clerk's office within three (3) days of notice to Prime Clerk of entry of the order converting the cases;
- (s) thirty (30) days prior to the close of these chapter 11 cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing Prime Clerk as claims, noticing, and solicitation agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases;
- (t) within seven (7) days of notice to Prime Clerk of entry of an order closing these chapter 11 cases, provide to the Court the final versions of the Claims Registers as of the date immediately before the close of the cases;
- (u) at the close of these chapter 11 cases, (i) box and transport all original documents, in proper format, as provided by the Clerk's office, to (A) the Philadelphia Federal Records Center, 14700 Townsend Road, Philadelphia, PA 19154 or (B) any other location requested by the Clerk's office; and (ii) docket a completed SF-135 Form indicating the accession and location numbers of the archived claims;
- (v) assist the Debtors with plan-solicitation services including: (i) balloting, (ii) distribution of applicable solicitation materials, (iii) tabulation and calculation of votes, (iv) determining with respect to each ballot cast, its timeliness and its compliance with the Bankruptcy Code, Bankruptcy Rules, and procedures ordered by this Court; (v) preparing an official ballot certification and testifying, if necessary, in support of the ballot tabulation results; and (vi) in connection with the foregoing services, process requests for documents from parties in interest, including, if applicable, brokerage firms, bank back-offices and institutional holders;

- (w) assist with the preparation of the Debtors' schedules of assets and liabilities and statements of financial affairs and gather data in conjunction therewith;
- (x) provide a confidential data room, if requested;
- (y) manage and coordinate any distributions pursuant to a chapter 11 plan; and
- (z) provide such other processing, solicitation, balloting and other administrative services described in the Engagement Agreement that may be requested from time to time by the Debtors, the Court or the Clerk's Office.

12. The Claims Registers shall be open to the public for examination without charge during regular business hours and on a case-specific website maintained by Prime Clerk.

Professional Compensation

13. The Debtors respectfully request that the undisputed fees and expenses incurred by Prime Clerk in the performance of the above services be treated as administrative expenses of the Debtors' chapter 11 estates pursuant to 28 U.S.C. § 156(c) and section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business pursuant to the Engagement Agreement without further application to or order of the Court. Prime Clerk agrees to maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors and any party in interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

14. Prior to the Petition Date, the Debtors provided Prime Clerk an advance in the amount of \$25,000. Prime Clerk seeks to first apply the advance to all prepetition invoices, and thereafter, to have the advance replenished to the original advance amount, and thereafter, to hold the advance under the Engagement Agreement during these chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement. Upon cessation of Prime Clerk's engagement, any unused advance amounts after payment of all outstanding fees and expenses under the Engagement Agreement will be returned to the Debtors.

15. Additionally, under the terms of the Engagement Agreement, the Debtors have agreed to indemnify, defend, and hold harmless Prime Clerk and its members, officers, employees, representatives, and agents under certain circumstances specified in the Engagement Agreement, except in circumstances resulting solely from Prime Clerk's gross negligence or willful misconduct or as otherwise provided in the Engagement Agreement or Retention Order. The Debtors believe that such an indemnification obligation is customary, reasonable, and necessary to retain the services of a claims and noticing agent in these chapter 11 cases.

Disinterestedness

16. Prime Clerk has reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest provided by the Debtors, and, to the best of the Debtors' knowledge, information, and belief, and except as disclosed in the Steele Declaration, Prime Clerk has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

17. To the best of the Debtors' knowledge, Prime Clerk is a "disinterested person" as that term is defined in Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b), as Prime Clerk represents in the Steele Declaration, among other things, that:

- (a) Prime Clerk, its members and employees are not and were not, within two years before the date of the filing of these chapter 11 cases, creditors, equity security holders, insiders or employees of the Debtors;
- (b) Prime Clerk will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in these chapter 11 cases;
- (c) By accepting employment in these chapter 11 cases, Prime Clerk waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;
- (d) In its capacity as the Claims and Noticing Agent in these chapter 11 cases, Prime Clerk will not be an agent of the United States and will not act on behalf of the United States;
- (e) Prime Clerk will not employ any past or present employees of the Debtors in connection with its work as the Claims and Noticing Agent in these chapter 11 cases;
- (f) In its capacity as Claims and Noticing Agent in these chapter 11 cases, Prime Clerk will not intentionally misrepresent any fact to any person.
- (g) Prime Clerk shall be under the supervision and control of the Clerk's office with respect to the receipt and recordation of claims and claim transfers;
- (h) Prime Clerk will comply with all requests of the Clerk's office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- (i) None of the services provided by Prime Clerk as Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk's office.

Prime Clerk will supplement its disclosure to the Court if any facts or circumstances are

discovered that would require such additional disclosure.

