

**THIS DISCLOSURE STATEMENT HAS
NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT**

This proposed Disclosure Statement is not a solicitation of acceptance or rejection of the Plan. Acceptances or rejections may not be solicited until the Bankruptcy Court has approved this Disclosure Statement under Bankruptcy Code § 1125. This proposed Disclosure Statement is being submitted for approval only, and has not yet been approved by the Bankruptcy Court.

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
VARIANT HOLDING COMPANY, LLC, et al., ¹)	Case No. 14-12021 (BLS)
)	
Debtors.)	(Jointly Administered)
)	
)	

**DISCLOSURE STATEMENT IN RESPECT OF
DEBTORS' CHAPTER 11 PLAN OF LIQUIDATION**

IMPORTANT DATES

- Date by which Ballots must be received: To be set
- Date by which objections to Confirmation of the Plan must be filed and served: To be set
- Hearing on Confirmation of the Plan: To be set

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Variant Holding Company, LLC (4044); Laser Focus Holding Company, LLC (9153); Laser Focus Commercial Investments, LLC (9326); Houston 2 Apartments, LLC (8886); 10400 Sandpiper Apartments, LLC (6556); 10301 Vista Apartments, LLC (8886); Houston 14 Apartments, LLC (7563); 12500 Plaza Apartments, LLC (7563); Pines of Westbury, Ltd (7563); 201 Ashton Oaks Apartments, LLC (7563); 13875 Cranbrook Forest Apartments, LLC (7563); 5900 Crystal Springs Apartments, LLC (7563); 7170 Las Palmas Apartments, LLC (7563); 11911 Park Texas Apartments, LLC (7563); 1201 Oaks of Brittany Apartments, LLC (7563); 3504 Mesa Ridge Apartments, LLC (7563); 667 Maxey Village Apartments, LLC (7563); 17103 Pine Forest Apartments, LLC (7563); 7600 Royal Oaks Apartments, LLC (7563); 4101 Pointe Apartments, LLC (7563); The Oaks at Stonecrest Apartments, LLC (5589); Numeric Commercial Investments, LLC (9443); FX3 Apartment Investors, LLC (4055); Royal Numeric FX Investments, LLC (6908); Broadmoor Apartments, LLC (7888); Chesapeake Apartments, LLC (5716); Holly Ridge Apartments, LLC (7117); Holly Tree Apartments, LLC (4288); Preston Valley Apartments, LLC (3356); Ravenwood Hills Apartments, LLC (8264); River Road Terrace Apartments, LLC (6396); Sandridge Apartments, LLC (3592); Majestic Heights Apartments, LLC (2174); Sonterra Apartments, LLC (6220); and Toscana Villas Apartments, LLC (8873). The Debtors' service address is: Variant Holding Company, LLC, c/o Development Specialists, Inc., 333 S. Grand Ave, Suite 4070, Los Angeles, CA 90071-1544.

Dated: February 28, 2016

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EXHIBITS

- 1 - Debtors’ Chapter 11 Plan of Liquidation
- 2 - Disclosure Statement Order
- 3 - Corporate/Organizational Chart

I.

PREFATORY STATEMENT AND DEFINITIONS

Pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), Variant Holding Company, LLC (“Variant”) and its related debtor affiliates (the “Subsidiary Debtors,” and together with Variant, the “Debtors”) hereby submit this disclosure statement (the “Disclosure Statement”) in support of the *Debtors’ Chapter 11 Plan of Liquidation* (as may be amended or modified, the “Plan”). The definitions contained in the Bankruptcy Code are incorporated herein by this reference. The definitions set forth in Article II of the Plan will also apply to capitalized terms used herein that are not otherwise defined.

II.

INTRODUCTION AND OVERVIEW

A. Introduction

On August 28, 2014 (the “Variant Petition Date”), Variant filed with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing its Chapter 11 Case. Variant’s Chapter 11 Case is administered under Case No. 14-12021 (BLS). Variant continues in the possession of its properties, and is operating and managing its affairs as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in Variant’s Chapter 11 Case.

On January 12, 2016 (the “Subsidiary Petition Date”), each of the Subsidiary Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court. The Subsidiary Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Subsidiary Debtors’ Chapter 11 Cases.

This Disclosure Statement, submitted in accordance with section 1125 of the Bankruptcy Code, contains information regarding the Plan proposed by the Debtors. A copy of the Plan is attached to the Disclosure Statement as Exhibit 1. The Disclosure Statement is being distributed to you for the purpose of enabling you to make an informed judgment about the Plan.

The Disclosure Statement contains information concerning, among other matters: (1) the Debtors’ background; (2) the assets available for distribution under the Plan; and (3) a summary of the Plan. The Debtors strongly urge you to review carefully the contents of this Disclosure Statement and the Plan (including the exhibits to each) before making a decision to accept or reject the Plan. Particular attention should be paid to the provisions affecting or impairing your rights as a Creditor.

Following a hearing on [_____], 2016, the Bankruptcy Court approved this Disclosure Statement as containing sufficient information to enable a hypothetical reasonable investor to make an informed judgment about the Plan. A copy of the order approving the Disclosure Statement is attached hereto as Exhibit 2 (the “Disclosure Statement Order”). Under section 1125 of the Bankruptcy Code, this approval enabled the Debtors to send you this Disclosure Statement and solicit your acceptance of the Plan. The Bankruptcy Court has not

considered for approval the Plan itself or conducted a detailed investigation into the contents of this Disclosure Statement.

Your vote on the Plan is important. Absent acceptance of the Plan, there may be protracted delays or a chapter 7 liquidation. These alternatives may not provide for distribution of as much value to Holders of Allowed Claims as does the Plan. Accordingly, the Debtors urge you to accept the Plan by completing and returning the enclosed ballot(s) no later than [_____], 2016.

B. Disclaimers

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE DEBTORS' PROPOSED PLAN. PLEASE READ THIS DOCUMENT WITH CARE. THE PURPOSE OF THE DISCLOSURE STATEMENT IS TO PROVIDE "ADEQUATE INFORMATION" OF A KIND, AND IN SUFFICIENT DETAIL, AS FAR AS IS REASONABLY PRACTICABLE IN LIGHT OF THE NATURE AND HISTORY OF THE DEBTORS AND THE DEBTORS' BOOKS AND RECORDS, THAT WOULD ENABLE A HYPOTHETICAL REASONABLE INVESTOR TYPICAL OF HOLDERS OF CLAIMS OR INTERESTS OF THE RELEVANT CLASS TO MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN.

FOR THE CONVENIENCE OF CREDITORS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN, BUT THE PLAN ITSELF QUALIFIES ANY SUMMARY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.

NO REPRESENTATIONS CONCERNING THE DEBTORS' FINANCIAL CONDITION OR ANY ASPECT OF THE PLAN ARE AUTHORIZED BY THE DEBTORS OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. YOU SHOULD NOT RELY UPON ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR REJECTION THAT ARE OTHER THAN AS CONTAINED IN OR INCLUDED WITH THIS DISCLOSURE STATEMENT IN ARRIVING AT YOUR DECISION.

THE FINANCIAL INFORMATION CONTAINED HEREIN, UNLESS OTHERWISE INDICATED, IS UNAUDITED. MOREOVER, BECAUSE OF THE DEBTORS' FINANCIAL DIFFICULTIES, AS WELL AS THE COMPLEXITY OF THE DEBTORS' FINANCIAL MATTERS AND POTENTIAL WRONGFUL CONDUCT OF PRIOR MANAGEMENT, THE BOOKS AND RECORDS OF THE DEBTOR, UPON WHICH THIS DISCLOSURE STATEMENT IN PART IS BASED, MAY BE INCOMPLETE OR INACCURATE. HOWEVER, REASONABLE EFFORT HAS BEEN MADE TO ENSURE THAT ALL SUCH INFORMATION IS FAIRLY PRESENTED TO THE BEST OF THE DEBTORS' KNOWLEDGE.

PACHULSKI STANG ZIEHL & JONES LLP ("PSZ&J") SERVES AS GENERAL BANKRUPTCY COUNSEL TO THE DEBTORS. PSZ&J HAS RELIED UPON INFORMATION PROVIDED BY THE DEBTORS IN CONNECTION WITH PREPARATION

OF THIS DISCLOSURE STATEMENT. ALTHOUGH PSZ&J HAS PERFORMED CERTAIN LIMITED DUE DILIGENCE IN CONNECTION WITH THE PREPARATION OF THIS DISCLOSURE STATEMENT, PSZ&J HAS NOT INDEPENDENTLY VERIFIED ALL OF THE INFORMATION CONTAINED HEREIN.

THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS LEGAL, BUSINESS OR TAX ADVICE. EACH CREDITOR OR INTEREST HOLDER SHOULD CONSULT HIS OR HER OWN LEGAL COUNSEL AND ACCOUNTANT AS TO LEGAL, TAX AND OTHER MATTERS CONCERNING HIS OR HER CLAIM.

C. An Overview of the Chapter 11 Process

Chapter 11 of the Bankruptcy Code contains numerous provisions, the general effect of which is to provide the debtor with “breathing space” within which to propose a restructuring of its obligations to third parties. The filing of a chapter 11 bankruptcy petition creates a bankruptcy “estate” comprising all of the property interests of the debtor. Unless a trustee is appointed by the Bankruptcy Court for cause (no trustee has been appointed in the Debtors’ Chapter 11 Cases), a debtor remains in possession and control of all its assets as a “debtor in possession.” The debtor may continue to operate its business in the ordinary course on a day-to-day basis without Bankruptcy Court approval. Bankruptcy Court approval is only required for various statutorily enumerated kinds of transactions (such as certain financing transactions) and transactions out of the ordinary course of a debtor’s business. The filing of the bankruptcy petition gives rise to what is known as the “automatic stay” which, generally, enjoins creditors from taking any action to collect or recover obligations owed by a debtor prior to the commencement of a chapter 11 case. The Bankruptcy Court can grant relief from the automatic stay under certain specified conditions or for cause.

The Bankruptcy Code authorizes the creation of one or more official committees to protect the interests of some or all creditors or interest holders. The fees and expenses of counsel and other professionals employed by such official committees and approved by the Bankruptcy Court are generally borne by a bankruptcy estate. No committee has been appointed in the Debtors’ Chapter 11 Cases.

A chapter 11 debtor emerges from bankruptcy by successfully confirming a plan of reorganization. Alternatively, the assets of a debtor may be sold and the proceeds distributed to creditors through a plan of liquidation. A plan may be either consensual or non-consensual and provide, among other things, for the treatment of the claims of creditors and interests of shareholders and holders of options or warrants. The provisions of the Debtors’ Plan are summarized below.

D. Plan Overview

The Plan is a plan of liquidation which, among other things, (a) contemplates a sale of the Debtors’ principal real estate assets and distribution of the proceeds consistent with the priority scheme under the Bankruptcy Code and the Beach Point Settlement Agreement, and (b) provides for a Plan Administrator to liquidate or otherwise dispose of the Estates’ remaining assets, if and

to the extent such assets were not previously monetized to Cash or otherwise transferred by the Debtors prior to the Effective Date. Certain of the Debtors have entered into the Beach Point Purchase Agreement, which contemplates a purchase price of \$195,000,000 for the Property-Owning Debtors' assets, subject to higher and better bids. The Plan incorporates the terms of such sale.

Under the Plan, Holders of Allowed Administrative Expenses, including the Beach Point DIP Claims, Allowed Tax Claims, and Allowed Priority Non-Tax Claims against the Debtors will be paid in full on the Effective Date out of the proceeds of the sale or, solely with respect to the Beach Point DIP Claims, credited against the purchase price under the Beach Point Purchase Agreement, unless otherwise agreed with the Holders of such Claims.

Holders of Allowed Secured Claims, other than the Beach Point Funds, will either: (a) be paid in cash, (b) have their obligations assumed pursuant to agreements with such holders, or (c) in the case of the Oaks Lender, receive a secured promissory note that satisfies the requirements of the Bankruptcy Code.

Holders of the Beach Point Claims will receive the treatment provided by the Beach Point Settlement Agreement to the maximum extent of the Debtors' available assets.

Holders of Allowed General Unsecured Claims against the Property-Owning Debtors will be paid in full and are unimpaired under the Plan.

Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors will have the option of participating in a settlement distribution consisting of their Pro Rata share of (a) the UCC Fund in the aggregate amount of \$1,000,000, and (b) seventy-five percent (75%) of the net proceeds, if any, of causes of action against the Prepetition Insider Parties (with the remaining twenty-five (25%) of such net proceeds distributed to the Beach Point Funds), the prosecution of which will be funded in part by the Litigation Cost Fund in the amount of \$250,000, which Litigation Cost Fund shall be repaid first prior to the payment of the above-referenced net-proceeds. The foregoing settlement distribution will be available only to Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors who vote in favor of the Plan and the settlement is subject to the class of Allowed General Unsecured Claims against Variant and the Intermediate Debtors voting in favor of the Plan. Further, the settlement is subject to the Confirmation Order becoming a Final Order by no later than July 29, 2016, and the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid closing by no later than July 29, 2016.

Absent the settlement, Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors will receive their Pro Rata share of any net assets of such Debtors after the Beach Point Claims have been paid in full. Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors are not expected to realize any recovery under the Plan, absent the settlement.

Holders of Allowed Subordinated Claims and Intercompany Claims against the Debtors will receive no recovery until the Beach Point Funds are paid in full on account of all of their

Allowed Claims against the Debtors, consistent with the terms of the Beach Point Settlement Agreement. Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Allowed Subordinated Claims and Intercompany Claims are not expected to realize any recovery under the Plan.

All Interests in the Debtors will be canceled, and any associated management rights held by Holders of Interests, will be suspended and of no force and effect as of the Effective Date; Holders of Interests will have a contingent interest in any remaining cash (if any) after all Allowed Claims and Administrative Expenses in such Debtors have been paid or otherwise satisfied in full (unless otherwise agreed to by the applicable creditor) in accordance with the Plan and the Beach Point Settlement Agreement. Because the Debtors project that certain Claims will not be paid in full, Holders of Interests in the Debtors are not expected to realize any recovery under the Plan.

On and after the Effective Date, a Plan Administrator will act for the Liquidating Debtors in the same fiduciary capacity as applicable to a board of directors of a Delaware corporation implementing such liquidation and wind-down as contemplated under the Plan, subject to the provisions of the Plan, and shall, among other powers, wind up the affairs of the Liquidating Debtors; use, manage, sell, abandon and/or otherwise dispose of the remaining property of the Estates; prosecute objections to Claims and any litigation on behalf of the Liquidating Debtors; cause distributions to be made to Creditors pursuant to the Plan; and take such other actions required under or consistent with the Plan. The initial Plan Administrator will be Bradley D. Sharp, the Debtors' current Chief Restructuring Officer.

The principal assets of the Debtors are the twenty-three (23) Properties (defined below) owned by the Property-Owning Debtors. The Debtors have a pending bid for the Properties valued at \$195,000,000 pursuant to the Stalking Horse Agreement with the Beach Point Funds (discussed further below). The Plan will be funded with proceeds from the sale of the Properties. The Debtors' Estates may also have access to certain Rights of Action, which are not valued for purposes of the Plan or this Disclosure Statement.

The Plan provides for the classification and treatment of Claims and Interests in the Debtors. The Plan designates 7 Classes of Claims and 1 Class of Interests. These Classes and Plan treatments take into account the differing nature and priority under the Bankruptcy Code of the various Claims and Interests.

The following chart briefly summarizes the treatment of Creditors and Interest Holders under the Plan.² Amounts listed below are estimated and assume that the Effective Date of the Plan occurs on or prior to July 29, 2016.³ Actual Claims and distributions will vary depending upon, among other things, recoveries on Distributable Assets.

² This chart is only a summary of the classification and treatment of Claims and Interests under the Plan. References should be made to the entire Disclosure Statement and the Plan for a complete description of the classification and treatment of Claims and Interests.

³ The claim estimates set forth in the chart below are the Debtors' best estimate of allowed claims as of the Effective Date. The claims against the Debtors ultimately could be allowed in amounts that are materially higher or lower.

a. Unclassified Claims

Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
Administrative Expenses	\$45,775,000, inclusive of Beach Point DIP Claims	100%	Payment in full, unless the Holder and the applicable Liquidating Debtor have mutually agreed in writing to other terms, or an order of the Bankruptcy Court provides for other terms; provided, however, that rather than payment in Cash, the Beach Point DIP Claims shall be Allowed and credited against the purchase price upon the closing of the transactions under the Beach Point Purchase Agreement.
Tax Claims	\$333,462	100%	Payment in full, unless the Holder and the applicable Liquidating Debtor have mutually agreed in writing to other terms, or an order of the Bankruptcy Court provides for other terms.

b. Classified Claims

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
1	Priority Non-Tax Claims	\$373,061 ⁴	100%	At the election of the applicable Liquidating Debtor, each Holder of a Priority Non-Tax Claim against a Debtor shall receive, in full satisfaction, settlement, release, and extinguishment of such Priority Non-Tax Claim, on or as soon as practicable after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order determining or allowing such Claim, (a) a Cash payment from the applicable Liquidating Debtor equal to the Allowed amount of such Claim, or (b) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.

⁴ This estimate primarily consists of tenant claims for deposits that will be assumed under the Stalking Horse Agreement.

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
2	Miscellaneous Secured Claims	\$50,000, plus LURA Claim of \$10,500,000 that will be assumed under Stalking Horse Agreement	100%	Except to the extent that a Holder of an Allowed Miscellaneous Secured Claim has been paid by the applicable Debtor, in whole or in part, prior to the Effective Date, on the Effective Date, at the option of the applicable Debtor, (i) each Allowed Miscellaneous Secured Claim shall be reinstated and Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed Miscellaneous Secured Claim shall receive, in full satisfaction, settlement, and release of, and in exchange for, such Miscellaneous Secured Claim, (x) payment in full in Cash of the unpaid portion of such Allowed Miscellaneous Secured Claim, or (y) such other treatment as may be agreed to by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.
3	Mortgage Lender Claims	\$111,955,891, plus fees and interest	100%	<p><i>FX3 Lender Claims:</i> On or as soon as practicable after the Effective Date, each Holder of an Allowed FX3 Lender Claim shall receive, as the sole distribution by the applicable Liquidating Debtors or their Estates under the Plan on account of such FX3 Lender Claim, (i) a Cash payment from the applicable Liquidating Debtors equal to the Allowed amount of such Claim, or (ii) such other treatment as otherwise agreed by the Holder of such Claim and the Liquidating Debtors, which may include the assumption of the FX3 Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable intercreditor agreement.</p> <p><i>H14 Lender Claims:</i> On or as soon as practicable after the Effective Date, each Holder of an Allowed H14 Lender Claim shall receive, as the sole distribution by the applicable Liquidating Debtors or their Estates under the Plan on account of such H14 Lender Claim, (i) a Cash payment from the applicable Liquidating Debtors equal to the Allowed amount of such Claim, or (ii) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Liquidating Debtors, which may include the assumption of the H14 Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable</p>

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
				<p>intercreditor agreement.</p> <p><i>Oaks Lender Claims:</i> On or as soon as practicable after the Effective Date, each Holder of an Allowed Oaks Lender Claim shall receive, as the sole distribution by Oaks or its Estate under the Plan on account of such Oaks Lender Claim, (i) a Cash payment from Oaks equal to the Allowed amount of such Claim, (ii) such other treatment as otherwise agreed by the Holder of such Claim and Oaks, which may include the assumption of the Oaks Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable intercreditor agreement, or (iii) the Cram-Down Note.</p>
4	Beach Point Claims	\$91,043,597	Approx. 57%, under existing Stalking Horse Agreement	<p>On or as soon as practicable after the Effective Date, each Holder of an Allowed Beach Point Claim shall receive, as the sole distribution by the Liquidating Debtors or their Estates under the Plan on account of such Beach Point Claim, (i) the Beach Point Acquired Assets, upon the closing of the Beach Point Purchase Agreement, (ii) any other treatment provided by the Beach Point Settlement Agreement to the maximum extent of the Debtors' Net Distributable Assets, and (iii) if the conditions for the settlement provided under Article IV.B.6.b.i of the Plan are not satisfied, the Retained Rights of Action against the Prepetition Insider Parties; provided, however, that the Beach Point Claims shall be credited against the purchase price for the Beach Point Acquired Assets upon the closing of the transactions under the Beach Point Purchase Agreement pursuant to the terms of such agreement. All provisions of the Beach Point Settlement Agreement are reaffirmed, ratified, and adopted by the Plan; provided, however, that the Debtors are not expected to have sufficient assets to satisfy the Beach Point Claims in full and it shall not constitute a breach or default of the Plan for the Debtors to fail to repay the Beach Point Claims in full. Any deficiency owing under the Beach Point Claims shall be deemed a Miscellaneous Secured Claim solely to the extent such Beach Point Claim is secured by a Lien on property in which a Debtor or its Estate has an interest.</p>

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
5	General Unsecured Claims Against the Property-Owning Debtors	\$3,000,000 ⁵	100%	On or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against a Property-Owning Debtor shall receive, in full satisfaction, settlement, release, and extinguishment of such General Unsecured Claim, on or as soon as practicable after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order determining or allowing such Claim, (a) a Cash payment from the applicable Liquidating Debtor equal to the Allowed amount of such Claim, or (b) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.
6	General Unsecured Claims Against Variant and the Intermediate Debtors	\$10,000,000 to \$25,000,000	3%-8%, ⁶ assuming all claimants opt into voluntary settlement distribution 0%, absent settlement distribution	<i>Voluntary Settlement Distribution:</i> Each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor shall have the option to elect to receive a settlement distribution under the Plan, on account of such General Unsecured Claim, subject to the following conditions: (A) such Holder votes in favor of the Plan, (B) Class 6 votes in favor of the Plan, (C) the Confirmation Order becomes a Final Order by no later than July 29, 2016, and (D) the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid close by no later than July 29, 2016. Subject to the occurrence of the foregoing conditions, on or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor who elects such treatment, on account of such General Unsecured Claim, shall receive a Pro Rata share (calculated as a percentage of all Allowed General Unsecured Claims against Variant and the Intermediate Debtors voting in favor of the Plan) of: (AA) the UCC Fund, and (BB) seventy-five percent (75%)

⁵ The Plan contemplates a reserve of \$300,000 for Plan Expenses following the Effective Date (including the reasonable fees and costs of attorneys and other professionals) relating to implementation of the Plan, for the purpose of (a) resolving Claims and effectuating distributions to Creditors of the Property-Owning Debtors under the Plan, (b) otherwise implementing the Plan and closing the Chapter 11 Cases, or (c) undertaking any other matter relating to the Plan.

