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12 **IN THE UNITED STATES BANKRUPTCY COURT**

13 **FOR THE DISTRICT OF ARIZONA**

14 In re:

15 PHOENIX MANUFACTURING  
16 PARTNERS, LLC, et al.,

17 Debtors.

18 Chapter 11 Proceedings

19 Case No. 2:16-bk-04898-EPB

20 Case No. 2:16-bk-06107-EPB

21 This filing applies to:

- 22  ALL DEBTORS
- 23  PHOENIX MANUFACTURING  
24 PARTNERS, LLC
- 25  JOINED ALLOYS, LLC
- 26  DLS PRECISION FAB, LLC, dba  
27 DI-MATRIX PRECISION  
MANUFACTURING

28 Case No. 2:16-bk-06109-EPB

29 Jointly Administered Under  
30 Case No. 2:16-bk-04898-EPB

31 **FIRST AMENDED DISCLOSURE  
32 STATEMENT RELATING TO  
33 DEBTORS' FIRST AMENDED JOINT  
34 PLAN OF REORGANIZATION  
35 DATED ~~NOVEMBER 30, 2016~~  
36 FEBRUARY 1, 2017**

37 Phoenix Manufacturing Partners, LLC, Joined Alloys, LLC and DLS Precisions Fab,  
38 LLC, dba Di-Matrix Precision Manufacturing, the debtors and debtors- in- possession (the  
39 “Debtors”) herein, by and through undersigned counsel, hereby ~~submits~~submit to the Court and  
40 creditors of the Debtors’ estate the following “First Amended Disclosure Statement Relating to  
41 Debtors’ First Amended Joint Plan of Reorganization Dated ~~November 30, 2016~~ (“February  
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1 1, 2017 (“Amended Disclosure Statement”). ~~This Disclosure Statement is submitted~~ pursuant  
2 to 11 U.S.C. § 1125.

3 11 U.S.C. § 1125(b) prohibits the solicitation of acceptances or rejections of a plan of  
4 reorganization unless such plan is accompanied by a copy of a disclosure statement which has  
5 been approved by the Bankruptcy Court. The purpose of this Amended Disclosure Statement is  
6 to provide creditors and interested parties in this bankruptcy proceeding with such information  
7 as may reasonably be deemed sufficient to allow creditors and interested parties to make an  
8 informed decision regarding the Debtors’ “First Amended Joint Plan of Reorganization Dated  
9 ~~November 30, 2016~~” (“February 1, 2017” (“Amended Plan”). Unless otherwise noted, those  
10 portions of the Amended Plan and this Amended Disclosure Statement providing factual  
11 information concerning the Debtors, or their assets and liabilities, have been prepared from  
12 information submitted by the ~~Debtor~~Debtors and its retained professionals.

13 This Amended Disclosure Statement contains information that may influence your  
14 decision to accept or reject the Debtors’ proposed Amended Plan. Please read this document  
15 with care.

16 The financial information contained in this Amended Disclosure Statement was  
17 provided by Debtors’ principals, their accountant Eide Bailly, their in-house accounting  
18 department, and the Court-appointed appraiser Cunningham & Associates. The information  
19 has not been subjected to an audit by an independent certified public accountant. For that  
20 reason, the Debtors are not able to warrant or represent that the information contained in this  
21 Amended Disclosure Statement is without any inaccuracy. To the extent practicable, the  
22 information has been prepared from the Debtors’ financial books and records and great effort  
23 has been made to ensure that all such information is fairly represented.

24 This Amended Disclosure Statement and the Amended Plan will classify all creditors  
25 into Classes. The treatment of each Class of creditors will be set forth in this Amended  
26 Disclosure Statement and in the Amended Plan. You should carefully examine the treatment of  
27 the Class to which your Claim will be assigned.

1 This [Amended](#) Disclosure Statement requires approval by the Bankruptcy Court after  
2 notice and a hearing pursuant to 11 U.S.C. §1125(b). Once approved, the [Amended](#) Disclosure  
3 Statement will be distributed with the Debtors' proposed [Amended](#) Plan for voting. Approval  
4 of the [Amended](#) Disclosure Statement by the Bankruptcy Court does not constitute either  
5 certification or approval of the Debtors' [Amended](#) Plan by the Bankruptcy Court or that the  
6 [Amended](#) Disclosure Statement is without any inaccuracy.

7 The Bankruptcy Court will confirm the [Amended](#) Plan if the requirements of [11 U.S.C.](#)  
8 ~~§1129 of the Bankruptcy Code~~ are satisfied. The Bankruptcy Court must determine whether  
9 the [Amended](#) Plan has been accepted by each impaired Class entitled to vote on the [Amended](#)  
10 Plan. Impaired Classes entitled to vote on the [Amended](#) Plan are those Classes of claims whose  
11 legal, equitable, or contractual rights are altered, as defined under ~~§1124 of the Bankruptcy~~  
12 ~~Code.~~ [11 U.S.C. §1124](#). An impaired Class of claims is deemed to have accepted the [Amended](#)  
13 Plan if at least two-thirds (2/3) in amount of those claims who vote and more than one-half (1/2)  
14 in number of those claims who vote have accepted the [Amended](#) Plan. An impaired Class of  
15 interests is deemed to have accepted the [Amended](#) Plan if the [Amended](#) Plan has been accepted  
16 by at least two-thirds (2/3) in amount of the allowed interests who vote on the [Amended](#) Plan.

17 Even if each Class of creditors does not accept the [Amended](#) Plan, the [Amended](#) Plan  
18 can be confirmed under [11 U.S.C. §1129\(b\)](#) ~~of the Bankruptcy Code~~, so long as one impaired  
19 Class of creditors accepts the [Amended](#) Plan. This is referred to as the “cram down” provision  
20 of the Bankruptcy Code. The failure of each Class to accept the [Amended](#) Plan could very well  
21 result in a conversion of this case to Chapter 7 or dismissal of the Chapter 11.

22 Only the votes of those creditors or interested parties whose ballots are timely received  
23 will be counted in determining whether a Class has accepted the [Amended](#) Plan.

## 24 I. DEFINITIONS

25 The definitions set forth in Article I of the [Amended](#) Plan apply in this [Amended](#)  
26 Disclosure Statement except to the extent other definitions are set forth in this [Amended](#)  
27 Disclosure Statement.

1 **II. ~~THE DEBTOR~~DEBTORS, BACKGROUND, AND EVENTS PRECIPITATING THE**  
2 **CHAPTER 11**

3 **A. The Debtors.**

4 ~~Phoenix Manufacturing Partners, LLC (“PMP”), formerly known as GeoMerch,~~  
5 ~~LLC, is a limited liability company, organized in 2003, under the laws of the state of~~  
6 ~~Delaware. PMP is taxed as a partnership. The members of PMP are JJPS, LLC and BizDev,~~  
7 ~~LLC. PMP is the sole member of DLS Precision Fab, LLC and Joined Alloys, LLC. PMP also~~  
8 ~~owned 51% of OVAC, LLC, until that interest was sold, post petition. (See Section III (F),~~  
9 ~~*infra.*)~~

10 ~~DLS Precision Fab, LLC dba Di-Matrix Precision Manufacturing (“DM”) is a~~  
11 ~~limited liability company which was organized in 1997 under the laws of the state of Arizona.~~

12 ~~Debtor~~ Joined Alloys, LLC (“JA”) is an Arizona limited liability company which was  
13 organized ~~in 2003 under the laws of the state of Arizona.~~

14 ~~7881 E. Gray Rd., LLC (“Gray Road”) is a limited liability company which was~~  
15 ~~organized in December 2011 under the laws of the state of Arizona. Gray Rd. purchased land~~  
16 ~~and a building in January 2012 which it leased to DM. Gray Road is dissolved and no longer~~  
17 ~~conducts any business.~~

18 ~~OVAC, LLC (“OVAC”) is a limited liability company which was organized in~~  
19 ~~January 2013, under the laws of the state of Arizona. OVAC is a metal distributor focused on~~  
20 ~~aluminum, stainless steel and specialty metals. In January 2013, OVAC acquired Hi-Temp~~  
21 ~~Management Consulting, Inc. (“HiTemp”) DM and JA are engaged in manufacturing. DM is a~~  
22 ~~full-service contract manufacturer of fabricated sheet metal, Computer Numerical Controlled~~  
23 ~~(“CNC”) machined components, and welded and painted components and assemblies. The~~  
24 ~~Debtors serve a variety of industries, including military, aerospace, medical, energy,~~  
25 ~~electronic, automotive and general commercial and founded in 2003 by Joseph W. Yockey~~  
26 ~~(“Yockey”) and James Z. Bowen (“Bowen”). JA is a AS9100 and ISO 9001 certified~~  
27 ~~manufacturer of Computer Numerical Controlled (“CNC”) machining components as well as a~~  
special processes provider of brazing, heat-treating, welding, and many other processes,

1 mainly servicing the aerospace industry. ~~JA was founded by Joseph W. Yoekey (“Yoekey”)~~  
2 ~~and James Z. Bowen in 2003.~~ JA’s primary customer at the time was Honeywell and JA  
3 provided manufacturing of various parts for use in their turbines. JA also provided brazing,  
4 heat treating, and general machining for other aerospace and commercial clients as a job shop.

5 In May 2007, JA acquired American Precision Machining and integrated those  
6 operations seamlessly into JA’s business. In September 2008, JA acquired Space  
7 Manufacturing Inc. and also integrated those operations into JA’s business. JA’s business in  
8 aerospace manufacturing expanded and led to increasing sales. Revenues grew from \$400,000  
9 in 2003 to \$8.1 million in 2010 and JA operated profitably each year for those seven years.

10 ~~In May 2007, JA acquired American Precision Machining (APM) and integrated~~  
11 ~~those operations seamlessly into JA’s business. In September 2008, JA acquired Space~~  
12 ~~Manufacturing Inc. (SM) and also integrated those operations into JA’s business. In January~~  
13 ~~2011, JA allowed its assets to be acquired by PMP through formation of a partnership with~~  
14 ~~DM. In exchange, JA was given 25% interest in PMP.~~

15 Debtor DLS Precision Fab, LLC dba Di- Matrix Precision Manufacturing (“DM”) is an  
16 Arizona limited liability company which was organized in 1997. DM is a full-service contract  
17 manufacturer of fabricated sheet metal, Computer Numerical Controlled (“CNC”) machined  
18 components, and welded and painted components and assemblies.

19 Both JA and DM serve a variety of industries, including military, aerospace, medical,  
20 energy, electronic, automotive and general commercial.

21 In January of 2011, JA and DM decided to enter into a partnership to merge their  
22 businesses into one operation. They decided to accomplish the merger by creating a holding  
23 company to own both JA and DM. Jordan Geotas (“Geotas”) of DM was responsible for  
24 effecting that decision, but rather than creating a new LLC to be the holding company as JA  
25 understood to be the plan, Geotas instead renamed an existing Delaware limited liability  
26 company called GeoMerEch, LLC (organized by third parties in 2003) that DLS had  
27 previously acquired. The new name was Phoenix Manufacturing Partners, LLC (“PMP”).

1 Debtor PMP is the sole owner of both JA and DM, and is currently owned by JJPS,  
2 LLC and BizDev LLC. PMP used to own 51% of OVAC, LLC—a metal distributor focused  
3 on aluminum, stainless steel, and specialty metals—until that interest was sold, post-petition.  
4 (See Section III (F), *infra.*).

5 While JA, DM, and PMP operated a single business, filed a joint tax return, and  
6 consolidated marketing and business development activity, each of the three entities  
7 maintained their own separate books and records, corporate identity, and ownership of their  
8 respective assets and liabilities as set forth in each Debtor’s schedules and statements.

9 The logic of this partnership was based on perceived synergies between the two  
10 manufacturing companies in both aerospace and defense with a hope of significant new  
11 business generated from the combination. The original percentage of ownership between the  
12 companies in the new venture —JA with 25% and DM with 75%—was based upon  
13 representations from Jordan Geotas (“Geotas”), principal of DM. In particular, Geotas  
14 provided documents showing EBITDA earnings for DM of four times the EBITDA of JA and  
15 assurances that the programs DM provided product for would remain strong. The members of  
16 JA expressed concern about DM sales based on the potential wind down of the Iraq war effort  
17 but were reassured by Geotas’ financial information. ~~Geotas, who is an attorney, suggested~~  
18 ~~that in order to save costs in closing the transaction, that JA should not get its own attorney and~~  
19 ~~instead have one law firm represent all the members.~~

20 ~~Geotas presented the Operating Agreement at closing instructing each member to~~  
21 ~~sign. The agreement stated that each member had been advised to consult separate counsel~~  
22 ~~with regards to their interest in PMP. In fact, he knew this to be untrue as he had advocated for~~  
23 ~~the use of a single law firm and undertook drafting the agreement without input from any of~~  
24 ~~the other members or their attorneys. When questioned why this statement was in the~~  
25 ~~agreement his stated reason was explicit; it was required to protect him as an attorney, not to~~  
26 ~~protect the other members or their interests.~~

27 A post-closing audit of 2010 financials revealed that while DM’s gross revenues were

1 double the revenues of JA, cash earnings, ~~—~~ both on a gross and percentage basis ~~—~~ were  
2 actually less than JA's. On a gross margin basis, DM had 14% gross profit margins while JA  
3 had 41% gross profit margins. Net profit for DM was 2% while JA's was 4%. This pattern of  
4 misrepresentation by Geotas is a major cause of PMP's Debtors' current financial crisis.

5 Although PMP is comprised of two partner members, only one of those partner  
6 members, JA, has been shouldering the financial burdens of the enterprise since the merger of  
7 the members. JA has continued to perform at its pre-merger levels and has even grown its  
8 revenues whereas DM has declined precipitously since the merger. This decline has  
9 jeopardized the entire enterprise. (See comparative chart of the Debtors' Operating Activities,  
10 attached hereto as Exhibit A).

11 **B. Ownership of the Debtors**

12 Upon creation of the 3-entity partnership in 2011, PMP began with an Operating  
13 Agreement that provided for the following member interests for voting ~~in 2011~~:

14	For Biz Dev LLC	Thomas Tierney	18.65625%
15		James J. Farley	17.53125%
16		Thomas Kenrick	17.53125%
17		Jordan Geotas	17.53125%
18		Keith Hastings	3.75%
19	For JJPS LLC	Joe Yockey	10.5%
20		Jim Bowen	10.5%
21		Plamen Ivanov	3.25%
22		Scott Omelianowich	.75%

23 A second amended and restated operating agreement for PMP was executed in April of  
24 ~~2014. Execution of this new agreement was completed~~ 2014 over the objections of Yockey  
25 and with reservations from other members of JJPS. The voting interests in the amended  
26 agreement were as follows:

27

1	For Biz Dev LLC	James J. Farley	21.90028 %
2		Thomas Kenrick	21.90028%
3		Jordan Geotas	21.90028%
4	For JJPS LLC	Joe Yockey	14.59509 %
5		Jim Bowen	14.59509%
6		Plamen Ivanov	4.15105%
7		Scott Omelianowich	.95794%

8 **C. PMP Financial Information**

9 In 2011 upon merger, the duties of running the business were split ~~between~~among the  
10 four major interest holders that were active in the business— (Yockey, Bowen, Geotas, and  
11 Thomas Kenrick (“Kenrick”)). Since JA was in the middle of a large development project  
12 with Honeywell, Yockey’s main duties were to oversee the successful development efforts at  
13 JA and mentor the operations and management personnel at DM in implementing a lean  
14 enterprise system similar to that at JA. Geotas was responsible for business development,  
15 sales, and finance. ~~Thomas Kenrick (“Kenrick”)~~ was responsible for operations at DM and  
16 ~~Jim Bowen (“Bowen”)~~ was responsible for special processing. In 2011, PMP had gross  
17 revenues of ~~\$36,635,851. Revenues from JA were~~36,635,851, with \$8,155,426 from JA and  
18 ~~revenues from DM were \$28,480,425. Combined expenses were \$35,768,271 for an EBITDA~~  
19 ~~of \$867,580.~~\$28,480,425 from DM.

20 ~~In 2012, Debtors had gross revenues of \$23,165,381 made up of \$10,600,527 from~~  
21 ~~JA and \$12,564,854 from DM. JA revenues were up approximately \$2 million from the~~  
22 ~~previous year and revenues were down approximately \$16 million for DM. Combined cost of~~  
23 ~~goods and expenses were \$18,476,001 and \$2,825,494 respectively for an EBITDA of~~  
24 ~~\$1,863,886.~~

25 A significant amount of DM’s revenue came from defense contracts for armored  
26 vehicles used in the war effort in Iraq and Afghanistan. In 2012, the US Government went  
27 through a shut down that caused sequestration of spending ~~which~~. The end of the war

1 combined with the sequestration resulted in drastically reduced revenues ~~to DM (\$20 million~~  
2 from 2011 to 2013). During this time of shrinking revenues, Geotas pushed to purchase the  
3 property on Gray Road and move the operations from the south Phoenix plant to Scottsdale  
4 Airpark. The members of JJPS questioned the logic of this transaction, suggesting it would be  
5 more prudent to reduce the existing space from 60,000 square feet to 30,000 square feet and  
6 avoid the cost of moving. The recommendations were rejected by Geotas, the property was  
7 acquired (by an Arizona company wholly owned by PMP called 7881 E. Gray Rd. LLC), and  
8 the company spent approximately ~~\$600,000.00~~ 600,000 in move-related expenses.