18. To the extent that there is any inconsistency between this Application, the Retention Order, and the Engagement Agreement, the Retention Order shall govern.

Notice

19. The Debtors have provided notice of this Application to: (a) the Office of the United States Trustee for the Northern District of Georgia; (b) the Debtors' thirty (30) largest unsecured creditors; (c) counsel to the Prepetition Secured Parties; (d) counsel to the administrative agents for the Debtors' prepetition credit facilities; (e) counsel to the administrative agents for the Debtors' debtor-in-possession financing facilities; (f) the United States Securities and Exchange Commission; (g) the Internal Revenue Service; (h) the Georgia Department of Revenue; (i) the Attorney General for the State of Georgia; (j) the United States Attorney for the Northern District of Georgia; (k) the state attorneys general for states in which the Debtors conduct business; (l) the Pension Benefit Guaranty Corporation; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

20. No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing Prime Clerk to act as Claims and Noticing Agent for the Debtors and granting such other relief as may be appropriate.

Dated: August 6, 2019
Atlanta, Georgia

/s/ Sarah R. Borders

Sarah R. Borders
Georgia Bar No. 610649
Leia Clement Shermohammed
Georgia Bar No. 972711
Britney Baker
Georgia Bar No. 625752
KING & SPALDING LLP
1180 Peachtree Street NE
Atlanta, Georgia 30309
Telephone: (404) 572-4600
Email: sborders@kslaw.com
Email: lshermohammed@kslaw.com
Email: bbaker@kslaw.com

-and-

Kelley A. Cornish (*pro hac vice* pending)
New York Bar No. 1930767
Brian S. Hermann (*pro hac vice* pending)
New York Bar No. 2810232
**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Email: kcornish@paulweiss.com
Email: bhermann@paulweiss.com

Proposed Counsel for the Debtors in Possession

Exhibit A

Proposed Retention Order

Exhibit B

Steele Declaration

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	
)	Chapter 11
JACK COOPER VENTURES, INC., <i>et al.</i> ¹)	
)	Case No. 19-62393 (PWB)
Debtors.)	(Joint Administration Requested)
)	

**DECLARATION OF BENJAMIN J. STEELE IN SUPPORT
OF DEBTORS' APPLICATION FOR APPOINTMENT OF
PRIME CLERK LLC AS CLAIMS, NOTICING AND SOLICITATION AGENT**

I, Benjamin J. Steele, under penalty of perjury, declare as follows:

1. I am a Vice President of Prime Clerk LLC ("**Prime Clerk**"), a chapter 11 administrative services firm whose headquarters are located at One Grand Central Place, 60 East 42nd Street, Suite 1440, New York, New York 10165. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Jack Cooper Ventures, Inc. (0805); Jack Cooper Diversified, LLC (9414); Jack Cooper Enterprises, Inc. (3001); Jack Cooper Holdings Corp. (2446); Jack Cooper Transport Company, Inc. (3030); Auto Handling Corporation (4011); CTEMS, LLC (7725); Jack Cooper Logistics, LLC (3433); Auto & Boat Relocation Services, LLC (9095); Axis Logistic Services, Inc. (2904); Jack Cooper CT Services, Inc. (3523); Jack Cooper Rail and Shuttle, Inc. (7801); Jack Cooper Investments, Inc. (6894); North American Auto Transportation Corp. (8293); Jack Cooper Transport Canada Inc. (8666); Jack Cooper Canada GP 1 Inc. (7030); Jack Cooper Canada GP 2 Inc. (2373); Jack Cooper Canada 1 Limited Partnership (3439); and Jack Cooper Canada 2 Limited Partnership (7839). The location of the Debtors' corporate headquarters and service address is: 630 Kennesaw Due West Road NW, Kennesaw, Georgia 30152.

2. This Declaration is made in support of the above-captioned debtors' (collectively, the "Debtors") *Application for Appointment of Prime Clerk LLC as Claims, Noticing and Solicitation Agent*, which was filed contemporaneously herewith (the "Application").²

