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8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

11 In re:	Chapter 11
12 ONSITE TEMP HOUSING CORPORATION,	Case No.: 2:16-bk-10790-PS
13	
14 Debtor.	DEBTOR'S SECOND AMENDED DISCLOSURE STATEMENT IN SUPPORT OF DEBTOR'S AMENDED PLAN OF REORGANIZATION DATED SEPTEMBER 21, 2017
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18 **ARTICLE I**
19 **INTRODUCTION**

20 **1.1 Plan Proponent**

21 This *Second Amended Disclosure Statement in Support of Debtor's Amended Plan of*
22 *Reorganization dated September 21, 2017* ("Disclosure Statement") is submitted by Onsite
23 Temp Housing Corporation ("Debtor"), the debtor and debtor in possession in the above-
24 captioned Chapter 11 case. The Debtor is the Proponent of the *Amended Plan of*
25 *Reorganization dated September 21, 2017* (the "Plan") a copy of which is attached hereto as
26 **Exhibit A**. The Plan sets forth the means by which the Debtor will reorganize pursuant to
27 Title 11 of the United States Code (the "Bankruptcy Code").
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1 **1.2 Exhibits**

2 The following Exhibits are attached to this Disclosure Statement and are
3 incorporated herein by reference. The Debtor reserves the right to amend and update the
4 Exhibits prior to Confirmation.

- 5 A. Plan
- 6 B. Definitions
- 7 C. Value of Trailers
- 8 D. Liquidation Analysis
- 9 E. Claims per Notes
- 10 F. Summary of Treatment
- 11 G. Revenue Projections
- 12 H. Corporate Documents
- 13 I. Resume of Timothy Shaffer
- 14 J. Executory Contracts and Leases
- 15 K. Plan Payments
- 16 L. Plan Payments with 1111(b) Election

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20 **1.3 Definitions**

21 The capitalized terms used in this Disclosure Statement have the same meaning as
22 those defined in **Exhibit B** to this Disclosure Statement or in the Bankruptcy Code, Rules,
23 or as otherwise defined in this Disclosure Statement.

24 **1.4 Purpose of the Plan and Disclosure Statement**

25 A Chapter 11 bankruptcy case such as this one culminates with the Bankruptcy
26 Court's approval of a plan of reorganization. A plan describes how a debtor will reorganize,
27 the structure of the reorganization and how and when creditors and interest holders will
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1 receive payment. In this case, the Debtor proposes to pay administrative creditors on the
2 Petition Date, to pay priority and secured claims over time and to pay general unsecured
3 creditors ten percent (10%) of their Allowed Claims. The Plan will be funded by the
4 continued operations of the company and the payment of \$300,000 by the Plan Funder in
5 exchange for 100 percent (100%) of the Debtor's stock. The current equity interests in the
6 Debtor will be canceled and the company will emerge from bankruptcy as the Reorganized
7 Debtor. Readers are specifically directed to Article VII of this Disclosure Statement that
8 describes how the Plan will be implemented.
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10 Creditors are classified according to, among other things, the nature of their Claims,
11 i.e., whether they are secured or unsecured. Only Creditors and Interest Holders holding
12 Allowed Claims will be eligible to receive distributions under the Plan. Creditors with
13 Allowed Claims will be paid in order of priority in accordance with Section 507(a) of the
14 Bankruptcy Code.

15 Plan approval by the Bankruptcy Court, called Confirmation, creates a binding
16 contract between the Debtor and its Creditors and Interest Holders on the "Effective Date"
17 as defined in the Plan. The Plan is the controlling document. Under the Plan, Classes 1 and
18 2 are Unimpaired; that is, the Claimant will receive the full amount of its Claims on the
19 Effective Date of the Plan. They will not be solicited for voting and will not be entitled to
20 vote on the Plan. Classes 3 through 50 are Impaired in that they will not receive the full
21 amount of their Allowed Claims on the Effective Date, and unless deemed to reject the Plan,
22 these classes will be solicited for voting and will be entitled to vote on the Plan.
23

24 As the Plan proponent, the Debtor must provide Creditors and Interest Holders with a
25 disclosure statement that is approved by the Bankruptcy Court. The primary purpose of this
26 Disclosure Statement is to provide adequate information to those Creditors voting on the
27 Plan so that they may make a reasonably informed decision with respect to exercising their
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1 right to accept or reject the Plan. This Disclosure Statement is intended for the sole use of
2 Creditors and other parties in interest.

3 You should consult your personal counsel or tax advisor on any questions or
4 concerns respecting tax, securities, or other legal consequences of the Plan.
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6 **1.5 Classes Entitled to Vote and Deadline**

7 As indicated above, only Impaired classes will be solicited for voting on the Plan.
8 Ballots will be sent to all Creditors and Interest Holders entitled to vote on the Plan. A
9 deadline for returning ballots will be established by the Bankruptcy Court. Any Claim or
10 Interest to which an objection has been or will be made is not an Allowed Claim and will
11 receive a distribution only after resolution of the objection by the Bankruptcy Court which
12 may be made after the Plan is confirmed.

13 **1.6 Representations Limited**

14 The information in this Disclosure Statement is derived from the Debtor's books and
15 records and is accurate to the best of the Debtor's belief and knowledge. You should not
16 rely on any other representations or inducements proffered to you to secure your acceptance
17 in arriving at your decision in voting on the Plan. Any Person making representations or
18 inducements concerning acceptance or rejection of the Plan should be reported to counsel
19 for the Debtor and to the United States Trustee who may be reached at (602) 682-2600.
20 Further, some of the information contained in the Disclosure Statement may consist of
21 estimations of liquidation values and distributions. The Debtor does not undertake to certify
22 or warrant the accuracy of the information contained in this Disclosure Statement and actual
23 results could differ materially from the projections contained herein.
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25 The Bankruptcy Court has not verified the accuracy of the information contained
26 herein. The Bankruptcy Court's approval of the Disclosure Statement does not imply that
27 the Bankruptcy Court endorses or approves the Plan, but only that the Disclosure Statement
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1 contains adequate information for Creditors and Interest Holders to make an informed
2 decision to approve or reject the Plan.

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4 **ARTICLE II**
STRUCTURE OF THE DEBTOR, ASSETS, AND LIABILITIES

5 **2.1. The History of the Debtor and its Operations**

6 The Debtor is an Arizona corporation taxed under Subchapter S of Chapter 1 of the
7 Internal Revenue Code, often commonly referred to as a “closely held corporation.” The
8 Debtor was formed in October 2012 and its shareholders are Donald Kaebisch (75 percent
9 of the shares of stock) and Brad Blaicher (25 percent of the shares of stock). The Debtor
10 specializes in providing temporary housing in the form of Trailers, to individuals
11 temporarily displaced from their homes. Approximately eighty percent (80%) of the
12 Debtor’s revenue is derived from the rental of the Trailers to large companies in the
13 insurance, construction, mining, and natural disaster related industries. The remaining
14 twenty percent (20%) of the Debtor’s business is derived from the temporary rental of
15 Trailers for music concerts or other short term venues. This diversification allows the
16 Debtor to have a maximum number of Trailers leased at any given time.

17
18 **2.2 The Debtor’s Assets**

19 The Debtor’s primary assets consist of its fleet of 105 Trailers of varying size and
20 configuration. The Trailers and their estimated value are listed on the spreadsheet attached
21 hereto as **Exhibit C**. The value of the Trailers is derived from listings on the website
22 maintained by the National Association Dealers Association (“NADA”), an accepted guide
23 to values for travel trailers such as those owned by the Debtor. Debtor believes the
24 appropriate value of the Trailers is the wholesale value listed by NADA. Where a listing
25 was not available, the value is based on the Debtor’s opinion of value.
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1 In general, the Trailer Leases provide for payment in arrears and consequently, at any
2 given time the Debtor has significant account receivables. As of the date of this Disclosure
3 Statement receivables are approximately \$90,830. Cash on hand as of the date of the
4 Disclosure Statement is approximately \$100,000, not including deposits placed by lessees of
5 Trailers. Additional assets include three trucks none of which have any equity and a leased
6 2015 GMC Tahoe. The Debtor also has business inventory and equipment valued at
7 approximately \$90,000 and described in greater detail in the Liquidation Analysis attached
8 as **Exhibit D**.

9
10 **2.3 Liabilities**

11 Debtor's liabilities include taxes owed to: (1) the Internal Revenue Service ("IRS")
12 in the amount of \$206,716 of which \$171,760 is secured by all of Debtor's assets; (2) the
13 Arizona Department of Revenue ("ADOR") in the amount of \$23,138; and (3) the Arizona
14 Department of Economic Security in the amount of \$1,722.

15 Multiple Creditors hold security interests in the Trailers. **Exhibit E** identifies each
16 Creditor, the amount of debt the Debtor believes is owed to each Creditor, and the Trailer(s)
17 the Debtor believes secures the debt. [**NOTE**: As of the date of this Disclosure Statement,
18 the Debtor is seeking discovery from the Creditors as to the payments that have been made
19 to these Creditors and thus, the amounts owed may be adjusted.] The aggregate amount of
20 debt secured by the Trailers is believed to be approximately \$1,200,000.00. In addition, the
21 Debtor owes approximately \$46,767.00 secured by the trucks.