⁶ This estimate assumes that \$250,000 of the UCC Fund of \$1,000,000 is utilized for the payment of fees and expenses incurred relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
				<p>of the net proceeds of the Retained Rights of Action against the Prepetition Insider Parties (with the remaining twenty-five (25%) of such net proceeds distributed to the Beach Point Funds), after payment of the following costs and expenses in the following order: (1) the repayment of the Litigation Cost Fund in the amount of \$250,000 to the Holders of the Beach Point Claims; and (2) payment of any remaining professional fees or costs associated with such litigation or in resolving Claims against Variant or the Intermediate Debtors.</p> <p><i>Distribution Absent Settlement:</i> Regardless of whether the settlement distribution described in Article IV.B.6 of the Plan applies, on or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor shall receive, as the sole distribution by each such Liquidating Debtor or its Estate under the Plan on account of such General Unsecured Claim except as set forth in Article IV.B.6 of the Plan, a Pro Rata share (calculated as a percentage of all Allowed General Unsecured Claims against Variant or such Intermediate Debtor, as applicable) of the Net Distributable Assets of Variant or such Intermediate Debtor, as applicable, after payment of the Allowed Beach Point Claims in full. Holders of Allowed General Unsecured Claims against Variant or an Intermediate Debtor will not be entitled to the payment of postpetition interest under the Plan, unless excess Net Distributable Assets remain after all Allowed Claims and Administrative Expenses against Variant or such Intermediate Debtor, as applicable, have been paid or otherwise satisfied in full (unless otherwise agreed to by the applicable Creditor) in accordance with the Plan. In such case of excess Net Distributable Assets, then Holders of Allowed General Unsecured Claims against Variant or an Intermediate Debtor shall receive on a Pro Rata basis (calculated as a percentage of all Allowed General Unsecured Claims against Variant or such Intermediate Debtor, as applicable) postpetition interest at the Federal Judgment Rate, to the extent that sufficient</p>

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
				excess Net Distributable Assets (once all liquidated to Cash) exist and as required under the Bankruptcy Code. Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors are not expected to realize any recovery under the Plan, absent the settlement distribution set forth in Article IV.B.6 of the Plan.
7	Subordinated Claims ⁷ and Intercompany Claims	\$30,000,000 ⁸	0%	Holders of Subordinated Claims and Intercompany Claims against a Debtor shall receive no distributions under the Plan until the Beach Point Claims have been paid in full, consistent with the terms of the Beach Point Settlement Agreement. Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Subordinated Claims and Intercompany Claims against the Debtors are not expected to realize any recovery under the Plan.
8	Interests in the Debtors	N/A	N/A	Holders of Interests in each Debtor shall receive no distributions under the Plan, and on the Effective Date, all Interests in the Debtors shall be deemed suspended. As of the Effective Date, each Holder of an Interest in a Debtor shall receive a contingent interest in the Net Distributable Assets remaining, if any, after all Allowed Claims and Administrative Expenses against such Debtor have been paid or otherwise satisfied in full (unless otherwise agreed to by the applicable Creditor) in accordance with the Plan. For the avoidance of doubt, no distribution of Net Distributable Assets (once all liquidated to Cash) shall be made to Holders of Interests in a Debtor until and unless all Holders of Allowed Claims against such Debtor receive payment in full of such Allowed Claims, plus all accrued

⁷ Subordinated Claims consist of any Claim that is subordinated to the payment of the Beach Point Claims in full under the Beach Point Settlement Agreement, the Snowdon Settlement Agreement, or otherwise under applicable law or equity, specifically including the Claims of the Prepetition Insider Parties. Notwithstanding the foregoing, if the Snowdon Parties vote in favor of the Plan, opt into the voluntary settlement distribution under Article IV.B.6.b.i and do not object to the Plan, and the conditions for the settlement provided for under Article IV.B.6.b.i are satisfied, then the Snowdon Parties' Subordinated Claim shall be deemed a General Unsecured Claim against Variant.

⁸ This estimate does not include inter-Debtor claims.

Class No.	Description	Estimated Allowed Claims	Estimated Recovery Percentage	Treatment
				postpetition interest at the Federal Judgment Rate. Because the Debtors project that certain Claims will not be paid in full, Holders of Interest against the Debtors are not expected to realize any recovery under the Plan.

E. Voting on the Plan

1. Who May Vote

The Plan divides Allowed Claims and Interests into multiple Classes. Under the Bankruptcy Code, only Classes that are “impaired” by the Plan are entitled to vote (unless the Class receives no compensation or payment, in which event the Class is conclusively deemed not to have accepted the Plan). A Class is Impaired if legal, equitable or contractual rights attaching to the Claims or Interests in the Class are modified, other than by curing defaults and reinstating maturities. Under the Plan, Administrative Expenses and Tax Claims are unclassified and are not entitled to vote.

Classes 1, 2, 5, and 7 are Unimpaired. Holders of Claims in these Classes are conclusively presumed pursuant to section 1126(f) of the Bankruptcy Code to have accepted the Plan and therefore shall not be entitled to vote to accept or reject the Plan. Classes 3, 4, 6, and 8 are Impaired. Holders of Claims in Classes 3, 4, and 6 are permitted to vote to accept or reject the Plan. Holders of Interests in Class 8 are deemed to reject the Plan. The Debtors reserve all of their rights with respect to all Claims and Interests classified by the Debtors.

An Impaired Class of Claims that votes shall have accepted the Plan if (a) the Holders of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

Only those votes cast by Holders of Allowed Claims will be counted in determining whether a sufficient number of acceptances have been received to obtain Plan Confirmation. If no Holder of a Claim eligible to vote in a particular Class timely votes to accept or reject the Plan, the Debtors may seek to have the Plan deemed **accepted** by the Holders of such Claims in such Class for purposes of section 1129(b) of the Bankruptcy Code.

2. How to Vote

All votes to accept or to reject the Plan must be cast by using the appropriate form of ballot. No votes other than ones using such ballots will be counted except to the extent ordered otherwise by the Bankruptcy Court. A form of ballot is being provided to Holders of Claims in Classes 3, 4, and 6 by which members in such Classes may vote their acceptance or rejection of the Plan. The ballot for voting on the Plan gives Holders of Claims in Classes 3, 4, and 6 an important choice to make with respect to the Plan – you can vote for or against the Plan. To vote on the Plan, after carefully reviewing the Plan and this Disclosure Statement, please complete the

ballot (1) by indicating on the enclosed ballot that (a) you accept the Plan or (b) you reject the Plan and (2) by signing your name and mailing the ballot in the envelope provided for this purpose. The Debtors' claims and noticing agent, UpShot Services LLC ("Upshot") will act as the balloting agent (the "Balloting Agent") and will count the ballots.

IN ORDER TO BE COUNTED, BALLOTS MUST BE COMPLETED, SIGNED AND RECEIVED BY THE BALLOTING AGENT, UPSHOT SERVICES, LLC, NO LATER THAN [_____, 2016] AT THE FOLLOWING ADDRESS:

Variant Ballot Processing Center
c/o UpShot Services LLC
8269 E. 23rd Ave., Suite 275
Denver, CO 80238

IF YOUR BALLOT IS NOT PROPERLY COMPLETED, SIGNED AND RECEIVED AS DESCRIBED, IT WILL NOT BE COUNTED. IF YOUR BALLOT IS DAMAGED OR LOST, YOU MAY REQUEST A REPLACEMENT BY MAKING A WRITTEN REQUEST TO THE ADDRESS SHOWN ABOVE. FACSIMILE OR ELECTRONICALLY TRANSMITTED BALLOTS WILL NOT BE COUNTED.

F. Confirmation of the Plan

1. Generally

"Confirmation" is the technical term for the Bankruptcy Court's approval of a plan of reorganization or liquidation. The timing, standards and factors considered by the Bankruptcy Court in deciding whether to confirm a plan of reorganization are discussed in Article V below.

2. Objections to Confirmation

Any objections to Confirmation of the Plan must be in writing and must be filed with the Clerk of the Bankruptcy Court and served on counsel for the Debtors and the United States Trustee on or before the date set forth in the notice of the Confirmation Hearing sent to you with this Disclosure Statement and the Plan. Bankruptcy Rule 3007 governs the form of any such objection.

3. Hearing on Confirmation

The Bankruptcy Court has set [_____, 2016 at ____ : ____ m. (prevailing Eastern time)] for a hearing (the "Confirmation Hearing") to determine whether the Plan has been accepted by the requisite number of Creditors and whether the other requirements for confirmation of the Plan have been satisfied. The Confirmation Hearing will be held before the Honorable Brendan L. Shannon, Chief United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Courtroom No. 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time and day to day without further notice. If the Bankruptcy Court confirms the Plan, it will enter the Confirmation Order.

III. **HISTORY, ORGANIZATION AND ACTIVITIES OF THE DEBTORS**

A. General Description of Debtors' Operations and Assets

Prior to the Variant Petition Date, Variant and the Subsidiary Debtors were a commercial real estate company with direct and indirect ownership interests in approximately 27 apartment complexes and other real property interests in Arizona, Georgia, Maryland, Nevada, South Carolina, Texas, and Virginia, which currently total 23 properties (collectively, the "Properties"). Variant was, and continues to be, the ultimate parent within the organization.

Variant listed in its schedules of assets and liabilities, as of the Variant Petition Date, approximately \$221 million in personal property, comprised primarily of equity interests in certain non-debtor subsidiary entities and intercompany claims. Based on the Beach Point Purchase Agreement, the Subsidiary Debtors expect to realize at least \$195 million in value from the sale of their real and personal property assets, comprised primarily of interests in the Properties.

B. Corporate/Organizational Structure

Variant is a Delaware limited liability company. The equity holders of Variant are: Conix WH Holdings, LLC, Conix, Inc., Numeric Holding Company, LLC, Walkers Dream Trust, and Variant Royalty Group, LP (collectively, the "Equity Holders").

On September 19, 2014, Variant formally effectuated governance changes through the Amended and Restated Operating Agreement of Variant Holding Company, LLC dated September 19, 2014 (the "Amended Operating Agreement"). The Amended Operating Agreement provided for the appointment of two independent managers as the board of managers of Variant. The initial independent managers were M. Freddie Reiss and R. Todd Neilson (together, the "Managers"). Under the original operating agreement, Variant Manager, LLC ("Variant Manager") was the sole manager of Variant. The Members removed Variant Manager as manager of Variant and restated the original operating agreement to provide, *inter alia*, that during the Bankruptcy Period (as defined in the Amended Operating Agreement) (A) management of the operations and business affairs of Variant will be under the control of Bradley D. Sharp of Development Specialists, Inc. ("DSI") as Chief Restructuring Officer (the "CRO"), subject to the supervision of an independent board of managers and (B) neither Variant Manager, nor the Members, nor any of their Affiliates shall participate in the management or affairs of Variant.

On November 3, 2014, the Bankruptcy Court approved Mr. Sharp's appointment as the CRO of Variant in connection with approval of the Beach Point Settlement Agreement (discussed further below). A third independent manager of Variant, Michael Vanderley, was appointed under the Beach Point Settlement Agreement.

On January 14, 2016, the Subsidiary Debtors filed a motion [Docket No. 658] to authorize the Subsidiary Debtors to retain DSI and to appoint Mr. Sharp as CRO. On February 12, 2016, the Bankruptcy Court entered an order approving such motion [Docket No. 812].

Attached hereto as Exhibit 3 is a corporate organizational chart for the Debtors.

C. Debtors' Liabilities

1. In General

Variant listed in its schedules of assets and liabilities, as amended, as of the Variant Petition Date, approximately \$67.8 million in secured claims; approximately \$0 in priority claims; and approximately \$35.5 million in general unsecured claims. As of the Subsidiary Debtors' Petition Date, Variant owed over \$110 million to the Beach Point Funds based upon the obligations under the Beach Point Settlement Agreement and a debtor-in-possession financing facility, which continue to accrue. The Debtors estimate that Variant and the Intermediate Debtors have general unsecured claims ranging from \$10 million to \$25 million.

The Subsidiary Debtors have approximately \$111 million of outstanding principal obligations to their mortgage lenders, plus accrued fees and interest. In addition, the Subsidiary Debtors have approximately \$3 million of outstanding non-insider general unsecured claims, consisting primarily of ordinary trade debt. The Subsidiary Debtors are also liable to the Beach Point Funds under a new DIP loan that continues to be drawn upon and could total over \$40 million by the Effective Date. The Debtors estimate that Subordinated Claims and Intercompany Claims total approximately \$30 million.

2. Variant's Prepetition Credit Facility Obligations

Variant, BPC VHI, L.P., Beach Point Total Return Master Fund, L.P., and Beach Point Distressed Master Fund, L.P. (the "Beach Point Funds"), through Cortland Capital Market Services LLC as administrative agent for the Beach Point Funds (the "Administrative Agent") are parties to that Amended and Restated Loan Agreement dated as of October 11, 2013 (the "Existing Loan Agreement"). Pursuant to the terms of the Existing Loan Agreement, predecessors to the Beach Point Funds loaned to Variant the sum of \$73,500,000, and Variant agreed to repay the amounts owing pursuant to the terms set forth in the Existing Loan Agreement.

Variant's obligations under the Existing Loan Agreement were guaranteed by (i) Conix Commercial Investments, LLC, Compartments, LLC, Numeric Commercial Investments, LLC, and Conix Commercial, LLC pursuant to that Mezzanine Guaranty of Payment dated as of September 13, 2013, and (ii) Courtland Gettel, Kathryn Nighswander (formerly, Kathryn Gettel), Conix, Inc., Walker's Dream Trust, Gettel Children's Trust, Gettel Children's Trust 2, and Gettel Children's Trust 3 pursuant to that Mezzanine Limited Guaranty of Payment dated as of September 13, 2013.

Variant's obligations under the Loan Agreement are secured by substantially all of Variant's assets and certain other equity interests owned by other Debtors, pursuant to: (i) Section 3.01 of the Loan Agreement; (ii) that Pledge and Security Agreement dated as of September 13, 2013 by and between Laser Focus Holding Company, LLC and the Administrative Agent; (iii) that Pledge and Security Agreement dated as of September 13, 2013 by and between Variant, Conix, Inc., Courtland Gettel, and the Administrative Agent; and (iv)

that Pledge and Security Agreement dated as of March 17, 2014 by and between Numeric Commercial Investments, LLC and the Administrative Agent.

3. **The Subsidiary Debtors' Prepetition Secured Obligations**

The Subsidiary Debtors include certain property-owning subsidiaries as follows: (1) Broadmoor Apartments, LLC, Chesapeake Apartments, LLC, Holly Ridge Apartments, LLC, Holly Tree Apartments, LLC, Preston Valley Apartments, LLC, Ravenwood Hills Apartments, LLC, River Road Terrace Apartments, LLC, and Sandridge Apartments, LLC (collectively, the "FX3 Portfolio Debtors"); (2) 10400 Sandpiper Apartments, LLC, 10301 Vista Apartments, LLC, Pines of Westbury, Ltd., 201 Ashton Oaks Apartments, LLC, 13875 Cranbrook Forest Apartments, LLC, 5900 Crystal Springs Apartments, LLC, 7107 Las Palmas Apartments, LLC, 11911 Park Texas Apartments, LLC, 1201 Oaks of Brittany Apartments, LLC, 3504 Mesa Ridge Apartments, LLC, 667 Maxey Village Apartments, LLC, 17103 Pine Forest Apartments, LLC, 7600 Royal Oaks Apartments, LLC, and 4101 Pointe Apartments, LLC (collectively, the "H14 Portfolio Debtors"); and (3) The Oaks at Stonecrest Apartments, LLC ("Oaks at Stonecrest") (the FX3 Portfolio Debtors, the H14 Portfolio Debtors, and Oaks at Stonecrest are collectively referred to herein as the "Property-Owning Debtors").

The FX3 Portfolio Debtors own eight apartment projects in Texas, Maryland, Virginia, and South Carolina (together, the "FX3 Properties"). The FX3 Properties consist of approximately 1,850 housing units. The FX3 Properties are subject to the mortgage loan of Wells Fargo Bank, N.A., as trustee for the registered holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-C4 (the "Noteholder") and C-III Asset Management LLC, in its capacity as special servicer (in such capacity, the "Special Servicer") for the Noteholder. As of the Subsidiary Petition Date, the amount of the debt owed to the Noteholder by the FX3 Portfolio Debtors was \$51,684,345, plus fees and interest.

The H14 Portfolio Debtors own fourteen apartment projects in Texas (together, the "H14 Properties"). The H14 Properties consist of approximately 4,992 housing units. The H14 Properties are subject to the mortgage loan of Centennial Bank (the "H14 Lender"). As of the Subsidiary Petition Date, the amount of the debt owed to the H14 Lender by the H14 Portfolio Debtors is approximately \$55,271,546, plus fees and interest.

Oaks at Stonecrest owns a single apartment project in Lithonia, Georgia (the "Oaks Property"). The Oaks Property consists of approximately 280 housing units. The Oaks Property is subject to the mortgage loan of Arbor Realty SR, Inc. (the "Oaks Lender"). As of the Subsidiary Petition Date, the amount of the debt owed to the Oaks Lender by Oaks at Stonecrest is \$5,000,000, plus fees and interest.

Aside from intercompany debt, unsecured debt at the Property-Owning Debtors is generally limited to ordinary course operating expenses associated with the Properties. Variant has intercompany claims against the Property-Owning Debtors for funds advanced to cover property-level expenses. The intermediate holding company-Debtors do not have significant liabilities, aside from guaranty obligations in some instances under applicable financing documents.

In addition, liens have been filed against certain of the Properties by Conix, Inc. and Forward Progress Enterprises, LLC (the “Texas Constitutional Liens”) totaling approximately \$8.6 million. The Texas Constitutional Liens are subordinate to the liens and claims of the Beach Point Funds. As found by the Bankruptcy Court in Variant’s Chapter 11 Case on June 1, 2015 pursuant to that *Order Denying Motion for Payment of Property Level Claims From Proceeds of Sale of Property of Non-Debtor Entities* [Docket No. 357], Conix, Inc. and Forward Progress Enterprises, LLC are precluded under the Beach Point Settlement Agreement from being paid from any proceeds generated from a sale of the Properties until the Beach Point Funds have been paid in full. There is also a bona fide dispute as to the validity of the Texas Constitutional Liens under applicable non-bankruptcy law.

