

(Rev. 6/97)

501

UNITED STATES BANKRUPTCY COURT		PROOF OF CLAIM	
District of <u>IDAHO</u>		CHPT 13	
In re (Name of Debtor) CLYDE HALE		Case Number 99-42056	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor <i>(The person or other entity to whom the debtor owes money or property).</i> MERCEDES-BENZ CREDIT CORPORATION		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and Address Where Notices Should be Sent: MERCEDES-BENZ CREDIT CORPORATION C/O JOE DILORENZO, LOSS RECOVERY 1011 WARRENVILLE ROAD, SUITE 600 LISLE, IL 60532-0354 Telephone: (800) 659-4444 Ext. 6808			
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR: 500-0095-91320-3		<input type="checkbox"/> replaces a previously filed claim, dated _____ <input type="checkbox"/> amends	
1. BASIS FOR CLAIM: <input type="checkbox"/> Goods Sold <input type="checkbox"/> Services Performed <input checked="" type="checkbox"/> Money Loaned (Retail Installment Contract) <input type="checkbox"/> Personal Injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other (Describe briefly) Deficiency Balance of: \$22,099.52			
2. DATE DEBT WAS INCURRED: <u>03/11/1999</u>		3. IF COURT JUDGMENT, DATE OBTAINED:	
4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code, all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM AT TIME CASE FILE.			
<input type="checkbox"/> SECURED CLAIM \$ _____ Attach evidence of perfection of security interest Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other(describe briefly) Amount of arrearage and other charges included in secured claim above, if any \$ _____		<input type="checkbox"/> Wages, salaries, or commissions (up to \$4,000)*, earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier -- 11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan -- 11 U.S.C. § 507 (a)(4). <input type="checkbox"/> Up to \$1,800.* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use -- 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child -- 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties of governmental units -- 11 U.S.C § 507(a)(8). <input type="checkbox"/> Other -- Specify applicable paragraph of 11 U.S.C. § 507(a) _____ *Amounts are subject to adjustment on 4/11/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
<input checked="" type="checkbox"/> UNSECURED NONPRIORITY CLAIM \$22,099.52 A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim.			
<input type="checkbox"/> UNSECURED PRIORITY CLAIM \$ _____ Specify the priority of the claim.			
5. TOTAL AMOUNT OF CLAIM AT THE TIME CASE FILED:			\$ 22,099.52 (Total)
\$ <u>22,099.52</u> (Unsecured) \$ _____ (Secured) \$ _____ (Priority)			
<input type="checkbox"/> Check this box if claim includes prepetition charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.			
6. CREDITS AND SETOFFS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim, claimant has deducted amounts that claimant owes to debtor.			
7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
8. TIME-STAMPED COPY: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 08/04/2000		Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any). Joe DiLorenzo, Loss Recovery as Agent <i>Joe DiLorenzo</i>	

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#060759-0001



Mercedes-Benz
Credit Corporation

Mercedes-Benz Credit Corporation

Retail Installment Contract - Security Agreement

500-0095-91320-3

SELLER-PURCHASER:

Contract Date: 3/11/99

Seller's Name: TWIN FALLS TRUCK & EQUIPMENT
Street Address: P.O. BOX 1656
City: TWIN FALLS State: ID Zip: 83303
Purchaser's Name: CLYDE HALE, DBA HALE ENTERPRISE
Street Address: BLUE LAKES BLVD N #1641
City: TWIN FALLS County: TWIN FALLS State: ID Zip: 83301

Purchaser (meaning all of the undersigned Purchasers, jointly and severally) hereby purchases from Seller on a time price basis, subject to all terms and conditions set forth herein, including all schedules annexed hereto, the following described property (hereinafter called the "Property"), delivery and acceptance of which in good order are acknowledged by Purchaser.

PROPERTY SCHEDULE:

New / Used	Make	Model	Serial Number	Body Type	Model Year	Cash Sale Price
Used	Freightliner	FLD	1FUYSZYB2WP931843	Tractor	1998	\$64,924.85
					N/A	N/A
					N/A	N/A

TRADE-IN & DOWN PAYMENT SCHEDULE:

Make	Model	Serial Number	Body Type	Model Year	Allowance
				N/A	N/A
				N/A	N/A
				N/A	N/A
Less Payoff to:			Payoff Amount		
			Net Trade-in Allowance		
			Cash Down Payment		
			TOTAL DOWN PAYMENT		\$0.00

PAYMENT CALCULATION:

1.	Total cash sale price:	64,924.85
2.	Less total down payment:	\$0.00
3.	Unpaid balance of cash price (Line 1 - Line 2):	\$64,924.85
ITEMIZED CHARGES:		
	A. Physical Damage Insurance:	\$0.00
	B. Credit Life/Disability Insurance:	\$0.00
	C. Registration/License/Title Fees:	\$8.00
	D. Federal Excise Tax:	
	E. Sales Tax:	
	F. Documentation Fee:	
	G. Other ()::	
4.	Total Itemized Charges (A+B+C+D+E+F+G):	\$8.00
5.	Amount Financed (Line 3 + Line 4):	\$64,932.85
6.	Finance Charge (based on Line 5):	\$18,982.61
7.	Total of Payments (Line 5 + Line 6):	\$83,915.46
	Deferred Payment Price (Line 1 + Line 4 + Line 6):	\$83,915.46

PAYMENT SCHEDULE:

Purchaser promises to pay Seller or its assignee the TOTAL OF PAYMENTS in 54 monthly payments of \$1,553.99 each, 0 monthly payments of \$0.00 each, and one final payment of \$0.00, beginning 4/11/99 * and on the same day of each succeeding month as the first payment until paid in full, except as follows: N/A

Purchaser also agrees to pay interest on outstanding arrearages hereunder (including all accrued interest, late charges and other fees and charges). Interest after maturity shall be at the highest lawful contract rate plus the cost of suit and attorney fees.

* If no date is inserted in blank, the first installment is payable one month from date of Contract.

ADDITIONAL TERMS AND CONDITIONS:

F&I Pro (RIC - 1.2) Form MBCC 204 Misc (3/30/98)

3/10/99

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Retail Installment Contract - Security Agreement

1. **SECURITY INTEREST OF SELLER.** Purchaser hereby grants to Seller a first security interest in the Property, and in all equipment purchased by Purchaser and financed by Seller or its assignee, and in all equipment leased by Purchaser (to the full extent of Purchaser's interest therein), to secure the payment of the TOTAL OF PAYMENTS, all costs incurred by Seller as a result of Purchaser's breach of this Contract, all advances made by Seller for insurance and taxes, all charges due Seller for repairs, supplies, parts and storage on the Property, and the timely performance of all other present and future obligations of Purchaser to Seller or its assignee. Purchaser hereby agrees to execute and deliver to Seller any financing or other statement required to be filed in connection with the security interest hereby created and/or to do all things necessary to cause said security interest to be noted on the certificates of title relating to the Property and to pay all costs in connection therewith. Purchaser agrees that Seller may retain possession of all certificates of title relating to the Property until the performance of all of Purchaser's obligations hereunder, unless such possession is prohibited by applicable law. Purchaser hereby appoints Seller as Purchaser's attorney-in-fact to do, at Seller's option and at Purchaser's expense, all acts and things which Seller may deem necessary to perfect and continue the perfection of the security interest hereby created.
2. **COMMERCIAL USE.** Purchaser warrants that the Property will not be used for personal, family or household purposes, nor primarily for the transportation of agricultural or dairy products or any products cultivated, planted, propagated or nurtured by Purchaser.
3. **DELINQUENCY AND DISHONORED CHECK CHARGES.** Purchaser hereby agrees to pay a delinquency charge on each payment in default for more than ten (10) days in the maximum amount of 5% of each payment unless otherwise provided by law, plus such expenses incurred by Seller in effecting collection hereunder as may be allowed by law. Seller shall also be entitled to collect a fee for dishonored checks. Such fee shall not exceed \$35.00 or the maximum amount permitted by applicable law.
4. **PREPAYMENT REBATE.** Purchaser may prepay its obligations under this Contract in full at any time, and upon doing so, shall be entitled to a rebate of the FINANCE CHARGE computed in accordance with the simple interest method unless required otherwise by state law. In either event, no rebate will be made if the amount thereof is less than \$1.00.
5. **SCHEDULES INCLUDED.** Purchaser and Seller agree that any schedules or addenda executed in connection with this Contract shall be considered a part of this Contract.
6. **ALTERATIONS AND ADDITIONS TO PROPERTY.** Purchaser shall make no material change in the Property without Seller's written consent (including replacements, additions, body, accessories or substitutions). Anything which is attached to the Property during the term of this Contract shall become a component part of the Property and be secured by the security interest granted herein, and the same shall be included under the terms of this Contract as "Property."
7. **ASSIGNMENT.** Any assignee of Seller shall have all rights of Seller hereunder. It is understood and agreed that this Contract and Seller's interest herein may be assigned to Mercedes-Benz Credit Corporation ("MBCC"); after notice to Purchaser of such assignment, all payments by Purchaser should be made to the office of MBCC directed by MBCC instead of being sent to the original Seller. Purchaser agrees that it will not assert against any subsequent holder or assignee of this Contract any claims or defenses that Purchaser may have against the original Seller named above, or against the manufacturer of the Property. Purchaser may not transfer or assign its interest in this Contract or in the Property without Seller's prior written consent.
8. **FEES AND TAXES; COMPLIANCE WITH LAWS.** Purchaser agrees that no transfer, renewal, extension or assignment of this Contract or any interest hereunder, or loss, damage, injury or destruction of the Property shall release Purchaser from its obligation hereunder and to pay all recording, filing, title and satisfaction fees in connection therewith. Seller is authorized to correct any patent errors in this Contract. Purchaser shall keep the Property free from all taxes, liens, governmental seizures and impoundments, and encumbrances, and any amounts that may be paid by Seller in release or discharge shall be paid by Purchaser to Seller immediately upon demand with interest at the highest lawful contract rate. Purchaser shall not use nor permit the use of the Property in violation of the laws or regulations of any governmental body.
9. **INSURANCE.** During the term of this Contract, Purchaser shall carry the following insurance coverages: (a) collision; and (b) either (1) comprehensive, or (2) fire, theft and combined additional coverages, on the Property in companies approved by Seller, with a deductible not to exceed \$2,500, against loss up to the value of the Property at the time of the loss. Such insurance shall contain a provision that the policy cannot be canceled or lapsed for any reason without twenty (20) days prior written notice to Seller. Purchaser shall furnish Seller with a certificate containing a loss payable clause or a copy of such insurance policy. Seller and its assignee shall be named as additional insured as their interests may appear. Seller may, but is not obligated to, carry insurance on the Property if Purchaser fails to do so and may add to the indebtedness hereunder the cost of same which shall accrue interest at the Contract rate, and which Purchaser hereby agrees to pay, and which indebtedness shall be secured by the security interest granted herein. Purchaser hereby directs any insurance company to make payment of any monies, payable because of insurance provided pursuant to this Contract, directly to Seller, and any such monies so paid are hereby assigned to Seller to the extent of the unpaid balance under this Contract. Seller is hereby appointed as Purchaser's attorney-in-fact to prepare and submit any notice or proof of loss and to endorse any check which may be payable to Purchaser in order to collect the benefits of such insurance. Purchaser agrees that if any charge for required insurance is returned to Seller, it may be credited to Purchaser's account or used to buy similar insurance or insurance which covers only Seller's interest in the Property. Any refund on optional insurance will be credited to Purchaser's account. Credits to Purchaser's account will include both the amounts received by Seller and the unearned Finance Charges on those amounts. These credits will be applied to as many installment payments as they will cover, beginning with the final installment. Purchaser will be notified of how these credits are applied.
10. **DEFAULT.** Time is of the essence in this Contract. It is agreed that a default shall be deemed to have occurred if Purchaser shall fail to pay when due any amount payable hereunder or under any other loan, retail installment contract or financing agreement with Seller or any other