3. Prime Clerk is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. Prime Clerk's professionals have experience in noticing, claims administration, solicitation, balloting, and facilitating other administrative aspects of chapter 11 cases and experience in matters of this size and complexity. Prime Clerk's professionals have acted as debtor's counsel or official claims and noticing agent in many large bankruptcy cases in various districts nationwide. Prime Clerk's active cases include: *In re Bristow Group Inc.*, No. 19-32713 (DRJ) (Bankr. S.D. Tex.); *Parker Drilling Company*, No. 18-36960 (MI) (Bankr. S.D. Tex.); *In re iHeartMedia, Inc.*, No. 18-31274 (MI) (Bank. S.D. Tex.), *Fieldwood Energy LLC*, No. 18-30648 (DRJ) (Bankr. S.D. Tex.); *Castex Energy Partners, L.P.*, No. 17-35835 (MI) (Bankr. S.D. Tex.); *In re Vanguard Natural Resources, LLC*, No. 17-30560 (MI) (Bankr. S.D. Tex.); *TK Holdings Inc.*, No. 17-11375 (BLS) (Bankr. D. Del.); *Checkout Holding Corp.*, No. 18-12794 (KG) (Bankr. D. Del.); *Fairway Energy, LP*, No. 18-12684 (LSS) (Bankr. D. Del.); *Dixie Electric, LLC*, No. 18-12477 (KG) (Bankr. D. Del.); *New MACH Gen GP, LLC*, No. 18-11369 (MFW) (Bankr. D. Del.); *Gibson Brands, Inc.*, No. 18-11028 (CSS) (Bankr. D. Del.); *Bertucci's Holdings, Inc.*, No. 18-10894 (MFW) (Bankr. D. Del.); *Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del.); *Sears Holdings Corporation*, No. 18-23538 (RDD) (Bankr. S.D.N.Y.); *Aralez Pharmaceuticals US Inc.*, No. 18-12425 (SMB) (Bankr. S.D.N.Y.); *Relativity Media, LLC*, No. 18-11358 (MEW)

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Application.

(Bankr. S.D.N.Y.); *Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y.); *Rentech WP U.S., Inc.*, No. 17-12958 (CSS) (Bankr. D. Del.); *Appvion, Inc.*, No. 17-12082 (KJC) (Bankr. D. Del.); *Global Brokerage, Inc.*, No. 17-13532 (MEW) (Bankr. S.D.N.Y.); *Global A&T Electronics Ltd.*, No. 17-23931 (RDD) (Bankr. S.D.N.Y.); *Pacific Drilling S.A.*, No. 17-13193 (MEW) (Bankr. S.D.N.Y.); *Walter Investment Management Corporation*, No. 17-13446 (JLG) (Bankr. S.D.N.Y.); *Toys “R” Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va.).

4. As agent and custodian of Court records pursuant to 28 U.S.C. § 156(c), Prime Clerk will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the “Clerk”), the services specified in the Application and the Engagement Agreement, and, at the Debtors’ request, any related administrative, technical, and support services as specified in the Application and the Engagement Agreement. In performing such services, Prime Clerk will charge the Debtors the rates set forth in the Engagement Agreement, which is attached as **Exhibit C** to the Application.

5. Prime Clerk represents, among other things, the following:

- (a) Prime Clerk, its members and employees are not and were not, within two years before the date of the filing of these chapter 11 cases, creditors, equity security holders, insiders or employees of the Debtors;
- (b) Prime Clerk will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in these chapter 11 cases;
- (c) By accepting employment in these chapter 11 cases, Prime Clerk waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;

- (d) In its capacity as the Claims and Noticing Agent in these chapter 11 cases, Prime Clerk will not be an agent of the United States and will not act on behalf of the United States;
- (e) Prime Clerk will not employ any past or present employees of the Debtors in connection with its work as the Claims and Noticing Agent in these chapter 11 cases;
- (f) Prime Clerk is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;
- (g) In its capacity as Claims and Noticing Agent in these chapter 11 cases, Prime Clerk will not intentionally misrepresent any fact to any person;
- (h) Prime Clerk shall be under the supervision and control of the Clerk’s office with respect to the receipt and recordation of claims and claim transfers;
- (i) Prime Clerk will comply with all requests of the Clerk’s office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and
- (j) None of the services provided by Prime Clerk as Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk’s office.

6. In accordance with 11 U.S.C. § 327(a) and Federal Rule of Bankruptcy Procedure 2014, I caused to be submitted for review by our conflicts system the names of all known potential parties in interest (the “Potential Parties in Interest”) in these chapter 11 cases. The list of Potential Parties in Interest was provided by the Debtors and included, among other parties, the Debtors, current directors and officers of the Debtors, professionals, significant stockholders, secured creditors, lenders, the Debtors’ 30 largest unsecured creditors on a consolidated basis, contract counterparties, landlords, vendors, customers, and other parties. The results of the conflict check were compiled and reviewed by Prime Clerk professionals under my supervision. At this time, and as set forth in further detail herein, Prime Clerk is not aware of

any connection that would present a disqualifying conflict of interest. Should Prime Clerk discover any new relevant facts or connections bearing on the matters described herein during the period of its retention, Prime Clerk will use reasonable efforts to file promptly a supplemental declaration.

7. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither Prime Clerk, nor any of its professionals, has any materially adverse connection to the Debtors, their creditors or other relevant parties. Prime Clerk may have relationships with certain of the Debtors' creditors as vendors or in connection with cases in which Prime Clerk serves or has served in a neutral capacity as claims and noticing agent and/or administrative advisor for another chapter 11 debtor.

8. Certain of Prime Clerk's professionals were partners of or formerly employed by firms that are providing or may provide professional services to parties in interest in these cases. Such firms include Kirkland & Ellis LLP ("K&E"); Weil, Gotshal & Manges LLP; O'Melveny & Myers LLP; Mayer Brown LLP; Fried, Frank, Harris, Shriver & Jacobson LLP; Bracewell LLP; Proskauer Rose LLP; Curtis, Mallet-Prevost, Colt & Mosle LLP; Baker & Hostetler LLP; Togut, Segal & Segal LLP; Gibson, Dunn & Crutcher LLP; Centerview Partners LLC; KPMG LLP ("KPMG"); Epiq Bankruptcy Solutions, LLC; Donlin, Recano & Company, Inc. and Kurtzman Carson Consultants LLC. Except as may be disclosed herein, these professionals did not work on any matters involving the Debtors while employed by their previous firms. Moreover, these professionals were not employed by their previous firms when these chapter 11 cases were filed.

9. Prime Clerk hereby discloses the following connections, each of which Prime Clerk believes does not present an interest adverse to the Debtors and is disclosed solely out of an abundance of caution:

- I was previously an associate at K&E, counsel to one of the Debtors' prepetition lenders, postpetition lenders, and stalking horse purchaser. In addition, Michael J. Frishberg, Co-President and Chief Operating Officer of Prime Clerk, was previously a partner at K&E, and Benjamin P.D. Schrag, an Executive Vice President of Prime Clerk, was previously an associate at K&E. I left K&E in August 2013, Mr. Frishberg left K&E in February 2008 and Mr. Schrag left K&E in June 2010. Neither I nor Mr. Frishberg or Mr. Schrag worked on any matters involving the Debtors while employed by K&E.
- Stephanie Basta is Chief People Officer at Prime Clerk. Ms. Basta's husband, Paul Basta, is a Partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP, proposed counsel to the Debtors. Ms. Basta's role at Prime Clerk is purely administrative and, as such, she does not work on any of the firm's cases.
- Jordan Searles is a Director at Prime Clerk. Mr. Searles' brother, Adam Searles, is a Director at AlixPartners, LLC, the Debtors' proposed financial advisor. Additionally, Mr. Searles was previously an audit associate at KPMG, which is identified on the list of Potential Parties in Interest as the Debtors' auditor. Mr. Searles left KPMG in 2014. Mr. Searles did not work on any matters involving the Debtor during his time at KPMG.

10. Prime Clerk has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, Prime Clerk and its personnel have and will continue to have relationships personally or in the ordinary course of its business with certain vendors, professionals, financial institutions, and other parties in interest that may be involved in the Debtors' chapter 11 cases. Prime Clerk may also provide professional services to entities or persons that may be creditors or parties in interest in these chapter 11 cases, which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors.

11. Prime Clerk, and its personnel in their individual capacities, regularly utilize the services of law firms, investment banking and advisory firms, accounting firms, and financial advisors. Such firms engaged by Prime Clerk or its personnel may appear in chapter 11 cases representing the Debtor or parties in interest. All engagements where such firms represent Prime Clerk or its personnel in their individual capacities are unrelated to these chapter 11 cases.

12. Prime Clerk is an indirect subsidiary of Duff & Phelps LLP (“D&P”). D&P is the global advisor that protects, restores and maximizes value for clients. Within the D&P corporate structure, Prime Clerk operates independently from D&P. As such, any relationships that D&P and its affiliates maintain do not create an interest of Prime Clerk that is materially adverse to the Debtors’ estates or any class of creditors or security holders. D&P is not currently identified on the Potential Parties in Interest list, but Prime Clerk makes this disclosure out of an abundance of caution.

13. As part of its conflicts check process, Prime Clerk submitted for review by each of its partners and employees the list of Potential Parties in Interest provided by the Debtors to determine whether any partner or employee holds an adverse interest to any of the Debtors and/or is a “disinterested person,” as such term is defined in the Bankruptcy Code. In addition, the partners and employees of Prime Clerk were asked to review their investment holdings, to the extent possible, to determine whether they have any direct or indirect ownership of the Debtors’ securities. Upon information and belief, and upon such reasonable inquiry by Prime Clerk and the results thereof, Prime Clerk is not aware that any of its partners or employees directly or indirectly own any debt or equity securities of a company that is a Debtor or of any of its affiliates. Moreover, Prime Clerk has a policy prohibiting its partners and employees from using

confidential information that may come to their attention in the course of their work. In this regard, subject to non-discretionary Investment Funds (as defined below), all Prime Clerk partners and employees are barred from trading in securities with respect to matters in which Prime Clerk is retained.