22 Debtor's unsecured non-priority debt is approximately \$612,000.00 not including
23 Deficiency Claims. The Allowed Secured Claims secured by the Trailers is significantly
24 less than the Allowed Claims, accordingly the Debtor anticipates the Secured Creditors will
25 have significant Deficiency Claims. On October 23, 2017, a number of the Secured
26 Creditors made the 1111(b) Election in which case, they will not have a Deficiency Claim.
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1 (See Section 6.4.7 below). The Debtor believes several of the 1111(b) Elections have been
2 made improperly for claims that are unsecured.

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4 **ARTICLE III**
5 **FACTORS LEADING TO DEBTOR'S BANKRUPTCY AND OTHER PRE-**
6 **PETITION EVENTS**

7 As it grew, the Debtor had an immediate need to acquire additional travel trailers. To
8 further this objective, the Debtor entered into secured lending agreements with multiple
9 lenders, most individuals or closely held entities. While the actual lenders varied, the
10 brokers for each of these agreements were James Riley and Scott Gould. To acquire one or
11 more trailers, the Debtor executed a security agreement and promissory note with the lender
12 and the lender would provide the Debtor with funds to purchase the collateral. In most
13 cases, the Debtor used the funds to purchase the trailer or trailers referenced in the Security
14 Agreement and a lien was recorded on the title to the trailer. In some cases, the Debtor
15 never purchased the trailer and in other cases the Debtor acquired the trailer but the lien was
16 never recorded on the title. Between 2012 and the Petition Date, the Debtor's trailer fleet
17 grew from two Trailers to one hundred and six Trailers on the Petition Date.

18 In addition to a growing trailer fleet, prior to the Petition Date Debtor hired several
19 employees and leased a property at 2140 W Williams Drive in Phoenix to conduct its
20 business. The Debtor finished 2014 with approximately \$1.4 million in gross revenue. In
21 late 2014, business began to decline as the result of the Debtor's loss of a large insurance
22 customer and a simultaneous decline in income. To alleviate its obligations, the Debtor was
23 able to negotiate interest only payments with Scott Gould and James Riley for the majority
24 of its secured lenders. Despite increased cash flow in 2015, the Debtor continued to struggle
25 to meet its obligations as they came due and took on additional debt to fund operations. At
26 this time, the Debtor hired an investment banking consulting company to develop a business
27 plan and analyze options to raise capital. Debtor hoped it would be able to raise sufficient
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1 capital to refinance the existing creditors and provide additional capital to expand
2 operations. Unfortunately efforts were unsuccessful.

3 The secured lender group, spearheaded by James Riley and Scott Gould, met with the
4 Debtor in January of 2016 in an effort to discuss a game plan for refinancing. Despite its
5 best efforts, the Debtor was ultimately unable to refinance the debt. In March of 2016, Mr.
6 Gould and Mr. Riley along with the other secured lenders and their respective entities, sued
7 the Debtor and its principals in Maricopa County Superior Court Case No. CV2016-004772
8 (the “State Court Litigation”). In the State Court Litigation, the plaintiffs have asserted
9 claims for fraudulent transfers, breach of the Trust Fund Doctrine, conversion and breach of
10 fiduciary duty against Mr. Blaicher and Mr. Kaebisch, principals of the Debtor.

11 On March 26, 2016, as part of mediation in the State Court Litigation, the Debtor and
12 Mr. Gould and Mr. Riley stipulated that the debt owed was \$1,700,000.00 plus outstanding
13 attorney’s fees. While the parties agreed on the amount, Mr. Gould and Mr. Riley
14 demanded payment within six days. The Debtor and its principals were unable to meet this
15 unrealistic deadline and negotiations were unproductive after this time.

16 In August of 2016, despite a stay of any replevin actions in the State Court
17 Litigation, Mr. Riley caused eight trailers in Indio, California to be repossessed. After
18 obtaining the eight trailers, Mr. Riley proceeded to repossess over twenty trailers while the
19 trailers were leased to people attending a festival in Nevada. To prevent further
20 repossessions, the Debtor filed for Chapter 11 bankruptcy protection on September 20,
21 2016. Parties to the State Court Litigation have agreed to a stay of litigation against the
22 other defendants. The foregoing description of events is vehemently disputed by the JRS
23 Group. To the extent necessary, all relevant facts will be determined at trial.
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ARTICLE IV
SIGNIFICANT BANKRUPTCY EVENTS

4.1 First Day Motions and Estate Professionals

On September 21, 2016, the Debtor sought approval of Campbell & Coombs, P.C. as its attorneys. [Dkt. #4]. The employment was approved by the Court on September 27, 2016. [Dkt. #21]. The Debtor retained an expert witness, Ted Burr, on November 10, 2016. [Dkt. #62]. The Court approved the retention of Mr. Burr on November 15, 2016. [Dkt. #68]. The Debtor employed its pre-petition accountants, Khan, Slayter & Kistler CPA, LLC on November 11, 2016 and sought approval of the CPA's employment *nunc pro tunc* to the Petition Date. [Dkt. #64]. The Court approved the employment of Khan Slayter & Kistler on November 18, 2016. [Dkt. #71].

On September 21, 2016, the Debtor sought Court authorization to pay wages and salaries to its employees in the amount of \$5,790.46. [Dkt. #8]. After a hearing held on September 28, 2016, the Court approved the motion and the employees were paid shortly thereafter. [Dkt. #33]. Approximately one year after the Petition Date, the Debtor retained Dickinson Wright PLLC ("DW") to replace Campbell & Coombs, P.C. The Debtor also replaced its accountants with Mukai, Greenlee & Company, P.C. ("Mukai"). The approval of DW as the Debtor's counsel and the withdrawal of Campbell & Coombs, P.C. were approved by the Court on August 23, 2017. The employment of Mukai was approved by the Court on September 8, 2017.

4.2 Cash Collateral

On the Petition Date, Can Capital Asset Servicing, Inc. ("Can Capital") held a lien in the amount of \$44,625.60 secured by Debtor's accounts, chattel paper, deposit accounts, personal property, assets and fixtures, general intangibles, instruments, equipment, inventory and proceeds thereof pursuant to its consensual loan agreement with the Debtor and as reflected in Proof of Claim No. 5. On January 18, 2017, the Debtor filed the

1 *Stipulation for Use of Cash Collateral and Award of Adequate Protection* (“Can Capital
2 Stipulation”) which authorizes the Debtor to use cash collateral as set forth in the budget
3 attached thereto and provides for payment of \$5,566.00 per month to Can Capital. [Dkt.
4 #138]. The Can Capital Stipulation was approved by the Court pursuant to the Court Order
5 dated February 16, 2017. Doc. No. 168. The Debtor believes this debt will be paid in full
6 prior to Confirmation.
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8 **4.3 Adequate Protection**

9 On September 28, 2016, JRS Funding, LLC, James Riley, Joseph Zerbib, Diane
10 Zerbib, Michael Zerbib, Michelle Zerbib, David Riley, Daron Johnson, Richard T. Lommen
11 as Trustee of the Richard T. Lommen Jr. 2004 Revocable Trust, Scott A. Gould, Gould
12 Investments, LLC, LLindell, LLC, Katherine McClerkin, 3 Dog Lending, LLC, RK
13 Lending, LLC and Empire J. Investments, LLC (collectively the “JRS Group”) filed the
14 *Motion for Sequestration of Cash Collateral* (the “Cash Collateral Motion”). Doc. No. 25.
15 On October 27, 2016, the JRS Group and the Debtor filed a *Stipulation for Adequate*
16 *Protection Payments* (the “Adequate Protection Stipulation”). Doc. No. 50. Through the
17 Adequate Protection Stipulation, the Debtor agreed to make monthly payments of \$25,000
18 as adequate protection for the JRS Group interest in the travel trailers owned by the Debtor.
19 On December 15, 2016, the Court entered its *Order for Adequate Protection Payments* (the
20 “Adequate Protection Order”). [Dkt. #90].
21

22 In reviewing the claims of the JRS Group and the supporting loan documents, the
23 Debtor realized that the Adequate Protection Stipulation called for payments to the JRS
24 Group well in excess of the actual decline in the value of its collateral. For the reasons
25 articulated in the *Motion to Revise Adequate Protection Payment* (“Motion to Revise”) the
26 Debtor asked the Court to value the Trailers that are collateral for the JRS Group loans and
27 to suspend the \$25,000 adequate protection payment to the JRS Group while the parties
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1 seek confirmation of their respective plans. [Dkt. #307]. An initial hearing was held on
2 September 25, 2017 and a final hearing was held on October 24, 2017 at which time the
3 Court granted the Motion to Revise in part and denied it in part (See Order Dkt. #377]. The
4 required monthly adequate protection payments were reduced a slight amount.
5

6 **4.4 Trustee Motion and the Appointment of the Chief Restructuring Officer** 7 **(“CRO”)**

8 On December 22, 2016, the JRS Group¹, filed a *Motion to Appoint Chapter 11*
9 *Trustee* (the “Trustee Motion”). [Dkt. #95]. The Trustee Motion alleged, among other
10 things, that cause existed to appoint a trustee as a result of the bad acts of the Debtor’s
11 management. The Debtor and the JRS Group resolved the Trustee Motion through the
12 appointment of a Chief Restructuring Officer (“CRO”). [Dkt. #200]. The CRO Stipulation
13 was approved and the employment of Timothy Shaffer was approved by the Court’s Order
14 dated June 12, 2017 (the “CRO Order”). [Dkt. #253]. Since that time, Mr. Shaffer has
15 performed the managerial duties outlined in the CRO Order.
16

17 **4.5 Disclosure Statement and Plan**

18 On February 7, 2017, the Debtor filed its *Disclosure Statement* and accompanying
19 *Plan of Reorganization*. [Dkt. #155]. On August 8, 2017, the Debtor filed its *First Amended*
20 *Disclosure Statement* and accompanying *First Amended Plan of Reorganization*. [Dkt.
21 #273]. This Disclosure Statement and Plan supersede the previously filed versions.