9 Also during this financial crisis, Geotas caused PMP to acquire interest in suppliers  
10 OVAC LLC and Hi Temp Management Consulting Inc. (“Hi Temp”) which put the company  
11 further into debt.

12 In ~~2013,2012,~~ Debtors had gross revenues of ~~\$14,979,861~~ 23,165,381 made up of  
13 ~~\$9,732,091~~ 10,600,527 from JA and ~~\$5,009,625~~ 12,564,854 from DM. JA revenues were  
14 ~~down~~ up approximately ~~\$12~~ million from the previous year and DM revenues were down  
15 approximately ~~\$716~~ million ~~for DM~~. Combined cost of goods and expenses were  
16 ~~\$13,155,032~~ 18,476,001 and ~~\$1,618,261~~ 2,825,494 respectively, for an EBITDA of  
17 ~~\$33,353.1,863,886.~~

18 In 2013, contracts associated with Armor Works and Shock Ride were canceled  
19 resulting in permanent loss of significant revenues for DM. Even with the slight reduction in  
20 sales from the JA side, Yockey was able to deliver \$1,816,087 in operating income for the  
21 company. Unfortunately, the income was offset by a (\$1,847,663) loss on the DM side.

22 In 2013, Debtors had gross revenues of \$14,979,861 made up of \$9,732,091 from JA  
23 and \$5,009,625 from DM. JA revenues were down approximately \$1 million from the  
24 previous year and DM’s revenues were down approximately \$7 million. Combined cost of  
25 goods and expenses were \$13,155,032 and \$1,618,261, respectively, for an EBITDA of only  
26 \$33,353.

27 By the end of 2013, it was apparent that the existing DM business could not support the

1 operation. Yockey recommended to Geotas that PMP shutter the Gray Road facility and  
2 combine what DM business was left into the company's other operating facilities. This  
3 recommendation was also rejected by Geotas. Instead, Geotas orchestrated the recruitment  
4 and subsequent hiring of managers to replace Yockey's ~~roles~~ as CEO and COO of the  
5 ~~company business~~. Yockey ~~opposed this~~ expressed his concerns with the decision based on ~~the~~  
6 ~~Company's ability~~ his continued success in running the JA operations and the overall business'  
7 inability to operate profitably with the ~~increased overhead~~ increase in overhead caused by  
8 hiring two new C-level employees. To make matters worse, when Geotas amended the  
9 operating agreement to reflect the hiring of new officers, without authority or consent he also  
10 removed the supermajority voting requirement and made it so that as a simple majority—i.e.  
11 BizDev—could take most actions without input from other owners.

12 ~~In 2014, Debtors had gross revenues of \$16,753,338 made up of \$12,255,861 from~~  
13 ~~JA and \$4,497,477 from DM. JA revenues were up approximately \$2 million from the~~  
14 ~~previous year and revenues were down approximately \$500,000 for DM. Combined cost of~~  
15 ~~goods and expenses were \$13,731,410 and \$2,425,714, respectively, for an EBITDA of~~  
16 ~~\$596,215.~~

17 In 2014, it became clear that the decisions being made by the new managers were  
18 ~~having an adverse effect on~~ further deteriorating the company's profitability, cash flow, and  
19 customer relations. At JA, cost of goods sold increased by 41%, overhead expenses increased  
20 by 83%, and operating profits decreased 37%. On time delivery of the products to the  
21 company's main customer, ~~Honeywell,~~ decreased from 95% to 70%, and the failure to  
22 adequately allocate resources to a new customer, ~~Vericor Power Systems,~~ resulted in a  
23 sustained shutdown of their engine assembly line and the subsequent loss of business.

24 In September 2014, the COO Bill Pesch was removed and Yockey was asked to ~~assume~~  
25 ~~the~~ resume operational duties at JA. Soon after, it became apparent that without a drastic  
26 change in the direction and structure of ~~the company JA,~~ the operation was not sustainable. In  
27 October 2014, the remaining managers called a meeting with the owners and demanded a

1 salary increase and bonuses based on representations ~~provided them~~made by Geotas. ~~Based on~~  
2 Yockey voted to reject the demand because the managers had not met the goals on which the  
3 compensation ~~plan provided to ownership by Geotas and~~was conditioned and because of the  
4 company's financial situation~~of the company, Yockey voted to reject the demand,~~ but he was  
5 out-voted by ~~majority.~~the majority. Salary and benefits for the officers cost the business  
6 \$250,000 in 2014 and over \$500,000 in 2015 (in which year the company had nearly \$1  
7 million of negative EBITDA—see below).

8 In 2014, Debtors had gross revenues of \$16,753,338 made up of \$12,255,861 from JA  
9 and \$4,497,477 from DM. JA revenues were up approximately \$2 million from the previous  
10 year and revenues were down approximately \$500,000 for DM. Combined cost of goods and  
11 expenses were \$13,731,410 and \$2,425,714, respectively, for an EBITDA of \$596,215.

12 As a result of Yockey's objections to the decisions being made, ~~and the failure to act,~~  
13 ~~primarily by Geotas, with regard to taking on additional debt, increasing overhead costs and~~  
14 ~~hiring highly paid executives to replace him, in February,~~in February of 2015, Yockey ceased  
15 active involvement in the operational and financial affairs of the Debtors~~.~~ and retained only a  
16 minor role with the business.

17 ~~In 2015, Debtors had gross revenues of \$18,134,251 made up of \$13,484,916 from~~  
18 ~~JA and \$4,649,335 from DM. Combined cost of goods and expenses were \$16,421,589 and~~  
19 ~~\$2,510,029, respectively, for an EBITDA of (\$797,366).~~

20 ~~In early 2015, the members of JJPS became aware that~~Despite the company's shrinking  
21 operations and financial woes, rather than consolidating assets in facilities appropriate to the  
22 scale of operations, on March 24, 2015, the CEO Rich McManus ~~the CEO had~~ entered into a  
23 multi-million dollar long term lease agreement for a new facility in north Phoenix. ~~PMP's~~ Not  
24 only was the lease above market price and beyond the needs of the company, under the  
25 operating agreement ~~restricted the CEO from committing the company to~~McManus was  
26 expressly prohibited from incurring liabilities over one million dollars without majority  
27 interest approval. ~~Upon discovering that an agreement had been signed, the members of~~

1 JJPS Furthermore, the move created serious logistical issues at a time when the business was  
2 already having trouble meeting customer deadlines for production. This action was not  
3 discovered by JJPS members until several weeks after it happened and upon discovery, they  
4 called an owners meeting to discuss this and other concerns related to the performance of the  
5 business.

6 On April 25, 2015, an owners meeting was held in which Yockey provided the other  
7 owners with data showing the drastic decline in business performance at the JA facility since  
8 the new managers were hired. (See Exhibit B). Also discussed was how fact that the CEO was  
9 able lacked authority to obligate the company to a long -term lease without member approval  
10 ~~from the owners. Geotas disregarded the data and stated that the approval to enter into the~~  
11 ~~lease was an implied approval. Subsequently discovered and unknown to the members of~~  
12 JJPS, Geotas had previously. Months later, JJPS members discovered that 10 days before the  
13 April meeting, Geotas executed an agreement with Kenrick and James Farley ~~on April 15,~~  
14 ~~2015,~~ to purchase their interest in BizDev purportedly giving him majority control. (See  
15 Exhibits C and D). ~~This violated the covenants with the bank and was a clear failure to~~  
16 ~~perform his fiduciary duty to protect his minority partners. It also provided Geotas a~~  
17 ~~justification to act unilaterally on major decisions.~~

18 ~~PMP began its first year of operation in the midst of a government shut down. The~~  
19 ~~two events which coincided to create a major loss of revenue for Debtors were sequestration of~~  
20 ~~federal spending caused by congressional dysfunction. On top of the sequestration, the~~  
21 ~~conclusion of the war efforts in Iraq and Afghanistan created massive deficits which required a~~  
22 ~~reduction in military spending as those efforts were reduced. Together, those events led to a~~  
23 ~~loss of the majority of DM revenue contribution to PMP (over \$20 million loss of revenue~~  
24 ~~from 2011 to 2013).~~

25 ~~In the midst of this downturn in revenue from DM, the majority owner~~  
26 ~~representative of PMP, Geotas, believed that the way out of the crisis in revenue was to acquire~~  
27 ~~other companies as a way to avoid paying bills. Over JJPS's objections, PMP acquired an~~

1 interest in a supplier (OVAC, LLC and Hi Temp) and created more debt as a result.

2 The original operating agreement of PMP, because it had two different groups of  
3 minority voting members with separate shared histories, created a provision that required a  
4 super majority of 65% of voting interests to acquire companies or bring in new members.  
5 Geotas, who drafted the agreement, advocated to the JJPS group that the operating agreement  
6 should be amended in order to allow PMP to hire officers. When asked directly if any other  
7 provisions of the agreement had changed except to allow the hiring of officers, Geotas  
8 represented that that was the only change made. In reality, he had also changed the  
9 requirement for super majority which gave his voting group control over those decisions. This  
10 act created mistrust among the members and created a split in the voting factions of the  
11 owners, leading to lack of consensus on company direction.

12 As noted above, Geotas advocated hiring high paid professional managers as a way  
13 to bring revenues back to the company. Specifically, he wanted to hire a CEO and a COO to  
14 replace Yockey's role as CEO/COO. Yockey believed that this was a bad idea in the midst of  
15 declining revenue. Salary and benefits for the two officers amounted to over \$250,000 in 2014  
16 and over \$500,000 in 2015. As noted above, EBITDA for the previous year was only  
17 \$596,215 and was \$(797,366) in 2015.

18 The new CEO, Richard McManus, rather than consolidating assets in facilities  
19 appropriate to the scale of operations, decided to enter into a lease agreement with  
20 M Pinnaele7thAZ that was above market price and beyond the needs of the company. Such a  
21 move also created serious logistical issues at a time that PMP was already having trouble  
22 meeting customer deadlines for product.

23 In a final act to plunge the business over a financial cliff, Geotas (1) took out a  
24 purported \$200,000 secured loan from Can Capital Asset Servicing on behalf of DM requiring  
25 repayment plus \$42,000 of interest within 1 year, and (2) purported to sell Debtors' accounts  
26 receivable to Merchant Cash & Capital for \$300,000, plus interest, despite the fact that UMB  
27 Bank already had a recorded lien in those accounts and in contravention of the loan documents

1 that expressly prohibited any transfer or encumbrance of assets. These actions were taken  
2 without the knowledge or consent of any other owners or of UMB Bank.

3 ~~With cash extremely constrained as a result of all these factors, Geotas entered into~~  
4 ~~additional loans that pulled even more cash away from company operations with hard money~~  
5 ~~lenders Merchant Cash/Biz Fi and Can Capital/New Logic. Those loans required daily~~  
6 ~~withdrawals from PMP's bank accounts. These loans were entered into without the~~  
7 ~~knowledge or consent of any other owners or of UMB. The loans violated the restrictive~~  
8 ~~covenants previously in place with UMB and Geotas' ultra vires actions severely damaged the~~  
9 ~~Debtors.~~ In 2015, Debtors had gross revenues of \$18,134,251 made up of \$13,484,916 from JA  
10 and \$4,649,335 from DM. Combined cost of goods and expenses were \$16,421,589 and  
11 \$2,510,029, respectively, for an EBITDA of (\$797,366).

#### 12 **D. Efforts to Avoid Chapter 11**

13 After the hiring of the highly paid executives and having Yockey's concerns for the  
14 financial state of the business ignored, Yockey quit in August of 2015 and went to work for  
15 CAD Enterprises. In November of 2015, the bottom finally fell out. The CFO Keith Kranzow  
16 resigned and the CEO Richard McManus was terminated. Yockey was asked to rejoin the  
17 Debtors in January of 2016 as the crisis reached its peak. Yockey voluntarily took a  
18 \$50,000.00/~~yr~~year pay reduction from his previous employment at CAD in order to address  
19 the crisis.~~The company had an employee furlough the first week of January 2016. On January~~  
20 ~~15th a 8%, reduced the labor force by 8%, and received a voluntary~~ reduction in ~~force was~~  
21 ~~performed.~~ pay from Bowen and Ivanov ~~voluntarily reduced their salaries by approximately of~~  
22 \$35,000/~~yr~~year.

23 PMP hired John Trotter of Brockson, an investment banking group, to explore  
24 financing options related to a transaction or sale of the ~~company~~Debtors.

25 As a result of the hiring of Trotter, a corporate resolution was drafted and executed  
26 giving Yockey control of all operations of the Debtors including the ability to enter into  
27 bankruptcy if necessary.

1 Trotter and Yockey had extensive negotiations with Honeywell that included loans,  
2 cash infusions, long term purchase orders, payment reduction terms, and revenue support  
3 proposals. Unfortunately, after several months of good faith efforts, Honeywell ultimately  
4 rejected the financial accommodation options which left the Debtors with no choice but to  
5 seek protection under Chapter 11.

6 **E. Jordan Geotas Misconduct.**

7 Exacerbating these difficult circumstances was a pattern of misrepresentation, fraud,  
8 and self-dealing by the principal architect of the merger, Geotas, and his associated poor  
9 business decisions. He obscured the actual financial situation of DM from the merger partners  
10 and the bank, which omissions were not discovered until it was too late. Even during the crisis  
11 when some of these misrepresentations were made know, intentional obfuscation and  
12 ill-conceived majority voting interests, delayed crucial intervention that could have avoided a  
13 Chapter 11 filing.

14 This pattern of misconduct ~~is briefly described below:~~ was pervasive and extremely  
15 detrimental to the Debtors' operations. As of the filing of this Amended Disclosure Statement,  
16 Debtors and Geotas have reached a tentative agreement whereby Geotas and Kenrick will  
17 withdraw completely from all further ownership, involvement and interaction with the  
18 Debtors and with the Reorganized Debtor. In exchange, Debtors will waive and relinquish any  
19 and all claims against Geotas and Kenrick. As part of the agreement, Debtors have agreed to  
20 remove the detailed allegations against Geotas that appeared in the original Disclosure  
21 Statement.

22 ~~1. — Two key documents were provided by Geotas to JA before the merger. One~~  
23 ~~was a financial Statement of Operations report of historical and year to date income. The~~  
24 ~~second provided an Income Statement and Balance Sheet for JA. (See Exhibit E and F).~~

25 ~~Both of these documents had serious misstatements that came to light in a~~  
26 ~~post merger audit. With respect to the Statement of Operations both the Operating Income,~~  
27 ~~Gross Margin and Net Margin were falsely represented. The document shows Operating~~

1 ~~Income as of September 2010 of over \$1 million but audited numbers show less than half that~~  
2 ~~by the end of the year. Similarly, the gross margin shown in the Statement of Operations was~~  
3 ~~at 23% based on sales of \$10 million showing a gross profit of \$2.4 million. But the audited~~  
4 ~~gross margin was only 10% based on sales of \$17 million and the same \$2.4 million gross~~  
5 ~~profit. In other words, approximately \$7 million in sales went out of DM at 0% margin from~~  
6 ~~September to December 2010, if the original numbers were to be believed.~~

7 ~~The Balance Sheet was even more misrepresented as it was a comparison, prepared~~  
8 ~~by Geotas, between the accurate numbers provided by JA, with inaccurate numbers provided~~  
9 ~~by DM. The inventory number listed as an asset and used to provide justification for BizDev's~~  
10 ~~member interests was grossly misrepresented. Whereas \$7,499,113 was listed as the asset~~  
11 ~~value in the represented balance sheet, the actual value was reduced dramatically as it became~~  
12 ~~obvious that this inventory was worthless. As a result, PMP wrote off the entire value of DM's~~  
13 ~~inventory within three years. Importantly, this asset number was used to justify the member~~  
14 ~~interests assigned in the agreement as it inflated the net worth and equity of DM. Had these~~  
15 ~~numbers been represented accurately it is unlikely the merger would have taken place. And~~  
16 ~~even if it had gone forward with accurate information, the member interests would have been~~  
17 ~~assigned in proportion to net worth. JA relied on these misrepresentations due to Geotas'~~  
18 ~~standing as an attorney with professional responsibilities and industry credentials.~~

19 ~~2. Both JA and DM had partners that were part of their pre-merger structures.~~  
20 ~~Numerous discussions ensured that these partners were bought out in anticipation of a new~~  
21 ~~company structure formed through the merger. In the case of JA, these partners were bought~~  
22 ~~out and their equity was acquired properly. However, the BizDev liabilities did not appear on~~  
23 ~~any documents provided to the merger partners nor did they appear on the compliance~~  
24 ~~certificate signed by Geotas and provided to the bank. Geotas cleverly hid BizDev's~~  
25 ~~obligations as CFO of the new venture and made these obligations a part of the debt structure~~  
26 ~~of the new company. Randy Chamerski and Gary Ekebrecht, both previous partners of~~  
27 ~~Geotas prior to the merger with JA, received cash payouts in total of \$814,215.00 including~~

1 legal fees post-merger from January 2011 through August 2015. This is a clear case of  
2 self-dealing, as Geotas made PMP responsible for a debt that was clearly a legacy debt of  
3 BizDev. With the precipitous decline of revenues from DM, the actual payment of this  
4 partner's previous debt was shouldered by JA which was the only member company  
5 generating income. So not only was the debt responsibility shifted to the new company, the  
6 actual payments were not even split evenly between the companies but rather they were  
7 covered by the member that should not have had any responsibility for the debt in the first  
8 place. (See Exhibits G and H).