14. As a general matter, in the infrequent case when a Prime Clerk partner or employee may, directly or indirectly, own a debt or equity security of a company which may become or becomes a debtor or a debtor affiliate, such ownership would be substantially less than one percent of any such debtor or debtor affiliate. Additionally, from time to time, Prime Clerk partners or employees may personally invest in mutual funds, retirement funds, private equity funds, venture capital funds, hedge funds and other types of investment funds (the “Investment Funds”), through which such individuals may indirectly acquire a debt or equity security of many companies, one of which may be one of the Debtors or their affiliates. Any partner or employee who has made any such investment does not manage or otherwise control such Investment Fund. The Investment Funds are managed by third parties, and Prime Clerk partners or employees that may invest in the particular Investment Fund have no influence, discretion, or control over the Investment Fund’s decision to buy, sell or vote any particular debt or equity securities comprising the particular Investment Fund and in certain instances, partners or employees may not be aware of the particular debt or equity securities comprising the particular Investment Fund.

15. Based on the foregoing, I believe that Prime Clerk is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code. Moreover, to the best of my knowledge and belief, neither Prime Clerk nor any of its partners or employees hold or represent

any interest materially adverse to the Debtors' estates with respect to any matter upon which Prime Clerk is to be engaged.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed on August 6, 2019.

/s/ Benjamin J. Steele

Benjamin J. Steele
Vice President
Prime Clerk LLC
One Grand Central Place
60 East 42nd Street, Suite 1440
New York, New York 10165

Exhibit C

Engagement Agreement

Prime Clerk LLC Engagement Agreement

This Agreement is entered into as of June 25, 2019, between Prime Clerk LLC ("**Prime Clerk**") and Jack Cooper Ventures, Inc. (together with its affiliates and subsidiaries, the "**Company**").¹

In consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Services

- (a) Prime Clerk agrees to provide the Company with consulting services regarding legal noticing, claims management and reconciliation, plan solicitation, balloting, disbursements, preparation of schedules of assets and liabilities and statements of financial affairs, communications, confidential online workspaces or data rooms (publication to which shall not violate the confidentiality provisions of this Agreement) and any other services agreed upon by the parties or otherwise required by applicable law, governmental regulations or court rules or orders (all such services collectively, the "**Services**").
- (b) The Company acknowledges and agrees that Prime Clerk will often take direction from the Company's representatives, employees, agents and/or professionals (collectively, the "**Company Parties**") with respect to providing Services hereunder. The parties agree that Prime Clerk may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company.
- (c) The Company agrees and understands that Prime Clerk shall not provide the Company or any other party with legal advice.

2. Rates, Expenses and Payment

- (a) Prime Clerk will provide the Services on an as-needed basis and upon request or agreement of the Company, in each case in accordance with the rate structure attached hereto and incorporated by reference herein and as has been modified by those certain discounts extended by prime Clerk to the Company (the "**Rate Structure**"). The Company agrees to pay for reasonable out of pocket expenses incurred by Prime Clerk in connection with providing Services hereunder.
- (b) The Rate Structure sets forth individual unit pricing for each of the Services. The Company may request separate Services or all of the Services.
- (c) Prime Clerk will bill the Company no less frequently than monthly. All invoices shall be due and payable upon receipt. Where an expense or group of expenses to be incurred is expected to exceed \$10,000 (e.g., publication notice), Prime Clerk may require advance or direct payment from the Company before the performance of Services hereunder.
- (d) In case of a good faith dispute with respect to an invoice amount, the Company shall provide a detailed written notice of such dispute to Prime Clerk within 10 days of receipt of the

¹ The Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in any chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company's chapter 11 case.

invoice. The undisputed portion of the invoice will remain due and payable immediately upon receipt thereof.

- (e) The Company shall pay any fees and expenses for Services relating to, arising out of or resulting from any error or omission made by the Company or the Company Parties.
- (f) The Company shall pay or reimburse any taxes that are applicable to Services performed hereunder or that are measured by payments made hereunder and are required to be collected by Prime Clerk or paid by Prime Clerk to a taxing authority.
- (g) Upon execution of this Agreement, the Company shall pay Prime Clerk an advance of \$25,000. Prime Clerk may use such advance against unpaid fees and expenses hereunder. Prime Clerk may use the advance against all prepetition fees and expenses, which advance then shall be replenished immediately by the Company to the original advance amount; thereafter, Prime Clerk may hold such advance to apply against unpaid fees and expenses hereunder.
- (h) Prime Clerk reserves the right to make reasonable increases to the Rate Structure on an annual basis effective on the first business day of each year. Prime Clerk shall provide 30 days' notice to the Company of such increases.