4. **Further Disclaimers Regarding the Debtors’ Books and Records**

Throughout the Chapter 11 Cases, the CRO has relied on financial data derived from the Debtors’ available books and records. The CRO has made reasonable efforts to ensure the accuracy and completeness of such financial information; however, subsequent information or discovery of other relevant facts may result in the need for, among other actions, material changes to the Debtors’ estimates of Allowed Claims against the Debtors’ Estates. The Debtors’ former management has been accused of various forms of misconduct, which may translate to false, misleading, or improper book entries and accounting data, which the CRO is continuing to analyze, reconcile, and decipher. Recently, the Debtors have been informed of potential Claims and Interests against the Debtors that have been asserted by previously unknown claimants and purported investors, which are subject to ongoing review and investigation. Additional Claims and Interests may be asserted in the future by other parties. The Debtors reserve all rights with respect to such potential Claims and Interests, and caution all parties-in-interest in these Chapter 11 Cases as to the possible need to revise recovery estimates at a later date.

D. **Circumstances Prior to the Commencement of Variant’s Chapter 11 Case**

1. **In General**

Variant’s principal secured creditor is the Beach Point Funds. Cortland Capital Market Services LLC (“Cortland”) is the Administrative Agent for the Beach Point Funds’ debt. On May 19, 2014, the Beach Point Funds commenced an action in California state court (the “State Court Action”) (discussed further below) to collect on a \$73.5 million loan consummated in September and October 2013. The loan is secured by pledges in certain specified membership interests owned by Variant and two non-debtor subsidiaries. In addition to Beach Point’s commencement of the State Court Action, Cortland, as administrative agent, noticed a foreclosure sale of Variant’s pledged membership interests for August 29, 2014.

Variant’s Chapter 11 Case was commenced in order to provide Variant with a breathing spell as a means to effectuate a reorganization, including the sale of the real estate portfolio owned by Variant’s then-non-debtor subsidiaries (the Subsidiary Debtors, as discussed below). Before the Variant Petition Date, Variant’s subsidiaries retained brokers who began marketing the entire portfolio for sale.

2. State Court Litigation with the Beach Point Funds

On May 19, 2014, the Beach Point Funds filed a complaint for breach of contract, common count-money lent, fraud, negligent misrepresentation, fraudulent transfer, and breach of the implied covenant of good faith and fair dealing (the “Complaint”) in the Superior Court of the State of California County of Los Angeles in Case No. BC546153, which Complaint was later amended (the “Amended Complaint”). The defendants named in the Complaint and the Amended Complaint are (i) Variant, (ii) Conix Commercial Investments, LLC, Compartments, LLC, Numeric Commercial Investments, LLC, and Conix Commercial, LLC (the “Subsidiary Guarantors”) pursuant to that Mezzanine Guaranty of Payment dated as of September 13, 2013, and (iii) Courtland Gettel, Kathryn Nighswander (formerly, Kathryn Gettel), Conix, Inc., Walker’s Dream Trust, Gettel Children’s Trust, Gettel Children’s Trust 2, and Gettel Children’s Trust 3 (together with the Subsidiary Guarantors, the “Guarantors”), certain other settling non-Debtor party defendants, and Apartment Consulting and Renovations, LLC and Texas Rehab Specialist, LLC.

On September 12, 2014, Variant and the Guarantors filed in the State Court Action a cross-complaint against the Beach Point Funds, Cortland, and certain other individuals and entities for breach of contract, fraud, breach of the implied covenant of good faith and fair dealing, violation of the California and New York Commercial Codes, promissory estoppel, extortion, violation of the Equal Credit Opportunity Act, and recoupment.

E. Significant Events Since the Variant Petition Date

1. Retention/Employment Matters

a. Retention of CRO and DSI Personnel

On August 29, 2014, Variant filed a motion [Docket No. 4] (the “CRO Motion”) for entry of an order, among other things, authorizing Variant to retain DSI and to appoint Bradley D. Sharp as CRO. Variant supplemented the CRO Motion on September 23, 2014 [Docket No. 63] (the “Supplement”), by which Variant modified the terms pursuant to which Mr. Sharp would be appointed as CRO, and modified its operating agreement to, among other things, provide for the appointment of two independent managers to constitute the board of managers for Variant (the “Board of Managers”).

On September 26, 2014, the Beach Point Funds objected to the relief requested in the CRO Motion and the Supplement [Docket No. 81]. A hearing on the CRO Motion, as supplemented, was held by the Bankruptcy Court on October 24, 2014. Following a resolution of the parties’ disputes, the Bankruptcy Court entered an order granting the CRO motion [Docket No. 154] in connection with approval of the Beach Point Settlement (defined below).

b. Retention of Variant's Bankruptcy Counsel

On August 29, 2014, Variant filed an application to employ PSZ&J as its bankruptcy counsel [Docket No. 3].

On September 29, 2014, the Bankruptcy Court entered an order granting Variant's application [Docket No. 84].

c. Retention of Special Counsel

On September 24, 2014, Variant filed an application seeking entry of an order authorizing the retention and employment of Greenberg Traurig as its special litigation counsel [Docket No. 68].

On November 3, 2014, the Bankruptcy Court entered an order granting the Variant's application [Docket No. 150].

d. Retention of Investment Banker

On October 10, 2014, Variant filed an application seeking entry of an order authorizing the retention and employment of Jefferies LLC as its investment banker [Docket No. 105].

On October 29, 2014, IMH Financial Corporation, Royal Multifamily Promote 2013-1, and Royal Multifamily Ventures 2013-1 (collectively, "IMH") filed a limited objection and reservation of rights.

Following a resolution of the parties' disputes (discussed below), on November 4, 2014, the Bankruptcy Court entered an order granting the Variant's application [Docket No. 150].

2. No Committee Formation

The U.S. Trustee conducted a formation meeting on September 17, 2014. To date, the U.S. Trustee has not appointed a creditors' committee in Variant's Chapter 11 Case.

3. Motion to Appoint a Chapter 11 Trustee

On September 5, 2014, the Beach Point Funds filed a motion [Docket No. 20] (the "Trustee Motion") for entry of an order directing the appointment of a chapter 11 trustee on the basis that Variant and its prior management had siphoned off, on a prepetition basis, millions of dollars of corporate assets to insiders while harming Variant's creditors and business. Variant filed a preliminary objection to the Trustee Motion on September 12, 2014 [Docket No. 51]. On September 30, 2014, Snowdon Partners Properties 15, LLC and Snowdon FX3 Huddle, LLC (collectively, "Snowdon Parties") filed a joinder to the Trustee Motion. A hearing on the Trustee Motion was held by the Bankruptcy Court on October 24, 2014.

Following a resolution of the parties' disputes, the Bankruptcy Court entered an order approving the Beach Point Settlement (discussed below) and the Trustee Motion was withdrawn [Docket No. 169].

4. **Sale Protocol Motion**

On September 9, 2014, the Beach Point Funds and Cortland filed a motion [Docket No. 34] (the “Sale Protocol Motion”) seeking an order establishing a protocol for the sale of assets owned by the Subsidiaries and for certain adequate protection of the movants’ security interests in Variant’s assets. Variant filed an objection to the Sale Protocol Motion on September 23, 2014 [Docket No. 65]. A hearing on the Sale Protocol Motion was held by the Bankruptcy Court on October 24, 2014.

Following a resolution of the parties’ disputes, the Bankruptcy Court entered an order approving the Beach Point Settlement (discussed below) and the Sale Protocol Motion was withdrawn [Docket No. 170].

5. **Beach Point Funds Settlement**

On October 20, 2014, Variant filed a motion (the “Beach Point Settlement Motion”) [Docket No. 107], seeking approval of that certain Settlement Agreement dated as of October 17, 2014 (the “Beach Point Settlement”) by and between Variant, its subsidiaries listed on Exhibit A to the Beach Point Settlement, and those individuals and entities listed on Exhibit B to the Beach Point Settlement, on the one hand, and the Beach Point Funds and Cortland, and together with the Beach Point Funds, and those individuals and entities listed on Exhibit C to the Beach Point Settlement, on the other hand (collectively, the “Settlement Parties”).

The Beach Point Settlement provided that:

(a) Bradley D. Sharp of DSI would remain as Variant’s CRO, as would Variant’s two current independent managers, M. Freddie Reiss and R. Todd Neilson. The Beach Point Funds appointed a third independent manager, Mike Vanderley;

(b) Asset Plus Corporation would be retained as asset manager (the “Asset Manager”) to manage all real property and improvements of the Debtors with the assistance of any property-level managers. The Asset Manager would report to the CRO and the independent managers of Variant;

(c) The Beach Point Funds’ prepetition claim against Variant, as of September 1, 2014, would be liquidated in the amount of \$78,000,000. Cortland would have a prepetition claim in the amount of \$38,714. Interest would continue to accrue on the claim at the rate of 14.2% per annum, plus Cortland’s contractual fees and other reasonable fees and expenses. Variant would stipulate to the validity of the liens securing the Beach Point Funds’ claim. The claim would be reduced by \$2,000,000 if such claim is paid in full on or before March 31, 2015. The Beach Point Funds’ claims were to be paid in full by November 1, 2015;

(d) The Beach Point Funds, through Cortland, would provide debtor-in-possession financing to Variant in an initial aggregate principal amount of up to \$10,000,000, which financing would be subject to the Bankruptcy Court’s approval by separate motion. The primary purpose of the DIP loan was to pay outstanding payables at Variant’s various property-owning subsidiaries, satisfy ongoing operating expenses at the property level, and to fund necessary capital expenditures to maintain and preserve the subsidiaries’ real estate holdings.

(e) A protocol for the sale of the Properties and an agreed waterfall for the distribution of proceeds would be implemented with respect to any sales of the subsidiaries' assets;

(f) A possible settlement with IMH would be pre-approved contemplating up to \$2,000,000 in value flowing to IMH ahead of the Lenders; and

(g) All litigation between the parties would be resolved and the Beach Point Funds' trustee motion and objection to DSI's and the CRO's engagement would be withdrawn. The parties would mutually release all claims, subject to the terms of the Beach Point Settlement Agreement.

Objections to the Beach Point Settlement Motion were filed by IMH [Docket No. 127], the Office of the United States Trustee ("UST") [Docket No. 126], and Wells Fargo Bank, N.A., as Trustee for the Registered Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-C4 [Docket No. 128]. Impact Floors of Texas LP filed a statement/reservation of rights [Docket No. 121]. After a hearing held on October 30, 2014, the Bankruptcy Court granted the Beach Point Settlement Motion.

On November 3, 2014, the Bankruptcy Court entered an order approving the Beach Point Settlement [Docket No. 152]. The Beach Point Settlement went into effect on the same day.

6. Snowdon Settlement

On October 20, 2014, Variant filed a motion (the "Snowdon Settlement Motion") [Docket No. 108] seeking approval of that certain Settlement and Contribution Agreement dated as of October 15, 2014 (the "Snowdon Settlement") by and between Variant, Numeric Commercial Investments, LLC ("Numeric Commercial"), and Gettel Children's Trust, Gettel Children's Trust 2, Gettel Children's Trust 3, Walker's Dream Trust, Worldwide Financial Investments, LLC, Numeric Holding Company, LLC, Conix, Inc., Conix WH Holdings, LLC, and Court Gettel, individually, on the one hand, and the Snowdon Parties on the other hand.

An objection to the Snowdon Settlement Motion was filed by IMH [Docket No. 127]. After a hearing held on October 30, 2014, the Bankruptcy Court granted the Snowdon Settlement Motion. On November 3, 2014, the Bankruptcy Court entered an order approving the Snowdon Settlement [Docket No. 153]. The Snowdon Settlement went into effect on the same day. Pursuant to the Snowdon Settlement, the Snowdon Parties received an allowed, general unsecured claim in the amount of \$8,200,000.00 against Variant, plus a profits claim, each of which was subordinated to payment of the Beach Point Funds' claims in full.

7. Variant's Debtor in Possession Financing

Pursuant to the terms of the Beach Point Settlement Agreement, Variant agreed that, as of September 1, 2014, the amount owing to the Beach Point Funds under the Existing Loan Agreement, including without limitation principal, interest, fees, expenses, and costs, was (A) \$2,750,000 for attorney's fees and expenses of the Beach Point Funds, and (B) \$75,250,000 for unpaid principal, interests, and all other fees, expenses and costs for an aggregate amount of

\$78,000,000, and the amount owing to Cortland for attorney's fees, expenses, and other fees was \$38,714.

On October 29, 2014, Variant filed a motion [Docket No. 136] seeking interim and final orders approving postpetition financing in an aggregate principal amount of up to \$10,000,000 (the "DIP Financing"). On November 3, 2014, the Bankruptcy Court entered an interim order approving the DIP Financing [Docket No. 151]. A final hearing on the DIP Financing was scheduled for November 18, 2014. On November 17, 2014, the Bankruptcy Court entered a final order approving the DIP Financing with the Beach Point Funds [Docket No. 182].

On March 3, 2015, Variant filed a motion (the "DIP Amendment Motion") [Docket No. 258] for interim and final orders approving the first amendment to the DIP Financing seeking an increase of the DIP Financing up to an aggregate of \$10,750,00. The principal purpose of such amendment was to fund payments required by the IMH Settlement (defined below). On March 11, 2015, the Bankruptcy Court approved such amendment and entered an interim order granting DIP Amendment Motion [Docket No. 281]. A final hearing on the DIP Amendment Motion was not scheduled but an objection deadline was set. No objections to entry of a final order granting the DIP Amendment Motion were received. On March 31, 2015, the Bankruptcy Court entered a final order granting the DIP Amendment Motion [Docket No. 296].

Variant subsequently obtained court approval of additional amendments to its DIP Financing with the Bankruptcy Court. Variant's second amendment to its DIP Financing was approved by the Bankruptcy Court on an interim basis by entry of an order dated June 5, 2015 [Docket No. 382], and on a final basis by entry of an order dated June 23, 2015 [Docket No. 409], pursuant to which the amount of the loan available under the DIP Financing agreement increased to \$11,774,038.92. Variant's third amendment to the DIP Financing increased the amount of the loan available under the DIP Financing agreement to \$13,874,038.92, as contemplated by the Bankruptcy Court's order approving the second amendment. Variant's fourth amendment to its DIP Financing was approved by the Bankruptcy Court on an interim basis by entry of an order dated September 4, 2015 [Docket No. 498], and on a final basis by entry of an order dated September 24, 2015 [Docket No. 531] (the "Fourth DIP Amendment Order"), pursuant to which the amount of the loan available under the DIP Financing agreement increased to \$20,574,038.92. Variant's fifth amendment to its DIP Financing increased the amount of the loan available under the DIP Financing agreement to \$22,089,322.81, as contemplated by the Bankruptcy Court's order approving the fourth amendment. Variant's sixth amendment to its DIP Financing increased the amount of the loan available under the DIP Financing agreement to \$24,574,038.92, as contemplated by the Bankruptcy Court's order approving the fourth amendment. Variant's seventh amendment to its DIP Financing extended the maturity date under the DIP Financing agreement to December 21, 2015.

On October 8, 2015, the Equity Holders filed their notice of appeal of the Fourth DIP Amendment Order. That appeal is pending before the Honorable Gregory M. Sleet in the United States District Court for the District of Delaware, Civ. Action No. 15-906 (GMS). Counsel for the Equity Holders sought and obtained approval of the District Court to withdraw from the representation. If replacement counsel is not retained by the Equity Holders by mid-March, the appeal will be automatically dismissed.

8. **Variant's Bar Date for Filing Proofs of Claim and Administrative Expense Requests**

On December 12, 2014, Variant filed a motion requesting an order establishing March 17, 2015 as the deadline for filing claims against Variant that arose prior to the Petition Date (the "General Bar Date"), the bar date for Governmental Units, and the bar date for section 503(b)(9) claims.

The Bankruptcy Court granted this motion pursuant to an order entered on January 12, 2015 [Docket No. 211]

9. **Filing of Variant's Schedules and Statements of Financial Affairs**

On September 11, 2014, Variant filed its schedules of assets and liabilities and statements of financial affairs with the Bankruptcy Court, which set forth, *inter alia*, the assets of Variant and the prepetition claims against Variant as of the Variant Petition Date, based on Variant's books and records [Docket Nos. 43 & 44]. Variant reserves its right to make further amendments to the schedules of assets and liabilities and statements of financial affairs.

10. **Extension of Variant's Exclusivity Periods**

On November 12, 2014, Variant filed a motion (the "First Exclusivity Motion") [Docket No. 173] to extend its exclusivity periods for filing a chapter 11 plan and soliciting acceptances thereof. On December 2, 2014, the Bankruptcy Court entered an order granting the First Exclusivity Motion [Docket No. 190]. On February 11, 2015, Variant filed a second motion (the "Second Exclusivity Motion") [Docket No. 234] to further extend its exclusivity periods for filing a chapter 11 plan and soliciting acceptances thereof. On March 10, 2015, the Bankruptcy Court entered an order granting the Second Exclusivity Motion [Docket No. 274]. On July 23, 2015, Variant filed a third motion (the "Third Exclusivity Motion") [Docket No. 453] to further extend its exclusivity periods for filing a chapter 11 plan and soliciting acceptances thereof. On August 11, 2015, the Bankruptcy Court entered an order granting the Third Exclusivity Motion [Docket No. 477]. On December 16, 2015, Variant filed a fourth motion (the "Fourth Exclusivity Motion") [Docket No. 635] to further extend its exclusivity periods for filing a chapter 11 plan through February 28, 2016 and soliciting acceptances thereof. The Debtors filed the Plan within such proposed exclusivity period. The Fourth Exclusivity Motion remains pending.

11. **Extension of Variant's Time to Assume/Reject Non-Residential Real Property Leases**

On November 13, 2014, Variant filed a motion (the "Lease Extension Motion") [Docket No. 176] to extend the deadline to assume or rejection unexpired leases of non-residential real property.

On December 2, 2014, the Bankruptcy Court entered an order granting the Lease Extension Motion [Docket No. 192].

12. **Extension of Time for Removal of Actions by Variant**

On November 12, 2014, Variant filed a motion (the “First Removal Extension Motion”) [Docket No. 174] to extend the deadline to remove actions pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure. On December 2, 2014, the Bankruptcy Court entered an order granting the First Removal Extension Motion [Docket No. 191]. On February 11, 2015, Variant filed a second motion (the “Second Removal Extension Motion”) [Docket No. 235] seeking a further extension of the deadline to remove actions. On March 10, 2015, the Bankruptcy Court entered an order granting the Second Removal Extension Motion [Docket No. 275]. On July 14, 2015, Variant filed a third motion (the “Third Removal Extension Motion”) [Docket No. 437] seeking a further extension of the deadline to remove actions. On July 31, 2015, the Bankruptcy Court entered an order granting the Third Removal Extension Motion [Docket No. 464]. On October 23, 2015, Variant filed a fourth motion (the “Fourth Removal Extension Motion”) [Docket No. 582] seeking a further extension of the deadline to remove actions. On November 10, 2015, the Bankruptcy Court entered an order granting the Fourth Removal Extension Motion [Docket No. 612].

13. **IMH Settlement Motion**

On October 20, 2014, Variant commenced an adversary proceeding in the Bankruptcy Court against IMH Financial Corporation and certain of its affiliates (“IMH”) (Adv. No. 14-50861) (the “IMH Adversary”) seeking, among other things, to enjoin IMH from foreclosing on the assets of Royal Numeric FX Investments, LLC (“Royal FX”). In the IMH Adversary, Variant also filed a motion for a preliminary injunction seeking to enjoin IMH from foreclosing on Royal FX’s assets (the “PI Motion”). On October 27, 2014, IMH filed a response to the PI Motion (Adv. No. 14-50861) [Adv. Docket No. 11].

Following a hearing on October 30, 2014 on the PI Motion, the Court entered an order granting a temporary restraining order (Adv. No. 14-50861) [Adv. Docket No. 26]. Variant and IMH subsequently reached an agreement regarding the issuance of a preliminary injunction that was approved by the Court (Adv. No. 14-50861) [Adv. Docket No. 30] (the “Injunction”).

On March 4, 2015, Variant filed a motion (the “IMH Settlement Motion”) [Docket No. 254] seeking approval of that certain Settlement Agreement dated as of February 27, 2015 (the “IMH Settlement Agreement”) by and between Variant and certain of its affiliates as set forth in the IMH Settlement Agreement, including Royal FX, on the one hand, and IMH and its affiliates as set forth in the Settlement Agreement (collectively, the “IMH Parties”).