9 **3.**— The original operating agreement of PMP, because it had two different  
10 groups of minority voting members with separate shared histories, created a provision that  
11 required a super majority of 65% of voting interests for important decisions. Geotas, who  
12 drafted the agreement, advocated to the JJPS group that the original operating agreement  
13 should be amended in order to allow PMP to hire officers. When asked directly if any other  
14 provisions of the agreement had changed except to allow the hiring of officers, Geotas  
15 represented that that was the only change made. In reality, he had also changed the  
16 requirement for super majority, which gave his voting group control over all decisions. This  
17 act created mistrust among the members, allowed Geotas to avoid Board meetings and created  
18 a split in the voting factions of the owners, leading to lack of consensus on company direction.

19 **4.**— As noted above, two hard money loans were entered into by Geotas that  
20 obligated the company and were secured by accounts receivable. These loans from BizFi and  
21 Can Capital were at above market interest rates and required daily withdrawals from PMP's  
22 bank accounts to service the debts. These loans were entered into, ultra vires, and without the  
23 knowledge or consent of any of the other owners or the primary lending institution in violation  
24 of the UMB Bank restrictive covenants previously in place.

25 **5.**— Geotas also used the elimination of the super majority to avoid board  
26 meetings and made unilateral decisions to increase debt in violation of bank covenants. A  
27 CEO, CFO and COO were hired and were paid significant salaries at a time when revenues

1 ~~were declining. These hires were strenuously objected to by Yockey but these objections were~~  
2 ~~ignored. In addition and despite clear criteria associated with providing raises and bonuses that~~  
3 ~~were not met, Geotas approved raises and bonuses to these officers again over objections of~~  
4 ~~Yockey. Salary and benefits for the two officers amounted to over \$250,000 in 2014 and over~~  
5 ~~\$500,000 in 2015. EBITDA for 2014 was \$596,215 and \$(797,366) in 2015.~~

6 ~~6. During the short tenure of these officers, Geotas, rather than consolidating~~  
7 ~~assets in facilities appropriate to the scale of operations, allowed the new CEO to enter into a~~  
8 ~~lease agreement with M Pinnacle 7thaz, LLC that was above market price and beyond the~~  
9 ~~needs of the company. This decision created another financial burden that exceeded the~~  
10 ~~financial resources of the company.~~

11 ~~This pattern of misrepresentation, self-dealing and lack of fiduciary responsibility~~  
12 ~~are at the heart of the current difficulties of PMP. By falsifying information, manipulating~~  
13 ~~agreements, obligating the company beyond its means, all during a challenging business~~  
14 ~~environment in which key government contracts were being eliminated, Geotas put an~~  
15 ~~extraordinary burden on the one member company that maintained a measure of adequate~~  
16 ~~revenues and profits JA. However even for that member company, burden was~~  
17 ~~unsustainable and resulted in the decision to file Chapter 11.~~

18 ~~Yockey came back to work in January of 2016 as acting President when the crisis~~  
19 ~~was at its peak, and voluntarily took a \$50,000.00/year salary reduction from his previous~~  
20 ~~employment. The company had an employee furlough the first week of January 2016. On~~  
21 ~~January 15<sup>th</sup> an 8% reduction in force was performed. Bowen and Ivanov voluntarily reduced~~  
22 ~~their salaries by approximately \$35,000/yr.~~

23 Since the Petition Dates ~~debtors~~, Debtors have created and enforced a strict Budget  
24 approved by UMB Bank and in conjunction with the Cash Collateral Order. Debtor has  
25 reduced staffing to a very lean level from 103 to 83, has implemented weekly cash flow  
26 spreadsheet reviews, and has tightly followed a break-even analysis, which is constantly  
27 monitored. As a result, JA is timely fulfilling its orders and operating with adequate margins

1 to maintain operations. DM is still struggling to provide any substantive revenues.

2 **F. Prepetition Secured Debt Structure.**

3 *The UMB Facility.* The Debtors are indebted and obligated to UMB under the Loan,  
4 which is currently in default, as set forth below:

5 a. *The Loan.* On July 31, 2015, UMB extended to the Debtors (“Borrowers”),  
6 jointly and severally, a consolidated non-revolving line of credit in the principal amount of  
7 ~~\$8,650,000.00~~8,650,000 (the “Loan”) that replaced 1) a revolving line of credit in the original  
8 principal amount of ~~\$5,600,000.00~~5,600,000 (the “A-Loan”), and 2) a term loan in the original  
9 principal amount of ~~\$4,968,641.00~~4,968,641 (the “Term Loan”).

10 b. *The Note.* The Loan is evidenced by that certain consolidated and replacement  
11 Promissory Note dated July 31, 2015 in the principal amount of ~~\$8,650,000.00~~8,650,000 (the  
12 “Note”), which replaced and consolidated that (i) Promissory Note dated January 31, 2014 in  
13 the principal amount of ~~\$5,600,000.00~~5,600,000, which replaced a Promissory Note dated  
14 February 21, 2013 in the principal amount of ~~\$6,500,000.00~~6,500,000, which replaced an  
15 earlier Promissory Note dated May 31, 2012 in the same principal amount, which replaced the  
16 original Promissory Note dated April 7, 2011 in the same principal amount and which was  
17 reduced to ~~\$5,000,000.00~~5,000,000 pursuant to the Third Modification Agreement (defined  
18 below) and that (ii) Promissory Note dated January 31, 2014 in the principal amount of  
19 ~~\$4,968,641.00~~4,968,641, which replaced that certain Consolidated Replacement Promissory  
20 Note dated February 21, 2013 in the principal amount of \$4,388.859.64, which consolidated  
21 and replaced that Promissory Note dated May 16, 2012 in the principal amount of  
22 ~~\$4,556,000.00~~4,556,000, and that Promissory Note dated January 8, 2013 in the principal  
23 amount of ~~\$625,000.00~~625,000.

24 c. *The Loan Agreement.* The Loan was advanced to the Borrowers pursuant to a  
25 Business Loan Agreement by and between Borrowers and Lender dated January 31, 2014,  
26 which replaced a Business Loan Agreement dated February 21, 2013, which replaced a  
27 Business Loan Agreement dated May 31, 2012, which replaced the original Business Loan

1 Agreement dated April 7, 2011 (collectively, the “Loan Agreement”).

2 d. *The Security Documents.* The Loan is secured by, among other things: (i) three  
3 separate Commercial Security Agreements dated April 7, 2011 executed for the benefit of  
4 UMB by the Joined Alloys and DiMatrix; (ii) together with a separate Commercial Security  
5 Agreement dated February 25, 2013 granted and executed for the benefit of UMB by OVAC,  
6 LLC and Debtors for UMB’s benefit (collectively, the “Security Agreements”), pursuant to  
7 which Borrowers pledged and granted a first priority security interest and lien to Lender  
8 against all of Borrower’s business assets including without limitation all inventory, accounts,  
9 equipment, and general intangibles, now owned or later acquired, all accessions, additions,  
10 replacements, and substitutions, and all proceeds relating to any of the foregoing (collectively,  
11 the “Collateral”), and (iii) three Collection Account Collateral Agreements executed by the  
12 Subsidiaries (collectively, the “Collection Agreement”), which established a non-interest  
13 bearing demand deposit account in the name of, and owned by, UMB on its books and records  
14 and denominated as follows: “UMB Bank, n.a.; Collateral Security for Obligations of Phoenix  
15 Manufacturing Partners, LLC and its Subsidiaries” (the “Control Account”), which is subject  
16 to UMB’s first priority perfected security interest and UMB’s sole control. Since the PMP  
17 Petition Date, no disbursement or debit activity has occurred from the Control Account. UMB  
18 holds its first priority perfected security interest in the Collateral pursuant to those UCC-1s (as  
19 amended) filed with the Delaware Secretary of State on or before April 12, 2011. The  
20 documents described in this paragraph 5(d) are collectively referred to as the “Security  
21 Documents”).

22 e. *Guarantees.* The Debtors’ performance is guaranteed pursuant to those certain  
23 separate Commercial Guaranty agreements (collectively, the “Guarantees”) executed by (i)  
24 Sun West Capital Holdings, L.L.C., an Arizona limited liability company; (ii) BizDev, LLC,  
25 an Arizona limited liability company; (iii) JJPS, LLC, an Arizona limited liability company;  
26 (iv) Thomas J. Kenrick; (v) Jordan K. Geotas and Christy Ann S. Geotas; (vi) James J. Farley  
27 and Lorraine M. Farley; (vii) Patricia Tierney; (viii) James Z. Bowen and Marie A. Bowen;

1 (ix) Joseph W. Yockey and Sharlene M. Bosch; (x) Plamen Ivanov; (xi) Scott Omelianowich  
2 and Sue Omelianowich; (xii) Carlos N. Ruiz and Cindy J. Ruiz, jointly and severally  
3 (collectively, the “Guarantors”), pursuant to which the Guarantors, jointly and severally,  
4 guaranteed the full payment, collection and performance of all Debtors’ obligations to UMB,  
5 except for the specific Guarantees executed by Carlos N. Ruiz and Cindy L. Ruiz, which  
6 limited the guaranty obligations of Carlos N. Ruiz and Cindy L. Ruiz to a maximum sum of  
7 \$300,000.00.

8 On August 16, 2016, UMB timely filed Proofs of Claim in Debtors’ respective  
9 bankruptcy proceedings based on the Loan Documents. Per those Proofs of Claim, UMB’s  
10 secured debt is \$8,263,539.51.

11 **G. Business Plan and Projections.**

12 Debtors’ business, particularly that of JA, has a proven 12-year track record of  
13 profitability in its own right. JA is an AS9100 and ISO 9001 certified manufacturer of  
14 Computer Numerical Controlled (“CNC”) machining components as well as a special  
15 processes provider of brazing, heat-treating, welding, and many other processes, mainly  
16 servicing the aerospace and defense industries. These specialty processes and highly skilled  
17 certified manufacturing capabilities will continue to be in demand by aerospace and defense  
18 companies in the US in general and in the Phoenix region in particular. JA is essentially an  
19 aerospace and defense job shop. The key to JA’s profitability is a proven lean cellular  
20 manufacturing process and proven operational excellence delivering quality products with  
21 precise specifications on time and within budget.

22 The Debtors’ business objectives are (a) to manufacture parts and assemblies for the  
23 aerospace, defense and commercial industries, providing customers with quality products,  
24 services and information; (b) to present the company in an honest and trustworthy manner in  
25 all transactions; (c) to empower employees to conduct the business; and (d) provide the  
26 company with a consistent and reasonable profit.

27 As noted above, JA’s ability to operate profitably has been impaired as a result of an

1 unwarranted debt burden largely imposed through mismanagement of the operations by the  
2 previous officers and financial misrepresentation from an unscrupulous member. Freed of that  
3 burden, there is little doubt that the business would again achieve sustainable profitability.  
4 ~~Debtor~~Debtors's plan is to continue to be operationally lean, providing service and on time  
5 delivery of product to new and legacy customers. However, to reduce its debt burden and  
6 come out of Chapter 11 proceedings, Debtors must execute on four main areas of their  
7 renewed business plan as follows:

8 **1) Consolidate the ~~three companies~~Debtors' operations and finance under a**  
9 **single ERP system.**

10 As noted above one of the major managerial mistakes of the hired officers and majority  
11 principals, was a failure to make the necessary adjustments to the operations and locations  
12 when major contracts were cancelled. Reduced revenue and profitability are a clear signal to  
13 find operational efficiencies by downsizing a company. Instead, previous management  
14 expanded operations and made commitments to enter into uneconomic leases and purchases.  
15 Post-confirmation, high priority will be to consolidate operations between the two companies  
16 of DM and JA. The Debtors have already moved the DM operations into a facility appropriate  
17 to the scale of the business and within walking distance of the JA facility. The close proximity  
18 allows for a wireless connection that enables the Debtors to incorporate the operations into the  
19 existing JA ~~ERP~~Enterprise Resource Planning system. This will create efficiencies and  
20 provide greater control and transparency into ~~the~~DM's remaining business activities. Current  
21 plans for consolidation are being developed as this document is being drafted. Projections for  
22 cash-flows with this consolidation are detailed in Exhibit ~~JE~~JE.

23 **2) Increase sales with existing and new customers at appropriate margin.**

24 Since filing Chapter 11, Debtors have been able to maintain a business relationship  
25 with all of its previous customers. Debtors have been able to turn around the operations and  
26 begin to earn back the trust of these customers by manufacturing quality product and  
27 delivering them on time. Parker Hannifin, Honeywell, and Ventana Medical Systems have all

1 recently remarked about the positive turnaround they have seen over the last several months.  
2 Parker's business ~~has increased and~~ is up 25% over last year mainly with new orders received  
3 in September and October.

4 Honeywell, PWC, and Ventana orders, although down from last year, are stable and  
5 consistent enough to allow for continued profitability. Several new customers have been  
6 added to the orders backlog including Marvin Land Systems and PAS Technologies and  
7 opportunities to quote new business has increased from Vericor Power Systems, Armor  
8 Works, ACME and Arnprior Aerospace. Significant effort will be expended to get this new  
9 business and convert it to long-term business relationships and revenue.

10 **3) Negotiate and convert short and long-term liabilities to manageable level.**

11 This effort is explained in detail under the debt treatment plan. (See Section VI, below.)

12 **4) Enter into Strategic partnership for joint venture or acquisition.**

13 The original plan of PMP was to capture enough business to achieve gross sales of  
14 \$50M-\$70M and EBITDA of 15-20% in order to become attractive to a potential acquisition  
15 or strategic partner. There is nothing wrong with that plan except the strategic partner that JA  
16 chose. Debtor's acknowledge their culpability in lack of due diligence by relying on  
17 information and statements of fact with respect to the counterparties involved in their merger.  
18 Therefore a concerted effort to identify several potential strategic partners and perform high  
19 level due diligence in the process of forming a partnership is the fourth key area of Debtors'  
20 business plan. JA has already been approached by several possible strategic partners but  
21 would prefer to get through the Chapter 11 proceeding prior to entering into additional  
22 discussions.

23 **H. Post-Reorganization Management.**

24 The Reorganized Debtor will continue to be managed post-petition by Joseph Yockey,  
25 President and Managing Member. The compensation for Mr. Yockey is set out in the  
26 projections (see below). The remaining management team is set out on the attached  
27 organization chart. (See Exhibit IF, attached hereto).

1 Attached to this [Amended](#) Disclosure Statement are Debtors' projections for future  
2 operations, revenues and expenses which reflect that the Reorganized Debtor will be able to  
3 satisfy the financial obligations described herein and in the [Amended](#) Plan. (See Exhibit [JE](#),  
4 attached hereto.)

5 **I. Preferences and Fraudulent Conveyances.**

6 To the extent that a preference or fraudulent conveyance occurred before the  
7 bankruptcy filing, such transfer may be recoverable by the bankruptcy estate for the benefit of  
8 the estate under [11 U.S.C. §§ 544, 547, or ~~548 of the Bankruptcy Code. 548.~~](#) To date, no  
9 complaints have been filed under any of these theories. ~~However, the Debtor is currently~~  
10 ~~analyzing any such claims for the recovery of preferences or fraudulent conveyances.~~  
11 [Attached hereto as Exhibit G are schedules for the three Debtors which reflect the Potential](#)  
12 [Actionable Preferences and gross dollar amounts of the transfers. The Reorganized Debtor](#)  
13 [will analyze the likelihood of recovery against the transferees and, where appropriate, file](#)  
14 [timely actions against them.](#) These potential claims are specifically preserved for the benefit  
15 of the bankruptcy estate. Any [net](#) recovery that is obtained will be ~~obtained for the benefit of~~  
16 ~~the estate~~ [contributed to the General Unsecured Creditors per the treatment under Class 9 of the](#)  
17 [Amended Plan.](#)

18 **III. SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

19 **A. Administrative Proceedings.**

20 The Debtors filed their Petitions for Relief under Chapter 11 on May 3, 2016 (~~Phoenix~~  
21 ~~Manufacturing Partners, LLC~~[PMP](#)) and May 27, 2016 (~~Joined Alloys, LLC and DLS~~  
22 ~~Precision Fab, LLC, dba Di Matrix Precision Manufacturing~~[JA and DM](#)). The First Meetings  
23 of Creditors were held on June 7, 2016 and June 28, 2016, respectively.

24 **B. Retention of Professionals and Interim Compensation Order.**

25 On May 9, 2016 and June 2, 106, respectively, ~~Debtors filed their Applications to~~  
26 Debtors filed their Applications to Employ Jennings, Strouss & Salmon, P.L.C. ("JSS") to act  
27 as its bankruptcy counsel. The Court signed Orders approving the retention of JSS on May 13,

1 2016 and June 6, 2016, respectively.

2 On June 15, 2016, the Court signed an Order granting Debtors' Motion for  
3 Administrative Order to Establishing Procedures for Interim Compensation for Professionals.

4 On August 12, 2016, Debtor ~~Phoenix Manufacturing Partners, LLC~~PMP filed ~~their~~its  
5 Application to Employ Eide Bailly, LLP as Debtor's accountants. On August 17, 2016 the  
6 Court signed an Order approving the retention of Eide Bailly.