3. Retention in Bankruptcy Case

- (a) If the Company commences a case pursuant to title 11 of the United States Code (the "**Bankruptcy Code**"), the Company promptly shall file applications with the Bankruptcy Court to retain Prime Clerk (i) as claims and noticing agent pursuant to 28 U.S.C. § 156(c) and (ii) as administrative advisor pursuant to section 327(a) of the Bankruptcy Code for all Services that fall outside the scope of 28 U.S.C. § 156(c). The form and substance of such applications and any order approving them shall be reasonably acceptable to Prime Clerk.
- (b) If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, Prime Clerk will continue to be paid for Services pursuant to 28 U.S.C. § 156(c) and the terms hereunder.

4. Confidentiality

- (a) The Company and Prime Clerk agree to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services provided hereunder; provided, however, that if any such information was publicly available, already in the party's possession or known to it, independently developed, lawfully obtained from a third party or required to be disclosed by law, then a party shall bear no responsibility for publicly disclosing such information.
- (b) If either party reasonably believes that it is required to disclose any confidential information pursuant to an order from a governmental authority, such party shall provide written notice to the other party promptly after receiving such order, to allow the other party sufficient time to seek any remedy available under applicable law to prevent disclosure of the information.

5. Property Rights

Prime Clerk reserves all property rights in and to all materials, concepts, creations, inventions, works of authorship, improvements, designs, innovations, ideas, discoveries, know-how, techniques, programs,

systems, specifications, applications, processes, routines, manuals, documentation and any other information or property (collectively, "**Property**") furnished by Prime Clerk for itself or for use by the Company hereunder. Fees and expenses paid by the Company do not vest in the Company any rights in such Property. Such Property is only being made available for the Company's use during and in connection with the Services provided by Prime Clerk hereunder.

6. Bank Accounts

At the request of the Company or the Company Parties, Prime Clerk shall be authorized to establish accounts with financial institutions in the name of and as agent for the Company to facilitate distributions pursuant to a chapter 11 plan or other transaction. To the extent that certain financial products are provided to the Company pursuant to Prime Clerk's agreement with financial institutions, Prime Clerk may receive compensation from such institutions for the services Prime Clerk provides pursuant to such agreement.

7. Term and Termination

- (a) This Agreement shall remain in effect until terminated by either party: (i) on 30 days' prior written notice to other party; or (ii) immediately upon written notice for Cause (as defined herein). "**Cause**" means (i) gross negligence or willful misconduct of Prime Clerk that causes material harm to the Company's restructuring under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay Prime Clerk invoices for more than 60 days from the date of invoice or (iii) the accrual of invoices or unpaid Services in excess of the advance held by Prime Clerk where Prime Clerk reasonably believes it will not be paid.
- (b) If this Agreement is terminated after Prime Clerk is retained pursuant to Bankruptcy Court order, the Company promptly shall seek entry of a Bankruptcy Court order discharging Prime Clerk of its duties under such retention, which order shall be in form and substance reasonably acceptable to Prime Clerk.
- (c) If this Agreement is terminated, the Company shall remain liable for all amounts then accrued and/or due and owing to Prime Clerk hereunder.
- (d) If this Agreement is terminated, Prime Clerk shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions, and Prime Clerk shall provide the necessary staff, services and assistance required for such an orderly transfer. The Company agrees to pay for such Services pursuant to the Rate Structure.

8. No Representations or Warranties

Prime Clerk makes no representations or warranties, express or implied, including, without limitation, any express or implied warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

9. Indemnification

- (a) To the fullest extent permitted by applicable law, the Company shall indemnify and hold harmless Prime Clerk and its members, directors, officers, employees, representatives, affiliates, consultants, subcontractors and agents (collectively, the "**Indemnified Parties**")

from and against any and all losses, claims, damages, judgments, liabilities and expenses, whether direct or indirect (including, without limitation, reasonable counsel fees and expenses) (collectively, "**Losses**") asserted by third parties resulting from, arising out of or related to Prime Clerk's performance hereunder. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third parties against any Indemnified Party.

- (b) Prime Clerk and the Company shall notify each other in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that either party becomes aware of with respect to the Services provided hereunder.
- (c) The Company's indemnification of Prime Clerk hereunder shall exclude Losses resulting from Prime Clerk's bad faith, self-dealing, gross negligence or willful misconduct.
- (d) The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

10. Limitations of Liability

Except as expressly provided herein, Prime Clerk's liability to the Company for any Losses, unless due to Prime Clerk's bad faith, self-dealing, gross negligence or willful misconduct, shall be limited to the total amount paid by the Company for the portion of the particular work that gave rise to the alleged Loss. In no event shall Prime Clerk's liability to the Company for any Losses arising out of this Agreement exceed the total amount actually paid to Prime Clerk for Services provided hereunder. In no event shall Prime Clerk be liable for any indirect, special or consequential damages (such as loss of anticipated profits or other economic loss) in connection with or arising out of the Services provided hereunder.