22 **4.6 JRS Group Litigation**

23 The JRS Group has aggressively litigated this bankruptcy case. On May 15, 2017, the
24 JRS Group declared a default under the Adequate Protection Stipulation and moved for the
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26 ¹ The members of the JRS Group changed between the Cash Collateral Motion and the Trustee
27 Motion to JRS Funding, LLC, James Riley, Joseph Zerbib and Diane Zerbib, Michael Zerbib and
28 Michelle Zerbib, David Riley, Richard T. Lommen as Trustee of the Richard T. Lommen Jr. 2004
Revocable Trust, Scott A. Gould, Gould Investments, LLC, LLindell, LLC, Katherine McClerkin,
3 Dog Lending, LLC, RK Lending, LLC and Empire J. Investments, LLC.

1 turnover of its collateral. [Dkt. #233]. The Debtor cured the default immediately but JRS
2 Group refused to withdraw the motion. The Court held a hearing on May 31, 2017 and
3 denied the relief sought by the JRS Group. [Dkt. #249].
4

5 The JRS Group asserts that Mr. Blaicher and Mr. Kaebisch seriously mismanaged the
6 Debtor's company prepetition, transferred hundreds of thousands of dollars to and for their
7 benefit in violation of their fiduciary duties to creditors and committed fraud and
8 conversion. The Trustee Motion fully outlines the JRS Group's allegations in Section 2.1 at
9 page 5, Article III on pages 7-8 and Section 4.6 on pages 11-12.

10 The Debtor disputes these allegations and believes that Mr. Kaebisch and Mr.
11 Blaicher acted reasonably and within business norms and that they contribute considerable
12 knowledge of the industry and practical knowledge regarding the business. The Debtor
13 believes that continued employment of Mr. Kaebisch and Mr. Blaicher is in the best
14 interests of creditors and of the estate.

15 **4.7 Preferences and Fraudulent Transfers**

16 The Debtor's review of potential preferential payments and fraudulent transfers is
17 ongoing. The deadline to file any such actions is September 20, 2018. The Debtor will file
18 any actions prior to the deadline.
19

20 From the inception of this case the JRS Group has continuously demanded that the
21 Debtor pursue causes of action against its principals for monies received by them prior to
22 the Petition Date and for their actions in managing the Debtor. The Debtor, through counsel,
23 reviewed the allegations made by the JRS Group and made demand on its principals, Mr.
24 Blaicher and Mr. Kaebisch and a related entity RPod Rentals.Com LLC ("RPod"). The
25 insiders have responded to the demand and, through their respective attorneys, are
26 negotiating resolution of the preferences with the CRO. Multiple letters have been
27 exchanged addressing the potential liability of the insiders and are attached to the *Objection*
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1 to the Debtor's First Amended Disclosure Statement as Exhibits 2 and 3. [Dkt. #302].

2 The Debtor, through the CRO, is analyzing the allegations and will make a final
3 determination as to whether to litigate against the insiders prior to the deadline of September
4 20, 2018. At this stage, the Debtor does not believe that the allegations have substantial
5 value to the estate and is hesitant to spend significant funds pursuing the insiders where
6 recovery is unlikely.

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8 Nevertheless, these contingent claims are assets of the Estate.

9 **4.8 Claims Bar Date**

10 On November 4, 2016, the Court entered an Order setting January 6, 2017 as the last
11 date to file proofs of claim. [Dkt. #57]. On November 10, 2016, the Notice of the Claims
12 Bar Date was mailed to all creditors and parties in interest on the Debtor's Master Mailing
13 Matrix. [Dkt. #59].

14 **4.9 Motion to Value**

15 On October 23, 2017, the Debtor filed a Motion to Value Estate Assets [Dkt. #365]
16 requesting the Court to establish the value of the Trailers based on the NADA wholesale
17 values. The JRS Group challenged the valuation claiming that retail value is the appropriate
18 standard. The JRS Group has now agreed to the NADA wholesale value for the Trailers.

20 **4.10 Objections to Claims and Adversary Proceeding**

21 On October 12, 2017, the Debtor filed objections to a number of Secured Claims.
22 The Debtor is working with the JRS Group to resolve such claims. In addition, on October
23 23, 2017, the Debtor filed an Adversary Proceeding challenging the validity of the claimed
24 liens on six of the Trailers. The issue has not yet been resolved.

25 **4.11 JRS Group Plan**

26 One September 8, 2017, the JRS Group filed a Plan of Reorganization [Dkt. # 299].
27 The JRS Group withdrew its plan in open Court on October 24, 2017.

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ARTICLE V
SUMMARY OF THE PLAN

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5.1 The Plan

The Plan provides for the payment of priority and secured claims in full over time and a ten percent (10%) distribution to general unsecured creditors. The Plan is funded by the Debtor's cash on hand, the collection of account receivables, a \$300,000 equity contribution, and the continued operations of the Reorganized Debtor.

5.2. Summary of the Plan's Treatment of Creditors and Interest Holders

A summary of the treatment of Creditors and Interest Holders under the Plan and an estimation of their Claims is outlined in **Exhibit F** attached to this Disclosure Statement.

[NOTE: Any description of the Plan in this Disclosure Statement is for informational purposes only and does not purport to change or supersede any of the language of the Plan. Each holder of a Claim or Interest is urged to read the Plan carefully with respect to the proposed treatment of their respective Claim or Interest, and, is encouraged to consult with such person's legal counsel. If the Plan is confirmed, it will be binding upon the Debtor, its Creditors, and Interest Holders. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PLAN WILL CONTROL.

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ARTICLE VI
CLASSIFICATION OF CREDITORS

6.1 No Classification of Administrative Claims and Priority Tax Claims

As provided in Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims shall not be classified for purposes of voting on or receiving distributions under the Plan. All those Claims shall be treated separately as unclassified Claims on the terms set forth herein.

6.2 Administrative Expenses

1 Allowed Administrative Claims will be paid in full satisfaction of the Claim, unless
2 previously approved and paid: (a) cash payment in the allowed amount of the Claim on the
3 Effective Date or as soon thereafter as possible or after the claim is allowed if subject to
4 Court approval; (b) in the ordinary course of business as the Claim matures; or (c) upon
5 other less favorable terms as may be agreed upon in writing by the holder of the Claim and
6 the Plan Agent (described below), or as ordered by the Bankruptcy Court. Administrative
7 Claims in this case are for Professional Fees owed to the Debtor's current and former
8 counsel and accountants as well as other estate professionals whose employment has been
9 approved by the Court. Debtor believes that by Confirmation, Professional Fees will total
10 approximately \$300,000.

12 **6.3 Priority Tax Claims**

13 Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less
14 favorable treatment or treatment is ordered by the Bankruptcy Court, in full and final
15 satisfaction, each holder shall be treated in accordance with the terms set forth in
16 Bankruptcy Code section 1129(a)(9)(C) over a period of five years from the Petition Date at
17 the statutory rate of interest set forth in I.R.C. §§ 6621 and 6622 that is in effect during the
18 month the Plan is Confirmed (currently 4.0% compounded daily).

20 Debtor believes the Claims in this Class consist of the Internal Revenue Service
21 ("IRS") in the amount of \$31,233; the Arizona Department of Revenue in the amount of
22 \$19,462; and the Arizona Department of Economic Security in the amount of \$1,660.

23 The IRS and ADOR have filed claims for post-petition taxes, the Debtor believes that
24 these claims have been satisfied. Any outstanding post-petition tax claims will be paid in
25 full on the Effective Date or as agreed by the Plan Agent and the relevant taxing authority.

26 **6.4 Classification and Treatment of Claims and Interests That Are Classified**

1 For purposes of voting, distributions, and all confirmation matters, except as
2 otherwise provided herein all Allowed Claims and Interests shall be classified and treated as
3 follows.