7 On August 24, 2016, Debtor ~~Di-Matrix~~DM filed its Application to Employ Gallagher  
8 & Kennedy as special counsel to represent ~~Di-Matrix~~DM in a pending, pre-petition 9<sup>th</sup> Circuit  
9 appeal. On August 30, 2016, the Court signed an Order approving the retention of Gallagher  
10 & Kennedy

11 On September 20, 2016, Debtors filed their Application to Employ Cunningham &  
12 Associates, Inc. as Appraiser for Debtors. On September 29, 2016, the Court signed an Order  
13 approving the Application.

14 On December 16, 2016 Debtor JA filed its Application to Employ Semple, Marchal &  
15 Cooper, LLP ("SMC") as Accountants for JA. SMC was employed to provide accounting  
16 services and to conduct the required audit related to JA's 401(k) Plan. On December 23, 2016,  
17 the Court signed an Order approving the retention of SMC.

18 **C. First Day Motions and Orders.**

19 On June 2, 2016, Debtors filed their Motion for Joint Administration. The Court  
20 granted that Motion with its Order on June 10, 2016.

21 On June 28, 2016, Debtors filed their Motion to Pay Claims of Critical Vendors. The  
22 Court granted that Motion with its Order Granting on July 27, 2016.

23 On June 2, 2016, Debtors filed their Motion to Approve Maintenance of Existing  
24 Merchant Accounts. The Court granted that Motion with its Order on June 15, 2016.

25 On June 16, 2016, Debtors filed their Motion to Pay Adequate Assurance of Payment for  
26 Future Utility Services. The Court granted that Motion with its Order on June 15, 2016.

27 **D. Motions for Use of Cash Collateral and Orders.**

1 On June 2, 2016, Debtors and UMB Bank filed their Notice of Lodging Proposed  
2 Stipulated Interim Order Authorizing Debtors Use of Motion to Approve Use of Cash  
3 Collateral. On June 10, 2016, the Court issued a Stipulated Interim Order Authorizing  
4 Debtors' Use of Cash Collateral, granting Post-Petition Liens, Modifying the Automatic Stay  
5 and Granting Related Relief. On July 27, 2016, the Court entered a Final Stipulated Order  
6 relating to the June 10, 2016 Cash Collateral Order.

7 On August 30, 2016, UMB filed its Notice of Modification of Final Stipulated Order  
8 regarding cash collateral. The Cash Collateral Order is currently in effect through January 21,  
9 2017, per the October 7, 2016 Notice of Modification to Final Order Authorizing Debtors' Use  
10 of Cash Collateral.

11 **E. Motions to Assume and Reject Executory Contracts.**

12 On May 5, 2015 ~~Phoenix Manufacturing Partners, LLC~~PMP filed its Emergency  
13 Motion to Reject Commercial Real Property Lease with M-Pinnacle 7thaz, LLC. On May 17,  
14 2016, the Court issued its Order granting that Motion.

15 On July 5, 2016 ~~the Debtor~~ PMP and landlord M-Pinnacle filed their Certification of  
16 Termination Date of the Lease, which date was June 30, 2016.

17 On September 14, 2016, ~~Debtor~~ JA filed its Motion for Order Authorizing Assumption  
18 of Unexpired Leases of Non Residential Real Property with landlord EastGroup Properties,  
19 L.P. and landlord Shangri-la Commercial Holdings, LLC. On October 23, 2016, the court  
20 entered its Orders granting both Motions to Assume.

21 Debtors have identified leases of personal property or services that are to be assumed or  
22 rejected. (See Exhibit KH, attached hereto.)

23 **F. Motion to Sell PMP's 51% Interest in OVAC and Critical Vendors Motion**

24 On June 28, 2016, ~~Debtor~~ PMP filed its (1) Motion to Sell Phoenix Manufacturing  
25 Partners, LLC's 51% member Interest in OVAC, LLC Free and Clear of Liens and Interests;  
26 and Debtors JA and DM filed their (2) Emergency Motion to Authorize Payment of  
27 Prepetition Claims of Critical Vendors. OVAC was a company which acquired a metal

1 distributing company, Hi Temp. PMP was the 51% owner of OVAC and Hi Temp was the  
2 49% owner. This transaction was done during the period of Geotas' mismanagement of the  
3 Debtors. The transaction was not mutually beneficial for either PMP or OVAC/Hi Temp.  
4 Post-petition, the parties entered a Purchase Agreement whereby Hi Temp bought out PMP's  
5 51% interest for \$275,000. Those sale proceeds were paid over to UMB Bank and applied  
6 against the secured claim for which OVAC was also liable.

7 Part of the sale also involved an agreement to pay Hi Temp \$65,732.81 for a prepetition  
8 debt. This payment to Hi Temp was one of the critical vendors approved for post-petition  
9 payment under Debtors JA and DM's Emergency Motion for Order Authorizing Payment of  
10 Prepetition Claims of Critical Vendors.

11 After proper notice and hearing, the Motion to Sell was granted by the Court by Order  
12 dated July 26, 2016 and the Emergency Motion to pay critical vendor claims was also granted  
13 by the Court by Order dated July 27, 2016.

14 **G. Bar Dates for Consolidated Exclusivity Deadline and Proofs of Claims.**

15 On June 16, 2016, Debtors filed their Motion for Order Setting Consolidated  
16 Exclusivity Deadline for all Debtors and to Set Bar Date to File Proofs of Claim and Proofs of  
17 Interest in the jointly administered case. The Court granted that Motion on July 19, 2016 with  
18 its Order setting the Bar Date for filing proofs of claim and proofs of interest for September 12,  
19 2016 and establishing the consolidated exclusivity deadline for September 26, 2016.  
20 Thereafter, by a subsequent motion, the exclusivity periods were extended, by Court order  
21 dated October 23, 2016, to November 30, 2016 to file the Plan and to February 1, 2017 to  
22 obtain acceptances of the Plan.

23 [On February 19, 2017, Debtors filed their Second Motion to Extend Exclusivity](#)  
24 [Periods to obtain acceptance of the Joint First Amended Plan. The Motion seeks to set that](#)  
25 [extended deadline to May 1, 2017. The hearing on the Motion is scheduled for February 15,](#)  
26 [2017 at 1:30 p.m.](#)

27 **H. Operating Reports.**

1 The Debtors' monthly operating reports are current and copies may be obtained from  
2 the Court's electronic calendar. The Debtors' most recent ~~October 15,~~December 2016  
3 monthly operating reports reports are attached hereto as Group Exhibit LI.

#### 4 **I. Anticipated Litigation.**

5 Debtors anticipate that litigation in the form of adversary proceedings or contested  
6 matters ~~will~~may be initiated by or against Debtors including, but not limited to: (1)  
7 subordination of insider Jordan Geotas' claims and equity assertions due to his breach of  
8 fiduciary duties, fraud, self-dealing and misrepresentation, ~~as noted above in Section II of this~~  
9 ~~Disclosure Statement; (2) challenge by Debtor to~~ if the potential settlement reached with  
10 Geotas referenced above—which will be raised in a 9019 motion—is not approved by the  
11 Court; (2) the dispute with Merchant Cash and Capital, LLC, dba BizFi's over its proof of  
12 claim and claim of ownership of accounts receivable which are UMB Bank's collateral  
13 securing its loan to Debtors; ~~and (3) a possible adversary proceeding involving Debtors and~~  
14 ~~Jordan Geotas, on his personal guaranty~~ (3) preference litigation against potential transferees  
15 as set out in Exhibit G and other Avoidance Actions as may be determined; and (4) in the event  
16 a dispute arises out of the new value auction, JJPS, Debtors and/or the Reorganized Debtor  
17 reserve their rights to pursue damage claims against BizDev, Geotas, Kenrick and/or James L.  
18 Farley, related to the actions described above and in the original Disclosure Statement.

#### 19 **IV. DESCRIPTION OF ASSETS AND LIABILITIES OF THE DEBTORS.**

20 **A. Assets.** See Exhibit MJ—Liquidation Analysis

21 **B. Liabilities.** See Exhibit NK—List of Claims

#### 22 **V. PLAN SUMMARY.**

23 Set out below are the major terms and provisions of the ~~Joint~~Amended Plan ~~of~~  
24 ~~Reorganization~~ which the Debtors are proposing to satisfy and treat all claimants and interest  
25 holders in these three jointly ~~administrative-~~administered chapter 11 bankruptcy cases.

#### 26 **VI. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY** 27 **INTERESTS.**

1           **A. Summary of Classification.** Pursuant to this [Amended](#) Plan and in accordance  
2 with ~~Section 11 U.S.C. § 1123(a)(1) of the Bankruptcy Code~~, all Claims of Creditors are placed  
3 in the Classes described below. A Claim is classified in a particular Class only to the extent  
4 that the Claim qualifies within the description of that Class and is classified in other Classes  
5 only to the extent that any remainder of the Claim qualifies within the description of such other  
6 Classes. A Claim also is classified in a particular Class only to the extent that such Claim has  
7 not been paid, released, or otherwise satisfied prior to the Effective Date. As of the  
8 Confirmation Hearing, any Class of Claims which does not contain any Creditor’s Claim will  
9 be deemed deleted automatically from the [Amended](#) Plan; and any Class of Claims which does  
10 not contain an Allowed Claim (or a Claim temporarily or provisionally allowed by the  
11 Bankruptcy Court for voting purposes) will be deemed deleted automatically from the  
12 [Amended](#) Plan with respect to the voting on confirmation of the [Amended](#) Plan.

13	Class 1	Administrative Claims	Unimpaired No solicitation required
14			
15	Class 2	Priority Claims	Impaired Entitled to vote
16			
17	Class 3	UMB Secured Claim	Impaired Entitled to vote
18			
19	Class 4	TCF Equipment Finance Secured Claim	<del>Impaired</del> <a href="#">Unimpaired</a> <del>Entitled</del> <a href="#">Not entitled</a> to vote
20			
21	Class 5.1	U.S. Bank Equipment Finance Claim (FANUC C600)	Impaired Entitled to vote
22			
23	Class 5.2	U.S. Bank Equipment Finance Claim (CT 500)	Impaired Entitled to vote
24			
25	Class 6	Hitachi Capital America Corp.	<del>Impaired</del> <a href="#">Unimpaired</a> <del>Entitled</del> <a href="#">Not entitled</a> to vote
26			
27	Class 7	Merchants Cash & Capital, dba Bizfi LLC Disputed Secured Claim	Impaired Entitled to vote

1	Class 8	CAN Capital Asset Servicing, Inc., dba New Logic Disputed Secured Claim	Impaired Entitled to vote
2	Class 9	General Unsecured Claims	Impaired Entitled to vote
3			
4	Class 10	Convenience Claims	Impaired Entitled to vote
5			
6	Class 11	Equity Interests	Impaired Not entitled to vote
7			

8           **B. Class 1—Administrative Claims.**           Class 1 consists of all  
9 ~~Administrative~~Administrative Claims, ~~if any,~~ other than Priority Tax Claims, including the  
10 \$47,300 cure payment on the lease between Debtors and Shangri-La Commercial Holdings  
11 LLC; and professional fees and costs estimated as of April 15, 2017 of \$225,000 to Jennings  
12 Strouss & Salmon; \$16,000 to Gallagher & Kennedy; \$15,000 to Semple, Marchal & Cooper;  
13 \$1,200 to Eide Bailly, for a total of \$257,200. Debtors estimate the total amount of Class 1 to  
14 be \$304,500.

15           **1. Impairment and Voting.** Class 1 is unimpaired by the Amended Plan. All  
16 holders of Allowed Priority Claims are not entitled to vote and will not be solicited to vote on  
17 the Amended Plan.

18           **2. Treatment.** Each holder of an Allowed Administrative Claim, other than a  
19 Priority Tax Claim, will receive Cash in an amount equal to its Allowed Administrative Claim  
20 on the later of: (i) the Effective Date, or as soon after that date as feasible; ~~and, or~~ (ii) 30 days  
21 after the Priority Claim is Allowed; unless, before the later of those two dates, the holder of the  
22 Claim and the Debtors agree in writing to a different date.

23           **C. Class 2—Priority Claims.** Class 2 consists of the tax claims of the Internal  
24 Revenue Service and the Maricopa County Treasurer and employee wage claim Tony  
25 Wallenburg.

26           **1. Impairment and Voting.** Class 2 is impaired by the Amended Plan. The  
27 holders of the Allowed Class 2 Claims are entitled to vote and will be solicited to vote on the

1 Amended Plan.

2 **2. Description of Claim.** The ~~Internal Revenue Service~~IRS claim is \$700.00. The  
3 Maricopa County Treasurer claim is \$130,843.47. Wallenburg's claim is \$7,052.00.

4 **3. Treatment.** Each holder of an Allowed Class 2 Tax Claim will receive payment  
5 in full—: the IRS claim will be paid within ~~thirty~~30 days ~~of~~after the Effective Date ~~for~~, the  
6 IRS Treasurer claim ~~and will be paid monthly~~ over ~~five~~5 years ~~from the May 27, 2016 Petition~~  
7 Date with interest accruing at 5% per annum ~~for the Maricopa County claim. since the May 27,~~  
8 2016 Petition Date, and Wallenburg ~~shall~~will be paid ~~in full~~ within 60 days ~~of~~after the  
9 Effective Date.

10 **D. Class 3—UMB Secured Claim.** Class 3 consists of the UMB Secured Claim.

11 **1. Impairment and Voting.** Class 3 is impaired by the Amended Plan. The holder  
12 of the UMB Secured Claim is entitled to vote and will be solicited to vote on the Amended  
13 Plan.

14 **2. Description of Claim.** The UMB Secured Claim is \$7,746,998.75 as of  
15 February 2017.

16 **3. Treatment of Claim.** The UMB Secured Claim, once determined and allowed,  
17 will be paid through the ~~Plan as follows:~~Amended Plan as set out in the Term Sheet attached  
18 hereto as Exhibit L. In summary, those terms include execution of a new Promissory Note in  
19 the principal amount of approximately \$7.7 million; amortized over 15 years with an initial  
20 interest rate of 5.25% for three years after the Effective Date, then prime plus 1.25% for the  
21 remainder of the term, with monthly payments of \$35,000 from the Effective Date through  
22 December 31, 2017, \$45,000 from January 1, 2018 through December 31, 2019, and \$55,000  
23 thereafter with a balloon owed at the end of 7 years. The Note will also include reporting  
24 requirements and financial covenants. Holders of Allowed Secured Claims will retain liens of  
25 the same extent and priority as existed on the Petition Date until the Claims are paid in full.

26 ~~Payment in full amount of the debt over 15 years amortized over 20 years (balloon~~  
27 ~~payment at the end of year 15). Payments in the amount of \$35,000.00 per month during year~~

1; payments in the amount of \$45,000.00 per month during years 2 through 5; payments in the amount of \$55,000.00 per month during years 6 through 10; payments in the amount of \$65,000.00 per months during years 11 through 15. Balloon payment at the end of the 15th year of the balance then owing.

**E. Class 4 –TCF Equipment Finance Secured Claim.** Class 4 consists of the ~~Allowed~~ Secured Claim of TCF Equipment Finance.

**1. Impairment and Voting.** Class 4 is ~~impaired~~unimpaired by the Amended Plan. The holder of the TCF Equipment Finance Secured Claim is not entitled to vote and will be solicited to vote on the Amended Plan.

**2. Description of Claim.** The TCF Equipment Finance claim is ~~\$112,803.00~~128,039.16.

**3. Treatment.** The TCF Equipment Finance claim, once determined and allowed, will ~~receive payments of the full amount of its allowed claim over five years with interest at 3.5% per annum~~be paid in full according to its business terms.

**F. Class 5.1—U.S. Bank Equipment Finance Secured Claim.**

**1. Impairment and Voting.** Class 5 is impaired by the Amended Plan. The holder of the U.S. Bank Equipment Finance Secured Claim is entitled to vote and will be solicited to vote on the Amended Plan.

**2. Description of Claim.** The U.S. Bank Equipment Finance claim is comprised of the stated Claim 5-1 on the Claims Register of ~~\$223,235.00~~223,235. Debtors believe this stated amount is erroneous and that U.S. Bank added its two claims (5-1 and 12-1) together. ~~Debtor contends~~Debtors contend this claim should be ~~\$87,235.00~~87,235, which is the current balance owing.

**3. Treatment.** The U.S. Bank Equipment Finance claim, once determined and allowed, will receive ~~payments~~monthly payments beginning the later of the Effective Date or the date the claim is Allowed in the amount equal to the value of its ~~collateral~~claim of approximately ~~\$87,000.00~~87,000, over five years with interest at 3.5% per annum.  Holders of

1 Allowed Secured Claims will retain liens of the same extent and priority as existed on the  
2 Petition Date until the Claims are paid in full.

3 **G. Class 5.2—U.S. Bank Equipment Finance Secured Claim.**

4 **1. Impairment and Voting.** Class 5 is impaired by the Amended Plan. The  
5 holder of the U.S. Bank Equipment Finance Secured Claim is entitled to vote and will be  
6 solicited to vote on the Amended Plan.

7 **2. Description of Claim.** The U.S. Bank Equipment Finance claim is comprised  
8 of the stated Claim 12-1 on the Claims Register of ~~\$223,234.00~~ 223,234. Debtors believe this  
9 stated amount is erroneous and that U.S. Bank added its two claims (5-1 and 12-1) together.  
10 Debtor contends this claim should be ~~\$94,971.00~~ 94,971, which is the current balance owing.