The IMH Settlement Agreement provides that:

(a) Variant, on behalf of Royal FX, would pay to IMH the sum of \$1,250,000.00 in cash, of which \$500,000 would be funded from an earnest money deposit posted by the proposed buyer of a portfolio of Variant’s subsidiary assets and the remaining \$750,000 would be funded out of Variant’s existing debtor-in-possession financing facility with the Beach Point Funds (the “DIP Facility”);

(b) The IMH Parties (as defined in the IMH Settlement) would acknowledge that: (a) they have no further right, title, or interest in Royal FX or any of its subsidiaries or the Properties

owned by such entities, (b) they have no further claims against Variant, and (c) the Release (as defined in the IMH Settlement) obtained for the benefit of IMH was sufficient;

(c) The settlement parties would exchange mutual releases, provided that the IMH Parties receive certain indemnity rights under the Settlement Agreement. All other rights and claims of the IMH Parties, including any indemnity claims, under their existing documents would be terminated; and

(d) All pending litigation between the settlement parties would be dismissed.

After a hearing held on March 11, 2015, the Bankruptcy Court granted the IMH Settlement Motion and entered an order approving same [Docket No. 278].

14. **Oaks Lender Settlement**

On December 3, 2014, Variant filed a motion [Docket No. 198] to approve a settlement agreement with the Oaks Lender (the “Oaks Settlement”). As discussed above, the Oaks Property is subject to the mortgage loan of the Oaks Lender. Prior to the Variant Petition Date, the Oaks Lender made a secured loan in the original principal amount of \$5,000,000 (the “Oaks Loan”) to Oaks at Stonecrest, pursuant to and as more fully reflected in that certain Loan Agreement, dated as of May 17, 2013 and the other documents executed in connection therewith (collectively, the “Oaks Loan Documents”).

Under the Oaks Settlement, Variant agreed that: (a) the Oaks at Stonecrest shall not guarantee, or otherwise be an obligor under, the initial DIP loan with the Beach Point Funds, nor shall any of the collateral or all or any part of the Variant’s ownership interest in Oaks at Stonecrest be used to secure the initial DIP loan with the Beach Point Funds; (b) that absent payment in full of all amounts due and owing under the Oaks Loan Documents and with respect to the Oaks Loan, neither the collateral nor all or any part of Variant’s ownership interest Oaks at Stonecrest may be sold or otherwise transferred without the Oaks Lender’s prior written consent; and (c) to give the Oaks Lender prior written notice of any proposed sale or any other transfer of the collateral or all or any part of Variant’s ownership interest in Oaks at Stonecrest.

On December 22, 2014, the Bankruptcy Court entered an order approving the Oaks Settlement [Docket No. 206].

15. **Motion and Supplemental Motion to Authorize Non-Debtor Subsidiaries to Enter Into Sales**

On March 4, 2015, Variant filed a motion (the “Subsidiary Sale Motion”) [Docket No. 255] seeking an order (i) authorizing Variant to cause its non-debtor subsidiaries to sell their assets pursuant to the terms of two certain Portfolio Purchase and Sale Agreements dated March 5, 2015 (the “PSAs”), and (ii) authorizing Variant to take all reasonable and appropriate actions that it determines are necessary in connection therewith. By the Subsidiary Sale Motion, the subsidiaries would sell their assets to a third party buyer for \$275 million in the aggregate (consisting of \$40 million for certain Las Vegas assets and \$235 million for the remaining assets).

After a hearing held on March 11, 2015, the Bankruptcy Court granted the Subsidiary Sale Motion and entered an order approving same [Docket No. 279]. The closing of the sale of the subsidiaries' Las Vegas assets pursuant to one of the PSAs occurred on March 26, 2015 for \$40 million. The sale of the Texas/East Coast Portfolio under the original PSA did not close. Instead, the buyer required a \$42,000,000 price reduction in order to move forward to closing.

Following termination of the original PSA and the buyer's demand for a price reduction, Variant began to evaluate other options, but ultimately agreed to a price reduction of \$30,000,000. On May 14, 2015, the parties executed a fourth amendment to the original PSA, which reinstated the original PSA subject to certain revised terms (the "Reinstated PSA"), including a reduction of the purchase price payable by the buyer for the Texas/East Coast Portfolio from \$235,000,000 to \$205,000,000.

On May 15, 2015, Variant filed the supplemental sale motion to seek court approval of the reduced sale price (the "Supplemental Sale Motion"). See Docket No. 322. Pursuant to the Supplemental Sale Motion, Variant sought to sell the Texas/East Coast Portfolio for the sum of \$205,000,000 consistent with the terms of the Reinstated PSA. The Equity Holders objected to the Supplemental Sale Motion. After a contested two-day evidentiary hearing on June 4-5, 2015, the Court approved the relief sought by Variant and entered an order granting the Supplemental Sale Motion (the "Supplemental Sale Order"). See Docket No. 381.

On June 18, 2015, the Equity Holders filed their notice of appeal of the Supplemental Sale Order. That appeal is pending before the Honorable Gregory M. Sleet in the United States District Court for the District of Delaware, Civ. Action No. 15-513 (GMS). As a result of this appeal, Variant was unable to obtain title insurance for the sale and the buyer did not close. Counsel for the Equity Holders sought and obtained approval of the District Court to withdraw from the representation. If replacement counsel is not retained by the Equity Holders by mid-March, the appeal will be automatically dismissed.

F. Significant Events Since the Subsidiary Petition Date

The Subsidiary Debtors filed their Chapter 11 Cases in order to effectuate a sale or restructuring of their assets that will maximize the value of their estates. As noted above, the Debtors endeavored to pursue such sales out-of-court. However, the Debtors were unable to obtain title insurance with respect to such sale, primarily due to the Equity Holders' referenced above. The commencement of the Subsidiary Debtors' Chapter 11 Cases was necessary to permit them to obtain title insurance, thereby facilitating an orderly sale of the Properties.

1. First Day Orders Following Subsidiary Debtors' Filing of Chapter 11 Cases

On or about the Subsidiary Debtors' Petition Date, the Subsidiary Debtors filed certain "first day" motions and applications with the Bankruptcy Court seeking certain immediate relief to aid in the efficient administration of their Chapter 11 Cases and to facilitate the Subsidiary Debtors' transition to debtor-in-possession status. The Bankruptcy Court held a hearing on these first day motions on January 19, 2016. Following the first day hearing, the Bankruptcy Court entered the following orders:

- (a) *Order Directing Joint Administration of Chapter 11 Cases* [Docket No. 688];

- (b) *Order (I) Authorizing Employment and Retention of Upshot Services LLC as Claims and Noticing Agent Effective Nunc Pro Tunc to Petition Date and (II) Granting Related Relief* [Docket No. 693];
- (c) *Interim Order (I) Determining That Utility Providers Have Been Provided with Adequate Assurance of Payment, (II) Approving Proposed Adequate Assurance Procedures, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services, (IV) Determining That Property-Owning Debtors Are Not Required to Provide Any Additional Assurance, (V) Scheduling Hearing to Consider Entry of Final Order, and (VI) Granting Related Relief* [Docket No. 689];
- (d) *Order (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered Into Prepetition, (B) Enter Into New Or Revised Insurance Policies, and (C) Honor Their Prepetition Insurance Premium Financing Agreements, and (II) Granting Related Relief* [Docket No. 690];
- (e) *Order Authorizing Subsidiary Debtors to File a Consolidated List Of Creditors In Lieu Of Submitting A Separate Mailing Matrix For Each Debtor* [Docket No. 692];
- (f) *Order Authorizing, But Not Directing, the Subsidiary Debtors to Honor Prepetition and Postpetition Obligations Under Property Management and Asset Management Agreements, Including Satisfaction Of Prepetition Property Level Expenses In The Ordinary Course* [Docket No. 695];
- (g) *Interim Order (I) Authorizing the Property-Owning Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, (II) Waiving the Requirements of Bankruptcy Code Section 345(b), and (III) Granting Related Relief* [Docket No. 697];
- (h) *Interim Order Granting Property-Owning Debtors' Motion for Entry of Order (I) Limiting Notices to Tenants Required; (II) Waiving Requirement to List Tenants on Schedules and Statements of Financial Affairs; and (III) Granting Related Relief* [Docket No. 707];
- (i) *Interim Order Authorizing FX3 Portfolio Debtors to: (A) Use Cash Collateral and (B) Grant Adequate Protection and Provide Security and Other Relief to Holder of Prepetition Secured Debt* [Docket No. 696];
- (j) *Interim Order Authorizing H14 Portfolio Debtors to: (A) Use Cash Collateral; and (B) Grant Adequate Protection and Provide Security and Other Relief to Prepetition Secured Lender* [Docket No. 691];
- (k) *Interim Order Authorizing Use of Cash Collateral by Debtor The Oaks at Stonecrest Apartments, LLC* [Docket No. 694] and

- (l) *Interim Order (A) Authorizing Debtors to Obtain Postpetition Financing and to Grant Security Interests and Superpriority Administrative Status Pursuant to 11 U.S.C. §§ 105, 364(c) and 364(d); (B) Authorizing Debtors to Use Cash Collateral; (C) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362; (D) Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361 and 363; (E) Approving Assumption of Beach Point Settlement Agreement; and (F) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001 [Docket No. 698].*

The Bankruptcy Court subsequently entered the following orders on a final basis:

- (a) *Final Order (I) Determining That Utility Providers Have Been Provided with Adequate Assurance of Payment, (II) Approving Proposed Adequate Assurance Procedures, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services, (IV) Determining That Property-Owning Debtors Are Not Required to Provide Any Additional Assurance, and (V) Granting Related Relief [Docket No. 791];*
- (b) *Final Order Granting Property-Owning Debtors' Motion for Entry of Order (I) Limiting Notices to Tenants Required; (II) Waiving Requirement to List Tenants on Schedules and Statements of Financial Affairs; and (III) Granting Related Relief [Docket No. 788];*
- (c) *Final Order (I) Authorizing the Property-Owning Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, (II) Waiving the Requirements of Bankruptcy Code Section 345(b), and (III) Granting Related Relief [Docket No. 815];*
- (d) *Final Order Authorizing FX3 Portfolio Debtors to: (A) Use Cash Collateral; and (B) Grant Adequate Protection and Provide Security and Other Relief to Holder of Prepetition Secured Debt [Docket No. 811];*
- (e) *Final Order Authorizing H14 Portfolio Debtors to: (A) Use Cash Collateral; and (B) Grant Adequate Protection and Provide Security and Other Relief to Prepetition Secured Lender [Docket No. 813];*
- (f) *Final Order Authorizing Use of Cash Collateral by Debtor The Oaks at Stonecrest Apartments LLC [Docket No. 810];*
- (g) *Final Order (A) Authorizing Debtors to Obtain Postpetition Financing and to Grant Security Interests and Superpriority Administrative Status Pursuant to 11 U.S.C. §§ 105, 364(c) and 364(d); (B) Authorizing Debtors to Use Cash Collateral; (C) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362; and (D) Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361 and 363 [Docket No. 825].*

2. Additional Orders

On and after the Subsidiary Petition Date, the Debtors filed a number of motions and applications to retain professionals, to streamline the administration of the Chapter 11 Cases, and to obtain other relief in the best interest of the Debtors and their estates. The Bankruptcy Court entered the following orders granting such motions and applications:

- (a) *Order Authorizing Payment of Certain Prepetition Real and Property Taxes, Franchise Taxes, and Business License and Other Similar Fees* [Docket No. 787];
- (b) *Order Authorizing Employment and Retention of UpShot Services, LLC as Administrative Advisor Nunc Pro Tunc to the Petition Date* [Docket No. 790];
- (c) *Order Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 Authorizing the Employment and Retention of Pachulski Stang Ziehl & Jones LLP as Counsel for Subsidiary Debtors and Debtors in Possession Nunc Pro Tunc to the Petition Date* [Docket No. 817];
- (d) *Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b) Authorizing Subsidiary Debtors to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtors, Nunc Pro Tunc as of the Petition Date* [Docket No. 812];
- (e) *Order Pursuant to Section 327(e) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure, and Local Rule 2014-1 Authorizing the Retention and Employment of Greenberg Traurig LLP as Special Transactional Counsel* [Docket No. 809];
- (f) *Order (I) Authorizing Subsidiary Debtors to Retain Professionals Used in the Ordinary Course of Business Nunc Pro Tunc to Petition Date and (II) Granting Related Relief* [Docket No. 789];

3. Debtors' DIP Financing Following Subsidiary Debtors' Filing of Chapter 11 Cases

On January 15, 2016, the Debtors filed a motion [Docket No. 659] (the "New DIP Motion") seeking interim and final orders authorizing them to, among other things:

(i) enter into the *Amended and Restated Debtor-in-Possession Loan, Security and Guaranty Agreement* dated as of January 14, 2016 (as amended, supplemented, or otherwise modified and in effect from time to time, the "DIP Agreement") with the Beach Point Funds, as the DIP Lenders, and to obtain postpetition superpriority secured financing as follows:

a) a "Tranche A Loan" in the principal amount of \$3,321,601.50 plus fees accrued through the Subsidiary Petition Date, which amount has already been advanced by the DIP Lenders to Variant pursuant to Variant's DIP Agreement;

b) a “Tranche B1 Loan” in the principal amount of \$19,075,507.95, which amount has already been advanced by the DIP Lenders under Variant’s DIP Agreement and loaned by Variant to the Property-Owning Debtors to fund their operations and preserve their properties in the period leading up to the commencement of their chapter 11 cases.

c) a “Tranche B2 Loan” (together with the Tranche B1 Loan, the “Tranche B Loan”) in an aggregate principal amount of \$20,000,000 of additional postpetition financing to be used to fund the operating expenses incurred by the Property-Owning Debtors and certain of Variant’s overhead expenses (excluding chapter 11 professional fees), subject to increase for any Permitted Cure Advances (as defined in the New DIP Motion) up to \$2,000,000, with all of the DIP Borrowers as borrowers of the Tranche B2 Loan;

(ii) assume the Beach Point Settlement; and

(iii) use “cash collateral” (as that term is defined in section 363(a) of the Bankruptcy Code).

On January 19, 2016, the Bankruptcy Court entered an interim order approving the New DIP Motion [Docket No. 698]. After a hearing on February 11, 2016, the Bankruptcy Court entered a final order on February 16, 2016, approving the New DIP Motion [Docket No. 825].

4. **Debtors’ Motion Authorizing Sale of the Properties**

On January 19, 2016, the Debtors filed a motion [Docket No. 684] (the “Sale Motion”) seeking to (a) sell real property, improvements, and related personal property (collectively, the “Properties”) owned by the Property-Owning Debtors, as a portfolio of the twenty-three (23) Properties (the “Full Portfolio”) (the Properties and certain other assets are referred to herein and in the Purchase Agreement (as defined below) as the “Acquired Assets”) to the Beach Point Funds or to any affiliate thereof, pursuant to that certain Portfolio Purchase and Sale Agreement, dated as of January 18, 2016 (as amended and together with certain documents ancillary thereto, the “Beach Point Purchase Agreement”), and (b) assume and assign certain Assumed Contracts.

In the Sale Motion, the Debtors sought approval of the sale of the Acquired Assets, subject to higher and better bids at an auction (the “Auction”) provided for in the Bid Procedures Motion (defined below), to take place in accordance with the Bid Procedures Order (defined below). The proposed Beach Point Purchase Agreement contemplates that the Acquired Assets will be sold free and clear of liens, claims, encumbrances, rights, and other interests other than those liens and interests expressly permitted under the Beach Point Purchase Agreement. Specifically, pursuant to the Beach Point Purchase Agreement, the Buyer shall acquire the Acquired Assets subject to all tenant leases with respect to the Properties (the “Leases”).

Under the Purchase Agreement, the Beach Point Funds will acquire the Acquired Assets for consideration totaling \$195,000,000 (the “Purchase Price”), which consideration shall be provided in the form of the Beach Point Funds (i) credit bidding the full amount of the “Tranche B Obligations” under the DIP Agreement, which are secured by the Properties and are expected to total over \$41 million at the time of closing of the Sale, (ii) the assumption or payment in full

of all allowed claims asserted against the Property-Owning Debtors (except any claims that are subordinated under law or contract to the Beach Point Funds, and (iii) the Beach Point Funds' waiver of any right to payment or distribution of proceeds of the Purchase Price that would otherwise be payable to the Beach Point Funds pursuant to Beach Point Settlement Agreement.

5. **Bid Procedures and Auction Process**

On January 19, 2016, the Debtors also filed a motion [Docket No. 683] (the "Bid Procedures Motion") seeking to establish certain bid procedures (the "Bid Procedures") in connection with their proposed sale of the Properties. On February 8, 2016, the Bankruptcy Court entered an order [Docket No. 773] (the "Bid Procedures Order") approving the Bid Procedures that govern the sale of the Properties.

Pursuant to the Bid Procedures, the Properties may be sold as: (a) a Full Portfolio, (b) a group of less than all of the twenty-three (23) Properties, or (c) individual Properties (each, a "Sale"), as identified on Exhibit A attached to the Bid Procedures.

Pursuant to the Bid Procedures Order and Bid Procedures, the Bankruptcy Court has established the following dates in connection with the Sale:

Bid Deadline:	April 5, 2016 at 5:00 p.m. (prevailing Eastern time)
Objection Deadline:	April 5, 2016 at 4:00 p.m. (prevailing Eastern time)
Auction:	April 12, 2016 at 10:00 a.m. (prevailing Pacific time)
Sale Hearing:	April 20, 2016 at 11:00 a.m. (prevailing Eastern time)

In the event that the Debtors receive one or more timely Qualified Bids for any of the Properties (excluding the Beach Point Purchase Agreement), the Debtors shall conduct the Auction on April 12, 2016 at 10:00 a.m. (prevailing Pacific time), which may be continued at the discretion of the Debtors; provided, however, if the Debtors receive only one Qualified Bid (excluding the Stalking Horse Agreement) for the Full Portfolio, unless the Debtors have received Qualified Bids for any other separate Properties that exceed, in the aggregate, the amount of the Qualified Bid for the Full Portfolio, the Debtors shall not conduct the Auction and such Qualified Bid shall be deemed the Successful Bid. The Auction, if required, will be conducted at the offices of the Debtors' counsel, Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles CA 90067, or such other location as designated by the Debtors in a notice to all Qualified Bidders and the Consultation Parties (as defined in the Bid Procedures). No later than two (2) business days after the date of the scheduled Auction, the Debtors shall file with the Court a notice identifying such Successful Bidder (a "Notice of Successful Bidder"), which shall set forth, among other things, the Successful Bidder and Back-Up Bidder (if any), or, if applicable, that no Auction occurred.

At a hearing following the Auction (the "Sale Hearing"), the Debtors may seek the entry of a report and recommendation (the "Sale Recommendation") from the Bankruptcy Court, whereby the Bankruptcy Court shall recommend that the United States District Court for the District of Delaware (the "District Court") enter an order (the "Sale Order") authorizing and

approving the transactions contemplated by one or more of the Sales. The Successful Bid(s) and any Back-Up Bid (or if no Qualified Bid other than that of the Stalking Horse Purchaser is received, then the Stalking Horse Agreement) will be subject to approval by the Court. The Sale Hearing will take place on April 20, 2016 at 11:00 a.m. (prevailing Eastern time) before the Honorable Brendan L. Shannon, United States Bankruptcy Judge for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open Court on the date scheduled for the Sale Hearing or on the Bankruptcy Court's docket. The Sale Hearing may be held contemporaneously with a hearing for confirmation of a chapter 11 plan to be proposed by the Debtors. Upon entry of the Sale Recommendation by the Bankruptcy Court, if necessary, the Debtors shall seek entry of the Sale Order by the District Court; provided, however, upon written confirmation from any Successful Bidder that it will close under any Third-Party Sale within five (5) Business Days (or longer if agreed to by the Debtors, after consultation with the Consultation Parties) of the entry of the Sale Order by the Bankruptcy Court, such Third-Party Sale will be presented to and approved by the Bankruptcy Court, rather than the District Court.

6. **Subsidiary Debtors' Schedules and Statements of Financial Affairs and Claims Bar Date**

The Subsidiary Debtors filed their schedules of assets and liabilities and statements of financial affairs on February 25, 2016. Pursuant to an order entered on February 9, 2016 [Docket No. 786] (the "Subsidiary Debtors' Bar Date Order"), the deadline established by the Bankruptcy Court for creditors to file proofs of claim against the Subsidiary Debtors is April 11, 2016, other than in respect to governmental units which must file proofs of claim by July 11, 2016 (together, the "Subsidiary Debtors' Bar Dates"). The Subsidiary Debtors have also commenced publication of the Subsidiary Debtors' Bar Dates in national and local papers to provide notice to potential unknown claimants or interested parties.

7. **Subsidiary Debtors' Retention of Jefferies LLC and Property-Ownng Debtors' Retention of Marcus & Millichap Real Estate Investment Services**

On February 19, 2016, the Subsidiary Debtors filed an application seeking entry of an order authorizing the retention and employment of Jefferies LLC as their investment banker to assist in the sale of the Properties [Docket No. 835], which application is scheduled for a hearing on March 10, 2016.