4 **6.4.1 Class 1 – Employee Wage Claims**

5 Class 1 consists of the Allowed Claims of individuals not exceeding \$12,475
6 for each individual or corporation earned within 180 days of the Petition Date for wages,
7 salaries or commissions, including vacation severance and sick leave pay. Class 1 Allowed
8 Claims will be paid in full on the Effective Date or as soon thereafter as is reasonably
9 possible. Class 1 is Unimpaired, is not entitled to vote on the Plan, and will not be solicited
10 to vote on the Plan. The Debtor does not believe there are any claims in this Class 1.

11 **6.4.2 Class 2 – Consumer Deposit Claims**

12 Class 2 consists of Allowed Claims of individuals not exceeding \$2,775 per
13 individual, arising from the deposit of money with the Debtor for the lease, or rental of
14 property that was not provided. Class 2 will be paid in full on the Effective Date or as soon
15 thereafter as reasonably possible. Class 2 is Unimpaired, is not entitled to vote on the Plan
16 and will not be solicited to vote on the Plan. The Debtor does not believe there are any
17 claims in this Class 2.
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20 **6.4.3 Class 3 – IRS Secured Claim**

21 Class 3 consists of the Allowed Secured Claim of the IRS in the amount of
22 \$171,760.27. Class 3 will be paid over a period ending not later than 60 months from the
23 Petition Date with interest at the statutory rate set forth in I.R.C. §§ 6621 and 6622 that is in
24 effect during the month the Plan is Confirmed (currently 4.0% compounded daily).
25 Payments will commence on the first day of the first month after the Effective Date. Class
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1 3 is Unimpaired, is not entitled to vote on the Plan and will not be solicited to vote on the
2 Plan.

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4 In the event that the Debtor defaults on any payment due to the Internal
5 Revenue Service as required under the confirmed Plan, and in the event that the Debtor fails
6 to cure said default within thirty days after written notice of the default is mailed to the
7 Debtor and the Debtor's attorney, the entire imposed liability together with any unpaid
8 current liabilities, shall become due and payable immediately. The Internal Revenue Service
9 may collect unpaid liabilities that become due as a result of the default, through the
10 administrative collection provision or the judicial remedies as set forth in the Internal
11 Revenue Code. The Internal Revenue Service shall not be required to seek a modification
12 from the automatic stay to collect any tax liabilities from the property that has reverted with
13 the Debtor.

14 **6.4.4 Class 4 -- Ally Financial (Ford F550 C27114)**

15 Class 4 consists of the Allowed Secured Claim of Ally Financial in the
16 approximate amount of \$40,693.64 secured by a 2015 Ford F550 with VIN ending C27114.
17 Class 4 will be paid in equal monthly installments over 60 months at an interest rate of 5.99
18 percent (5.99%) per annum or such other rate as the Court may determine. Payments will
19 commence on the first day of the first month after the Effective Date. Debtor may prepay
20 this claim in full without penalty. Class 4 is Impaired under the Plan and is entitled to vote
21 on the Plan.
22

23 **6.4.5 Class 5 -- Ally Financial (Ford F250 C13504)**

24 Class 5 consists of the Allowed Secured Claim of Ally Financial in the approximate
25 amount of \$47,095.00 secured by a 2015 Ford F250 with VIN ending C13504. Class 5 will
26 be paid in equal monthly installments over 60 months at an interest rate of 5.99 percent
27 (5.99%) per annum or such other rate as the Court may determine. Payments will
28

1 commence on the first day of the first month after the Effective Date. Debtor may prepay
2 this claim in full without penalty. Class 5 is Impaired under the Plan and is entitled to vote
3 on the Plan.

4 **6.4.6 Class 6 -- Ally Financial (F550 A53092)**

5 Class 6 consists of the Allowed Secured Claim of Ally Financial in the approximate
6 amount of \$37,031.88 secured by a 2015 Ford F550 truck with VIN ending A53092. Class 6
7 will be paid in equal monthly installments over 60 months at an interest rate of 6.99 percent
8 (6.99%) per annum or such other rate as the Court may determine. Payments will
9 commence on the first day of the first month after the Effective Date. Debtor may prepay
10 this claim in full without penalty. Class 6 is Impaired under the Plan and is entitled to vote
11 on the Plan.

12 **6.4.7 Classes 7 to 48 -- Creditors Secured by Trailers**

13 Classes 7 to 48 consist of the Allowed Secured Claims of Creditors who hold a
14 secured interest in one or more Trailers. Each Class is identified on **Exhibit E** by Creditor
15 name, the Claim Amount for each Note, and the Trailers securing the note. The value of
16 each Trailer is also identified. The amount of the Allowed Secured Claim will be the value
17 of the Trailers, as determined by the Court, securing each Note. The difference between the
18 Allowed Secured Claim and the Claim Amount will be an Allowed Deficiency Claim and
19 will be treated in Class 48.

20 As indicated above, the precise amount of each Note has not been reconciled and the
21 Debtor will amend Exhibit E prior to Confirmation to assert what it believes are the correct
22 amounts. For purposes of this Disclosure Statement, the Claim Amounts set forth in Exhibit
23 E reflect the amounts recorded in the Debtor's books and records. Debtor was unable to use
24 the amounts set forth in the Proofs of Claim filed by JRS as the JRS proofs of claim are
25 filed according to the lender's name and are not broken down by note. Debtor has been
26
27
28

1 unable to compare the amounts it believes to be the outstanding secured debt with the
2 amount claimed by JRS on a per note basis, however the Debtor believes that its principal
3 amount due is substantially similar to the principal amount JRS asserts in the proofs of
4 claims.

5
6 Debtor believes that JRS has significantly overstated the unpaid interest due on the
7 claims. In addition, Debtor believes the adequate protection payments of \$25,000 per month
8 that have been paid to JRS Group after the Petition Date have exceeded the amount that
9 would be required to compensate the Creditors in the JRS Group for the decline in the value
10 of their collateral. The adequate protection overpayment is not accounted for in Exhibit E
11 and any excess must be applied to reduce the principal amount of the Allowed Secured
12 Claim for each affected Creditor.

13 Each Allowed Secured Claimant will retain its interest in the Trailers securing its
14 debt as identified on Exhibit E. The Allowed Secured Claim will be amortized over 84
15 months at an interest rate of 5.5 percent (5.5%) per annum or such other rate as determined
16 by the Court. Each monthly payment will be made on the first day of the month,
17 commencing on the first day of the first month after the Effective Date. In the event of a
18 payment default on an Allowed Secured Claim in this Class, the Debtor shall have five (5)
19 business days after Notice in which to cure. Debtor shall maintain insurance on the Trailers
20 and provide proof of insurance to any Allowed Secured Claimant in this Class upon
21 reasonable request. Upon reasonable request, the Debtor shall permit any Allowed Secured
22 Claimant in this class to inspect its collateral.

24 In the event an Allowed Secured Claimant in this Class makes the 1111(b) Election,
25 the full amount of its Allowed Claim will be treated as an Allowed Secured Claim and will
26 be paid in equal monthly installments over 180 months.

1 Debtor may prepay any of the Claims in this Class in full without penalty. Classes 7
2 through 48 are Impaired and are entitled to vote on the Plan.

3 **6.4.9 Class 49--General Unsecured Creditors**

4 Class 49 consists of the Allowed Claims of general Unsecured Creditors not
5 otherwise classified and Deficiency Claims. Class Claimants in this Class will each be paid
6 10 percent (10%) of their Allowed Claim in equal monthly installments over 60 months
7 without interest commencing on the first day of the first month after the Effective Date.
8 Class 49 is Impaired and is entitled to vote on the Plan.

9 **6.4.9 Class 50-- Equity Interests**

10 Class 50 consists of the Interests in the Debtor. The Interests will be cancelled
11 on the Effective Date and Interest Holders will receive no distribution under the Plan. Class
12 50 is Impaired and deemed to have rejected the Plan.

13 **ARTICLE VII**

14 **MEANS FOR IMPLEMENTATION OF THE PLAN**

15 **7.1 Plan Funding**

16 The Plan will be funded initially by the Debtor's cash on hand and the New Value
17 Contribution in the amount of \$300,000 to be paid by the Plan Funder to the Reorganized
18 Debtor on the Effective Date. The Debtor believes the New Value Contribution will be
19 deposited into escrow prior the Confirmation. The New Value Contribution will be used to
20 pay Plan payments due on the Effective Date and to provide a capital reserve. After the
21 Effective Date, the Plan will be funded by the continued operations of the Reorganized
22 Debtor. The projections for revenue are set forth is **Exhibit G** to the Disclosure Statement.

23 **7.2 Continued Corporate Existence**

24 After the Effective Date, the Reorganized Debtor may operate its business and use,
25 acquire, and dispose of property without the supervision of the Bankruptcy Court, free of any
26
27
28

1 restrictions of the Bankruptcy Code or the Bankruptcy Rules.