11 **3. Treatment.** The U.S. Bank Equipment Finance claim, once determined and  
12 allowed, will receive monthly payments beginning the later of the Effective Date or the date  
13 the claim is Allowed of in the amount equal to the value of the collateral of \$85,250.00 over  
14 five years at 3.5% per annum.  Holders of Allowed Secured Claims will retain liens of the same  
15 extent and priority as existed on the Petition Date until the Claims are paid in full.

16 **H. Class 6 – Hitachi Capital America Corp. Secured Claim.**

17 **1. Impairment and Voting.** Class 6 is ~~impaired~~ unimpaired by the Amended Plan.  
18 The holder of the Hitachi Capital America Corp. Secured Claim is not entitled to vote ~~and will~~  
19 ~~be solicited to vote on the Plan.~~

20 **2.** The Hitachi Capital America Corp. claim is comprised of the stated Claim 3-1  
21 on the Claims Register of \$21,080.36. The current balance of the claim is \$18,640.00. The  
22 Claim is secured by a 2014 Chevrolet Express Cargo Van valued at approximately the amount  
23 of the debt owing.

24 **3.** The Hitachi Capital America Corp. claim, once determined and allowed, will  
25 continue to be paid pursuant to the terms of the agreement between the parties of \$546.47 per  
26 month.  Holders of Allowed Secured Claims will retain liens of the same extent and priority as  
27 existed on the Petition Date until the Claims are paid in full.

1           **I. Class 7—~~Merchants~~Merchant Cash & Capital, LLC, dba Bizfi Disputed**  
2           **Secured Claim.**

3           **1. Impairment and Voting.** Class 7 is impaired by the [Amended](#) Plan. The  
4 holder of the ~~Merchants~~[Merchant](#) Cash & Capital Disputed Secured Claim is entitled to vote  
5 and will be solicited to vote on the [Amended](#) Plan.

6           **2. Description of Claim.** The October 13, 2015 Merchant Agreement (“BizFi  
7 Agreement”) entered into between Merchant Cash & Capital ([“MCC”](#)) and Debtors was  
8 signed by Debtors’ former CFO, Jordan Geotas, without the knowledge or consent of any  
9 other owners of the Debtors. Moreover, Mr. Geotas’ ~~ultra vires act of~~ signing the BizFi  
10 Agreement was in direct violation of the UMB Bank loan documents which forbade ~~any act by~~  
11 ~~the Debtors in impairing or compromising UMB’s first priority loan and security interests in~~  
12 ~~all of Debtors’~~[the transfer or encumbrance of any of Debtors](#) assets. The UMB loan  
13 documents and UCC financing statements were executed and perfected on or about April 7,  
14 2011 – four and one-half years before the BizFi Agreement was signed and its alleged security  
15 interest purportedly perfected. The amount of the ~~Merchants Cash & Capital~~[MCC](#) claim is  
16 asserted to be ~~\$288,385.01.~~[288,385.01, as reflected in its September 6, 2016 Proof of Claim.](#)

17           [On January 4, 2017, Debtors filed their Objection to MCC’s Proof of Claim which](#)  
18 [challenges the secured status of the claim. On January 25, 2017, MCC filed its Response to the](#)  
19 [Objection. The parties will resolve the Objection by settlement or by further briefing and](#)  
20 [hearings before the Court.](#)

21           **3. Treatment of Claim.** ~~The Merchants Cash & Capital Disputed Secured Claim,~~  
22 ~~once determined and allowed,~~[Once determined and allowed, the secured portion of MCC](#)  
23 [Disputed Secured Claim—if any—will be repaid via monthly payments beginning the later of](#)  
24 [the Effective Date or the date the claim is Allowed as Secured, over five years at 3.5% per](#)  
25 [annum, and the unsecured portion](#) will be treated as a Class 9 General Unsecured Claim.  
26 [Holders of Allowed Secured Claims will retain liens of the same extent and priority as existed](#)  
27 [on the Petition Date until the Claims are paid in full.](#)

1           **J. Class 8—CAN Capital Asset Servicing, Inc., dba New Logic Disputed**  
2           **Secured Claim.**

3           **1. Impairment and Voting.** Class 8 is impaired by the [Amended](#) Plan. The holder  
4 of the CAN Capital Asset Servicing, Disputed Secured Claim is entitled to vote and will be  
5 solicited to vote on the [Amended](#) Plan.

6           **2. Description of Claim.** The ~~October 7, 2015 CAN Capital Asset Servicing, Inc.~~  
7 ~~Agreement (“New Logic Agreement”) entered into between CAN Capital Asset Servicing,~~  
8 ~~Inc. and Debtor Di Matrix was signed by Debtors’ former CFO, Jordan Geotas, without the~~  
9 ~~knowledge or consent of any other owners of the Debtors. Moreover, Mr. Geotas’ ultra vires~~  
10 ~~act of signing the New Logic Agreement was in direct violation of the UMB Bank loan~~  
11 ~~documents which forbade any act by the Debtors in impairing or compromising UMB’s first~~  
12 ~~priority loan and security interests in all of Debtors’ assets. The UMB loan documents and~~  
13 ~~UCC financing statements were executed and perfected on or about April 7, 2011—four and~~  
14 ~~one-half years before the Agreement was signed and its alleged security interest purportedly~~  
15 ~~perfected. The amount of the CAB Capital claim is asserted to be \$161,749.33.~~ [CAN Capital](#)  
16 [claim is comprised of the stated Claim in the amount of \\$161,749.33, the secured status of](#)  
17 [which Debtors objected to on January 3, 2017. CAN Capital did not respond to the Objection,](#)  
18 [and on January 25, 2017, the Court entered its Order sustaining Debtor’s Objection \[Dkt. #](#)  
19 [28\], ruling that CAN Capital is not a secured creditor.](#)

20           **3. Treatment of Claim.** The ~~Merchants Cash &~~ [CAN](#) Capital Disputed Secured  
21 Claim, ~~once determined and allowed~~, will be treated as a Class 9 General Unsecured Claim.

22           **K. Class 9—General Unsecured Claims.** Class 9 consists of all General Unsecured  
23 Claims, ~~excluding the UMB’s Unsecured Claim~~ [which are set forth in Exhibit K hereto.](#)

24           **1. Impairment and Voting.** Class 9 is impaired by the [Amended](#) Plan. All holders  
25 of Class 9 Claims are entitled to vote and will be solicited to vote on the [Amended](#) Plan. Each  
26 General Unsecured Claimant is entitled to vote each of its Claims in Class 9 separately. The  
27 amount of the General Unsecured Creditors is approximately \$~~4,400,000.00~~ [4,400,000.](#)

28           **2. Treatment.** Each holder of an Allowed Class 9 Claim will be paid [a total of](#) 5%

1 of their claim with no interest, [via monthly payments](#) commencing the first day of the first full  
2 month after the Effective Date, over a period of ten years. [Class 9 allowed claim holders shall](#)  
3 [also receive their pro rata share of any and all net recoveries of potential preference claims.](#)

4 **L. Class 10—Convenience Class.** Class 10 consists of General Unsecured  
5 Creditors whose claims are individually less than or equal to \$1,000; or General Unsecured  
6 Creditors who elect to reduce their Allowed Claims to \$1,000. [See Exhibit K for list of](#)  
7 [creditors in this class.](#)

8 **1. Impairment and Voting.** Class 10 is impaired by the [Amended](#) Plan. All  
9 holders of Class 10 claims are entitled to vote and will be solicited to vote on the [Amended](#)  
10 Plan.

11 **2. Treatment.** Each holder of an Allowed Class 10 Claim will be paid the full  
12 amount of its claim, up to \$1,000, over 18 months after the Effective Date.

13 **M. Class 11—Equity Interests.** Class 11 consists of all Equity Interests. ~~The Equity~~  
14 ~~Interests consists solely of Equity Interests to be retained by Joseph and Shar Yockey, James~~  
15 ~~and Marie Bowen, Plamen Ivanov and Scott and Sue Omelianowich, in recognition of their~~  
16 ~~contributions made pursuant to subparagraph c below. Jim and Lorraine Farley will also retain~~  
17 ~~an equity in position~~[All prepetition Class 11 equity interest holders shall be terminated as of](#)  
18 [the Confirmation Date, including without limitation any interests of BizDev, LLC, Thomas](#)  
19 [Kenrick, and Jordan and Christy Geotas. Debtors will notice and conduct an auction for new](#)  
20 [value contributions in exchange for ownership interests](#) in the Reorganized Debtor ~~to the~~  
21 ~~extent that they contribute new value, in pari passu with the new contributions set out below in~~  
22 ~~subparagraph 3. The equity interests previously held by Tom Kenrick and Jordan and Christy~~  
23 ~~Geotas are extinguished under this Plan. The equity and ownership interests of BizDev, LLC~~  
24 ~~together with any and all related entities or affiliated subsidiaries of BizDev, LLC are also~~  
25 ~~extinguished under the Plan.~~[at the Confirmation Hearing. The New Value Auction Terms for](#)  
26 [the auction are set forth in Exhibit M attached. The successful bidders at the auction shall](#)  
27 [become the members of the Reorganized Debtor. The current manager of the Debtors, who is](#)

1 also the anticipated President of the Reorganized Debtor, together with the other principal  
2 operators of the Debtors' business, reserve the right to cease all involvement with Debtors'  
3 business depending on who the prevailing bidders are. Pursuant to an agreement with Debtors  
4 which will be presented to the Court via 9019 motion, BizDev LLC, Jordan Geotas and  
5 Thomas Kenrick will not be allowed to bid at the auction.

6 **1. Impairment and Voting.** Class 11 is impaired by the ~~Plan. All holders of~~  
7 ~~Equity Interests who will retain their interests under the Plan do so since § 1126(g) of the~~  
8 ~~Bankruptcy Code does not apply as to them~~ Amended Plan and are not entitled to vote.

9 **2. Treatment.** All equity interests ~~being retained as set out above in Debtors will~~  
10 ~~be transferred to the Reorganized Debtor~~ will be terminated as of the Confirmation Date.

11 ~~3. Subsequent New Value. The Equity Holders who are retaining their interests in~~  
12 ~~the Debtors, and thereafter in the Reorganized Debtor by virtue of the subsequent new value~~  
13 ~~provided by them, are as follows:~~ JJPS, LLC will contribute \$100,000 in cash to the  
14 Reorganized Debtor as of the Effective Date in exchange for 100% ownership of the  
15 Reorganized Debtor unless the new value auction yields a higher aggregate price for the  
16 ownership interests in the Reorganized Debtor, in which case the successful bidders at the  
17 auction will contribute their winning bid amounts in exchange for their pro rata shares of the  
18 ownership interests of the Reorganized Debtor. The new value so contributed by either JJPS  
19 LLC or the successful bidders will satisfy the requirements of the absolute priority rule of the  
20 Bankruptcy Code.

21 ~~Yockeys~~ ~~—————~~ ~~\$12,150~~

22 ~~Bowens~~ ~~—————~~ ~~\$12,150~~

23 ~~Ivanov~~ ~~—————~~ ~~\$10,000~~

24 ~~Omelianowich~~ ~~—————~~ ~~\$8,400~~

25 ~~Farleys~~ ~~—————~~ ~~\$10,000~~

26 ~~Yockeys/Bowens~~ ~~—————~~ ~~\$47,300 in rent/debt forgiveness under the assumed~~  
27 ~~Shangri la Lease~~

1 **VII. IMPLEMENTATION:**

2 **A. Substantive Consolidation.**

3 For years the Debtor entities have operated a single business, filed joint tax returns, and  
4 relied on a unified marketing and business development strategy. Therefore, upon  
5 Confirmation the three debtor entities will cease to exist and all assets of the Estate (which is  
6 comprised of all 3 debtors' estates) will vest in the Reorganized Debtor which will be a  
7 newly-formed Arizona limited liability company. This will not harm creditors because  
8 Debtors' largest creditor—UMB Bank—has a blanket lien on the assets of all three entities  
9 securing a debt that is higher than the value of all assets, leaving no value with which to pay  
10 unsecured creditors whether the Debtors remained separate entities or consolidated.  
11 Additionally, consolidation will eliminate the burden and expense of running three entities  
12 including Corporation Commission filings, financial statements and related administrative  
13 burdens.

14 **B. ~~A.~~ Amended Plan Funding.** Funds to be used to make Cash payments under the  
15 Amended Plan have been or will be generated from (i) the Reorganized Debtor's operations,  
16 ~~and~~ (ii) new value contributions, and (iii) the net proceeds from any Avoidance Actions. The  
17 Reorganized Debtor shall make distributions under the Amended Plan to holders of Allowed  
18 Claims and report on activity in this account in periodic reports to the Court. The projections of  
19 revenues from operations are set out in Exhibit ~~J~~E attached hereto.

20 Any sums recovered by Avoidance Actions brought by the ~~Debtor~~Debtors or  
21 Reorganized Debtor, net of the attorneys' fees and costs associated with prosecuting the  
22 Avoidance Actions, shall be used to fund the Amended Plan; unless all payments required by  
23 the Amended Plan have been made, in which case, those sums shall accrue to the benefit of the  
24 Reorganized Debtor.

25 **C. ~~B.~~ Distributions on Account of Claims Allowed as of the Effective Date.** Except  
26 as otherwise provided in the Amended Plan, a Final Order, or as agreed to by the relevant  
27 parties, initial Distributions under the Amended Plan on account of Claims Allowed on or

1 before the Effective Date shall be made on the ~~Distribution Date; provided, however, that: (1)~~  
2 ~~Allowed Administrative Claims with respect to liabilities~~ dates set forth in the Plan. Liabilities  
3 incurred by the ~~Debtor~~ Debtors in the ordinary course of business during the Chapter 11 Cases  
4 or assumed by the ~~Debtor~~ Debtors prior to the Effective Date shall be paid or performed in the  
5 ordinary course of business in accordance with the terms and conditions of any controlling  
6 agreements, course of dealing, course of business, or industry practice; ~~and (2) Allowed~~  
7 ~~Priority Tax Claims, unless otherwise agreed, shall be paid in accordance with Article 4.2 of~~  
8 ~~this Plan.~~

9 **D. C. Distribution on Account of Claims Allowed after the Effective Date.**

10 **1. Payments and Distributions on Disputed Claims.**

11 Notwithstanding any provision otherwise in the Amended Plan and except as  
12 otherwise agreed by the relevant parties: (1) no partial payments and no partial Distributions  
13 shall be made with respect to a Disputed Claim until all such disputes in connection with such  
14 Disputed Claim have been resolved by settlement or Final Order and (2) any Person that holds  
15 both an Allowed Claim and a Disputed Claim shall not receive any distribution on the Allowed  
16 Claim unless and until all objections to the Disputed Claim have been resolved by settlement or  
17 Final Order and all Claims of such holder have been Allowed. In the event that there are  
18 Disputed Claims requiring adjudication and resolution, the Reorganized Debtor shall in its sole  
19 discretion establish appropriate reserves for potential payment of such Claims. All  
20 Distributions made pursuant to the Amended Plan on account of a Disputed Claim shall be  
21 made together with any dividends, payments, or other Distributions made on account of, as  
22 well as any obligation arising from, the distributed property as if such Disputed Claim had been  
23 an Allowed Claim on the dates Distributions were previously made to holders of Allowed  
24 Claims included in the applicable Class.

25 **2. Reserve of Funds for Payment of Disputed Claims.** On the Effective Date,  
26 after calculating Distributions to holders of Allowed Claims and potential Distributions to  
27 holders of Disputed Claims under the Amended Plan, the Reorganized Debtor shall retain and

1 set aside in a reserve fund an amount in cash sufficient to make all payments and Distributions  
2 which may be subsequently required for payment to holders of Disputed Claims. As Disputed  
3 Claims are Allowed, the Reorganized Debtor shall distribute, in accordance with the terms of  
4 the [Amended Plan](#), Cash to holders of Allowed Claims, and the reserve fund shall be adjusted.  
5 The Reorganized Debtor may (but is not required to) request estimation for any Disputed Claim  
6 that is contingent or unliquidated

7 **3. Limits on Distributions.** Notwithstanding anything in the applicable holder's  
8 Proof of Claim or otherwise to the contrary, the holder of a Claim shall not be entitled to receive  
9 or recover a Distribution under the [Amended Plan](#) on account of a Claim in excess of: (a) the  
10 amount stated in the holder's Proof of Claim, if any, as of the ~~Distribution Record Date~~[payment](#)  
11 [date set forth in the Amended Plan](#), plus interest thereon to the extent provided for by the  
12 [Amended Plan](#); (b) if the Claim is denominated as contingent or unliquidated as of the  
13 Distribution Record Date, the amount identified on Debtors' Schedules for such Claim, or such  
14 other amount as may be estimated by the Bankruptcy Court prior to the Confirmation Hearing;  
15 or (c) if a Claim has been estimated, the amount reserved to satisfy such Claim after such  
16 estimation.

17 **4. Postpetition Management.** The postpetition management of the Reorganized  
18 Debtor as of the Effective Date shall be as set out in the organizational chart [except that each](#)  
19 [individual listed therein reserves the right to choose not to have any involvement with the](#)  
20 [company depending on the ultimate ownership structure of the Reorganized Debtor.](#) (See  
21 Exhibit ~~F~~, attached hereto).