On February 19, 2016, the Property-Ownng Debtors filed an application seeking entry of an order authorizing the retention and employment of Marcus & Millichap Real Estate Investment Services as their real estate broker with respect to the Properties [Docket No. 836], which application is scheduled for a hearing on March 10, 2016.

IV. **DESCRIPTION OF THE PLAN**

A DISCUSSION OF THE PRINCIPAL PROVISIONS OF THE PLAN AS THEY RELATE TO THE TREATMENT OF CLASSES OF ALLOWED CLAIMS AND INTERESTS IS SET FORTH IN THE FOLLOWING SECTIONS. THE DISCUSSION OF THE PLAN

THAT FOLLOWS CONSTITUTES A SUMMARY ONLY, AND SHOULD NOT BE RELIED UPON FOR VOTING PURPOSES. YOU ARE URGED TO READ THE PLAN IN FULL IN EVALUATING WHETHER TO ACCEPT OR REJECT THE DEBTORS' PROPOSED PLAN. IF ANY INCONSISTENCY EXISTS BETWEEN THIS SUMMARY AND THE PLAN, THE TERMS OF THE PLAN CONTROL. ALL CAPITALIZED TERMS NOT OTHERWISE DEFINED HAVE THE MEANINGS ASCRIBED TO THEM IN THE PLAN.

A. Treatment of Administrative Expenses, Tax Claims and DIP Financing Claims

1. Introduction

As required by the Bankruptcy Code, Administrative Expenses and Tax Claims, together with the Beach Point DIP Claims, are not placed into voting Classes. Instead, they are left unclassified, are not considered Impaired, do not vote on the Plan, and receive treatment specified by statute or agreement of the parties. All postpetition payments or credits by or on behalf of the Debtors in respect of an Administrative Expense or Tax Claim shall either reduce the Allowed amount thereof or reduce the amount to be paid under the Plan in respect of any Allowed amount thereof; provided that the method of application that is most beneficial to the Debtors' Estates shall be employed.

2. Administrative Expenses

Under the Plan, on or as soon as practicable after the Effective Date (to the extent payable on the Effective Date), each Holder of an Allowed Administrative Expense against a Debtor will receive, in full satisfaction, settlement, release, and extinguishment of such Allowed Administrative Expense, Cash from the applicable Liquidating Debtor equal to the full amount of such Allowed Administrative Expense, unless such Holder and such Debtor have mutually agreed in writing to other terms, or an order of the Bankruptcy Court provides for other terms; provided, however, that rather than payment in Cash, the Beach Point DIP Claims shall be Allowed and credited against the purchase price upon the closing of the transactions under the Beach Point Purchase Agreement. Unless otherwise agreed by the applicable Liquidating Debtor and except as to the Beach Point DIP Claims, (a) requests for payment of all Administrative Expenses must be Filed and served as described in Article XIII.B.3 of the Plan, and (b) certain different and additional requirements shall apply to the Administrative Expenses of Professional Persons as set forth in Article XIII.B.2 and 3 of the Plan. No interest or penalties of any nature shall be paid in respect of an Allowed Administrative Expense.

Notwithstanding any of the foregoing, if an Administrative Expense (other than the Beach Point DIP Claims) represents an obligation incurred in the ordinary course of business, such Administrative Expense will be paid in the ordinary course by the applicable Liquidating Debtor in accordance with the terms of the particular transaction and/or applicable agreement.

3. Tax Claims

Pursuant to section 1123(a)(1) of the Bankruptcy Code, Tax Claims are not to be classified and thus Holders of Tax Claims are not entitled to vote to accept or reject the Plan.

As required by section 1129(a)(9) of the Bankruptcy Code, on or as soon as practicable after the Effective Date, each Holder of an Allowed Tax Claim against a Debtor will receive, in full satisfaction, settlement, release, and extinguishment of such Allowed Tax Claim, Cash from the applicable Liquidating Debtor equal to the portion of the Allowed Tax Claim due and payable on or prior to the Effective Date according to applicable non-bankruptcy law. Any Allowed Tax Claim (or portion thereof) against any Debtor not yet due and payable as of the Effective Date will be paid by such Liquidating Debtor no later than when due and payable under applicable non-bankruptcy law without regard to the commencement of the Chapter 11 Cases; provided that upon request of the applicable Liquidating Debtor, the Bankruptcy Court shall determine the amount of any Disputed Claim for, or issues pertaining to, a Tax. Any Holder of a Tax Claim may agree to accept different treatment as to which the applicable Liquidating Debtor and such Holder have agreed upon in writing.

B. Classification and Treatment of Classified Claims and Interests

1. Summary

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes only to the extent that any remainder of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released or otherwise satisfied prior to the Effective Date.

In accordance with section 1122 of the Bankruptcy Code, the Plan provides for the classification of Claims and/or Interests as set forth below. Administrative Expenses and Tax Claims, together with the Beach Point DIP Claims, have not been classified and are excluded from the following Classes in accordance with section 1123(a)(1) of the Bankruptcy Code.

2. Classification and Treatment of Claims and Interests

The treatment of each Class of Claims and/or Interests is set forth below. Unless the Bankruptcy Court has specified otherwise prior to Confirmation, the Debtors shall determine whether a postpetition payment by or on behalf of the Estates in respect of a Claim either (x) shall reduce the Allowed amount thereof or (y) shall reduce the amount to be paid under the Plan in respect of any Allowed amount thereof by considering which method is most advantageous to the Debtors' Estates.

a. Class 1 – Priority Non-Tax Claims

(1) **Classification:** Class 1 consists of all Priority Non-Tax Claims against each Debtor.

(2) **Treatment:** At the election of the applicable Liquidating Debtor, each Holder of a Priority Non-Tax Claim against a Debtor shall receive, in full satisfaction,

settlement, release, and extinguishment of such Priority Non-Tax Claim, on or as soon as practicable after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order determining or allowing such Claim, (a) a Cash payment from the applicable Liquidating Debtor equal to the Allowed amount of such Claim, or (b) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.

(3) Impairment/Voting: Class 1 is Unimpaired. Class 1 therefore is conclusively presumed to have accepted the Plan and Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

b. Class 2 – Miscellaneous Secured Claims

(1) Classification: Class 2 consists of all Miscellaneous Secured Claims (if any such Claims exist) against each Debtor. Although all Miscellaneous Secured Claims have been placed in one Class for the purposes of nomenclature, each Miscellaneous Secured Claim, to the extent secured by a Lien on any property or interest in property of a Debtor different from that securing any other Miscellaneous Secured Claim, shall be treated as being in a separate sub-Class for purposes of voting and receiving distributions under the Plan.

(2) Treatment: Except to the extent that a Holder of an Allowed Miscellaneous Secured Claim has been paid by the applicable Debtor, in whole or in part, prior to the Effective Date, on the Effective Date, at the option of the applicable Debtor, (i) each Allowed Miscellaneous Secured Claim shall be reinstated and Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed Miscellaneous Secured Claim shall receive, in full satisfaction, settlement, and release of, and in exchange for, such Miscellaneous Secured Claim, (x) payment in full in Cash of the unpaid portion of such Allowed Miscellaneous Secured Claim, or (y) such other treatment as may be agreed to by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.

(3) Impairment/Voting: Class 2 is Unimpaired. Class 2 therefore is conclusively presumed to have accepted the Plan and Holders of Claims in Class 2 are not entitled to vote to accept or reject the Plan.

c. Class 3 – Mortgage Lender Claims

(1) Classification: Class 3 consists of all Mortgage Lender Claims against each Debtor. Although all Mortgage Lender Claims have been placed in one Class for the purposes of nomenclature, each Mortgage Lender Claim, to the extent secured by a Lien on any property or interest in property of a Debtor different from that securing any other Mortgage Lender Claim, shall be treated as being in a separate sub-Class for purposes of voting and receiving distributions under the Plan.

(2) Treatment:

(a) *FX3 Lender Claims*: On the Effective Date, each Holder of an Allowed FX3 Lender Claim shall receive, as the sole distribution by the applicable Liquidating Debtors or their Estates under the Plan on account of such FX3 Lender Claim, (i) a

Cash payment from the applicable Liquidating Debtors equal to the Allowed amount of such Claim, or (ii) such other treatment as otherwise agreed by the Holder of such Claim and the Liquidating Debtors, which may include the assumption of the FX3 Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable intercreditor agreement.

(b) *H14 Lender Claims*: On or as soon as practicable after the Effective Date, each Holder of an Allowed H14 Lender Claim shall receive, as the sole distribution by the applicable Liquidating Debtors or their Estates under the Plan on account of such H14 Lender Claim, (i) a Cash payment from the applicable Liquidating Debtors equal to the Allowed amount of such Claim, or (ii) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Liquidating Debtors, which may include the assumption of the H14 Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable intercreditor agreement.

(c) *Oaks Lender Claims*: On or as soon as practicable after the Effective Date, each Holder of an Allowed Oaks Lender Claim shall receive, as the sole distribution by Oaks or its Estate under the Plan on account of such Oaks Lender Claim, (i) a Cash payment from Oaks equal to the Allowed amount of such Claim, (ii) such other treatment as otherwise agreed by the Holder of such Claim and Oaks, which may include the assumption of the Oaks Lender Claim pursuant to the terms of the Beach Point Purchase Agreement and any applicable intercreditor agreement, or (iii) the Cram-Down Note.

(3) Impairment/Voting: Class 3 is Impaired. Holders of Claims in Class 3 are therefore entitled to vote to accept or reject the Plan.

d. Class 4 – Beach Point Claims

(1) Classification: Class 4 consists of all Beach Point Claims against each Debtor.

(2) Treatment: On or as soon as practicable after the Effective Date, each Holder of an Allowed Beach Point Claim shall receive, as the sole distribution by the Liquidating Debtors or their Estates under the Plan on account of such Beach Point Claim, (i) the Beach Point Acquired Assets, upon the closing of the Beach Point Purchase Agreement, (ii) any other treatment provided by the Beach Point Settlement Agreement to the maximum extent of the Debtors' Net Distributable Assets, and (iii) if the conditions for the settlement provided under Article IV.B.6.b.i of the Plan are not satisfied, the Retained Rights of Action against the Prepetition Insider Parties; provided, however, that the Beach Point Claims shall be credited against the purchase price for the Beach Point Acquired Assets upon the closing of the transactions under the Beach Point Purchase Agreement pursuant to the terms of such agreement. All provisions of the Beach Point Settlement Agreement are reaffirmed, ratified, and adopted by the Plan; provided, however, that the Debtors are not expected to have sufficient assets to satisfy the Beach Point Claims in full and it shall not constitute a breach or default of the Plan for the Debtors to fail to repay the Beach Point Claims in full. Any deficiency owing under the Beach Point Claims shall be deemed a Miscellaneous Secured Claim solely to the extent such Beach Point Claim is secured by a Lien on property in which a Debtor or its Estate has an interest.

(3) Impairment/Voting: Class 4 is Impaired. Holders of Claims in Class 4 are therefore entitled to vote to accept or reject the Plan.

e. Class 5 – General Unsecured Claims Against the Property-Owning Debtors

(1) Classification: Class 5 consists of all General Unsecured Claims against each Property-Owning Debtor.

(2) Treatment: On or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against a Property-Owning Debtor shall receive, in full satisfaction, settlement, release, and extinguishment of such General Unsecured Claim, on or as soon as practicable after the later of (i) the Effective Date, or (ii) the date upon which the Bankruptcy Court enters a Final Order determining or allowing such Claim, (a) a Cash payment from the applicable Liquidating Debtor equal to the Allowed amount of such Claim, or (b) such other treatment as otherwise agreed by the Holder of such Claim and the applicable Debtor or Liquidating Debtor.

(3) Impairment/Voting: Class 5 is Unimpaired. Class 5 therefore is conclusively presumed to have accepted the Plan and Holders of Claims in Class 5 are not entitled to vote to accept or reject the Plan.

f. Class 6 – General Unsecured Claims Against Variant and the Intermediate Debtors

(1) Classification: Class 6 consists of all General Unsecured Claims against Variant or an Intermediate Debtor.

(2) Treatment:

(i) *Voluntary Settlement Distribution*: Each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor shall have the option to elect to receive a settlement distribution under the Plan, on account of such General Unsecured Claim, subject to the following conditions: (A) such Holder votes in favor of the Plan, (B) Class 6 votes in favor of the Plan, (C) the Confirmation Order becomes a Final Order by no later than July 29, 2016, and (D) the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid close by no later than July 29, 2016. Subject to the occurrence of the foregoing conditions, on or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor who elects such treatment, on account of such General Unsecured Claim, shall receive a Pro Rata share (calculated as a percentage of all Allowed General Unsecured Claims against Variant and the Intermediate Debtors voting in favor of the Plan) of: (AA) the UCC Fund, and (BB) seventy-five percent (75%) of the net proceeds of the Retained Rights of Action against the Prepetition Insider Parties (with the remaining twenty-five (25%) of such net proceeds distributed to the Beach

Point Funds), after payment of the following costs and expenses in the following order: (1) repayment of the Litigation Cost Fund to the Holders of the Beach Point Claims; and (2) payment of any remaining professional fees or costs associated with such litigation or in resolving Claims against Variant or the Intermediate Debtors.

(ii) *Distribution Absent Settlement*: Regardless of whether the settlement distribution described in Article IV.B.6 of the Plan applies, on or as soon as practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor shall receive, as the sole distribution by each such Liquidating Debtor or its Estate under the Plan on account of such General Unsecured Claim except as set forth in Article IV.B.6 of the Plan, a Pro Rata share (calculated as a percentage of all Allowed General Unsecured Claims against Variant or such Intermediate Debtor, as applicable) of the Net Distributable Assets of Variant or such Intermediate Debtor, as applicable, after payment of the Allowed Beach Point Claims in full. Holders of Allowed General Unsecured Claims against Variant or an Intermediate Debtor will not be entitled to the payment of postpetition interest under the Plan, unless excess Net Distributable Assets remain after all Allowed Claims and Administrative Expenses against Variant or such Intermediate Debtor, as applicable, have been paid or otherwise satisfied in full (unless otherwise agreed to by the applicable Creditor) in accordance with the Plan. In such case of excess Net Distributable Assets, then Holders of Allowed General Unsecured Claims against Variant or an Intermediate Debtor shall receive on a Pro Rata basis (calculated as a percentage of all Allowed General Unsecured Claims against Variant or such Intermediate Debtor, as applicable) postpetition interest at the Federal Judgment Rate, to the extent that sufficient excess Net Distributable Assets (once all liquidated to Cash) exist and as required under the Bankruptcy Code. **Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors are not expected to realize any recovery under the Plan, absent the settlement distribution set forth in Article IV.B.6 of the Plan.**

(3) Impairment/Voting: Class 6 is Impaired. Holders of Claims in Class 6 are therefore entitled to vote to accept or reject the Plan.

g. Class 7 – Subordinated Claims and Intercompany Claims

(1) Classification: Class 7 consists of all Subordinated Claims⁹ and Intercompany Claims against each Debtor.

⁹ Subordinated Claims consist of any Claim that is subordinated to the payment of the Beach Point Claims in full under the Beach Point Settlement Agreement, the Snowdon Settlement Agreement, or otherwise under applicable

(2) Treatment: Holders of Subordinated Claims and Intercompany Claims against a Debtor shall receive no distributions under the Plan until the Beach Point Claims have been paid in full, consistent with the terms of the Beach Point Settlement Agreement. **Because the Debtors project that the Beach Point Claims will not be paid in full, Holders of Subordinated Claims and Intercompany Claims against the Debtors are not expected to realize any recovery under the Plan.**

(3) Impairment/Voting: Class 7 is Unimpaired because Holders of Subordinated Claims and Intercompany Claims against the Debtors agreed to the terms of the Beach Point Settlement Agreement, which are implemented by the Plan. Class 7 therefore is conclusively presumed to have accepted the Plan and Holders of Claims in Class 7 are not entitled to vote to accept or reject the Plan.

h. Class 8 – Interests in the Debtors

(1) Classification: Class 8 consists of all Interests in each Debtor.

(2) Treatment: Holders of Interests in each Debtor shall receive no distributions under the Plan, and on the Effective Date, all Interests in the Debtors shall be deemed suspended. As of the Effective Date, each Holder of an Interest in a Debtor shall receive a contingent interest in the Net Distributable Assets remaining, if any, after all Allowed Claims and Administrative Expenses against such Debtor have been paid or otherwise satisfied in full (unless otherwise agreed to by the applicable Creditor) in accordance with the Plan. For the avoidance of doubt, no distribution of Net Distributable Assets (once all liquidated to Cash) shall be made to Holders of Interests in a Debtor until and unless all Holders of Allowed Claims against such Debtor receive payment in full of such Allowed Claims, plus all accrued postpetition interest at the Federal Judgment Rate. **Because the Debtors project that certain Claims will not be paid in full, Holders of Interest against the Debtors are not expected to realize any recovery under the Plan.**

(3) Impairment/Voting: Class 8 is Impaired. Holders of Interests in Class 8 are deemed to reject the Plan.

C. Acceptance or Rejection of Plan

1. Identification of Unimpaired Classes

The following Classes of Claims are Unimpaired under the Plan:

Class 1 – Priority Non-Tax Claims

Class 2 – Miscellaneous Secured Claims

law or equity, specifically including the Claims of the Prepetition Insider Parties. Notwithstanding the foregoing, if the Snowdon Parties vote in favor of the Plan, opt into the voluntary settlement distribution under Article IV.B.6.b.i and do not object to the Plan, and the conditions for the settlement provided for under Article IV.B.6.b.i are satisfied, then the Snowdon Parties' Subordinated Claim shall be deemed a General Unsecured Claim against Variant.

Class 5 – General Unsecured Claims Against the Property-Owning Debtors

Class 7 – Subordinated Claims and Intercompany Claims

2. **Identification of Impaired Classes**

The following Classes of Claims and Interests are Impaired under the Plan.

Class 3 – Mortgage Lender Claims

Class 4 – Beach Point Claims

Class 6 – General Unsecured Claims Against Variant and the Intermediate Debtors

Class 8 – Interests in the Debtors

3. **Classes Permitted and Not Permitted to Vote**

Classes 1, 2, 5, and 7 are Unimpaired. Holders of Claims in these Classes are conclusively presumed pursuant to section 1126(f) of the Bankruptcy Code to have accepted the Plan and therefore shall not be entitled to vote to accept or reject the Plan. Classes 3, 4, 6, and 8 are Impaired. Holders of Claims in Classes 3, 4, and 6 are permitted to vote to accept or reject the Plan. Holders of Interests in Class 8 are deemed to reject the Plan. The Debtors reserve all of their rights with respect to all Claims and Interests classified by the Debtors.

An Impaired Class of Claims that votes shall have accepted the Plan if (a) the Holders of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

4. **Effect of Non-Voting**

If no Holder of a Claim eligible to vote in a particular Class timely votes to accept or reject the Plan, the Debtors may seek to have the Plan deemed **accepted** by the Holders of such Claims in such Class for purposes of section 1129(b) of the Bankruptcy Code.

5. **Nonconsensual Confirmation**

In the event any Class of Claims votes to reject the Plan and given the deemed rejection of the Plan by the Holders of Interests in Class 8, the Debtors request that the Bankruptcy Court confirm the Plan notwithstanding such rejection pursuant to section 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable and does not discriminate unfairly as to the Holders of any Class of Claims or Interests.

6. **Postpetition Interest**

Nothing in the Plan or the Disclosure Statement shall be deemed to entitle the Holder of a Claim to receive postpetition interest on account of such Claim, except to the extent that the Holder of a Claim has the benefit of a Lien on assets that exceed the value of such Claim or the Plan expressly provides for postpetition interest on account of such Claim.

D. Means for Implementation of the Plan

1. **Sale of Assets**

The provisions of the Plan incorporate the terms of the Beach Point Purchase Agreement, or any higher and better purchase agreement for the Debtors' assets that is approved by the Bankruptcy Court, pursuant to section 1123(b)(4) of the Bankruptcy Code. From and after the Effective Date, each and every provision of the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid shall be binding on the Liquidating Debtors.

2. **Beach Point Settlement**

The provisions of the Plan incorporate the terms of the Beach Point Settlement Agreement, the Beach Point Settlement Order, and the Beach Point Assumption Order pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. From and after the Effective Date, each and every provision of the Beach Point Settlement Agreement shall be binding on the Liquidating Debtors, subject to the treatment of the Beach Point Claims provided in Article IV.B.4 of the Plan.