2 **7.3 Corporate Governance**

3 On the Effective Date, the Debtor's articles of organization and by-laws shall be
4 amended and restated pursuant to the Amended Articles and the Amended By-laws, each in
5 substantial final form as attached to the Disclosure Statement as **Exhibit H** to reflect the
6 transactions consummated by the Plan, including the issuance of 100 percent of the stock in
7 the Reorganized Debtor to OAP. The initial Board of Directors of the Reorganized Debtor
8 will be Brad Blaicher and Donn Kaebisch. Mr. Blaicher will serve as President and Secretary
9 and Mr. Kaebisch will serve as Vice President.

10
11 The Amended Articles and the Amended By-laws satisfy the provisions of the Plan
12 and the Bankruptcy Code and shall include, among other things, pursuant to Bankruptcy
13 Code § 1123(a)(6), a provision prohibiting the issuance of non-voting equity securities. After
14 the Effective Date, the Reorganized Debtor may amend and restate the Amended Articles
15 and the Amended By-laws as permitted by applicable law.

16 **7.4 Management**

17 On the Effective Date, the new officers, and the new governing board of the
18 Reorganized Debtor will be appointed. Each such officer and board member will serve from
19 and after the Effective Date in accordance with the Amended Articles and Amended By-
20 laws, and other governance policies of the Reorganized Debtor, as the same may be amended
21 from time to time.

22
23 Several months prior to the filing of the Plan, the JRS Group urged that the United
24 States Attorney conduct an investigation of Mr. Blaicher and Mr. Kaebisch based on
25 allegations of their wrongdoing. Such an investigation was commenced; however, at the
26 time of this Disclosure Statement, nothing further has occurred. The Debtor believes that
27 Mr. Kaebisch and Mr. Blaicher are in the best position to serve in management roles in the
28

1 Debtor because of their experience in the business and their vast relationships with
2 customers and vendors. A key point in this regard is the fact that Mr. Shaffer, the Court-
3 appointed CRO will continue to oversee all operations and make all major financial
4 decisions. See Section 7.6 below.

5
6 To the extent it becomes necessary for Mr. Kaebisch and/or Mr. Blaicher to resign,
7 appropriate steps will be taken.

8 **7.5 Cancellation of Debtor's Equity Interests.**

9 On the Effective Date, all outstanding Interests in the Debtor shall be cancelled and
10 extinguished and all certificates (if any) representing Interests in the Debtor shall become
11 void without the need for further action.

12 **7.6 Appointment of Plan Agent**

13 The Plan Agent will be appointed to among other things act instead of and as the
14 nominee of Claimants and receive payments from Debtor, the Estate, and the Reorganized
15 Debtor, and make all payments and distributions contemplated by the Plan.

16 The Plan Agent will be Clotho Corporate Recovery, LLC under the direction of
17 Timothy Shaffer, who has served since April 2017 as the Debtor's Chief Restructuring
18 Officer. The Plan Agent will be deemed appointed on the Effective Date, without further
19 motion, application, notice, hearing or other order of the Court. The Plan Agent will be
20 compensated \$5,000 per month for the term of the Plan. Mr. Shaffer's resume is attached as
21 **Exhibit I** to the Disclosure Statement.

22
23 The Plan Agent shall serve as the disbursing agent for payments required by the Plan.
24 In addition, the duties of the Plan Agent shall include approving all capital expenditures and
25 any ordinary course expenditures exceeding \$25,000, ensuring a proper capital reserve for
26 maintenance, repair and replacement of Trailers, supervising Claims objections, and
27 directing litigation of Causes of Action.
28

1 No action or claim may be asserted against the Plan Agent for any matter relating to
2 or arising out of this Chapter 11 Case, the confirmation of the Plan, the consummation of the
3 Plan, or the administration of the Plan or the property to be administered or distributed under
4 the Plan, in any court without first obtaining approval of the Bankruptcy Court, and, in such
5 event, any such action must be prosecuted before the Bankruptcy Court, which shall retain
6 jurisdiction to adjudicate any such actions. The Plan Agent is acting solely as a fiduciary on
7 behalf of the Estate in implementing this Plan. Neither the Plan Agent, nor any of its
8 employees, shall have any personal liability for serving in the fiduciary capacity of the Plan
9 Agent, except for willful misconduct or gross negligence.

11 **7.7 Effectuating Documents; Further Transactions**

12 Upon Confirmation, the Debtor is authorized to execute, deliver, file, or record such
13 contracts, instruments, releases, indentures, and other agreements or documents and take
14 such actions as may be necessary or appropriate to effectuate and further evidence the terms
15 and conditions of the Plan.

16 **7.8 Exemption from Transfer Taxes**

17 Pursuant to Section 1146(a) of the Bankruptcy Code, the creation or transfer of any
18 mortgage, deed of trust or other security interest, the making or assignment of any lease or
19 sublease, or the making or delivery of any deed or other instrument of transfer under, in
20 furtherance of or in connection with the Plan, and executed in connection with the
21 liquidation of assets shall not be subject to any stamp tax, real estate tax or similar tax.

22 **7.9 Exemption from Securities Laws**

23 The issuance of the Reorganized Debtor Interests, and all other instruments,
24 certificates, and other documents required to be issued or distributed pursuant to the Plan, (a)
25 shall be authorized under Bankruptcy Code § 1145 as of the Effective Date without further
26 act of action, except as may be required by the Amended Articles and the Amended By-laws,
27
28

1 and (b) shall be exempt pursuant to Bankruptcy Code § 1145 from registration under the
2 Securities Act of 1933, as amended (and all rules and regulations promulgated thereunder),
3 and under any state or local law (and all rules and regulations promulgated thereunder)
4 requiring registration for offer or sale of a security or registration or licensing of an issuer of,
5 underwriter of, or broker or dealer in, a security.
6

7
8 **ARTICLE VIII**
9 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

10 Subject to the approval of the Bankruptcy Court, the Debtor has the power to assume
11 or reject an unexpired lease or a contract that is deemed executory by the fact that
12 performance is due by both parties to the contract. That is to say, the lease or contract can be
13 accepted as written and the parties continue as if the bankruptcy never occurred. In such case
14 the Debtor must cure any arrearages (“Cure”) and give the counter party adequate assurance
15 of performance. Conversely, the lease or contract can be rejected, in which case the Debtor is
16 deemed to be in breach of the agreement, and practically speaking, the parties’ obligations
17 cease. The counter party may have a claim for damages as a consequence of the rejection.

18 In this case, the Debtor will assume as of the Effective Date the contracts identified on
19 **Exhibit J** to the Disclosure Statement (the “Assumed Contracts”). Exhibit J identifies the
20 Cure associated with each Assumed Contract. To the extent necessary, all Trailer Leases are
21 expressly assumed.
22

23 All other executory contracts and unexpired leases not listed on Exhibit J shall be
24 deemed rejected on Effective Date (the “Rejected Contracts”) unless earlier rejected by
25 Bankruptcy Court order. The Debtor reserves the right to amend Exhibit J at any time prior
26 to the Effective Date (a) to delete any executory contract or unexpired lease and provide for
27 its rejection, or (b) to add any executory contract of unexpired lease and provide for its
28

1 assumption under the Plan. The Debtor will provide notice of any amendment to Exhibit J to
2 the counter party or parties to those agreements affect by the amendment.

3 Each counter party to an Assumed or Rejected Contract shall have fourteen (14) prior
4 to the Confirmation Hearing to file with the Bankruptcy Court and serve a written objection
5 to its treatment and its Cure if applicable. Failure to timely object will be deemed consent to
6 the treatment and Cure. If a timely written objection is filed, the Debtor will request a
7 hearing for the resolution of the counter party's objection.
8

9 Unless it has done so previously, each counter party to a Rejected Contract shall file
10 on or before fourteen (14 days) after the Effective Date a proof of claim for any rejection
11 damages. Failure to timely file such proof of claim will result in the establishment of the
12 claim at zero dollars (-0-). The Reorganized Debtor reserves all rights to object to any
13 proofs of claim.

14 On the Petition Date, the Debtor leased the real property located at 2140 W Williams
15 Drive, Phoenix, Arizona. The Debtor vacated this property during the pendency of the case
16 and the landlord has filed a proof of claim evidencing its claim against the estate. This lease
17 is rejected.
18

19 **ARTICLE IX**
20 **CLAIMS, DISTRIBUTIONS, AND CLAIMS OBJECTIONS**

21 **9.1 Deadline for Applications for Administrative Expenses**

22 Applications for Administrative Claims shall be filed no later than 30 days after the
23 Effective Date. If Administrative Claims are not timely filed in accordance with the Plan,
24 they will be forever barred and may not be asserted in any manner; provided, however, that
25 no request for payment shall be required with respect to Administrative Claims that have
26 been paid previously or with respect to Administrative Claims for expenses incurred in the
27 ordinary course of business, unless a dispute exists as to those expenses, or unless the
28

1 provisions of the Bankruptcy Code require approval or allowance by the Bankruptcy Court
2 as a precondition to payments being made on that expense.