22 **E. D.—Administration Pending Effective Date.** Before the Effective Date, the  
23 Debtors will continue to operate their businesses, subject to all applicable requirements of the  
24 Bankruptcy Code and the Bankruptcy Rules. After the Effective Date, [the](#) Reorganized  
25 Debtor may operate its business, and may use, acquire, and dispose of property free of any  
26 restrictions of the Bankruptcy Code or the Bankruptcy Rules, but subject to the continuing  
27 jurisdiction of the Bankruptcy Court as set forth in Article 12.

1 **F. E. Post-Confirmation Fees; Final Decree.** The Reorganized Debtor is to be  
2 responsible for paying any post-confirmation fees under 28 U.S.C. § 1930(a)(6) and the filing  
3 of post-confirmation reports, until a final decree is entered. A final decree is to be entered as  
4 soon as practicable after distributions have commenced under the Amended Plan.

5 **G. F. Payments Effective on Tender.** Whenever the Amended Plan requires a  
6 payment to be made, such payment will be deemed made and effective upon tender thereof by  
7 the Reorganized Debtor to the Creditor to which payment is due. ~~Such tender will be effective~~  
8 ~~when and if made in Cash.~~ If any Creditor refuses a tender, the amount tendered and refused  
9 will be held by the Reorganized Debtor for the benefit of that Creditor pending final  
10 adjudication of the dispute. However, when and if the dispute is finally adjudicated and the  
11 Creditor receives the funds previously tendered and refused, the Creditor will be obliged to  
12 apply the funds in accordance with the Amended Plan as of the date of the tender; and while a  
13 dispute is pending and after adjudication thereof, the Creditor will not have the right to claim  
14 interest or other charges or to exercise any other right which would be enforceable by the  
15 Creditor if the Reorganized Debtor failed to pay the tendered payment.

16 **H. G. Effectuating Documents; Further Transactions; Timing.** The Debtors are  
17 authorized and directed to execute, deliver, file, or record such contracts, instruments,  
18 releases, and other agreements or documents, and to take such actions as may be necessary or  
19 appropriate to effectuate and further evidence the terms and conditions of the Amended Plan;  
20 ~~the Plan Supplement~~, and any securities issued in accordance with the Amended Plan. All  
21 transactions required to occur on the Effective Date under the terms of the Amended Plan will  
22 be deemed to have occurred simultaneously.

## 23 **VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

24 **A. Assumption or Rejection of Executory Contracts and Unexpired Leases.** All  
25 executory contracts and unexpired leases between Debtors and any Person are dealt with in the  
26 following manner:

27

1           **1. Assumption of Executory Contracts and Unexpired Leases.** All executory  
2 contracts and unexpired leases set forth on the schedule of assumed executory contracts and  
3 unexpired leases filed with the Bankruptcy Court as part of Exhibit **KH** to the Amended Plan  
4 will be deemed assumed as of the Effective Date. The Debtors reserve the right to amend the  
5 list of assumed or rejected contracts and to assume any executory contracts and unexpired  
6 leases of the Debtors by appending a schedule of assumed and rejected executory contracts  
7 and unexpired leases as part of Exhibit **KH** to the Amended Plan no later than ten (10) days  
8 before the deadline for voting on the Amended Plan. Any such appended schedule shall  
9 include the cure amount as to each executory contract or unexpired lease to be assumed. ~~The~~  
10 ~~Debtor~~In that case the Debtors will, pursuant to the provisions of 11 U.S.C. §§ 1123(a)(5)(G)  
11 and 1123(b)(2)~~of the Bankruptcy Code~~, file with the Bankruptcy Court and serve by first  
12 class mail on each non-debtor party to such executory contract or unexpired lease, a notice  
13 (“Assumption Notice”), which will list the cure amount as to each executory contract or  
14 unexpired lease to be assumed. The parties to such executory contracts or unexpired leases to  
15 be assumed or assumed and interested parties will have twenty (20) days from the date of the  
16 filing of the Assumption Notice to file and serve any objection to the assumption of any  
17 executory contract or unexpired lease or to the cure amount listed. Any such executory  
18 contracts or leases so appended to the Amended Plan as assumed will be deemed assumed as  
19 of the Effective Date, except for any executory contract or unexpired lease: (i) that has been  
20 rejected in accordance with a Final Order entered before the Confirmation Date; or (ii) as to  
21 which a motion to reject has been filed with the Bankruptcy Court before the Confirmation  
22 Date.

23           **2. Rejection of Executory Contracts and Unexpired Leases.** All executory  
24 contracts and unexpired leases either (i) set forth on any appended schedule of rejected  
25 executory contracts and unexpired leases filed with the Bankruptcy Court as part of Exhibit  
26 **KH** to the Amended Plan or (ii) existing but not listed on Exhibit **KH** to the Amended Plan  
27 will be deemed rejected as of the Effective Date, except for any executory contract or

1 unexpired lease that has been assumed or rejected in accordance with a Final Order entered  
2 on or before the Confirmation Date.

3 **B. Approval of Assumption or Rejection.** Entry of the Confirmation Order  
4 constitutes: ~~(a)~~ the approval under ~~Bankruptcy Code~~ 11 U.S.C. § 365 of (a) the assumption  
5 and assignment of the executory contracts and unexpired leases assumed and assigned  
6 under the Amended Plan; and (b) the ~~approval under Bankruptcy Code § 365 of the~~  
7 ~~assumption and rejection of the executory contracts and unexpired leases rejected under the~~  
8 Amended Plan. ~~Notwithstanding anything contained in Article VIII(A) to the contrary, the~~  
9 ~~Debtors retain the right to change the treatment (assumed or rejected) of any executory~~  
10 ~~contract or unexpired lease on Exhibit K to the Plan, thus changing the treatment of the~~  
11 ~~contract or lease under the Plan, at any time before~~ the Confirmation Hearing.

12 **C. Cure of Defaults.** On the Effective Date, or as soon after that date as feasible, or  
13 on another date on which the counterparty to the assumed executory contract or unexpired  
14 lease agrees, the Debtors will Cure any defaults under any executory contract or unexpired  
15 lease assumed under the Amended Plan. Subject to the occurrence of the Effective Date, any  
16 cure amount shall be treated as an Allowed Administrative Claim under the Amended Plan,  
17 and, upon payment of such Allowed Administrative Claim, all defaults existing as of the  
18 Confirmation Date with respect to such executory contract or unexpired lease shall be deemed  
19 cured.

20 **D. Rejection Claims Bar Date.** Any Rejection Claims must be filed with the  
21 Bankruptcy Court by the later of (a) 30 days after the Confirmation Date and (b) 30 days after  
22 the applicable executory contract or unexpired lease is rejected under the Amended Plan.  
23 Any Rejection Claim not filed within that time will be forever barred. All Rejection Claims  
24 are Class 9 Claims under the Amended Plan. With respect to any executory contract or  
25 unexpired lease rejected before the Confirmation Date, the deadline for filing a Rejection  
26 Claim remains the deadline set forth in the order of the Bankruptcy Court authorizing that  
27 rejection. If such an order did not contain such a deadline, the deadline for filing a Rejection

1 Claim is 30 days after the Confirmation Date.

2 **IX. DETERMINATION OF CLAIMS.**

3 **A. Objections to Claims.** Notwithstanding the occurrence of the Effective Date, and  
4 except as to any Claim that has been Allowed before the Effective Date, the Debtors may  
5 object to the allowance of any Claim against the ~~Debtor~~Debtors or seek estimation of any  
6 Claim on any grounds permitted by the Bankruptcy Code, including initiation of an  
7 Avoidance Action or Litigation Claim. All objections to Claims must be brought by filing  
8 the appropriate pleading in the Bankruptcy Court before the first Business Day that is 180  
9 days after the Effective Date, but the Bankruptcy Court may approve a later date on the  
10 Reorganized Debtor's motion filed (but not necessarily heard) before the first Business Day  
11 that is 180 days after the Effective Date.

12 **B. Contingent Claims.** Until a Contingent Claim becomes an Allowed Claim or  
13 is Disallowed, the Claim will be treated as a Disputed Claim for all purposes under the  
14 Amended Plan. The holder of a Contingent Claim will be entitled to a distribution under the  
15 Plan only when the Contingent Claim becomes an Allowed Claim. Any Contingent Claim  
16 for reimbursement or contribution held by a Person that may be liable with the  
17 ~~Debtor~~Debtors on a Claim of a Creditor is Disallowed as of the Effective Date if: (a) that  
18 Creditor's Claim is Disallowed; (b) the Claim for reimbursement or contribution is contingent  
19 as of the Effective Date; or (c) that Person asserts a right of subrogation to the rights of the  
20 Creditor under ~~Bankruptcy Code~~11 U.S.C. § 509.

21 **C. Resolution of Administrative Claims and other Claims.** After the Effective  
22 Date, the Reorganized Debtor shall have the authority to compromise, settle, otherwise resolve,  
23 or withdraw any ~~objection to Administrative Claims and any other Claims~~Claim, and to  
24 compromise, settle, or otherwise resolve any Disputed Claims without approval of the  
25 Bankruptcy Court, other than with respect to Administrative Claims relating to Professional  
26 Fee Claims.

27 **X. CONFIRMATION WITHOUT ACCEPTANCE BY ALL IMPAIRED CLASSES**

1 If any impaired Class is determined to have rejected the Amended Plan in accordance  
2 with ~~Section 1126 of the Bankruptcy Code, the Debtor~~ 11 U.S.C. § 1126, the Debtors may use  
3 the provisions of ~~Section~~ 11 U.S.C. § 1129(b) ~~of the Bankruptcy Code~~ to satisfy the  
4 requirements for Confirmation of the Amended Plan.

## 5 **XI. CONDITIONS PRECEDENT**

6 **A. Conditions to Confirmation.** The following are conditions precedent to  
7 confirmation of the Amended Plan:

8 **1. Approval of Amended Disclosure Statement.** The Bankruptcy Court  
9 enters a Final Order approving the Amended Disclosure Statement.

10 **2. Form of Confirmation Order.** The Bankruptcy Court enters the Confirmation  
11 Order in form and substance reasonably acceptable to the Debtors. If the Debtors are unable  
12 to reach an agreement with any party regarding the form and substance of the Confirmation  
13 Order, the Bankruptcy Court will resolve all such disputes.

14 **3. Substance of Confirmation Order.** The Confirmation Order contains the  
15 following:

16 a. The provisions of the Confirmation Order are non-severable and mutually  
17 dependent;

18 b. Approval of the Amended Plan's assumption or rejection of all executory  
19 contracts and unexpired leases; ~~e. The Debtors are released and discharged from all~~  
20 ~~obligations arising under all executory contracts and unexpired leases rejected during the~~  
21 ~~Chapter 11 Cases or under the Plan;~~ and

22 c. ~~d.~~ The Bankruptcy Court retains jurisdiction to the fullest extent permissible  
23 by applicable law and at least to the extent contemplated by Article 10 of the Amended Plan.

24 **B. Conditions to Effectiveness.** The following are conditions precedent to the  
25 Effective Date:

26 **1.** The Confirmation Date occurs;

27 **2.** No request for revocation of the Confirmation Order under ~~Bankruptcy Code~~ 11

1 [U.S.C. § 1144](#) is pending;

2           3. All instruments and agreements to be issued, entered into, delivered, or filed  
3 under the [Amended](#) Plan are issued, entered into, delivered, or filed and are effective.

4           **C. Waiver of Conditions.** The Debtors may waive any condition to confirmation  
5 or the Effective Date, in whole or in part, at any time without notice, an order of the  
6 Bankruptcy Court, or any further action other than proceeding to confirmation and  
7 consummation of the [Amended](#) Plan.

## 8 **XII. PRESERVATION OF AVOIDANCE ACTIONS**

9           **A. Preservation of Avoidance Actions.** In accordance with ~~Section~~[11 U.S.C. §](#)  
10 ~~1123(b)(3) of the Bankruptcy Code~~, and except as otherwise expressly provided in the  
11 [Amended](#) Plan, all Avoidance Actions are retained and reserved for the benefit of the  
12 Reorganized Debtor. [The potential Avoidance Actions of which Debtors are aware are listed](#)  
13 [in Exhibit G.](#)

14           **B. Prosecution of Avoidance Actions.** The Reorganized Debtor will prosecute all  
15 preserved Avoidance Actions not otherwise expressly compromised in the [Amended](#) Plan in  
16 accordance with ~~Section~~[11 U.S.C. § 1123\(b\)\(3\)\(B\) of the Bankruptcy Code. The fees and  
17 costs to litigate such preserved Avoidance Actions will come from the Reorganized Debtor.  
18 Reorganized Debtor will have sole discretion to determine in its business judgment what  
19 Avoidance Actions to pursue, which to settle, and the terms and conditions of those  
20 settlements.](#)

21           **C. Distribution of Avoidance Action Proceeds.** All monetary judgments and awards  
22 resulting from the settlement or prosecution of the preserved Avoidance Actions will be  
23 ~~deposited into the Reorganized Debtor general operating account(s)~~[contributed to the Class 9](#)  
24 [General Unsecured Creditors](#) after deduction of the reasonable and necessary fees and costs  
25 incurred by Reorganized Debtor in the prosecution and/or settlement of the preserved  
26 Avoidance Actions.

27           **D. Preservation of Insurance.** Debtors' discharge and release from Claims as

1 provided in the [Amended](#) Plan, except as necessary to be consistent with this [Amended](#) Plan,  
2 do not diminish or impair the enforceability of any insurance policy that may cover Claims  
3 against the Debtors or any other Person.

4 **XIII. TITLE TO PROPERTY; INJUNCTION; THIRD PARTY RIGHTS AND**  
5 **RELEASES**

6 **A. Vesting of Assets.** Except as specifically provided in the [Amended](#) Plan or the  
7 Confirmation Order, all property of the Estate will vest in the Reorganized Debtor on the  
8 Effective Date and, except as expressly provided for in ~~this~~ [the Amended](#) Plan, will be free and  
9 clear of all Liens and Claims existing before the Effective Date. From and after the Effective  
10 Date, the Reorganized Debtor may use and dispose of property free of any restrictions of the  
11 Bankruptcy Code, including the employment of, and payment to, Professionals except as  
12 otherwise provided in the [Amended](#) Plan or the Confirmation Order. The Reorganized Debtor  
13 shall be the sole entity responsible for all Distributions to be made under the [Amended](#) Plan.

14 **B. Injunction.** Except as provided in the [Amended](#) Plan or the Confirmation  
15 Order, as of the Confirmation Date, all entities that have held, currently hold, or may hold a  
16 Claim that is unclassified by the [Amended](#) Plan or that is classified by Article VI of the  
17 [Amended](#) Plan or that is subject to a distribution under the [Amended](#) Plan, are permanently  
18 enjoined from taking any of the following actions on account of any such Claims or rights: (a)  
19 commencing or continuing in any manner any action or other proceeding against any  
20 property to be distributed under the [Amended](#) Plan; (b) enforcing, attaching, collecting,  
21 or recovering in any manner any judgment, award, decree, or order against any property  
22 to be distributed under the [Amended](#) Plan; (c) creating, perfecting, or enforcing any Lien  
23 or encumbrance against any property to be distributed under the [Amended](#) Plan; and (d)  
24 commencing or continuing any action, in any manner, in any place, that does not comply  
25 with or is inconsistent with the provisions of the [Amended](#) Plan or the Bankruptcy Code.  
26 Nothing in this Article XIII or elsewhere in the [Amended](#) Plan is to be construed or is to  
27 have the effect of extinguishing, prohibiting, or otherwise limiting, the right of any holder of

1 a Claim to assert a right to setoff or recoupment arising in connection with that Claim as part  
2 of the resolution and treatment of that Claim under the Amended Plan. Nothing in this Article  
3 XIII or elsewhere in the Amended Plan is to be construed or is to have the effect of  
4 extinguishing, prohibiting, or otherwise limiting, the right of the Debtors to assert and  
5 prevail on any Avoidance Action or Litigation Claim. Nothing in this Article XIII or  
6 elsewhere in the Amended Plan enjoins or otherwise precludes (or may be construed to enjoin  
7 or otherwise preclude) any party in interest from enforcing the terms of the Amended Plan  
8 and the Confirmation Order.

9 **C. Exculpation.** The Debtors, or any of their respective directors, managers, officers,  
10 employees, partners, members, agents, representatives, accountants, financial advisors,  
11 investment bankers, or attorneys (but solely in their capacity as such) shall not have or incur  
12 ~~no~~ liability for any claim, cause of action, or other assertion of liability for any act taken or  
13 omitted to be taken since the Petition Date in connection with, or arising out of, the Chapter  
14 11 Cases, the formulation, dissemination, confirmation, consummation, or administration of  
15 this Amended Plan, property to be distributed under this Amended Plan, ~~or any other act or~~  
16 ~~omission in connection with the Chapter 11 Cases, this Plan, the~~ the Amended Disclosure  
17 Statement, or any contract, instrument, document or other agreement related thereto;  
18 provided, however, that the foregoing shall not affect the liability of any person that would  
19 otherwise result from any such act or omission to the extent such act or omission is  
20 determined by a Final Order to have constituted willful misconduct, gross negligence, actual  
21 fraud, or criminal conduct, or intentional unauthorized misuse of confidential information  
22 that causes damages.