Retail Installment Contract - Security Agreement

person or shall default in the performance of any of the agreements or covenants hereunder or thereunder, or if Purchaser shall commit any waste or misuse or not keep the Property in first-class operating condition and in good repair; or if Purchaser shall secrete or remove the Property without Seller's written consent; or if any guaranty supporting Purchaser's obligations hereunder shall fail to remain in full force and effect; or if the Property shall be seized under process of law; or if any proceeding or action is instituted or filed by or against Purchaser under any bankruptcy or insolvency laws or laws relating to the relief of debtors; or if Seller in good faith believes its prospect of payment or performance by Purchaser is impaired.

11. **SELLER'S REMEDIES UPON PURCHASER'S DEFAULT.** Upon the occurrence of a default, the full amount due hereunder less any unearned Finance Charge shall immediately become due and payable without notice or demand; and, further, in any or all of such events, Seller is hereby authorized and empowered to enter any premises of Purchaser or other place where the Property may be located, provided Seller does not breach the peace, and take possession thereof without notice or demand. It is agreed that if Seller refers this Contract to an agent or other party for purposes of collection or repossession, or if Seller refers this Contract to an attorney as a result of Purchaser's breach of its obligations hereunder, Purchaser agrees to reimburse Seller for all reasonable costs, attorney fees and legal expenses incurred by Seller, to the extent permitted by law. It is further agreed that Seller shall be entitled to such reimbursement from Purchaser regardless of whether or not such collection, repossession or enforcement efforts result in Seller taking possession of the Property. After taking possession of the Property it may be sold, with or without notice in those jurisdictions in which the same can be waived, at a private or public sale at either of which Seller may purchase, and without having the Property at the place of sale. From the proceeds of a sale of the Property pursuant to a default by Purchaser, there shall be deducted all expenses involved in the retaking, storing, placing in good salable condition and selling the Property and, to the extent permitted by law, all reasonable attorney fees and legal expenses incurred thereby and all amounts paid for the release of any prior liens on the Property regardless of the causes thereof, and the remaining balance of the proceeds of such a sale shall be applied to the amount unpaid hereunder less any unearned Finance Charge. Purchaser shall remain liable for and shall forthwith pay any deficiency remaining after the application of such net sale proceeds; any surplus after such application shall be paid to Purchaser. The rights and privileges of Seller with respect to the repossession and resale of the Property and disposition of the proceeds thereof shall include those afforded by the Uniform Commercial Code if it is applicable to default under this Contract. Upon repossession all payments shall be retained by Seller as compensation for use, damage and depreciation of said Property and not as a penalty.