3 **9.2 Objection to Claims**

4 After the Effective Date, the Reorganized Debtor in consultation with the Plan Agent
5 shall have the exclusive right to file objections to Claims and the exclusive right to settle or
6 withdraw those objections with respect to any claims totaling \$100,000 or less. With respect
7 to claims of larger amounts, the Reorganized Debtor shall seek approval of the Court upon
8 notice to those creditors or parties entering a notice of appearance in the case. The holder of
9 a Claim to which an objection has been filed will be required to file with the Bankruptcy
10 Court a response setting forth its Claim with specificity. The Reorganized Debtor will
11 request a hearing on any timely filed responses. Claims objections must be filed within 90
12 days after the Effective Date.
13

14 **9.3 Disallowance for Late Claims**

15 Any and all applications for Claims or proofs of Claim filed after the applicable Bar
16 Date shall be deemed disallowed and expunged as of the Effective Date without any further
17 notice.
18

19 **9.4 Plan Distributions**

20 Distributions to Creditors will be made in accordance with the Plan. No distributions
21 will be made to any Claimant unless that Claimant has an Allowed Claim. In its discretion,
22 the Reorganized Debtor, in consultation with the Plan Agent will establish a reserve
23 sufficient to pay any unresolved claims in full if and when they are allowed. No interest
24 shall accrue or be paid for any amounts reserved and ultimately paid.

25 **9.5 Delivery of Distributions**

26 All distributions to Allowed Claimants shall be made at the address of such holder (a)
27 as set forth on the Schedules filed with the Court, or (b) on the books and records of the
28

1 Debtor unless the Debtor has been notified in writing of a change of address, including,
2 without limitation, by the filing of a proof of Claim by such holder that contains an address
3 for such holder different than the address of such holder as set forth on the Schedules.
4

5 6 7 **9.6 Undeliverable and Unclaimed Distributions**

8 In the event that any distribution is returned as undeliverable, the Plan Agent shall use
9 commercially reasonable efforts to determine the current address of such Allowed Claimant,
10 but he shall not be required to retain an outside investigator to determine the current address
11 of an Allowed Claimant whose distribution is returned as undeliverable. In any event, any
12 attempted distribution that remains unclaimed for a period of thirty (30) days after the last
13 attempted delivery shall be deemed unclaimed property under section 347(b) of the
14 Bankruptcy Code and revested in the Reorganized Debtor. The Plan Agent shall have no
15 further obligation to make any distribution to such Allowed Claimant and such claim shall be
16 extinguished and forever barred.
17

18 **9.7 Withholding and Reporting Requirements**

19 The Reorganized Debtor or the Plan Agent shall be authorized to collect such tax
20 information from the Allowed Creditors (including social security numbers or other tax
21 identification numbers) as required in their sole discretion to effectuate distributions under
22 the Plan. To receive distributions, all Allowed Claimants shall be required to identify
23 themselves to the Reorganized Debtor and provide tax information and the specifics of their
24 holdings, to the extent the Plan Agent deems appropriate (including completing the
25 appropriate Form W-8 or Form W-9, as applicable). The Plan Agent may refuse to make a
26 distribution to any Allowed Claimant that fails to furnish such information in a timely
27 fashion, until such information is delivered; provided, however, that, upon the receipt of such
28

1 information, the Plan Agent shall make such distribution to which the Creditor is entitled,
2 without interest; and provided further that, if the holder fails to comply with such a request
3 within 30 days, such distribution shall be deemed an undeliverable distribution hereunder;
4 and provided further that, if the Plan Agent fails to withhold in respect of amounts received
5 or distributable with respect to any such holder and the Plan Agent or Reorganized Debtor is
6 later held liable for the amount of such withholding, such holder shall reimburse the Plan
7 Agent or Reorganized Debtor for such liability. Notwithstanding the foregoing, each
8 Allowed Claimant shall have the sole and exclusive responsibility for any taxes imposed by
9 any governmental unit, including income, withholding and other taxes, on account of any
10 distribution.

12 **9.8 Unclaimed Property**

13 Distributions that are not claimed by the expiration of 180 days from the date of such
14 distribution shall be deemed to be unclaimed property and the Claims with respect to which
15 those distributions are made shall be automatically canceled. After the expiration of that 180-
16 day period, the Claim of any Entity to those Distributions shall be discharged and forever
17 barred. All unclaimed property shall then be revested in the Reorganized Debtor.

19 **9.9 Time Bar to Cash Payments by Check**

20 Checks issued by the Reorganized Debtor on account of Allowed Claims shall be null
21 and void if not negotiated within ninety (90) days after the date of issuance thereof, and shall
22 be treated as unclaimed property under the Plan.

23 **9.10 Amendment of Claims**

24 A Claim may be amended prior to the Effective Date only as agreed upon by the Plan
25 Agent and the holder of the Claim or as otherwise permitted by the Bankruptcy Court and
26 Bankruptcy Rules. After the Effective Date, a Claim may be amended to decrease, but not to
27 increase, the amount thereof.

1 **9.11 Full and Final Satisfaction**

2 All payments and distributions under the Plan shall be in full and final satisfaction,
3 settlement, release, and discharge of all Claims and Interests.
4

5
6
7 **ARTICLE X**

8 **CONDITIONS TO CONFIRMATION**

9 The following are conditions precedent to the Effective Date:

10 (a) The Confirmation Date has occurred;

11 (b) The Confirmation Order has been entered and is a Final Order, except that the
12 Debtor reserves the right to cause the Effective Date to occur notwithstanding the pendency
13 of an appeal of the Confirmation Order, under circumstances that would moot such appeal;

14 (c) No request for revocation of the Confirmation Order under Section 1144 of the
15 Bankruptcy Code has been made, or, if made, remains pending.
16

17
18 **ARTICLE XI**

19 **RETENTION OF JURISDICTION**

20 On and after the Effective Date, the Bankruptcy Court shall retain exclusive
21 jurisdiction, to the fullest extent permissible under the law, over all matters arising out of and
22 related to the Chapter 11 Case for, among other things, the following purposes:

23 (a) To hear and determine all matters with respect to the rejection of executory
24 contracts or unexpired leases and Claims resulting therefrom;

25 (b) To hear and determine any motion, adversary proceeding, application,
26 contested matter, or other litigated matter pending on or commenced after the Confirmation
27 Date;
28

1 (c) To hear and determine all matters with respect to the allowance, disallowance,
2 liquidation, classification, priority or estimation of any Claim;

3 (d) To ensure that distributions to holders of Allowed Claims or Allowed Interests
4 are accomplished as provided in the Plan;

5 (e) To hear and determine all applications for compensation and reimbursement of
6 professionals;

7 (f) To hear and determine any application to modify the Plan in accordance with
8 Section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any
9 inconsistency in the Plan, this Disclosure Statement or any order of the Bankruptcy Court,
10 including the Confirmation Order, in such a manner as may be necessary to carry out the
11 purposes and effects thereof;

12 (g) To hear and determine disputes arising in connection with the interpretation,
13 implementation or enforcement of the Plan, the Confirmation Order, any transactions or
14 payments contemplated by the Plan or any agreement, instrument or other document
15 governing or relating to any of the foregoing;

16 (h) To issue injunctions, enter and implement other orders and take such other
17 actions as may be necessary or appropriate to restrain interference by any Person with the
18 consummation, implementation or enforcement of the Plan, the Confirmation Order or any
19 other order of the Bankruptcy Court;

20 (i) To issue orders as may be necessary to construe, enforce, implement, execute,
21 and consummate the Plan;

22 (j) To enter, implement, or enforce orders as may be appropriate in the event the
23 Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

1 (k) To hear and determine matters concerning state, local and federal taxes in
2 accordance with Sections 346, 505 and 1146 of the Bankruptcy Code (including the
3 expedited determination of tax under Section 505(b) of the Bankruptcy Code);

4 (l) To hear and determine any other matters related to the Plan and not
5 inconsistent with the Bankruptcy Code;

6 (m) To determine any other matters that may arise in connection with or are related
7 to the Plan, this Disclosure Statement, the Confirmation Order, any of the documents or any
8 other contract, instrument, release or other agreement or document related to the Plan or this
9 Disclosure Statement.

10 (n) To recover all Property of the Debtor's Estate, wherever located;

11 (o) To hear and determine all disputes involving the existence, nature or scope of
12 the Debtor's discharge, including any dispute relating to any liability arising out of the
13 termination of employment or the termination of any employee or retiree benefit program,
14 regardless of whether such termination occurred prior to or after the Effective Date;

15 (p) To hear and determine any rights, Claims or Causes of Action held by or
16 accruing to the Debtor and transferred to the Reorganized Debtor pursuant to the Bankruptcy
17 Code or pursuant to any federal or state statute or legal theory;

18 (q) To enforce all orders, judgments, injunctions, releases, exculpations,
19 indemnifications and rulings entered in connection with the Debtor's Chapter 11 Case with
20 respect to any Person;

21 (r) To hear and determine any disputes arising in connection with the
22 interpretation, implementation or enforcement of any post-petition agreements;

23 (s) To hear any other matter not inconsistent with the Bankruptcy Code; and

24 (t) To enter a final decree closing the Chapter 11 Case.