23 **D. Releases by Holders of Claims and Equity Interests.** Effective as of the  
24 Confirmation Date, but subject to the provisions of the UMB Term Sheet and the occurrence  
25 of the Effective Date, and in consideration of the services provided to the Debtors by the  
26 present and former directors, managers, officers, employees, affiliates, agents, financial  
27 advisors, attorneys, and representatives of the Debtors who acted in such capacities after the

1 Petition Date, ~~(1) each holder of a Claim or Equity Interest that votes to accept the Plan (or is~~  
2 ~~deemed to accept the Plan) and (2) to the fullest extent possible under applicable law, as such~~  
3 ~~law may be extended or integrated after the Effective Date, each holder of a Claim or Equity~~  
4 ~~Interest that does not vote to accept the Plan,~~ (collectively, the “Releasing Parties” and each a  
5 “Releasing Party”) each holder of a Claim or Equity Interest shall release, unconditionally and  
6 forever, the Debtors and each of their respective present and former members, officers,  
7 directors, managers, agents, financial advisors, attorneys, employees, equity holders, parent  
8 corporations, subsidiaries, partners, affiliates, and representatives from any and all claims or  
9 causes of action that exist as of the Effective Date and arise from or relate to, in any manner, in  
10 whole or in part, the operation of the business of the Debtors, the subject matter of, or the  
11 transaction or event giving rise to, the Claim or Equity Interest of such holder, the business or  
12 contractual arrangements between any Debtors or such holder, any restructuring of such claim  
13 or equity prior to the ~~Commencement~~Effective Date, or any act, omission, occurrence, or  
14 event in any manner related to such subject matter, transaction or obligation, or occurring or  
15 existing on property owned by the ~~Debtor~~Debtors, or arising out of the Chapter 11 Cases,  
16 including, but not limited to, the pursuit of confirmation of the Amended Plan, the  
17 consummation thereof, the administration thereof, or the property to be distributed thereunder;  
18 provided, that the foregoing shall not operate as a waiver or release from any causes of action  
19 arising out of the willful misconduct, gross negligence, actual fraud, criminal conduct, or  
20 intentional unauthorized misuse of confidential information that causes damages of any such  
21 Person or Entity.

22 **E. Reservation of Rights.** Nothing contained in the Amended Plan or the  
23 Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of  
24 action, right of setoff, or other legal or equitable defense that the Debtors had immediately  
25 prior to the Commencement Date, against or with respect to any Claim. The Reorganized  
26 Debtor shall have, ~~retained, reserved~~retain, reserve, and be entitled to assert all such claims,  
27 causes of action, rights of setoff, and other legal or equitable defenses that the Debtors had

1 immediately prior to the Commencement Date as fully as if the Chapter 11 Cases had not been  
2 commenced, and all of the Debtors' legal and equitable rights respecting any Claim may be  
3 asserted after the Confirmation Date to the same extent as if the Chapter 11 Cases had not been  
4 commenced.

#### 5 **XIV. RETENTION OF JURISDICTION**

6 **A. Jurisdiction.** Notwithstanding the entry of the Confirmation Order and the  
7 occurrence of the Effective Date, the Bankruptcy Court will retain as much jurisdiction over  
8 the Chapter 11 Case after the Effective Date as legally permissible, including jurisdiction to:

9 **1.** Allow, disallow, determine, liquidate, classify, estimate, or establish the  
10 amount, priority, or secured or unsecured status of any Claim, and resolve any request for  
11 payment of any Administrative Claim and any objection to the Allowance or priority of any  
12 Claim;

13 **2.** Grant or deny any applications for allowance of compensation or  
14 reimbursement of expenses authorized under the Bankruptcy Code or the [Amended](#) Plan;

15 **3.** Resolve any matters related to the assumption or rejection of any executory  
16 contract or unexpired lease to which the Debtors are a party and to hear, determine and, if  
17 necessary, liquidate any Claims arising from such rejection;

18 **4.** Ensure that distributions required under the [Amended](#) Plan are accomplished  
19 in accordance with the [Amended](#) Plan;

20 **5.** Decide or resolve any motions, adversary proceedings, contested matters,  
21 and any other matters and grant or deny any applications or motions involving the Debtors  
22 that may be pending on the Effective Date;

23 **6.** Enter any necessary or appropriate orders to implement or consummate the  
24 [Amended](#) Plan's provisions and all contracts, instruments, releases, and other agreements or  
25 documents created in connection with the [Amended](#) Plan or the [Amended](#) Disclosure  
26 Statement;

[27](#)

1           7. Resolve any cases, controversies, suits, or disputes that may arise in  
2 connection with the consummation, interpretation, or enforcement of the Amended Plan,  
3 or any Person's obligations incurred in connection with the Amended Plan;

4           8. Hear and determine any motion or application to modify the Amended Plan  
5 before or after the Effective Date under ~~Bankruptcy Code~~ 11 U.S.C. § 1127 or modify the  
6 Amended Disclosure Statement or any contract, instrument, release, or other agreement or  
7 document issued, entered into, filed, or delivered in connection with the Amended Plan or  
8 the Amended Disclosure Statement; or hear or determine any motion or application to  
9 remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order,  
10 the Amended Plan, the Amended Disclosure Statement, or any contract, instrument, release, or  
11 other agreement or document issued, entered into, filed or delivered in connection with the  
12 Amended Plan or the Amended Disclosure Statement, in such manner as may be necessary  
13 or appropriate to consummate the Amended Plan, to the extent authorized by the Bankruptcy  
14 Code;

15           9. Issue injunctions, enter and implement other orders, or take any other  
16 necessary or appropriate actions to restrain any entity's interference with consummation or  
17 enforcement of the Amended Plan;

18           10. Enter and implement any necessary or appropriate orders if the Confirmation  
19 Order is for any reason modified, stayed, reversed, revoked, or vacated;

20           11. Determine any other matters that may arise in connection with or related to the  
21 Amended Plan, the Amended Disclosure Statement, the Confirmation Order, or any contract,  
22 instrument, release, or other agreement or document issued, entered into, filed, or delivered in  
23 connection with the Amended Plan, the Amended Disclosure Statement or the Confirmation  
24 Order;

25           12. Issue a final decree and enter an order closing the Chapter 11 Case; and

26           13. Adjudicate the Disputed Claims, and Avoidance Actions and Litigation  
27 Claims and any other cause of action or claims of the Estate, if any.

1 **XV. AMENDMENT AND WITHDRAWAL OF AMENDED PLAN**

2 **A. Amendment of Plan.** At any time before the Confirmation Date, the Debtors may  
3 alter, amend, or modify the Amended Plan, or any of its attached Exhibits, under ~~Bankruptcy~~  
4 ~~Code~~ 11 U.S.C. § 1127(a) as long as doing so does not materially and adversely affect the  
5 treatment and rights of the holders of Claims and Equity Interests under the Amended Plan.  
6 After the Confirmation Date but before substantial consummation of the Amended Plan as  
7 defined in ~~Bankruptcy Code~~ 11 U.S.C. § 1101(2), the Reorganized Debtor may, under  
8 ~~Bankruptcy Code~~ 11 U.S.C. § 1127(b), institute proceedings in the Bankruptcy Court to  
9 remedy any defect or omission or reconcile any inconsistencies in the Amended Plan, the  
10 Amended Disclosure Statement, or the Confirmation Order, and any matters necessary to  
11 carry out the purposes and effects of the Amended Plan as long as such proceedings do not  
12 materially and adversely affect the treatment of holders of Claims or Equity Interests under  
13 the Amended Plan. The Reorganized Debtor must serve prior notice of such proceedings in  
14 accordance with the Bankruptcy Rules or applicable order of the Bankruptcy Court.

15 **B. Revocation or Withdrawal of Amended Plan.** The Debtors may revoke or  
16 withdraw the Amended Plan at any time before the Confirmation Date. If withdrawn or  
17 revoked, the Amended Plan is void and nothing contained in the Amended Plan may be  
18 deemed a waiver of any Claims by or against the Debtors or any other Person in any further  
19 proceedings involving the ~~Debtor~~ Debtors or an admission of any sort, and the Amended Plan  
20 and any transaction contemplated by the Amended Plan may not be admitted into evidence  
21 in any proceeding.

22 **XVI. EFFECTS OF CONFIRMATION**

23 Except as otherwise provided in the Amended Plan or the Confirmation Order,  
24 Confirmation acts as a ~~Discharge~~ discharge, effective as of Confirmation, of any and all debts  
25 of the ~~Debtor~~ Debtors that arose any time before the entry of the Confirmation Order including,  
26 but not limited to, all principal and all interest accrued thereon, pursuant to 11 U.S.C.  
27 §1141(d)(1) ~~of the Bankruptcy Code~~. The Discharge shall be effective as to each Claim,

1 regardless of whether a Proof of Claim thereon was filed, whether the Claim is an Allowed  
2 Claim, or whether the Holder thereof votes to accept the [Amended](#) Plan.

### 3 **XVII. LIQUIDATION ANALYSIS**

4 *See attached Exhibit [MJ](#).*

### 5 **XVIII. TAX CONSEQUENCES**

6 Pursuant to [11 U.S.C. §1125\(a\)\(1\)](#) ~~of the Bankruptcy Code~~, the Debtors are to provide a  
7 discussion of the potential material tax consequences of the [Amended](#) Plan to the Debtors, any  
8 successor to the Debtors, and a hypothetical investor typical of the holders of claims or  
9 interests in the case, that would enable such a hypothetical investor of the relevant Class to  
10 make an informed judgment about the [Amended](#) Plan. However, the Debtors need not include  
11 such information about any other possible or proposed plan. In determining whether the  
12 [Amended](#) Disclosure Statement provides adequate information, the Court shall consider the  
13 complexity of the case, the benefit of additional information to creditors and other parties in  
14 interest, and the cost of providing additional information.

15 The [Debtors are treated as partnerships for tax purposes. Losses are passed to the](#)  
16 [members and are not retained at the entity level. Therefore, there is no net operating loss](#)  
17 [\("NOL"\) for the Debtors.](#)

18 [The](#) following discussion summarizes certain considerations that may affect the  
19 anticipated federal income tax consequences of the [Amended](#) Plan's implementation to  
20 Creditors and to the Debtors. It does not address all federal income tax consequences of the  
21 [Amended](#) Plan nor does it address the state or local income tax or other state or local tax  
22 consequences of the [Amended](#) Plan's implementation to Creditors or to the Debtors.

23 This description of the federal income tax consequences of implementing the [Amended](#)  
24 Plan is based on Debtors' interpretation of the applicable provisions of the Internal Revenue  
25 Code of 1986, as amended (the "IRC"), the regulations promulgated thereunder, and other  
26 relevant authority. Debtors' interpretation, however, is not binding on the IRS or any court.  
27 The Debtors have not obtained, nor does it intend to obtain, a private letter ruling from the IRS,

1 nor have the Debtors obtained an opinion of counsel with respect to any of these matters. The  
2 discussion below is general in nature and is not directed to the specific tax situation of any  
3 particular interested taxpayer. **For these reasons, all Creditors and Interest Holders**  
4 **should consult with their own tax advisors as to the tax consequences of implementation**  
5 **of the [Amended](#) Plan to them under applicable federal, state, and local tax laws.**

6 **A. Tax Consequences to the Debtors.**

7 In general, the amount of any debt of a business entity that is partially or totally  
8 discharged pursuant to a Title 11 bankruptcy case is excluded from gross income. Generally,  
9 the amount of debt discharge income (“DDI”) that is excluded from gross income must be  
10 applied to reduce the tax attributes of the Debtors. The Debtors’ tax attributes are reduced in  
11 the following order: (1) net operating losses (“NOLs”) (which, as noted above, are not  
12 applicable here); (2) general business credits; (3) minimum tax credit; (4) capital loss  
13 carryovers; (5) reduction in tax basis of the Debtors’ property; (6) passive/activity loss and  
14 credit carryovers; and (7) foreign tax credit carryovers. The Debtors may elect to apply the  
15 debt discharge exclusion first to depreciable property and thereafter to the tax attributes in the  
16 above prescribed order.

17 **B. Tax Consequences to the Secured and Unsecured Creditors.**

18 Both the Secured Claimants and/or the Unsecured Claimants may be required to report  
19 income or be entitled to a deduction as a result of implementation of the [Amended](#) Plan. The  
20 exact tax treatment depends on, among other things, each Claimant’s method of accounting,  
21 the nature of each Claimant’s claim, and whether and to what extent such Claimant has taken a  
22 bad debt deduction in prior taxable years with respect to the particular debt owed to it by the  
23 Debtors. **Each Holder of a secured claim or an unsecured claim is urged to consult with**  
24 **his, her, or its own tax advisor regarding the particular tax consequences of the**  
25 **treatment of his, her, or its claim under the [Amended](#) Plan.**

26 **C. Tax Consequences to the Interest Holders.**

27 Each Interest Holder of the Debtors is urged to consult with his, her, or its own tax

1 advisor regarding the particular tax consequences of the treatment of his, her, or its interest  
2 under the [Amended](#) Plan.

### 3 **XIX. OBJECTIONS TO AND ESTIMATIONS OF CLAIMS**

#### 4 **A. Objections and Bar Date for Filing Objections,**

5 As soon as practicable, but in no event later than 60 days after the Effective Date,  
6 objections to Claims shall be filed with the Bankruptcy Court and served upon the holders of  
7 each of the Claims to which objections are made pursuant to the Bankruptcy Code and the  
8 Bankruptcy Rules. Objections filed after such date will be barred.

#### 9 **B. Settlement of Claims.**

10 Settlement of any objection to a Claim not exceeding \$10,000 shall be permitted on the  
11 eleventh (11th) day after notice of the settlement has been provided ~~to~~[by](#) the Reorganized  
12 Debtor, [to](#) the Creditors, the settling party, and other persons specifically requesting such  
13 notice, and if on such date there is no written objection filed, such settlement shall be deemed  
14 approved. In the event of a written objection to the settlement, the settlement must be  
15 approved by the Court on notice to the objecting party.

#### 16 **C. Estimation of Claims.**

17 For purposes of making distributions provided for under the [Amended](#) Plan, all Claims  
18 objected to shall be estimated by the Reorganized Debtor at an amount equal to (i) the amount,  
19 if any, determined by the Court pursuant to [11 U.S.C. §502\(c\)](#) ~~of the Bankruptcy Code~~ as an  
20 estimate for distribution purposes (ii) an amount agreed to between the [Reorganized](#) Debtor  
21 and the Claimant; or, (iii) that amount set forth as an estimate in the [Amended](#) Plan or  
22 [Amended](#) Disclosure Statement. Notwithstanding anything herein to the contrary, no  
23 distributions shall be made on account of any Claim until such Claim is an Allowed Claim.

#### 24 **D. Unclaimed Funds and Interest.**

25 Distribution to Claimants shall be mailed by the Reorganized Debtor to the Claimants  
26 at the address appearing on the master mailing matrix unless the Claimant provides the  
27 [Reorganized Debtor](#) with an alternative address. After a period of one year from the date that

1 a distribution was made by the disbursing agent but has gone uncollected by the Claimant, the  
2 disbursing agent shall retain any distributions otherwise distributable hereunder which remain  
3 unclaimed or as to which the disbursing agent has not received documents required pursuant to  
4 the Amended Plan. Thereafter, the unclaimed funds shall revert in the Reorganized Debtor.

## 5 **XX. NON-ALLOWANCE OF PENALTIES AND FINES**

6 No distribution shall be made under the Amended Plan on account of, and no Allowed  
7 Claim, whether Secured, Unsecured, Administrative, or Priority, shall include any fine,  
8 penalty, exemplary or punitive damages, late charges, ~~default interest~~ or other monetary  
9 charges relating to or arising from any default or breach by the Reorganized Debtor, and any  
10 Claim on account thereof shall be deemed Disallowed, whether or not an objection was filed to  
11 it.

## 12 **XXI. CLOSING OF THE CASE**

13 If the Court does not close these cases on its own motion, the Reorganized Debtor will  
14 move the Court to close the case once the Amended Plan is deemed substantially  
15 consummated. Until substantial consummation, the Reorganized Debtor will be responsible  
16 for filing pre- and postconfirmation reports required by the United States Trustee and paying  
17 the quarterly postconfirmation fees of the United States Trustee, in cash, pursuant to 28 U.S.C.  
18 §1930, as amended. Pursuant to 11 U.S.C. §1129(a)(12), all fees payable under ~~Section~~ § 1930  
19 of Title 28, as determined by the Court at the hearing on confirmation of the Amended Plan,  
20 will be paid, in cash, on the Effective Date.

## 21 **XXII. MODIFICATION OF THE PLAN**

22 ~~In addition to its modification rights under §1127 of the Bankruptcy Code, the~~  
23 ~~Debtors may amend or modify the Plan at any time prior to Confirmation without leave of the~~  
24 ~~Court. The Reorganized Debtor may propose amendments and/or modifications of the Plan at~~  
25 ~~any time subsequent to Confirmation with leave of the Court and upon notice to Creditors.~~  
26 ~~After Confirmation of the Plan, the Reorganized Debtor may, with approval of the Court, as~~  
27 ~~long as it does not materially or adversely affect the interests of Creditors, remedy any defect~~

1 ~~or omission or reconcile any inconsistencies of the Plan, or in the Confirmation Order, if any~~  
2 ~~may be necessary to carry out the purposes and intent of the Plan.~~

3 XXII. ~~XXIII.~~ JURISDICTION OF THE COURT

4 The Court will retain jurisdiction until the Amended Plan has been fully consummated  
5 for, including but not limited to, the following purposes:

6 1. The classification of the Claims of any Creditors and the re-examination of any  
7 Claims which have been allowed for the purposes of voting, and for the determination of such  
8 objections as may be filed to the Creditor's Claims. The failure by the Reorganized Debtor to  
9 object to or examine any Claim for the purpose of voting shall not be deemed to be a waiver of  
10 the Reorganized Debtor's rights to object to or to re-examine the Claim in whole or in part.