3. **Continued Corporate Existence and Vesting of Assets**

On and after the Effective Date, subject to the requirements of the Plan, the Liquidating Debtors will continue to exist as separate limited liability companies (and in the case of Pines of Westbury, Ltd., as a limited liability partnership) and shall retain all of the powers of limited liability companies (and in the case of Pines of Westbury, Ltd., as a limited liability partnership) under applicable non-bankruptcy law, and without prejudice to any right to amend its operating agreement, dissolve, merge or convert into another form of business entity, or to alter or terminate its existence. The existing membership interests of the Debtors (and in the case of Pines of Westbury, Ltd., the existing partnership interests) shall be deemed to be held through the Plan Administrator, and the Plan Administrator shall be deemed to have been admitted as the sole member of Variant under applicable non-bankruptcy law and shall be authorized to exercise all of the rights and powers of a sole member as provided by the Plan. Further, the Debtors' operating agreements (and in the case of Pines of Westbury, Ltd., the partnership agreement) shall be deemed to include a provision prohibiting the issuance of nonvoting equity securities and such other provisions as may be required pursuant to section 1123(a)(6) of the Bankruptcy Code.

Except as otherwise provided in the Plan, on and after the Effective Date, all Distributable Assets and property of the Debtors and their Estates, including any interests in subsidiaries and affiliates and any Retained Rights of Action of the Debtors, will vest in the Liquidating Debtors free and clear of all Claims, Liens, charges, other encumbrances and

Interests. Neither the occurrence of the Effective Date, nor the effectiveness of the Plan, nor any provision of applicable non-bankruptcy law shall cause a dissolution of the Debtors, which shall be continued as limited liability companies (and in the case of Pines of Westbury, Ltd., as a limited liability partnership) following the Effective Date subject to the terms of the Plan.

On and after the Effective Date, subject to the requirements of the Plan, the Liquidating Debtors shall be permitted to conduct their business, reconcile Claims, use and dispose of assets, including through the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid, prosecute litigation, and otherwise take any and all actions reasonably necessary to implement the Plan without supervision by the Bankruptcy Court and free of any restrictions under the Bankruptcy Code or the Bankruptcy Rules. The Liquidating Debtors shall be authorized, without limitation, to use and dispose of the Distributable Assets of the Debtors and their Estates, to investigate and pursue any Retained Rights of Action of the Debtors as the representative of the Debtors' Estates pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, to acquire and dispose of other property, and to otherwise administer their affairs.

4. Corporate Action; Winding Up of Affairs

On the Effective Date, the matters under the Plan involving or requiring limited liability company action of the Debtors (and in the case of Pines of Westbury, Ltd., limited liability partnership action), including but not limited to actions requiring a vote or other approval of the board of managers, members, partners, or other equity holders of the Debtors or the execution of any documentation incident to or in furtherance of the Plan, shall be deemed to have been authorized by the Confirmation Order and to have occurred and be in effect from and after the Effective Date without any further action by the Bankruptcy Court or the managers, members, partners, or officers of the Debtors.

Without limiting the generality of the foregoing, on the Effective Date and automatically and without further action, (i) any existing manager and officer of the Debtors will be deemed to have resigned on the Effective Date without any further corporate action, (ii) the Plan Administrator shall be deemed the sole manager, officer and representative of the Liquidating Debtors to exercise the rights, power and authority of the Liquidating Debtors under applicable provisions of the Plan and bankruptcy and non-bankruptcy law, and (iii) all matters provided under the Plan shall be deemed to be authorized and approved without further approval from the Bankruptcy Court. The Confirmation Order shall act as an order modifying the Debtors' operating agreements (and in the case of Pines of Westbury, Ltd., its partnership agreement) such that the provisions of the Plan can be effectuated. The Plan shall be administered by the Plan Administrator, and all actions taken thereunder in the name of the Liquidating Debtors shall be taken through the Plan Administrator. All corporate governance activities of the Liquidating Debtors shall be exercised by the Plan Administrator in his or her discretion, subject to the terms of the Plan.

Following the Confirmation Date, the Debtors shall not engage in any business activities or take any actions, except those necessary to (i) effectuate the Plan and (ii) dispose of their assets and wind up the affairs of the Debtors as soon as reasonably practicable. On and after the Effective Date, the Plan Administrator may, in the name of the Liquidating Debtors, take such actions without supervision or approval by the Bankruptcy Court and free of any restrictions of

the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Plan Administrator may, without application to or approval of the Bankruptcy Court, pay, from the proceeds of Distributable Assets, the charges that he or she incurs after the Effective Date for professional fees and expenses that, but for the occurrence of the Effective Date, would constitute Allowed Administrative Expenses.

From and after the Effective Date, and upon consummation of the sale of assets contemplated by the Beach Point Purchase Agreement and any Bankruptcy-Court approved overbid, (i) the Debtors, for all purposes, shall be deemed to have withdrawn their business operations from any state in which they were previously conducting or are registered or licensed to conduct their business operations, and the Debtors shall not be required to file any document, pay any sum or take any other action, in order to effectuate such withdrawal, and (ii) the Debtors shall not be liable in any manner to any taxing authority for franchise, business, license or similar taxes accruing on or after the Effective Date.

5. Plan Administrator

On the Effective Date, the Plan Administrator shall begin acting for the Liquidating Debtors in the same fiduciary capacity as applicable to a board of directors of a Delaware corporation implementing such liquidation and wind-down as contemplated under the Plan, subject to the provisions of the Plan. The Plan Administrator shall serve in such capacity through the earlier of the date the Debtors are dissolved in accordance with the Plan and the date such Plan Administrator resigns, is terminated or otherwise unable to serve; provided, however, that, any successor Plan Administrator appointed pursuant to the Plan, shall serve in such capacities after the effective date of such persons appointment as Plan Administrator.

The qualifications and proposed compensation of and other disclosures regarding the Plan Administrator shall be set forth in a notice to be Filed with the Court as part of the Plan Supplement; such compensation may be paid from the Liquidating Debtors' Cash on hand, including the UCC Fund as to any matters relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors, without further notice or order of the Bankruptcy Court. Further, the Plan Administrator shall be entitled to reimbursement, from the Liquidating Debtors' Cash on hand, including the UCC Fund as to any matters relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors, for his or her actual, reasonable, and necessary expenses incurred in connection with the performance of his or her duties, without the need for further notice or Bankruptcy Court approval. All distributions to be made to Creditors and, if applicable, Interest Holders under the Plan shall be made by the Plan Administrator (or his or her designated agent). The Plan Administrator shall deposit and hold all Cash in trust for the benefit of Creditors (including Professional Persons) and Holders of Interests receiving distributions under the Plan. The duties and powers of the Plan Administrator shall include, without limitation, the following (without need of further Court approval):

(i) To exercise all power and authority that may be exercised, to commence all proceedings (including the power to continue any actions and proceedings that may have been commenced by the Debtors prior to the Effective Date) that may be commenced, and to take all

actions that may be taken by any officer or manager of the Liquidating Debtors with like effect as if authorized, exercised, and taken by unanimous action of such officers and managers, including consummating the Plan and all transfers thereunder on behalf of the Liquidating Debtors;

(ii) To wind up the affairs of the Liquidating Debtors and any or all of their subsidiaries and affiliates to the extent necessary as expeditiously as reasonably possible;

(iii) To maintain all accounts, make distributions, and take other actions required under or consistent with the Plan, including the maintenance of appropriate reserves, in the name of the Liquidating Debtors;

(iv) To use, manage, sell, abandon, convert to Cash and/or otherwise dispose of the Distributable Assets, including through the transactions contemplated by the Beach Point Purchase Agreement or any Bankruptcy-Court approved overbid, for the purpose of liquidating all remaining property of the Estate, making distributions and fully consummating the Plan;

(v) To take all steps necessary to terminate the corporate existence of the Debtors;

(vi) To prosecute objections to Claims and Administrative Expenses and compromise or settle any Claims and Administrative Expenses (disputed or otherwise);

(vii) To prosecute any and all Retained Rights of Action and compromise or settle any Retained Rights of Action;

(viii) To prepare and file tax returns to the extent required by law;

(ix) To employ and compensate any and all such professionals and agents as the Plan Administrator, in his or her sole discretion, deems reasonably necessary to perform his or her duties under the Plan without further order of the Bankruptcy Court; and

(x) To take all other actions not inconsistent with the provisions of the Plan that the Plan Administrator deems reasonably necessary or desirable in connection with the administration of the Plan, including, without limitation, filing all motions, pleadings, reports, and other documents in connection with the administration and closing of the Chapter 11 Cases.

The Plan Administrator may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation, removal, death, or incapacity of the Plan Administrator, the Bankruptcy Court shall appoint another Person to become Plan Administrator, with notice thereof provided to the Post-Effective Date Service List. The successor Plan Administrator without any further act shall become fully vested with all of the rights, powers, duties, and obligations of his or her predecessor.

6. **Source of Funding**

The source of all distributions and payments under the Plan will be the Distributable Assets and the proceeds thereof, including, without limitation, the Debtors' Cash on hand and proceeds from the sale or other disposition of the Debtors' assets and prosecution of Retained Rights of Action, subject to the terms of the Beach Point Settlement Agreement.

7. **Retained Rights of Action of the Debtor**

Unless a Right of Action of the Debtors (including the right to object to any Claim asserted against the Estates) is, in writing, expressly waived, relinquished, released, assigned, compromised, or settled in the Plan, or in a Final Order, all rights of the Estates from and after the Effective Date with respect to the Retained Rights of Action are expressly preserved for the benefit of, assigned to, and fully vested in, the Liquidating Debtors. Notwithstanding the foregoing, to the extent that a Property-Owning Debtor does not pursue an objection to Claim against such Property-Owning Debtor despite written request to do so by the Beach Point Funds, then the Beach Point Funds shall be authorized to pursue, prosecute, and resolve such objection to Claim on behalf of such Property-Owning Debtor.

Subject to the foregoing sentence, the Liquidating Debtors shall have standing as the representative of the Debtors' Estates pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to pursue, or decline to pursue, the Retained Rights of Action and objections to Claims, as appropriate, in the business judgment of the Debtors. The Liquidating Debtors, acting through the Plan Administrator, may settle, release, sell, assign, otherwise transfer, or compromise, Retained Rights of Action and/or objections to Claims without need for notice or order of the Bankruptcy Court.

8. **Interests in Non-Debtor Affiliates and Subsidiaries**

As of the Effective Date, except as expressly provided in the Plan or by separate order of the Bankruptcy Court, the Liquidating Debtors shall retain any stock or interests that they may hold in their non-Debtor affiliates or subsidiaries and retain any rights to which such stock or interests may be entitled under applicable law with respect to such shares or other interests. After the Effective Date, the Liquidating Debtors may sell, transfer, assign or otherwise dispose of such shares or interests as permitted by applicable law.

9. **Payment of Plan Expenses**

The Liquidating Debtors may pay all reasonable Plan Expenses without further notice to Creditors or Holders of Interests or approval of the Bankruptcy Court. Further, the Liquidating Debtors are authorized to charge the UCC Fund for any reasonable fees and expenses incurred resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

The Plan contemplates a reserve of \$300,000 for Plan Expenses following the Effective Date (including the reasonable fees and costs of attorneys and other professionals) relating to implementation of the Plan, for the purpose of (a) resolving Claims and effectuating distributions to Creditors of the Property-Owning Debtors under the Plan, (b)

otherwise implementing the Plan and closing the Chapter 11 Cases, or (c) undertaking any other matter relating to the Plan. “Plan Expenses” shall not include any fees or expenses incurred relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors, which expenses shall be payable solely from the UCC Fund.

The Debtors project that \$250,000 of the UCC Fund of \$1,000,000 is utilized for the payment of fees and expenses incurred relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

10. Dissolution of Debtor; Final Decree

Once the Plan Administrator determines that the Final Resolution Date has occurred as to a Liquidating Debtor, such Liquidating Debtor shall be dissolved for all purposes by the Plan Administrator without the necessity for any other or further actions to be taken by or on behalf of the Liquidating Debtor or payments to be made in connection therewith; provided, however, without the need of any further approval, the Plan Administrator in his or her discretion may execute and file documents and take all other actions as he or she deems appropriate relating to the dissolution of the Liquidating Debtors under the laws of Delaware and/or any other applicable states, and in such event, all applicable regulatory or governmental agencies shall take all steps necessary to allow and effect the prompt dissolution of the Liquidating Debtors as provided herein, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates.

At any time following the Effective Date, the Plan Administrator, on behalf of the Liquidating Debtors, shall be authorized to file a motion for the entry of a final decree closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code.

11. Records

The Liquidating Debtors and Plan Administrator shall maintain reasonably good and sufficient books and records of accounting relating to the Distributable Assets, the Liquidating Debtors’ Cash, the management thereof, all transactions undertaken by such parties, all expenses incurred by or on behalf of the Debtors and Plan Administrator, and all distributions contemplated or effectuated under the Plan. Upon the entry of a final decree closing the Chapter 11 Cases, unless otherwise ordered by the Court, the Liquidating Debtors and Plan Administrator may destroy or otherwise dispose of all records maintained by the Liquidating Debtors and/or Plan Administrator. Notwithstanding anything to the contrary, the Plan Administrator may, upon notice to the Post-Effective Date Service List and without Bankruptcy Court approval, destroy any documents that he or she believes are no longer required to effectuate the terms and conditions of the Plan.

E. Treatment of Executory Contracts and Unexpired Leases

1. Rejection of Executory Contracts and Unexpired Leases

Except for any executory contracts or unexpired leases: (i) that previously were assumed or rejected by an order of the Bankruptcy Court, pursuant to section 365 of the Bankruptcy Code, including the Beach Point Settlement Agreement; (ii) that are listed for assumption by the

Debtors as of the Effective Date in a Plan Supplement to be filed and served on affected non-Debtor counterparties; (iii) as to which a motion for approval of the assumption or rejection of such contract or lease has been Filed and served prior to the Effective Date, including any contracts or leases assumed and assigned as part of the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid; (iv) that constitute contracts of insurance in favor of, or that benefit, the Debtors or the Estates; or (v) that were previously sold, conveyed or otherwise assigned pursuant to Final Order, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to section 365 of the Bankruptcy Code as of the Effective Date. Without limiting the foregoing, the indemnification obligations in favor of the Debtors' current managers and applicable DSI Parties shall be assumed as of the Effective Date, and all other pre-Effective Date indemnification obligations of the Debtors shall be deemed rejected as of the Effective Date to the extent that such obligations are contained in executory contracts within the meaning of section 365 of the Bankruptcy Code, but only to the extent not inconsistent with any existing insurance obligations. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such assumptions or rejections, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date. Notwithstanding anything in the Plan to the contrary, all Tenant Leases are not impaired, rejected, assigned (within the meaning of section 365 of the Bankruptcy Code) or otherwise modified under the Plan. Tenant Leases shall "ride through" the Chapter 11 Cases, and be assigned to the purchaser of the Property-Owning Debtors' properties pursuant to the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid.

2. **Bar Date for Rejection Damages**

If the rejection of an executory contract or unexpired lease pursuant to the Plan or otherwise gives rise to a Claim by the other party or parties to such contract or lease, such Claim shall be forever barred and shall not be enforceable against the Debtors or their Estates unless a proof of Claim is Filed and served on the Debtors and their counsel within thirty (30) days after the earlier of (a) Effective Date or (b) service of a notice that the executory contract or unexpired lease has been rejected. All such Claims for which proofs of Claim are required to be Filed, if Allowed, will be, and will be treated as, General Unsecured Claims, subject to the provisions of the Plan.

F. **Distributions and Related Matters**

1. **Dates of Distribution**

The sections of the Plan on treatment of Administrative Expenses, Claims, and Interests specify the times for distributions. Whenever any payment or distribution to be made under the Plan shall be due on a day other than a Business Day, such payment or distribution shall instead be made, without interest, by the Liquidating Debtors (or their agent) on the immediately following Business Day.

If, under the terms of the Plan, the resolution of a particular Disputed Claim (*e.g.*, it is Disallowed) entitles other Holders of Claims to a further distribution, either (a) the Liquidating Debtors may make such further distribution as soon as practicable after the resolution of the

Disputed Claim or (b) if the further distribution is determined in good faith by the Liquidating Debtors to be less than \$250 for any Creditor, then, in order to afford an opportunity to minimize costs and aggregate such distributions, the Liquidating Debtors may make such further distribution any time prior to sixty (60) days after the Final Resolution Date or with the next distribution, in the discretion of the Liquidating Debtors.

2. **Cash Distributions**

Distributions of Cash may be made either by check drawn on a domestic bank or wire transfer from a domestic bank, at the option of the Liquidating Debtors, except that Cash payments made to foreign Creditors may be made in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

3. **Rounding of Payments**

Whenever payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent. To the extent Cash remains undistributed as a result of the rounding of such fraction to the nearest whole cent, such Cash shall be treated as "Unclaimed Property" under the Plan.

4. **Disputed Claims**

Notwithstanding all references in the Plan to Claims that are Allowed, solely for the purpose of calculating the amount or number of distributions to be made on account of Allowed Claims or Allowed Administrative Expenses under the Plan, such calculations shall be made as if each Disputed Claim were an Allowed Claim or Allowed Administrative Expense, except that if the Bankruptcy Court estimates the likely portion of a Disputed Claim to be Allowed or authorized or otherwise determines the amount or number which would constitute a sufficient reserve for a Disputed Claim (which estimates and determinations may be requested by the Liquidating Debtors), such amount or number as determined by the Bankruptcy Court shall be used for calculations as to such Disputed Claim.

All distributions due in respect of a Disputed Claim shall be held and not made pending resolution of the Disputed Claim.

If an objection to a Disputed Claim is withdrawn, resolved by agreement, or determined by Final Order, the distributions due on account of any resulting Allowed Claim or Allowed Administrative Expense shall be made by the Liquidating Debtors. Such distribution shall be made within forty-five (45) days of the date that the Disputed Claim becomes an Allowed Claim or Allowed Administrative Expense or as soon thereafter as reasonably practicable. No interest shall be due to a Holder of a Disputed Claim based on the delay attendant to determining the allowance of such Claim, Interest or Administrative Expense.

5. **Undeliverable and Unclaimed Distributions**

If any distribution under the Plan is returned to the Liquidating Debtors as undeliverable or the check or other similar instrument or distribution by the Liquidating Debtors remains uncashed or unclaimed, as applicable, for ninety (90) days, such Cash shall be deemed to be

Unclaimed Property. Upon property becoming Unclaimed Property, it immediately shall be revested in the Liquidating Debtors.

Once there becomes Unclaimed Property for a Holder, no subsequent distributions for such Holder which may otherwise be due under the Plan will accrue or be held for such Holder, provided that, if the applicable agent is notified in writing of such Holder's then-current address and status as a Holder under the Plan, thereafter, the Holder will become entitled to its share of distributions, if any, which first become due after such notification.

6. Compliance with Tax Requirements

The Liquidating Debtors shall comply with all withholding and reporting requirements imposed by federal, state or local taxing authorities in connection with making distributions pursuant to the Plan.

In connection with each distribution with respect to which the filing of an information return (such as an IRS Form 1099 or 1042) or withholding is required, the Liquidating Debtors shall file such information return with the IRS and provide any required statements in connection therewith to the recipients of such distribution, or effect any such withholding and deposit all moneys so withheld to the extent required by law. With respect to any Person from whom a tax identification number, certified tax identification number or other tax information required by law to avoid withholding has not been received, the Liquidating Debtors may, in their sole option, withhold the amount required and distribute the balance to such Person or decline to make such distribution until the information is received; provided, however, that Liquidating Debtors shall not be obligated to liquidate any securities to perform such withholding.

7. Record Date in Respect to Distributions

Except as set forth below, the record date and time for the purpose of determining which Persons are entitled to receive any and all distributions on account of any Allowed Claims or Interests, irrespective of the date of or number of distributions, shall be the same as the Record Date.

8. Reserves

In making any distributions in respect of Claims under the Plan, the Liquidating Debtors shall reserve an appropriate and adequate amount of Cash on account of any unresolved Disputed Claims. The Liquidating Debtors shall make a corrective distribution following the successful resolution of any Disputed Claim on the next regularly scheduled distribution date.

G. Litigation, Objections to Claims, and Determination of Taxes

1. Litigation, Objections to Claims, and Objection Deadline

Except as may be expressly provided otherwise in the Plan, the Liquidating Debtors, through the Plan Administrator, shall be responsible for pursuing Retained Rights of Action, any objection to the allowance of any Claim, and the determination of Tax issues and liabilities.