25
26
27 **ARTICLE XII**

1 **CONFIRMATION OF PLAN**

2 Once the Disclosure Statement is approved and any required ballots are sent to any
3 holders of Allowed Claims that may be entitled to vote on the Plan, the Bankruptcy Court
4 will hold a Confirmation Hearing to determine whether the Plan may be confirmed. Any
5 party in interest may object to Confirmation of the Plan.

6 The Bankruptcy Court has scheduled the Confirmation Hearing for _____,
7 **2016** at _____ Phoenix time before the Honorable Paul Sala, United States Bankruptcy
8 Judge, in the United States Bankruptcy Court for the District of Arizona, located at 230 N.
9 First Ave, Phoenix, AZ 85003. The Confirmation Hearing may be adjourned from time to
10 time by the Bankruptcy Court without further notice except for an announcement made at the
11 Confirmation Hearing or any adjourned hearing.

12 **12.1 Overview of Confirmation Standards**

13 At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan
14 meets the requirements of Section 1129 of the Bankruptcy Code. The Debtor believes the
15 Plan meets these requirements because:
16

- 17 1. The Plan complies with the applicable provisions of the Bankruptcy Code;
- 18 2. The Debtor has complied with the applicable provisions of the Bankruptcy
19 Code;
- 20 3. The Plan has been proposed in good faith and not by any means forbidden by
21 law;
- 22 4. Any payment made or promised under the Plan for services or for costs and
23 expenses in, or in connection with, this Chapter 11 Case, or in connection with the Plan and
24 incident to this Chapter 11 Case, has been approved by, or is subject to the approval of the
25 Bankruptcy Court;
26

1 5. The Debtor has or will disclose the identity and affiliations of any individuals
2 proposed to serve, after confirmation of the Plan, as a director or officer along with his or her
3 compensation; that the appointment to, or continuance in, such office of such individual is
4 consistent with the interests of Creditors and equity holders and with public policy;

5 6. With respect to each Class of Impaired Claims or Interests, each holder of a
6 Claim or Interest in that Class has accepted the Plan or will receive as of the Effective Date
7 an amount that is not less than the holder would receive or retain if the Debtor was liquidated
8 on that date under Chapter 7 of the Bankruptcy Code. (*See* Article XIII below discussing the
9 “Best Interests Test”);

10 7. Each Class of Claims or Interests has either accepted the Plan or is not
11 Impaired under the Plan, or the Plan can be confirmed without the approval of that Class;

12 8. Except to the extent that the holder of a particular Claim has agreed or will
13 agree to a different treatment of his or her Claim, the Plan provides that Allowed
14 Administrative Claims and Priority Claims will be paid in full on the Effective Date or
15 within 30 days or as soon as reasonably practical and that Priority Tax Claims will be either
16 paid in full on the Effective Date or will receive deferred Cash payments, over a period not
17 exceeding five years after the Petition Date, of a value, as of the Effective Date, equal to the
18 Allowed amount of those Claims;

19 9. If a Class of Claims is Impaired under the Plan, at least one Class of Impaired
20 Claims has accepted the Plan, determined without including any acceptance of the Plan by
21 any insider holding a Claim in that Class;

22 **12.2 Acceptance of the Plan**

23 The Bankruptcy Code generally requires that each Impaired Class accept the Plan. A
24 Class is Impaired unless the plan: (a) leaves unaltered the legal, equitable, and contractual
25 rights to which the Claim or equity interest entitles the holder of the Claim or equity interest;

1 (b) cures any default and reinstates the original terms of the obligation; or (c) provides that,
2 on the consummation date, the holder of the Claim or equity interest receives Cash equal to
3 the Allowed amount of that Claim, or with respect to any equity interest, any fixed
4 liquidation preference to which the holder of the equity interest is entitled to any fixed price
5 at which the Debtor may redeem the security.
6

7 Bankruptcy Code § 1126(c) provides that a class of claims has accepted a chapter 11
8 plan if the plan has been accepted by creditors, other than an entity designated under
9 Bankruptcy Code § 1126(e), that hold at least two-thirds in amount and more than one-half
10 in number of the allowed claims of such class of creditors. Classes 3 through 49 are
11 impaired and entitled to vote on the Plan.

12 **12.3 Objections to Confirmation**

13 Any objection to the Plan must:

- 14 • Be made in writing;
- 15 • Conform to the Bankruptcy Rules and the Local Rules;
- 16 • Set forth the name of the objector; the nature and amount of the Claims or
17 Interests the objector holds against the Debtor; and the specific basis for the
18 objection;
- 19 • Be electronically filed with the Bankruptcy Court; and
- 20 • Be served upon the following parties:
21

22 Carolyn J. Johnsen
23 Katherine A. Sanchez
24 **Dickinson Wright PLLC**
25 1850 N. Central Avenue, Suite 1400
26 Phoenix, Arizona 85004
27 cjohnsen@dickinsonwright.com
28 ksanchez@dickinsonwright.com

1 All objections to the Plan must be actually received no later than **5:00 p.m. Phoenix**
2 **time on** _____, **2017**. All objections to the Plan are governed by Bankruptcy Rule 9014.
3 **THE BANKRUPTCY COURT WILL NOT CONSIDER A PLAN OBJECTION**
4 **UNLESS IT IS TIMELY FILED AND SERVED IN COMPLIANCE WITH THIS**
5 **DISCLOSURE STATEMENT.**

6 **ARTICLE XIII**
7 **EFFECT OF CONFIRMATION**

8 **13.1 Vesting of Assets**

9 Upon the Effective Date, pursuant to Sections 1141(b) and (c) of the Bankruptcy
10 Code, all Property of the Debtor and of the Estate shall vest in the Reorganized Debtor, free
11 and clear of all Claims, Liens, encumbrances, charges, and other interests, except as
12 otherwise expressly provided in the Plan. All Liens, Claims, encumbrances, charges, and
13 other interests shall be deemed fully released and discharged as of the Effective Date, except
14 as otherwise provided in the Plan. As of the Effective Date, the Reorganized Debtor may
15 operate the business and may use, acquire, and dispose of Property without supervision or
16 approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the
17 Bankruptcy Rules and in all respects as if there was no pending cases under any chapter or
18 provision of the Bankruptcy Code.
19

20 **13.2 Preservation of Causes of Action**

21 All Causes of Action shall vest in the Reorganized Debtor, as provided for in the Plan,
22 and are specifically preserved. The Reorganized Debtor shall have standing to bring any and
23 all Causes of Action including Avoidance Actions. Investigations of the Causes of Action are
24 ongoing. Accordingly, no Person may rely on the fact that the Plan and Disclosure
25 Statement do not identify a particular Person or Cause of Action. The JRS Group believes
26 there are Causes of Action against Mr. Blaicher and Mr. Kaebisch and against recipients of
27 payments within 90 days prior to the Petition Date as identified in the Schedules.
28

1 More specifically, any Cause of Action for which a lawsuit has been filed and is
2 pending on the Effective Date is specifically preserved. Nothing contained in the Plan or the
3 Confirmation Order shall be deemed to be a waiver or relinquishment of any rights or Causes
4 of Action that the Reorganized Debtor may have or choose to assert under any provision of
5 the Bankruptcy Code or any applicable non-bankruptcy law.
6

7 **13.3 Exculpation**

8 Pursuant to the Plan, the Debtor, the CRO and all of their respective present and
9 former partners, members, officers, directors, employees, advisors, attorneys and agents
10 (collectively, the “Exculpated Parties”) shall not have or incur any liability to any holder of
11 a Claim or an Interest, or any other party in interest, or any of their respective agents,
12 employees, representatives, financial advisors, attorneys or Affiliates, or any of their
13 successors or assigns for any act or omission in connection with, relating to or arising out of
14 this Chapter 11 Case, the preparation of and filing of the Case, any settlement related to this
15 Chapter 11 Case, the negotiation and execution of a proposed Plan, the solicitation of
16 acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the
17 Plan, or the administration of the Estate or of the Plan, or the Property to be distributed under
18 the Plan, except only to the extent that liability is based on gross negligence or willful
19 misconduct. Notwithstanding the foregoing, nothing in the Plan shall be deemed to release
20 the Exculpated Parties or exculpate the Exculpated Parties with respect to their respective
21 obligation or covenants arising pursuant to the Plan or with respect to Causes of Action for
22 pre-petition conduct.
23

24 **13.4 Discharge and Injunction.**

25 Except as otherwise specifically provided in the Plan or in the Confirmation Order,
26 the rights afforded in the Plan and the payments and distributions to be made under the Plan
27 shall discharge all existing debts and Claims, and shall terminate all interests of any kind,
28

1 nature, or description whatsoever against the Debtor or the Reorganized Debtor or any of
2 their assets or properties to the fullest extent permitted by Section 1141 of the Bankruptcy
3 Code. Except as otherwise specifically provided in the Plan or in the Confirmation Order,
4 upon the Effective Date, all existing Claims against the Debtor shall be precluded and
5 enjoined from asserting against the Debtor, the Reorganized Debtor, their respective
6 successors or assignees, or any of their assets or properties, any other or further Claim or
7 Interest based on any act or omission, transaction, or other activity of any kind or nature that
8 occurred before the Effective Date, whether or not the holder has filed a Proof of Claim and
9 whether or not the facts or legal bases therefore were known or existed before the Effective
10 Date.
11