11 2. To determine any Claims which are disputed by the Reorganized Debtor, whether  
12 such objections are filed before or after Confirmation, to estimate any Unliquidated or  
13 Contingent Claims pursuant to 11 U.S.C. § 502(c)(1) upon request of the Debtors or  
14 Reorganized Debtor any holder of a Contingent or ~~Un-liquidated~~Unliquidated Claim, and to  
15 make determination on any objection to such Claim.

16 3. To determine all questions and disputes regarding title to the assets of the Estate,  
17 and determination of all causes of action, controversies, disputes or conflicts, whether or not  
18 subject to action pending as of the date of Confirmation, between the Reorganized Debtor and  
19 any other party, including but not limited to, any rights of the Reorganized Debtor to recover  
20 assets pursuant to the provisions of the Bankruptcy Code.

21 4. The correction of any defect, the curing of any omission or any reconciliation of any  
22 inconsistencies in the Amended Plan, or the Confirmation Order, as may be necessary to carry  
23 out the purposes and intent of the Amended Plan.

24 5. The modification of the Amended Plan after Confirmation, pursuant to the  
25 Bankruptcy Rules and the Bankruptcy Code.

26 6. To enforce and interpret the terms and conditions of the Amended Plan.

27 7. The entry of an order, including injunctions, necessary to enforce the title, rights

1 and powers of the Reorganized Debtor, and to impose such limitations, restrictions, terms and  
2 conditions of such title, right and power that this Court may deem necessary.

3 8. The entry of an order concluding and terminating this case.

4 **XXIII. ~~XXIV.~~ RETENTION AND ENFORCEMENT OF CLAIMS**

5 Pursuant to §11 U.S.C. § 1123(b)(3) ~~of the Bankruptcy Code~~, the Reorganized Debtor  
6 shall retain and may enforce any and all claims of the Debtors, except those claims specifically  
7 waived herein. Any retained causes of action include, but are not limited to, all avoidance  
8 actions, fraudulent conveyance actions, preference actions, and other claims and causes of  
9 action of every kind and nature whatsoever, arising before the Effective Date which have not  
10 been resolved or disposed of prior to the Effective Date, whether or not such claims or causes  
11 of action are specifically identified in the Amended Disclosure Statement.

12 Any recovery obtained from retained causes of action shall become an additional asset  
13 of the Reorganized Debtor, unless otherwise ordered by the Court, and shall be available for  
14 distribution in accordance with the terms of the Amended Plan.

15 **XXIV. ~~XXV.~~ EXECUTORY CONTRACTS**

16 The treatment of Debtors' executory contracts is set out, *infra*, in Exhibit ~~KH~~. Debtors  
17 incorporate herein by this reference that treatment and the procedure as set out in Article VIII,  
18 above.

19 **XXV. ~~XXVI.~~ REVESTING**

20 Except as provided for in the Amended Plan or in the Confirmation Order, on the  
21 Effective Date the Reorganized Debtor shall be vested with all the property of the Estate free  
22 and clear of all claims, liens, charges, and other interests of Creditors, arising prior to the  
23 Effective Date. Upon the Effective Date, the Reorganized Debtor shall operate its business  
24 free of any restrictions.

25 **XXVI. ~~XXVII.~~ DISCLAIMER**

26 Court approval of this Amended Disclosure Statement and the accompanying Amended  
27 Plan of Reorganization, is not a certification of the accuracy of the contents thereof.

1 Furthermore, Court approval of these documents does not constitute the Court's opinion as to  
2 whether the Amended Plan should be approved or disapproved.

3 **XXVII. ~~XXVIII.~~ RISKS**

4 The risk of the Amended Plan depends on the Reorganized Debtor successfully  
5 continuing in its business operations at levels and at rates sufficient to generate revenues to  
6 satisfy the Amended Plan payments required and as described in Article VI of this Amended  
7 Disclosure Statement. Based on Debtors' thorough and careful review and analysis of their  
8 operations and projected future performance, Debtors submit that the long term prospects of  
9 this Amended Plan, however, are favorable. Debtors contend that the Amended Plan  
10 represents the best means for Creditors to recover on their Claims.

11 **XXIX. MISCELLANEOUS.**

12 **A. Effecting Documents; Further Transactions; Timing.**

13 The Reorganized Debtor is authorized and directed as of the Effective Date, without  
14 further order of the Bankruptcy Court, to execute, deliver, file, or record all contracts,  
15 instruments, releases, and other agreements or documents, and to take all actions necessary  
16 or appropriate to effect and further evidence the terms of the Amended Plan. All transactions  
17 required to occur on the Effective Date under the terms of the Amended Plan are deemed to  
18 have occurred simultaneously.

19 **B. Exemption From Transfer Taxes.**

20 Under ~~Bankruptcy Code~~ 11 U.S.C. § 1146(a): (a) the issuance, distribution, transfer,  
21 and exchange of assets or property of the Estate; (b) the execution, assignment,  
22 modification, or recording of any lease or sublease; and (c) the execution, delivery, or  
23 recording of a deed or other instrument of transfer under, in furtherance of, or in connection  
24 with, the Amended Plan, the Confirmation Order, or any transaction contemplated above,  
25 or any transactions arising out of, contemplated by, or in any way related to, the foregoing  
26 are not subject to any document recording tax, stamp tax, conveyance fee, intangibles or  
27 similar tax, mortgage tax, or real estate transfer tax, or other similar tax or governmental

1 assessment and the appropriate state or local government officials or agents are directed to  
2 forego the collection of any such tax or assessment and to accept for filing or recordation  
3 any of the foregoing instruments or other documents without the payment of any such tax or  
4 assessment.

5 **C. Binding Effect.**

6 The [Amended](#) Plan is binding on, and inures to the benefit of, the Debtors and the  
7 holders of all Claims and Equity Interests and their respective successors and assigns.

8 **D. Substantial Consummation.**

9 On the Effective Date, this [Amended](#) Plan shall be deemed substantially consummated  
10 under [11 U.S.C. §§ 1101 and 1127\(b\)](#) ~~of the Bankruptcy Code~~ on the Effective Date.

11 **E. Governing Law.**

12 Except to the extent that the Bankruptcy Code or other federal law is applicable or as  
13 provided in any document entered into in connection with the [Amended](#) Plan, the rights, duties  
14 and obligations of any Person arising under the [Amended](#) Plan are governed by, and construed  
15 and enforced in accordance with, the internal laws of the State of Arizona, without giving  
16 effect to Arizona's choice of law provisions.

17 **F. Compromises and Settlements of Claims after Confirmation.**

18 After Confirmation, but prior to the Effective Date, pursuant to Rule 9019, the Debtors  
19 may compromise and settle various Claims against it and/or claims that it may have against  
20 others. Following the occurrence of the Effective Date, the Reorganized Debtor, in its sole  
21 discretion, may compromise and settle Claims against the Estate, as well as any claims that the  
22 Estate may have against others, without Bankruptcy Court approval.

23 **G. Modification of Treatment of Claims.**

24 The Reorganized Debtor reserves the right to modify the treatment of any Allowed  
25 Claim in any manner adverse only to the holder of that Claim at any time after the Effective  
26 Date on that holder's prior written consent.

27 **H. Setoffs and Recoupment.**

1 The Reorganized Debtor may, but is not required to, set off or recoup against any  
2 Claim and the payments or other distributions to be made under the [Amended](#) Plan in respect  
3 of such Claim, Claims of any nature that arose before the Petition Date that the Estate may  
4 have against the holder of such Claim to the extent such Claims may be set off or recouped  
5 under applicable law, but neither the failure to do so nor the fact of any Claim under the  
6 [Amended](#) Plan becoming Allowed constitutes a waiver or release by the Estate of any such  
7 claim that it may have against such holder.

8 **I. Notices.**

9 Any notice required or permitted to be provided under the [Amended](#) Plan must be  
10 in writing and served by certified return-receipt-requested U.S. mail, hand delivery, overnight  
11 courier, or read-receipt-enabled e-mail to:

12 To the Debtors: Phoenix Manufacturing Partners, LLC  
13 2350 W. Shangri ~~La~~[la](#) Road  
14 Phoenix, AZ 85029

15 To the Reorganized Debtor: ~~dba Joined Alloys~~ [JPS Leading Edge Manufacturing, LLC](#);

16 2350 W. Shangri ~~La~~[la](#) Road  
17 Phoenix, AZ 85029

18 To the Attorneys for the Debtors/  
19 Reorganized Debtor: Bradley J. Stevens  
20 Jennings Strouss & Salmon  
21 One East Washington Street,  
22 Suite 1900  
23 Phoenix, AZ 85004-2554

24 To UMB Bank, N.A.: UMB Bank, N.A.  
25 Post Office Box 419226  
26 Kansas City, MO 64141-6226

27 To Attorneys for UMB Bank, N.A. Hilary L. Barnes, Esq.  
Allen Barnes & Jones, PLC  
1850 North Central Avenue, Suite 1150  
Phoenix, AZ 85004

**J. Delivery of Notices.**

If personally delivered, notice is deemed delivered on actual receipt; if e-mailed in

1 accordance with the [Amended](#) Plan, notice is deemed delivered noon of the first Business Day  
2 following transmission; if sent by overnight courier in accordance with the [Amended](#) Plan,  
3 notice is deemed delivered noon of the first Business Day following deposit with such courier;  
4 and if sent by U.S. mail in accordance with the [Amended](#) Plan, notice is deemed delivered as  
5 of the date of delivery indicated on the receipt issued by the relevant postal service; or, if the  
6 addressee fails or refuses to accept delivery, as of the date of that failure or refusal. Any party  
7 to the [Amended](#) Plan may change its address for the purposes of the [Amended](#) Plan by giving  
8 notice of the change.

9 **K. Severability.**

10 If the Bankruptcy Court finds the [Amended](#) Plan or any provision of the [Amended](#)  
11 Plan to be invalid, illegal, or unenforceable, or if the Bankruptcy Court cannot confirm the  
12 [Amended](#) Plan under ~~Bankruptcy Code~~ [11 U.S.C. § 1129](#), the Bankruptcy Court, at the  
13 Debtors' request, may retain the power to alter and interpret the [Amended](#) Plan or any such  
14 provision to make it valid or enforceable to the maximum extent feasible, consistent with the  
15 original purpose of the provision held to be invalid or unenforceable, and such provision will  
16 then become applicable as altered or interpreted. The Confirmation Order constitutes a  
17 judicial determination and provides that each term and provision of the [Amended](#) Plan, as it  
18 may have been altered or interpreted in accordance with the foregoing, is valid and  
19 enforceable.

20 **L. Amended Plan Documents.**

21 Notwithstanding anything to the contrary contained in the [Amended](#) Plan,  
22 including any reference in the [Amended](#) Plan to documents in the forms annexed to the  
23 [Amended](#) Plan as exhibits, the Debtors may revise any such document by filing the revised  
24 document with the Bankruptcy Court at least five days before the deadline for voting on the  
25 [Amended](#) Plan, or with the written consent of all parties in interest that are entitled to vote on  
26 the [Amended](#) Plan and are materially and adversely affected by the revision.

27 **M. Inconsistency.**

1 If any inconsistency between the Amended Plan and the Amended Disclosure  
2 Statement exists, the Amended Plan governs. If any inconsistency between the Amended  
3 Plan and any document promulgated under the Amended Plan exists, the document governs.

4 **N. Subordination.**

5 The distributions under the Amended Plan take into account the relative priority of each  
6 Claim in connection with any contractual subordination provisions relating to such Claim.  
7 Accordingly, distributions under the Amended Plan are not and may not be subject to levy,  
8 garnishment, attachment, or other legal process by any holder of a Claim or Equity Interest  
9 purporting to be entitled to the benefits of such contractual subordination, and all such holders  
10 are deemed to have waived all contractual subordination rights they otherwise may have had.

11 **O. Withholding and Reporting Requirements.**

12 In connection with the Amended Plan and all instruments issued in connection with  
13 the Amended Plan, the Debtors must comply with all withholding and reporting requirements  
14 imposed by any federal, state, local, or foreign taxing authority, and all distributions under the  
15 Amended Plan remain subject to any such withholding and reporting requirements. The  
16 Debtors may take all actions necessary to comply with such withholding and reporting  
17 requirements. Notwithstanding any other provision of the Amended Plan, each holder of an  
18 Allowed Claim that has received a distribution under the Amended Plan has sole and  
19 exclusive responsibility for the satisfaction or payment of any tax obligation imposed by  
20 any governmental unit, including income, withholding, and other tax obligation on account  
21 of such distribution.

22 **P. Post-Effective Date Fees; Final Decree.**

23 The Reorganized Debtor will be responsible for paying any post-Effective Date fees  
24 under 28 U.S.C. § 1930(a)(6) and filing post-confirmation reports until the Bankruptcy Court  
25 enters a final decree, which will be as soon as feasible after distributions under the Amended  
26 Plan have commenced. Notice of application for a final decree need be given only to those  
27 holders of Claims and Equity Interests and other parties that, after the Effective Date,

1 specifically request such notice.

2 **Q. De Minimis Distributions.**

3 No distributions of less than \$10 will be made on account of any Claim. An Allowed  
4 Claim remains eligible for distributions on the first date set for distributions when such  
5 distribution exceeds \$10.

6 **R. Delivery of Distributions; Undeliverable Distributions.**

7 Distributions to a holder of an Allowed Claim will be made: (a) to the address set  
8 forth on the holder's proof of claim, the Schedules, or, if no proof of claim is filed and the  
9 holder does not appear on the Schedules, the holder's last known address; or (b) to the  
10 address set forth in any written notice of address change delivered to the Reorganized  
11 Debtor. If any holder's distribution is returned as undeliverable, no further distributions to  
12 that holder will be made unless and until the Reorganized Debtor is notified of the  
13 holder's then-current address. Claims held by a holder whose distributions are returned as  
14 undeliverable and who fails to notify the Reorganized Debtor of its correct address within  
15 90 days after the distributions are returned to the Reorganized Debtor as undeliverable will  
16 be expunged, after which all unclaimed property will revert to the Reorganized Debtor free of  
17 any restrictions. Claims in respect of void checks and the underlying distributions are  
18 forever barred against the Reorganized Debtor, or their respective property,  
19 notwithstanding any federal or state escheat laws to the contrary. Nothing contained in the  
20 [Amended](#) Plan requires the Reorganized Debtor to attempt to locate any holder of an Allowed  
21 Claim.

22 **S. Failure to Negotiate Checks.**

23 Checks issued in respect of distributions under the [Amended](#) Plan are void if not  
24 negotiated within 120 days after issuance. Any amounts returned to the Reorganized Debtor in  
25 respect of a non-negotiated check will be held by the Reorganized Debtor. Requests for  
26 reissuance of any such check must be made directly to the Reorganized Debtor by the holder of  
27 the Allowed Claim with respect to which such check originally was issued. All amounts

1 represented by any voided check will be held until the later of six months after the Effective  
2 Date and six months after the voided check was issued, and all requests for reissuance by the  
3 holder of the Allowed Claim in respect of the voided check must be made before that date.  
4 Thereafter, all such amounts revert in the Reorganized Debtor free of any restriction. All  
5 Claims in respect of void checks and the underlying distributions are forever barred against  
6 the Reorganized Debtor, or their respective property, notwithstanding any federal or state  
7 escheat laws to the contrary.

8 **XXX. PROPONENT'S RECOMMENDATION/ALTERNATIVES TO THE**  
9 **AMENDED PLAN:**

10 The Debtors recommend that all creditors entitled to vote for the Amended Plan do so  
11 and that they vote in favor of the Amended Plan. The alternatives to confirmation of the  
12 Amended Plan would be either conversion of this case to a case under Chapter 7 of the  
13 Bankruptcy Code or its dismissal, which would result in the demise of the Debtors' businesses  
14 and unsecured creditors and junior secured creditors receiving nothing on account of their  
15 claims.

16 If the case were converted, the result would be the appointment of a Chapter 7 trustee  
17 and, most likely, the hiring of an attorney by the trustee. Expenses incurred in administering  
18 the Chapter 7 case would take priority in the right to payment over allowed, administrative  
19 expenses incurred in the Chapter 11 case. Both Chapter 7 and Chapter 11 administrative  
20 expenses take priority over the payment of unsecured claims without priority. In other words,  
21 conversion would likely decrease the net amount available to pay currently existing Creditors.  
22 The most likely effect of conversion of the case to a Chapter 7 would be a termination of all of  
23 Debtors' business operations and, as a result, Creditors would receive nothing.

24 For all these reasons, the Debtors urge all creditors to vote to accept the Amended Plan  
25 and to return ballots promptly for timely processing and computation.

26 RESPECTFULLY SUBMITTED this ~~30th~~1st day of ~~November, 2016~~February, 2017.

27 JENNINGS, STROUSS & SALMON, P.L.C.

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By: /s/ Bradley J. Stevens \_\_\_\_\_  
Bradley J. Stevens  
Fay W. Bidlack  
Attorneys for ~~Debtor~~ Debtors

Document comparison by Workshare 9 on Wednesday, February 01, 2017  
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Padding cell	

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