11. Company Data

- (a) The Company is responsible for, and Prime Clerk does not verify, the accuracy of the programs, data and other information it or any Company Party submits for processing to Prime Clerk and for the output of such information, including, without limitation, with respect to preparation of statements of financial affairs and schedules of assets and liabilities (collectively, "**SOFAs and Schedules**"). Prime Clerk bears no responsibility for the accuracy and content of SOFAs and Schedules, and the Company is deemed hereunder to have approved and reviewed all SOFAs and Schedules filed on its behalf.
- (b) The Company agrees, represents and warrants to Prime Clerk that before delivery of any information to Prime Clerk: (i) the Company has full authority to deliver such information to Prime Clerk; and (ii) Prime Clerk is authorized to use such information to perform Services hereunder.
- (c) Any data, storage media, programs or other materials furnished to Prime Clerk by the Company may be retained by Prime Clerk until the Services provided hereunder are paid in full. The Company shall remain liable for all fees and expenses incurred by Prime Clerk under this Agreement as a result of data, storage media or other materials maintained, stored or disposed of by Prime Clerk. Any such disposal shall be in a manner requested by or acceptable to the Company; provided that if the Company has not utilized Prime Clerk's Services for a period of 90 days or more, Prime Clerk may dispose of any such materials, and be reimbursed by the Company for the expense of such disposition, after giving the Company 30 days' notice. The Company agrees to initiate and maintain backup files that would allow

the Company to regenerate or duplicate all programs, data or information provided by the Company to Prime Clerk.

- (d) If Prime Clerk is retained pursuant to Bankruptcy Court order, disposal of any Company data, storage media or other materials shall comply with any applicable court orders and rules or clerk's office instructions.

12. Non-Solicitation

The Company agrees that neither it nor any of its subsidiaries or affiliates shall directly or indirectly solicit for employment, employ or otherwise retain as employees, consultants or otherwise, any employees of Prime Clerk during the term of this Agreement and for a period of 12 months after termination thereof unless Prime Clerk provides prior written consent to such solicitation or retention.

13. Force Majeure

Whenever performance by Prime Clerk of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, government requirement, strike, lock-out or other industrial or transportation disturbance, fire, flood, epidemic, lack of materials, law, regulation or ordinance, act of terrorism, war or war condition, or by reason of any other matter beyond Prime Clerk's reasonable control, then such performance shall be excused, and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

14. Choice of Law

The validity, enforceability and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

15. Arbitration

Any dispute arising out of or relating to this Agreement or the breach thereof shall be finally resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. There shall be three arbitrators named in accordance with such rules. The arbitration shall be conducted in the English language in New York, New York in accordance with the United States Arbitration Act.

16. Integration; Severability; Modifications; Assignment

- (a) Each party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, agreements and communications between the parties relating to the subject matter hereof.
- (b) If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
- (c) This Agreement may be modified only by a writing duly executed by an authorized representative of the Company and an officer of Prime Clerk.

Prime Clerk

- (d) This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other; provided, however, that Prime Clerk may assign this Agreement to a wholly-owned subsidiary or affiliate without the Company's consent.

17. Effectiveness of Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which shall constitute one and the same agreement. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, which delivery may be made by exchange of copies of the signature page by fax or email.

18. Notices

All notices and requests in connection with this Agreement shall be sufficiently given or made if given or made in writing via hand delivery, overnight courier, U.S. Mail (postage prepaid) or email, and addressed as follows:

If to Prime Clerk:	Prime Clerk LLC One Grand Central Place 60 East 42 nd Street, Suite 1440 New York, NY 10165 Attn: Shai Waisman Tel: (212) 257-5450 Email: swaisman@primeclerk.com
If to the Company:	Jack Cooper Ventures, Inc. 630 Kennesaw Due West Road Kennesaw, GA 30152 Attn: Theo Ciupitu (EVP and General Counsel) Tae Kim (Senior Corporate Counsel) Tel: Email: tciupitu@jackcooper.com ; tkim@jackcooper.com
With a copy to:	Paul, Weiss, Rifkind, Wharton & Garrison LLP 1285 Avenue of the Americas New York, NY 10019-6064 Attn: John Weber Tel: (212) 373-3656 Email: jweber@paulweiss.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

Prime Clerk LLC




By: Shira D. Weiner
Title: General Counsel

Jack Cooper Ventures, Inc.