12 Upon the Effective Date and in consideration of the distributions to be made under the
13 Plan, except as otherwise provided in the Plan, each holder (as well as any representatives,
14 trustees, or agents on behalf of each holder) of a Claim or Interest and any Affiliate of the
15 holder shall be deemed to have forever waived, released, and discharged the Debtor, to the
16 fullest extent permitted by Section 1141 of the Bankruptcy Code, of and from any and all
17 Claims, Interests, rights, and liabilities that arose before the Effective Date. Upon the
18 Effective Date, all those Persons shall be forever precluded and enjoined, pursuant to
19 Section 524 of the Bankruptcy Code, from prosecuting or asserting any discharged Claim
20 against or terminated Interest in the Debtor.
21

22 Except as otherwise expressly provided in the Plan, all persons or entities who have
23 held, hold, or may hold Claims or Interests and all other parties in interest, along with their
24 respective present or former employees, agents, officers, directors, principals,
25 representatives, and Affiliates, are permanently enjoined, from and after the Effective Date,
26 from: (i) commencing or continuing in any manner any action or other proceeding of any
27 kind with respect to any such Claim or Interest; (ii) the enforcement, attachment, collection,
28

1 or recovery by any manner or means of any judgment, award, decree, or order against the
2 Debtor, the Reorganized Debtor or Property of the Debtor; (iii) creating, perfecting, or
3 enforcing any Lien or encumbrance of any kind against the Debtor, the Reorganized Debtor,
4 or against the Property or interests in Property of the Debtor; or (iv) asserting any right of
5 setoff, subrogation, or recoupment of any kind against any obligation due from the Debtor
6 the Reorganized Debtor, or against the Property or interests in Property of the Debtor, with
7 respect to any such Claim or Interest. This injunction shall extend to any successors or
8 assignees of the Debtor, the Reorganized Debtor, and their respective Properties and interests
9 in Properties.

11 **13.5 Setoff and Recoupment**

12 The Reorganized Debtor may, but shall not be required to, set off or recoup against
13 any Claim and any distribution to be made on account of that Claim, any and all claims,
14 rights, and Causes of Action of any nature that the Reorganized Debtor may have against the
15 holder of that Claim pursuant to the Bankruptcy Code or applicable non-bankruptcy law;
16 provided, however, that neither the failure to effect a set off or recoupment nor the allowance
17 of any Claim under the Plan shall constitute a waiver, abandonment, or release by the
18 Reorganized Debtor of any of those claims, rights, and Causes of Action that the
19 Reorganized Debtor may have against the holder of the Claim. To the extent the
20 Reorganized Debtor fails to setoff or recoup against a holder and seek to collect a claim from
21 that holder after a distribution to the holder pursuant to the Plan, the Reorganized Debtor
22 shall be entitled to full recovery on its claim against that holder of a Claim.

24 **13.6 Corporate Authority**

25 The Confirmation Order shall constitute full and complete corporate authority for the
26 Debtor, the Reorganized Debtor, and the Plan Agent to take all other actions that may be
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1 necessary, useful or appropriate to consummate the Plan without any further corporate or
2 judicial authority.

3
4 **ARTICLE XIV**
LIQUIDATION ANALYSIS AND BEST INTEREST OF CREDITORS TEST

5 As a condition to confirmation, Bankruptcy Code § 1129(a)(7) requires that each
6 creditor either accept the Plan or receive from the Debtor's estate as much under the Plan as
7 each creditor would receive in a Chapter 7 liquidation of the Debtor. This is referred to as
8 the "Best Interest of Creditors' Test." None of the Trailers have equity. The remaining
9 assets identified in the Debtor's Liquidation Analysis attached as Exhibit D have little value
10 and their liquidation would produce an insufficient amount to even pay administrative
11 claims. The Plan provides for a ten percent (10%) return to Allowed Unsecured Creditors
12 and thus is more than they would receive in the event of liquidation. Consequently the Best
13 Interest of Creditors' Test has been satisfied.
14

15 **ARTICLE XV**
16 **FEASIBILITY**

17 The Bankruptcy Code requires that to confirm the Plan, the Bankruptcy Court must
18 find that confirmation of the Plan is not likely to be followed by a further liquidation or need
19 for further financial reorganization of the Debtor (the "Feasibility Test"). For the Plan to
20 meet the Feasibility Test, the Bankruptcy Court must find that the Reorganized Debtor will
21 possess the resources necessary to meet its obligations under the Plan. The Debtor believes
22 that the structure set forth in the Plan is a feasible framework to maximize the recovery for
23 all Allowed Claimants. Exhibit K describes the Plan payments over the term of the Plan. It
24 demonstrates that as a result of the proposed reorganization, the Reorganized Debtor will be
25 able to meet its obligations under the Plan and is therefore feasible. Exhibit L describes the
26 Plan payment over the term of the Plan if the Allowed Secured Creditors secured by the
27
28

1 Trailers make the 1111(b) Election. It will be provided within 10 days of the filing of this
2 Disclosure Statement. The Plan is also feasible under that scenario.

3 The JRS Group asserts that there are discrepancies between Exhibit K and the
4 Debtor's Monthly Operating Reports with respect to "Total Income," "Gross Profit," "Net
5 Income," and "Starting and Ending Cash." To the extent there are discrepancies, the Debtor
6 will present reconciling evidence at Confirmation.
7

8 The JRS Group also asserts that the Plan is not feasible because the Trailers do not
9 have a useful life and retain value for the term of the Plan. The Debtor believes it has set
10 forth a viable business plan to maintain its operations and repay creditors.

11 **ARTICLE XVI**
12 **ALTERNATIVES AND RISK FACTORS**

13 There are certain risks factors to take into consideration. One risk is that the
14 Reorganized Debtor will not meet its projections and will not be able to make the payments
15 provided for under the Plan. The Debtor does not believe this risk is significant as the
16 projections are conservative and are consistent with the Debtor's past performance.
17

18 In the event the Plan fails, this case will be converted to a Chapter 7 where a trustee
19 would be appointed to immediately liquidate all assets of the Debtor. As with litigation, the
20 Debtor has no ability to predict or guarantee any outcome. However, in the Debtor's
21 reasoned business judgment, the Debtor's Plan provides the best alternative for creditors.
22

23 **ARTICLE XVII**
24 **TAX CONSEQUENCES**

25 The Debtor does not anticipate that the Reorganized Debtor will incur any tax liability
26 as a result of the Plan. To the extent there are any tax consequences requiring payments, the
27 Debtor believes it will have sufficient funds to pay such liabilities.
28

1 **18.5 Governing Law**

2 Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the
3 rights and obligations arising under the Plan shall be governed by and construed and
4 enforced in accordance with the laws of the State of Arizona.

5 **18.6 Headings**

6 The headings of the Articles, Sections and Subsections of the Plan are inserted for
7 convenience only and shall not limit the interpretation of the Plan.
8

9 **18.7 Amendment**

10 The Debtor may propose amendments to or modifications of the Plan at any time prior
11 to confirmation of the Plan without the leave of the Bankruptcy Court or as permitted by the
12 Bankruptcy Code or Bankruptcy Rules. After confirmation of the Plan, the Debtor may
13 amend or modify the Plan, with the approval of the Bankruptcy Court, so long as it does not
14 materially or adversely affect the interests of Creditors or other parties in interest as set forth
15 herein, to remedy any defect or omission or to reconcile any inconsistencies in the Plan or in
16 the Confirmation Order, in a manner as may be necessary to carry out the purposes and
17 intent of the Plan.
18

19 **18.8 Withdrawal of Plan**

20 The Plan may be withdrawn prior to the entry of the Confirmation Order at the sole
21 discretion of the Debtor.

22 **17.9 Effect of Confirmation Order**

23 The Confirmation Order will include a provision that the Confirmation Order shall be
24 immediately effective and enforceable upon its entry and shall not be subject to any stay
25 under Bankruptcy Rule 3020(e) or otherwise.

26 **18.10 Quarterly Fees**

27 The quarterly fees required by 28 U.S.C. § 1930(a)(6) will be paid by the Reorganized
28

1 Debtor, and reports will be filed with, the Office of the United States Trustee until
2 application is made for entry of a final decree. Application for a final decree can be made
3 when the Plan has been fully administered, which for purposes of the Plan shall mean when
4 the Plan has been substantially consummated, as that term is defined in § 1101(2) of the
5 Bankruptcy Code.
6

7 **ARTICLE IX**
8 **CONCLUSION**

9 THE DEBTOR STRONGLY URGES SUPPORT FOR THE DEBTOR'S PLAN OF
10 REORGANIZATION.

11 DATED this 3rd day of November, 2017.

12 **ONSITE TEMP HOUSING, LLC**

13
14 By: /s/ Timothy Shaffer
15 Chief Restructuring Officer

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