If Purchaser is a Louisiana resident, Purchaser agrees that in the event proceedings are brought by executory process to enforce this Contract, Purchaser waives demand for payment, the three days' delay, all pleas of division and discussion, and the right to appraisal, and consents that the Property may be immediately seized and sold. Pursuant to LSA-R.S. 9:5136 et seq., Seller (or its designee) is appointed as keeper or receiver of the Property at the time of seizure which may arise as an incident to any action to enforce this Contract. Purchaser hereby confesses judgment, consenting that judgment be rendered and signed, whether during term of court or in vacation, in favor of Seller or its assignee for the full amount thereof together with all fees, charges and expenses whatsoever as described above, plus interest and attorney fees as herein provided.

12. **NOTICES.** All notices required to be given Purchaser shall be properly given if mailed to Purchaser's address shown at the top of page 1 of this Contract.
13. **MISCELLANEOUS.** The term "Seller" shall include assignees of Seller and all other holders of this Contract. This Contract constitutes the entire agreement between the parties, and shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. No amendment, modification or waiver of any of its provisions shall be valid unless in writing and signed by Purchaser and Seller. This Contract shall be governed by the laws of the state in which Seller's place of business is located. Purchaser expressly waives any right to a jury trial in any dispute regarding this Contract. The inclusion of a trade name or division name in the identification of Purchaser hereunder does not limit Seller's rights, after the occurrence of an event of default, to proceed against all of Purchaser's assets, including those held or used by Purchaser individually or under another trade name or division name. This Contract may be executed in counterparts which, when taken together, shall constitute one agreement.
14. **WAIVER; SEVERABILITY.** It is agreed that Seller may waive any default by written notice to Purchaser, but such waiver shall not limit or affect Seller's rights upon any other default. Any provision of this Contract prohibited by applicable law shall be ineffective to the extent of such prohibition without invalidating any other provision of this Contract.
15. **LIMITATION OF WARRANTY.** Seller makes no warranties as to the Property, express, implied or implied by law except the manufacturer's standard vehicle warranty, which is incorporated herein by reference, and Seller specifically disclaims any implied warranty of merchantability or fitness for a particular purpose and any liability for consequential damages.
16. **HEADINGS.** Headings at the beginning of each section are solely for the convenience of the parties and shall not be considered when interpreting this Contract.



Retail Installment Contract - Security Agreement

INSURANCE:

Fire and theft and collision insurance are required until the Contract is paid in full. You have the right to choose the company through whom the vehicle physical damage insurance required under this Contract is to be obtained.

Acknowledging the foregoing, Purchaser requests and authorizes Seller to attempt to obtain those insurance coverages checked below, and for which an annual premium amount is shown, for ___ months from the date hereof and through (name of insurance company): _____

- Collision \$0.00 Deductible
 - and one of the following:
 - Comprehensive, or \$0.00 Deductible
 - Fire, Theft and CAC \$0.00 Deductible
- Annual Premium: \$ _____
Total Premium: N/A

Extent of Coverage: Minimum of Actual Cash Value, unless otherwise stated in the policy, payable to Purchaser and Seller as their interests may appear.

THE INSURANCE AFFORDED UNDER THIS CONTRACT DOES NOT COVER LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY OF OTHERS.

Credit life insurance and disability insurance are not required by Seller, but such insurance may be available at the following costs:

Credit Life Insurance: N/A Disability Insurance: N/A

I desire credit life insurance.

I desire disability insurance.

Purchaser Proposed for Credit Life/Disability Insurance (signature) _____ Date: _____

NOTICE TO PURCHASER:

1. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO AN EXACT COPY OF THE CONTRACT YOU SIGN.
2. PURCHASER ACKNOWLEDGES RECEIPT OF A TRUE AND COMPLETELY FILLED-IN COPY OF THIS CONTRACT EXECUTED THE DAY AND YEAR FIRST ABOVE WRITTEN.

SIGNATURES:

Seller: TWIN FALLS TRUCK & EQUIPMENT
 By (signature): *[Signature]*
 Title: President

Purchaser: CLYDE HALE, DBA HALE ENTERPRISE
 By (signature): *[Signature]* 03/12/99
 Title: Individual