By:

Title:


T. Michael Riggs
CEO

Rates

Claim and Noticing Rates¹

Title	Hourly Rate
Analyst The Analyst processes incoming proofs of claim, ballots and return mail, and physically executes outgoing mailings with adherence to strict quality control standards.	\$35 - \$55
Technology Consultant The Technology Consultant provides database support for complex reporting requests and administers complicated variable data mailings.	\$35 - \$95
Consultant/Senior Consultant The Consultant is the day-to-day contact for mailings, updates the case website, prepares and executes affidavits of service, responds to creditor inquiries and maintains the official claim register, including processing of claims objections and transfers. Prime Clerk Consultants have between three and five years of experience. The Senior Consultant directs the data collection process for the master mailing list and Schedules & SOFA, oversees all mailings, performs quality control checks on all claims and ballots, and generates claim and ballot reports. Prime Clerk's Senior Consultants average over five years of experience.	\$70 - \$170
Director The Director is the lead contact for the company, counsel and advisors on the case engagement and oversees all aspects of the bankruptcy administration, including managing the internal case team. In many instances, the executives of Prime Clerk will serve in this role at this rate. Prime Clerk's Directors have over ten years of experience and are typically former restructuring attorneys or paralegals.	\$175 - \$195
Chief Operating Officer and Executive Vice President Michael Frishberg, Prime Clerk's COO, and Ben Schrag, Prime Clerk's Executive Vice President, both former restructuring attorneys with collectively over twenty five years of experience, will add an additional supervisory layer to this matter at no charge.	No charge

¹ Prime Clerk does not charge overtime for any professional services it performs on weekends, holidays or after standard business hours. Additional professional services not covered by this rate structure will be charged at hourly rates, including any outsourced services performed under our supervision and control.

Solicitation, Balloting and Tabulation Rates²

Solicitation Consultant	\$195
--------------------------------	--------------

The Solicitation Consultant reviews, tabulates and audits ballots, and executes plan solicitation and other public securities mailings. In addition, the Solicitation Consultant prepares customized reports relating to voting and other corporate events (such as exchange offers and rights subscriptions) and interfaces with banks, brokers, nominees, depositories and their agents regarding solicitations and other communications. Solicitation Consultants average over five years of experience.

Director of Solicitation	\$215
---------------------------------	--------------

The Director of Solicitation is the lead consultant in the plan solicitation process. The Director oversees and coordinates soliciting creditor votes on a plan of reorganization and will attest to solicitation processes and results. The Director also advises on public securities noticing and related actions, including voting, exchange offers, treatment elections, rights subscriptions and distributions and coordinates with banks, brokers, nominees, their agents and depositories to ensure the smooth execution of these processes. Prime Clerk's Director of Solicitation has over 15 years of experience and is a former restructuring attorney.

Printing and Noticing Services

Printing	\$0.10 per page³
-----------------	------------------------------------

Customization/Envelope Printing	\$0.05 each
--	--------------------

Document folding and inserting	No charge
---------------------------------------	------------------

Postage/Overnight Delivery	Preferred Rates
-----------------------------------	------------------------

E-mail Noticing	No charge
------------------------	------------------

Fax Noticing	\$0.08 per page
---------------------	------------------------

Proof of Claim Acknowledgment Card	No charge
---	------------------

Envelopes	Varies by Size
------------------	-----------------------

Newspaper and Legal Notice Publishing

Coordinate and publish legal notices	Available on request
---	-----------------------------

Case Website

Case Website setup	No charge
---------------------------	------------------

Case Website hosting	No charge
-----------------------------	------------------

Update case docket and claims register	No charge
---	------------------

² Certain fees may be applicable to noticing, solicitation and corporate action events involving holders of public securities.

³ Volume discounts will be applied to large mailings.

Client Access

Access to secure client login (unlimited users)	No charge
Client customizable reports on demand or via scheduled email delivery (unlimited quantity)	No charge
Real time dashboard analytics measuring claim and ballot information and document processing status	No charge

Data Administration and Management

Inputting proofs of claim and ballots	Standard hourly rates (no per claim or ballot charge)
Electronic Imaging	\$0.08 per image
Data Storage, maintenance and security	\$0.08 per record per month
Virtual Data Rooms	Available on request

On-line Claim Filing Services

On-line claim filing	No charge
----------------------	-----------

Call Center Services

Case-specific voice-mail box	No charge
Interactive Voice Response ("IVR")	No charge
Monthly maintenance	No charge
Call center personnel	Standard hourly rates
Live chat	Standard hourly rates

Disbursement Services

Check issuance and/or Form 1099	Available on request
W-9 mailing and maintenance of TIN database	Standard hourly rates