As of the Effective Date, the Liquidating Debtors shall have exclusive authority to file objections, settle, compromise, withdraw or litigate to judgment objections to Claims; provided, however, parties in interest may file objections to Claims to the extent permitted by Bankruptcy Code section 502(a) and the Beach Point Funds may pursue, prosecute, and resolve objections to Claims as set forth in Article VI.G of the Plan. Unless another date is established by the Bankruptcy Court *sua sponte* (which may so act without notice or hearing) or is established by other provisions of the Plan, any objection to a Claim or Interest shall be filed with the Bankruptcy Court and served on the Person holding such Claim or Interest within one hundred eighty (180) days after the Effective Date (as may be extended pursuant to this section, the “Objection Deadline”), provided that the Liquidating Debtors may seek extension(s) thereof subject to Bankruptcy Court approval and with notice only to parties that have requested such notice pursuant to Bankruptcy Rule 2002.

In addition to any other available remedies or procedures with respect to Tax issues or liabilities or rights to Tax refunds, the Liquidating Debtors, at any time, may utilize (and receive the benefits of) section 505 of the Bankruptcy Code with respect to: (1) any Tax issue or liability or right to a Tax refund relating to an act or event occurring prior to the Effective Date; or (2) any Tax liability or right to a Tax refund arising prior to the Effective Date. If the Liquidating Debtors utilize section 505(b) of the Bankruptcy Code: (1) the Bankruptcy Court shall determine the amount of the subject Tax liability or right to a Tax refund in the event that the appropriate governmental entity timely determines a Tax to be due in excess of the amount indicated on the subject return; and (2) if the prerequisites are met for obtaining a discharge of Tax liability in accordance with section 505(b) of the Bankruptcy Code, the Liquidating Debtors shall be entitled to such discharge which shall apply to any and all Taxes relating to the period covered by such return.

2. **Temporary or Permanent Resolution of Disputed Claims**

The Debtors and the Liquidating Debtors may request, at any time prior to the Effective Date (in the case of the Debtors) or on and after the Effective Date (in the case of the Liquidating Debtors), that the Bankruptcy Court estimate any contingent or unliquidated Disputed Claim pursuant to section 502(c) of the Bankruptcy Code, irrespective of whether any party has previously objected to such Disputed Claim. The Bankruptcy Court will retain jurisdiction to estimate any contingent or unliquidated Disputed Claim at any time during litigation concerning any objection to the Disputed Claim. If the Bankruptcy Court estimates any contingent or unliquidated Disputed Claim, that estimated amount would constitute either the Allowed amount of such Disputed Claim or a maximum limitation on such Disputed Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Disputed Claim, the Liquidating Debtors may elect from and after the Effective Date to pursue any supplemental proceedings to object to any ultimate payment on account of such Disputed Claim. In addition, the Liquidating Debtors may resolve or adjudicate any Disputed Claim from and after the Effective Date in the manner in which the amount of such Claim, Interest or Administrative Expense and the rights of the Holder of such Claim, Interest or Administrative Expense would have been resolved or adjudicated if the Chapter 11 Cases had not been commenced. All of the aforementioned objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another.

3. **Setoffs**

The Liquidating Debtors may, but shall not be required to, setoff against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors may have against the Holder of such Claim; provided, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Liquidating Debtors of any such claim that the Liquidating Debtors may have against such Holder, unless otherwise agreed to in writing by such Holder and the Liquidating Debtors. Notwithstanding the foregoing, the Debtors do not have, and shall not exercise, any setoff rights against the Beach Point Claims or the Beach Point DIP Claims.

4. **Preservation of Retained Rights of Action**

In accordance with section 1123(b) of the Bankruptcy Code, the Liquidating Debtors and their successors, any assigns hereunder and future assigns will retain and may exclusively enforce any Retained Rights of Action and the Confirmation Order shall be deemed a *res judicata* determination of such rights to retain and exclusively enforce such Retained Rights of Action. Absent such express waiver or release, the Liquidating Debtors, acting through the Plan Administrator, or their successors or assigns shall have standing as the representative(s) of the Debtors' Estates pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to pursue Retained Rights of Action, as appropriate, in accordance with the best interests of the Liquidating Debtors (or their successors or future assigns). The Retained Rights of Action may be asserted or prosecuted before or after solicitation of votes on the Plan or before or after the Effective Date.

Absent an express waiver or release set forth in the Plan, nothing in the Plan shall (or is intended to) prevent, estop or be deemed to preclude the Liquidating Debtors from utilizing, pursuing, prosecuting or otherwise acting upon all or any of their Retained Rights of Action and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to such Retained Rights of Action upon or after Confirmation or Consummation.

H. **Releases, Injunctions and Exculpation Provisions**

1. **Injunctions**

a. **Generally**

Unless otherwise provided in the Plan or the Confirmation Order, all injunctions and stays provided for in the Chapter 11 Cases pursuant to sections 105 and 362 of the Bankruptcy Code or otherwise in effect on the Confirmation Date, shall remain in full force and effect until the Effective Date. From and after the Effective Date, all Persons are permanently enjoined from, and restrained against, commencing or continuing in any court any suit, action or other proceeding, or otherwise asserting any claim or interest, seeking to hold (i) the Liquidating Debtors or their Estates, or (ii) the property of the Debtors or their Estates, liable for any Claim, obligation, right, interest, debt or liability that has been released pursuant to the Plan.

b. Injunction Related to Rights of Action and Claims, Administrative Expenses and Interests

Except as provided in the Plan or in the Confirmation Order, as of the Confirmation Date, all Entities that have held, currently hold or may hold a Claim, Administrative Expense, Interest or other debt or liability against or in the Debtors are permanently enjoined from taking any of the following actions against property of the Debtors or their Estates or the Liquidating Debtors on account of all or such portion of any such Claims, Administrative Expenses, Interests, debts or liabilities: (a) commencing or continuing, in any manner or in any place, any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order, (c) creating, perfecting or enforcing any lien or encumbrance; and (d) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan.

2. Exculpation

As of and subject to the occurrence of the Effective Date, for good and valuable consideration, including the consideration provided under the Plan, (i) the Debtors, (ii) the managers of certain of the Debtors, Messrs. R. Todd Neilson, M. Freddie Reiss, and Michael VanderLey (the “Independent Managers”), (iii) the Debtors’ attorneys and other professionals (solely in their respective capacity as professionals of the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors) (the “Debtor Retained Professionals”), (iv) the DSI Parties (solely with respect to services rendered for the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors, including as officers, representatives, professionals for, and/or agent of the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors), (v) the Beach Point Parties, including their officers, representatives, professionals, and/or agents; and (vi) the respective successors or assigns of the foregoing parties, shall neither have nor incur any liability to any Person or Entity for any act taken or omitted to be taken, on or after the Petition Date, in connection with, or related to, the formulation, preparation, dissemination, implementation, administration, Confirmation or Consummation of the Plan or any contract, instrument, waiver, release or other agreement or document created or entered into, in connection with the Plan, or any other act taken or omitted to be taken in connection with the Chapter 11 Cases up to and including the Effective Date; provided, however, that the foregoing provisions of this subsection shall have no effect on the liability of any Person or Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence, willful misconduct or fraud. For the avoidance of doubt, the scope of the exculpation provided under Article X.B of the Plan does not cover any of the Prepetition Insider Parties or the former officers, managers and representatives of the Debtors (other than the Independent Managers, the Debtor Retained Professionals, and the DSI Parties expressly exculpated above).

Notwithstanding anything in the Plan to the contrary, no Person serving as Plan Administrator shall have or incur any personal liability as the manager, member or officer of the Debtors or Liquidating Debtors for any act taken or omission made in connection with the wind-up or dissolution of the Liquidating Debtors or any nondebtor subsidiary or affiliate; provided, however, that the foregoing shall have no effect on the liability of the Plan Administrator that results from any such act or omission that is determined in a Final Order to have constituted gross negligence, willful misconduct or fraud.

3. **Debtors' Release of CRO, Independent Managers, and Other Parties**

As of and subject to the occurrence of the Effective Date, for good and valuable consideration, the Debtors, for themselves and the Estates, hereby irrevocably, unconditionally and generally release (i) the Independent Managers, (ii) the Debtor Retained Professionals, (iii) the DSI Parties (solely with respect to services rendered for the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors, including as officers, representatives, professionals for, and/or agent of the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors), (iv) the Beach Point Parties, including their officers, representatives, professionals, and/or agents, and (v) the respective successors or assigns of the foregoing parties (collectively, the "Released Parties"), from any and all claims, obligations, rights, suits, damages, causes of action, and liabilities, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, in law or equity or otherwise, which the Debtors or their Estates ever had, now have or hereafter can, shall or may have against any of the Released Parties from the beginning of time to the Effective Date that in any way relate to the Debtors, their direct or indirect non-Debtor subsidiaries, the Estates, or the Chapter 11 Cases. For the avoidance of doubt, the scope of the release provided under Article X.C of the Plan does not cover any of the Prepetition Insider Parties or the former officers, managers and representatives of the Debtors (other than the Independent Managers, the Debtor Retained Professionals, and the DSI Parties expressly released above).

4. **Release by Creditors**

As of and subject to the occurrence of the Effective Date and except for the treatment provided in the Plan, for good and valuable consideration, each Holder of a Claim that votes to accept the Plan (the "Creditor-Releasors"), for itself and its respective present or former officers, directors, managers, shareholders, trustees, partners and partnerships, members, agents, employees, representatives, attorneys, accountants, professionals, and successors or assigns, in each case solely in their capacity as such, shall be deemed to have completely, conclusively, unconditionally and irrevocably released (i) the Debtors, (ii) the Estates, (iii) the Independent Managers, (iv) the Debtor Retained Professionals, (v) the DSI Parties (solely with respect to services rendered for the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors, including as officers, representatives, professionals for, and/or agent of the Debtors or any direct or indirect non-Debtor subsidiary of the Debtors), (vi) the Beach Point Parties, including their officers, representatives, professionals, and/or agents, and (vii) the respective successors or assigns of the foregoing parties (the "Released Debtor/Beach Point Parties"), from any and all claims, obligations, rights, suits, damages, causes of action, and liabilities, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, in law or equity or otherwise, which the Debtors or their Estates ever had, now have or hereafter can, shall or may have against any of the Released Debtor/Beach Point Parties from the beginning of time to the Effective Date that in any way relate to the Debtors, their direct or indirect non-Debtor subsidiaries, the Estates, or the Chapter 11 Cases, provided that the foregoing release does not affect or impair any obligations under any intercreditor agreements or any other agreements or arrangements between and among non-Debtor parties. For the avoidance of doubt, the Released Debtor/Beach Point Parties do not include any of the Prepetition Insider Parties or the

former officers, managers or representatives of the Debtors, other than the Independent Managers, the Debtor Retained Professionals, and the DSI Parties expressly released above.

5. Release by Non-Debtor Affiliates of the Released Debtor/Beach Point Parties

Except as otherwise specifically provided in the Plan, for good and valuable consideration, as of the Effective Date, all of the non-debtor, direct or indirect subsidiaries of the Debtors (the “Releasor Affiliates”) shall conclusively, absolutely, unconditionally, irrevocably and forever release and discharge the Released Debtor/Beach Point Parties from any and all claims, obligations, rights, suits, damages, causes of action, and liabilities whatsoever, which the Releasor Affiliates ever had, now have or hereafter can, shall or may have against any of the Released Debtor/Beach Point Parties from the beginning of time to the Effective Date that in any way relate to the Debtors, their direct or indirect non-Debtor subsidiaries, the Estates, or the Chapter 11 Cases.

6. No Discharge

Nothing contained in the Plan shall be deemed to constitute a discharge of the Debtors under Bankruptcy Code section 1141(d)(3).

I. No Regulated Rate Change Without Government Approval

The Debtors do not charge any rates for purposes of section 1129(a)(6) that are regulated by any governmental regulatory commission with jurisdiction under applicable non-bankruptcy law.

J. Exemption from Certain Transfer Taxes

Pursuant to section 1146(c) of the Bankruptcy Code, any transfers by the Debtors pursuant to the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar Tax or governmental assessment.

K. Retention of Jurisdiction

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Cases and any of the proceedings related to the Chapter 11 Cases pursuant to section 1142 of the Bankruptcy Code and 28 U.S.C. § 1334 to the fullest extent permitted by the Bankruptcy Code and other applicable law, including, without limitation, such jurisdiction as is necessary to ensure that the purpose and intent of the Plan are carried out. Without limiting the generality of the foregoing, the Bankruptcy Court shall retain jurisdiction for the following purposes:

(1) establish the priority or secured or unsecured status of, allow, disallow, determine, liquidate, classify, or estimate any Claim, Administrative Expense or Interest (including, without limitation and by example only, determination of Tax issues or liabilities in accordance with section 505 of the Bankruptcy Code), resolve any objections to the allowance or priority of

Claims, Administrative Expenses or Interests, or resolve any dispute as to the treatment necessary to reinstate a Claim, Administrative Expense or Interest pursuant to the Plan, including but not limited to determining whether any Creditor has a valid Lien against any of the Debtors' assets;

(2) grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

(3) resolve any matters related to the rejection of any executory contract or unexpired lease to which the Debtors are a party or with respect to which the Debtors may be liable, and to hear, determine and, if necessary, liquidate any Claims or Administrative Expenses arising therefrom;

(4) ensure that distributions to Holders of Allowed Claims, Administrative Expenses or Interests are made pursuant to the provisions of the Plan, and to effectuate performance of the provisions of the Plan;

(5) decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving the Debtors that may be pending before the Effective Date or that may be commenced thereafter as provided in the Plan;

(6) enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order, except as otherwise provided in the Confirmation Order or in the Plan, including, without limitation, any stay orders as may be appropriate in the event that the Confirmation Order is for any reason reversed, stayed, revoked, modified, supplemented or amended;

(7) resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, the Confirmation Order, the Beach Point Purchase Agreement, or any Bankruptcy Court-approved overbid;

(8) subject to the restrictions on modifications provided in any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order; or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code;

(9) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation or enforcement of the Plan or the Confirmation Order,

(10) consider and act on the compromise and settlement of any Claim against, or Retained Right of Action of the Liquidating Debtors;

(11) decide or resolve any Retained Rights of Action under the Bankruptcy Code;

(12) enter such orders as may be necessary or appropriate in connection with the recovery of the assets of the Liquidating Debtors wherever located;

(13) hear and decide any objections to Claims brought by the Liquidating Debtors or any other party in interest, to the extent authorized by the Plan;;

(14) hear and decide any litigation, including any Avoidance Claims, as applicable, brought by the Liquidating Debtors;

(15) hear and determine any motions or contested matters involving Tax Claims or Taxes either arising prior (or for periods including times prior) to the Effective Date or relating to the administration of the Chapter 11 Cases, including, without limitation (i) matters involving federal, state and local Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, (ii) matters concerning Tax refunds due for any period including times prior to the Effective Date, and (iii) any matters arising prior to the Effective Date affecting Tax attributes of the Debtors;

(16) determine such other matters as may be provided for in the Confirmation Order or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law;

(17) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings issued or entered in connection with the Chapter 11 Cases or the Plan, including but not limited to the Beach Point Settlement Order, the Snowdon Settlement Order, and any other order approving any other stipulation or settlement in the Chapter 11 Cases;

(18) remand to state court any claim, cause of action, or proceeding involving the Debtors that was removed to federal court, in whole or in part in reliance upon 28 U.S.C. § 1334;

(19) determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, except as otherwise provided in the Plan;

(20) determine any other matter not inconsistent with the Bankruptcy Code; and

(21) enter an order or final decree concluding the Chapter 11 Cases.

L. Miscellaneous Matter

1. Headings

The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

2. Services by and Fees for Professionals and Certain Parties

Notwithstanding any other provision herein, Professional Fee Claims shall be paid in accordance with the terms of the order(s) authorizing such payments as promptly as possible on the Effective Date for any outstanding amounts due as of the Effective Date, and as soon as practicable thereafter as such obligation to pay becomes due unless otherwise agreed upon by the applicable Professional.

From and after the Effective Date, the Liquidating Debtors shall in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable fees and expenses of professionals thereafter incurred by the Liquidating Debtors.

3. Bar Date for Administrative Expenses

Requests for payment of all Administrative Expenses, other than for those for which a Bar Date was previously set (including the Bar Date set by the Bar Date Order) or for which a request and/or proof of Claim has previously been filed, must be Filed and served on the Liquidating Debtors and the United States Trustee by no later than thirty (30) days after the Effective Date. The Liquidating Debtors shall have until ninety (90) days after the Effective Date to bring an objection to a Timely Filed request for payment of an Administrative Expense (as may be extended pursuant to this section, the “Administrative Expense Objection Deadline”), provided that the Liquidating Debtors may seek extension(s) thereof subject to Bankruptcy Court approval and with notice only to parties that have requested such notice pursuant to Bankruptcy Rule 2002. Nothing in the Plan shall prohibit the Liquidating Debtors from paying Administrative Expenses in the ordinary course in accordance with applicable law during or after the Chapter 11 Cases, but after the Effective Date, the Liquidating Debtors’ obligation to pay an Administrative Expense will depend upon the claimant’s compliance with this section and such Administrative Expense being Allowed under the provisions of the Plan.

Notwithstanding the foregoing provisions of Article XIII.B.3 of the Plan, but except as may be expressly provided in other sections of the Plan, Professional Persons requesting compensation or reimbursement of expenses incurred after the Petition Date and prior to the Effective Date must file and serve, on all parties entitled to notice thereof, a Fee Application for final allowance of compensation and reimbursement of expenses in accordance with the various orders of the Bankruptcy Court establishing procedures for submission and review of such applications; provided that, if no last date is set in such procedures for filing such applications, they must be filed no later than sixty (60) days after the Effective Date and any objections to such applications must be made in accordance with applicable rules of the Bankruptcy Court.

M. Non-Voting Equity Securities

If and to the extent applicable, the Debtors shall comply with the provisions of section 1123(a)(6) of the Bankruptcy Code.

N. Subordination Agreements

Pursuant to section 510(a) of the Bankruptcy Code, to the extent there is any subordination agreement in place between creditors that is enforceable under non-bankruptcy law, the Debtors shall honor such subordination agreement and turn over any distributions required to be turned over pursuant to the terms of such agreements and the Bankruptcy Code.

O. Notices

All notices and requests in connection with the Plan shall be in writing and shall be hand delivered or sent by mail or facsimile addressed to:

Plan Administrator:

Bradley D. Sharp
Development Specialists, Inc.
333 S. Grand Avenue, Suite 4070
Los Angeles, CA 90071-1544
Telephone: 213-617-2717
Facsimile: 213-617-2718
Debtors' Counsel:

PACHULSKI STANG ZIEHL & JONES LLP
Attn: Richard M. Pachulski, Esq.
Maxim B. Litvak, Esq.
Peter J. Keane, Esq.
919 North Market Street, 17th Floor
Wilmington, DE 19899
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

All notices and requests to any Person of record holding any Claim, Administrative Expense or Interest shall be sent to such Person at the Person's last known address or to the last known address of the Person's attorney of record. Any such Person may designate in writing any other address for purposes of this section of the Plan, which designation will be effective on receipt.

P. Successors and Assigns

The rights, duties and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Person.

Q. Severability of Plan Provisions

If, prior to Confirmation, any non-material term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to their terms.

R. No Waiver

Neither the failure of the Debtors to list a Claim in the Debtors' Schedules, the failure of the Debtors to object to any Claim or Interest for purposes of voting, the failure of the Debtors to object to a Claim, Administrative Expense or Interest prior to Confirmation or the Effective Date, the failure of the Debtors to assert a Retained Right of Action prior to Confirmation or the Effective Date, the absence of a proof of Claim having been filed with respect to a Claim, nor any action or inaction of the Debtors or any other party with respect to a Claim, Administrative Expense, Interest or Retained Right of Action other than a legally effective express waiver or release shall be deemed a waiver or release of the right of the Liquidating Debtors or their successors, before or after solicitation of votes on the Plan or before or after Confirmation or the Effective Date to (a) object to or examine such Claim, Administrative Expense or Interest, in whole or in part or (b) retain and either assign or exclusively assert, pursue, prosecute, utilize, otherwise act or otherwise enforce any Rights of Action.

S. Inconsistencies

In the event the terms or provisions of the Plan are inconsistent with the terms and provisions of the exhibits to the Plan or documents executed in connection with the Plan, the terms of the Plan shall control.

T. U.S. Trustee Fees

All fees payable on or before the Effective Date pursuant to section 1930 of title 28 of the United States Code shall be paid by the Debtors on or before the Effective Date. From and after the Effective Date, the Liquidating Debtors shall pay the fees assessed against their respective Estates until such time as the particular Chapter 11 Cases are closed, dismissed or converted. In addition, the Liquidating Debtors shall file post-confirmation quarterly reports in conformity with the U.S. Trustee guidelines until entry of an order closing or converting the Chapter 11 Cases.

U. Plan Supplement

No later than ten (10) days prior to the Confirmation Hearing, the Debtors shall File with the Bankruptcy Court the Plan Supplement, which shall contain such substantially final agreements, other documents and information as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Holders of Claims or Interests may obtain a copy of the Plan Supplement upon written request to the Debtors.

V. Preservation of Insurance

The Debtors' release from and payment of Claims as provided in the Plan shall not diminish or impair the enforceability of any insurance policy that may cover any Claims, including, without limitation, any Claims on account of the Debtors' officers or managers.

W. Waiver of Stay

The Debtors request as part of the Confirmation Order a waiver from the Bankruptcy Court of the fourteen (14) day stay of Bankruptcy Rule 3020(e) and, to the extent applicable, a waiver of the fourteen (14) day stay of Bankruptcy Rule 6004(h).

X. Choice of Law

Except to the extent a rule of law or procedures is supplied by federal law (including but not limited to the Bankruptcy Code and the Bankruptcy Rules), the Plan shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts executed in and to be performed in that State.

Y. Conditions to Effective Date and Effects of Confirmation

The Plan will not be consummated and the Effective Date will not occur unless and until (A) the Confirmation Order is in a form acceptable to the Debtors; (B) all documents to be provided in the Plan Supplement are in form and substance acceptable to the Debtors; (C) the Confirmation Order shall be a Final Order; (D) the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid have been consummated or will be consummated substantially contemporaneously with the occurrence of the Effective Date; (E) the Debtors determine in their reasonable business judgment that they have sufficient Cash to pay all Allowed Administrative Expenses, Allowed Tax Claims and Allowed Priority Non-Tax Claims, as of the Effective Date, to the extent the holders thereof are entitled to payment as of such date under the Plan and unless otherwise agreed by such holders, and (F) the Debtors determine in their reasonable business judgment that the Debtors have sufficient Cash to pay all asserted, accrued and estimated Administrative Expenses that have not yet been Allowed or are otherwise not yet payable as of the Effective Date but which such Administrative Expenses are anticipated to be later Allowed or otherwise payable and the holders of any such Administrative Expenses have not agreed to alternative treatment. Any of the foregoing conditions, other than conditions (E) and (F), may be waived by the Debtors and such waiver shall not require any notice, Bankruptcy Court order, or any further action.

V.
EFFECTS OF CONFIRMATION

1. Binding Effect of Confirmation

Confirmation will bind the Debtors, all Holders of Claims, Administrative Expenses, or Interests and other parties in interest to the provisions of the Plan whether or not the Claim, Administrative Expense, or Interest of such Holder is Impaired under the Plan and whether or not the Holder of such Claim, Administrative Expense, or Interest has accepted the Plan.

2. Good Faith

Confirmation of the Plan shall constitute a finding that: (i) the Plan has been proposed in good faith and in compliance with applicable provisions of the Bankruptcy Code; and (ii) all Persons' solicitations of acceptances or rejections of the Plan and the offer, issuance, sale, or purchase of a security offered or sold under the Plan have been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

3. No Limitations on Effect of Confirmation

Nothing contained in the Plan will limit the effect of Confirmation as described in section 1141 of the Bankruptcy Code.

VI.
MODIFICATION OR WITHDRAWAL OF PLAN

A. Modification of Plan

The Debtors may seek to amend or modify the Plan at any time prior to its Confirmation in the manner provided by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise order, and except as otherwise set forth herein, the Debtors reserve the right to amend the terms of the Plan or waive any conditions to its Confirmation, effectiveness or consummation, if the Debtors determine that such amendments or waivers are necessary or desirable to confirm, effectuate or consummate the Plan.

After Confirmation of the Plan, but prior to the Effective Date, the Debtors may, pursuant to section 1127 of the Bankruptcy Code, seek to modify the Plan. After the Effective Date, the Liquidating Debtors may apply to the Bankruptcy Court to remedy defects or omissions in the Plan or to reconcile inconsistencies in the Plan.

B. Withdrawal of Plan

The Debtors reserve the right to revoke and withdraw the Plan at any time prior to the Effective Date, in which case the Plan will be deemed to be null and void. If the Debtors revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (if any), assumption or rejection of executory contracts or unexpired leases affected by the Plan, and

any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (iii) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests or Claims by the Debtors against any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors or any other Entity.

VII. **REQUIREMENTS FOR CONFIRMATION**

A. Acceptances Necessary to Confirm Plan

Voting rights are set forth as follows:

Class	Status	Voting Rights
Class 1 – Priority Non-Tax Claims	Unimpaired	Not Entitled to Vote. Deemed to Accept.
Class 2 – Miscellaneous Secured Claims	Unimpaired	Not Entitled to Vote. Deemed to Accept.
Class 3 – Mortgage Lender Claims	Impaired	Entitled to Vote.
Class 4 – Beach Point Claims	Impaired	Entitled to Vote.
Class 5 - General Unsecured Claims Against the Property-Owning Debtors	Unimpaired	Not Entitled to Vote. Deemed to Accept.
Class 6 - General Unsecured Claims Against Variant and the Intermediate Debtors	Impaired	Entitled to Vote.
Class 7 – Subordinated Claims and Intercompany Claims	Unimpaired	Not Entitled to Vote. Deemed to Accept.
Class 8 – Interests in the Debtors	Impaired	Not Entitled to Vote. Deemed to Reject.

If no Holder of a Claim eligible to vote in a particular Class timely votes to accept or reject the Plan, the Debtor will seek to have the Plan deemed **accepted** by the Holders of such Claims in such Class for purposes of section 1129(b) of the Bankruptcy Code.

B. Best Interest of Creditors Test

Confirmation requires, among other things, that each Holder of a Claim in an Impaired Class and each Holder of an Interest either: (a) accepts the Plan; or (b) receives or retains under the Plan property of a value, as of the Effective Date, that is not less than the value such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. This requirement is commonly referred to as the “best interests test.”

1. Chapter 7

To determine the value that the Holders of Impaired Claims and Interests would receive if the Debtors were liquidated, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors’ assets and properties in the context of a chapter

7 liquidation case. Section 704 of the Bankruptcy Code requires a chapter 7 trustee to collect and reduce to money the property of the estate as expeditiously as is compatible with the best interests of parties in interest.

Here, the Cash available in a chapter 7 case for satisfaction of Allowed Claims would consist of the Cash proceeds resulting from the liquidation of the Debtors' remaining assets, augmented by the Cash, if any, held by the Debtors at the time of the commencement of the chapter 7 case. Any such Cash amount would then be reduced by the amount of any Claims secured by such assets, the costs and expenses of the liquidation of any remaining assets, including the costs of prosecution of any pending litigation and Avoidance Claims, and such additional administrative claims and other priority claims that may be incurred during the chapter 7 case.

The costs of liquidation under chapter 7 would include fees payable to the chapter 7 trustee and his or her attorneys and other professionals and agents, plus any unpaid expenses incurred by the Debtors during the Chapter 11 Cases that would be entitled to priority in the chapter 7 case (such as compensation for Professional Persons and costs and expenses of the Debtors). Such Administrative Expenses arising during the chapter 7 and 11 cases would have to be paid in Cash in full from the liquidation proceeds before the balance of those proceeds could be made available to pay prepetition claims.

2. **Liquidation Alternative**

The Plan satisfies the best interest of creditors test. The Plan provides a greater recovery to the Holders of Allowed General Unsecured Claims than such Holders would receive under a liquidation under chapter 7, primarily because the Plan (a) implements the Beach Point Purchase Agreement, which will yield \$195,000,000 in value for the Estates, subject to higher and better bids, (b) provides for a voluntary settlement distribution to Holders of Allowed General Unsecured Claims against Variant or the Intermediate Debtors, subject to the conditions set forth in the Plan, notwithstanding that such creditors are otherwise "out of the money" under the terms of the Beach Point Settlement Agreement, and (c) avoids additional administrative expenses and commissions associated with the appointment of a chapter 7 trustee, while increasing the efficiency of administering the Debtors' remaining assets for the benefit of Creditors.

As to the voluntary settlement distribution under the Plan, subject to the conditions set forth in the Plan, each Holder of an Allowed General Unsecured Claim against Variant or an Intermediate Debtor shall have the option to elect, on account of such General Unsecured Claim, to receive a Pro Rata share (calculated as a percentage of all Allowed General Unsecured Claims against Variant and the Intermediate Debtors voting in favor of the Plan) of: (AA) the UCC Fund, and (BB) seventy-five percent (75%) of the net proceeds of the Retained Rights of Action against the Prepetition Insider Parties (with the remaining twenty-five (25%) of such net proceeds distributed to the Beach Point Funds), after payment of certain costs and expenses. This treatment would not be available absent the Plan because, under the Beach Point Settlement Agreement, the Beach Point Funds would have to be paid in full before General Unsecured Claims against Variant and the Intermediate Debtors receive anything. In addition, the Plan will also satisfy in full, or as agreed with such Holders, all Allowed Administrative Expenses,

Allowed Tax Claims, Allowed Priority Non-Tax Claims, Allowed Miscellaneous Secured Claims, and Allowed General Unsecured Claims against the Property-Owning Debtors.

The recovery to general unsecured creditors under the Plan is expected to be more than such creditors' recovery in a chapter 7 case. Among other things, if the Chapter 11 Cases were converted to a chapter 7 case, the Debtors' Estates would lose the benefits of the Beach Point Purchase Agreement and incur the costs of payment of a statutorily allowed sliding-scale commission to the chapter 7 trustee, as well as the additional costs of replacement counsel and other professionals retained by the trustee to get up to speed and assist with the liquidation.¹⁰ Such amounts, together with other wind-down costs, would likely exceed the amount of Plan Expenses that are expected to be incurred by the Plan Administrator and his or her professionals and agents in completing the liquidation of the remaining assets and otherwise winding up the affairs of the Debtors. Further, some residual value resulting from the Debtors' efforts prior to the chapter 7 trustee's appointment may be subsequently transferred to the Estates, and the chapter 7 trustee may be able to assert a commission for such funds although these may have primarily been the result of prior efforts. Additionally, the Debtors' estates would likely suffer additional delays, as a chapter 7 trustee and his/her counsel needs time to develop a necessary learning curve in order to complete the administration of the estate. The Debtors' estates would continue to be obligated to pay all unpaid expenses incurred by the Debtors during the Chapter 11 Cases (such as compensation for professionals) which will constitute Allowed Claims in any chapter 7 case. Moreover, a chapter 7 case would trigger a new bar date for filing claims that would be more than 90 days following conversion of the case to chapter 7. Fed. R. Bankr. P. 3002(c). Hence, a chapter 7 liquidation could severely reduce distributions to Creditors contemplated under the Plan.

Based upon these reasons, the Debtors believe that the Plan provides an opportunity to bring the highest return for Creditors.

3. **Feasibility of Plan**

Under section 1129(a)(11) of the Bankruptcy Code, the Debtors must show that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors (unless such liquidation or reorganization is proposed in the Plan).

The Plan clearly complies with this requirement assuming that the Debtors consummate the transactions contemplated by the Beach Point Purchase Agreement or a Bankruptcy-Court approved overbid and thereby ensure that adequate funds are available to fund distributions to Creditors pursuant to the terms of the Plan. As a result, as of the Effective Date, the Debtors believe that they will have sufficient funds to satisfy Claims pursuant to the treatment set forth in the Plan as well as to implement the Plan.

¹⁰ The chapter 7 trustee would likely engage his own advisors and professionals that would add more professional fees and expenses that would have to be paid prior to any distributions to holders of Allowed General Unsecured Claims.

4. **Classification**

In accordance with section 1122 of the Bankruptcy Code, the Plan provides for the classification of Claims. Section 1122(a) permits a plan to place a claim or equity interest in a particular class only if the claim or equity interest is substantially similar to the other claims or interests in that class. The Debtors believe that the classification of Claims and Interests under the Plan is appropriate and consistent with applicable law.

5. **Confirmation of Plan Without Necessary Acceptances; Cramdown**

A COURT MAY CONFIRM A PLAN, EVEN IF IT IS NOT ACCEPTED BY ALL IMPAIRED CLASSES, IF THE PLAN HAS BEEN ACCEPTED BY AT LEAST ONE IMPAIRED CLASS OF CLAIMS, AND THE PLAN MEETS THE “CRAMDOW” REQUIREMENTS SET FORTH IN SECTION 1129(b) OF THE BANKRUPTCY CODE. SECTION 1129(b) OF THE BANKRUPTCY CODE REQUIRES THAT THE BANKRUPTCY COURT FIND THAT A PLAN IS “FAIR AND EQUITABLE,” AND DOES NOT “DISCRIMINATE UNFAIRLY” WITH RESPECT TO EACH NON-ACCEPTING IMPAIRED CLASS OF CLAIMS OR INTERESTS. IN THE EVENT THAT ANY IMPAIRED CLASS REJECTS THE PLAN, IN ACCORDANCE WITH SECTION 1129(a)(8) OF THE BANKRUPTCY CODE, AND AT LEAST ONE IMPAIRED CLASS HAS VOTED TO ACCEPT THE PLAN, THE DEBTORS INTEND TO REQUEST THAT THE BANKRUPTCY COURT CONFIRM THE PLAN IN ACCORDANCE WITH THE “CRAMDOW” PROVISION OF SECTION 1129(b) OF THE BANKRUPTCY CODE, OR MODIFY THE PLAN IN ACCORDANCE WITH THE TERMS THEREOF.

The Plan provides for the possibility of invoking the “cramdown” provisions as defined in section 1129(a) of the Bankruptcy Code. Under this provision, the Bankruptcy Court has the authority to confirm the Plan even though a Class of Claims that is Impaired does not vote to accept the Plan, if another Class of Claims, which is also Impaired, votes to accept the Plan. This provision takes into account the possibility that one large claimant or several claimants may arbitrarily vote not to accept the Plan and that those arbitrary votes could be detrimental to other Creditors. In this instance the Bankruptcy Court, notwithstanding the negative vote of an Impaired Class, in the interest of being “fair and equitable,” may confirm the Plan if another Impaired Class has accepted the Plan. Such determination, if necessary, would be addressed at the Confirmation Hearing.

6. **No Unfair Discrimination**

The Debtors believe that under the Plan: (i) all Impaired Classes of Claims and Interests are treated in a manner that is consistent with the treatment of other Classes of Claims and Interests with which their legal rights are intertwined, if any; and (ii) no Class of Claims or Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims or Allowed Interests in such Class. The Debtors believe that the Plan does not discriminate unfairly as to any Impaired Class.

7. **Fair and Equitable Test**

With respect to a dissenting class of Claims and Interests, the “fair and equitable” standard requires that the Plan provide that either the Claims or Interests in each Class received everything to which they are legally entitled or that Classes junior in priority to the Class receive nothing. The strict requirement of the allocation of full value to dissenting classes before any junior class can receive distribution is known as the “absolute priority rule.”

The Bankruptcy Code establishes different “fair and equitable” tests for holders of secured claims, unsecured claims and interests as follows:

(i) **Secured Claims**

Either: (i) each holder of a secured claim (x) retains the lien securing its secured claim and receives on account of its allowed secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, or (y) realizes the “indubitable equivalent” of its allowed secured claim; or (ii) the property securing the claim is sold free and clear of liens, with such liens attaching to the proceeds, and the liens against such proceeds are treated in accordance with clause (i).

(ii) **Unsecured Claims**

Either: (i) each holder of an unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed claim; or (ii) the holders of claims and interests that are junior to the claims or the non-accepting class do not receive any property under the plan on account of such claims and interests.

(iii) **Equity Interests**

Either: (i) such holder of an interest receives or retains property of a value equal to the greater of any fixed liquidation preference or fixed redemption price to which such holder is entitled, or the value of the interest; or (ii) the holder of any interests junior to the interests in the impaired class will not receive or retain any property under the plan.

The cramdown provisions of the Bankruptcy Code are complex and this summary is not intended to be a complete statement of the law in this area.

VIII. **RISK FACTORS**

There is a risk under the Plan that Claims will materially exceed the Debtors’ estimates, in which case distributions to other creditor constituents would be significantly reduced or diluted. The process of reconciling all such Claims has not been completed and outstanding disputes remain that will need to be litigated or otherwise resolved. Plus, the Debtors have been informed of various previously unknown Claims that remain to be analyzed and additional Claims could be asserted in the future.

The Plan provides for certain conditions that must be satisfied (or waived) prior to the Effective Date. As of the date of this Disclosure Statement, there can be no assurance that any or all such conditions will be satisfied (or waived). Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated.

Further, there is a risk that the Plan may not be confirmed by the Bankruptcy Court, either because the requisite votes in favor of the Plan are not received or the Bankruptcy Court decides not to confirm the Plan on some other basis.

In addition, there is a risk that the transactions contemplated under the Beach Point Purchase Agreement or a Bankruptcy Court-approved overbid do not close. One of the conditions to sale is the buyer's ability to obtain a binding title policy for the Properties. Such requirement has created problems in the past, which should be remedied by virtue of the Property-Ownning Debtors' bankruptcy filings, but there can be no assurance that a binding title policy will be obtained. Further, there is the possibility of substantial delay associated with the closing of the sale of the Properties to the extent that an order of the District Court is required in order to obtain a binding title policy, and there is a risk that such order will not be obtained.

Notwithstanding the risks, however, the Debtors believe that the same risks described herein are present in and greater to Creditors in a chapter 7 case. Although the Debtors believe that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

Finally, there can be no assurance that modifications to the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes.

IX.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion is a summary of certain U.S. federal income tax consequences of the Plan to Holders of Claims against the Debtors. This discussion is based on the Internal Revenue Code (the "Tax Code"), Treasury Regulations promulgated and proposed thereunder, judicial decisions and published administrative rules and pronouncements of the Internal Revenue Service ("IRS"), all as in effect on the date hereof. Due to the complexity of certain aspects of the Plan, the lack of applicable legal precedent, the possibility of changes in the law, the differences in the nature of the Claims (including Claims within the same Class), the Holder's status and method of accounting (including Holders within the same Class) and the potential for disputes as to legal and factual matters with the IRS, the tax consequences described herein are subject to significant uncertainties. No legal opinions have been requested from counsel with respect to any of the tax aspects of the Plan and no rulings have been or will be requested from the IRS with respect to the any of the issues discussed below. Further, legislative, judicial or administrative changes may occur, perhaps with retroactive effect, which could affect the accuracy of the statements and conclusions set forth below as well as the tax consequences to the Debtors and the Holders of Claims.

This discussion does not purport to address all aspects of U.S. federal income taxation that may be relevant to the Debtors or the Holders of Claims in light of their personal

circumstances, nor does the discussion deal with tax issues with respect to taxpayers subject to special treatment under the U.S. federal income tax laws (including, for example, banks, governmental authorities or agencies, pass-through entities, brokers and dealers in securities, traders that mark-to-market their securities, mutual funds, insurance companies, other financial institutions, real estate investment trusts, tax-exempt organizations, small business investment companies, regulated investment companies, foreign taxpayers, persons whose functional currency is not the U.S. dollar, persons subject to the alternative minimum tax, and persons holding Claims or Interests as part of a “straddle,” “hedge,” “constructive sale” or “conversion transaction” with other investments). This discussion does not address the tax consequences to Holders of Claims who did not acquire such Claims at the issue price on original issue. No aspect of foreign, state, local or estate and gift taxation is addressed.

The U.S. federal income tax consequences of the distributions contemplated by the Plan to the Holders of Claims that are U.S. Persons will depend upon a number of factors. For purposes of the following discussion, a “U.S. Person” is any person or entity (1) who is a citizen or resident of the United States, (2) that is a corporation or partnership created or organized in or under the laws of the United States or any state thereof, (3) that is an estate, the income of which is subject to U.S. federal income taxation regardless of its source or (4) that is a trust (a) the administration over which a United States person can exercise primary supervision and all of the substantial decisions of which one or more U.S. persons have the authority to control; or (b) that has in effect a valid election to continue to be treated as a U.S. Person for U.S. federal income tax purposes. In the case of a partnership, the tax treatment of its partners will depend on the status of the partner and the activities of the partnership. U.S. Persons who are partners in a partnership should consult their tax advisors. A “Non-U.S. Person” is any person or entity that is not a U.S. Person. For purposes of the following discussion and unless otherwise noted below, the term “Holder” will mean a Holder of a Claim that is a U.S. Person.

Except where otherwise indicated, this discussion assumes that the Claims are held as capital assets within the meaning of section 1221 of the Tax Code.

THE FOLLOWING SUMMARY IS NOT INTENDED TO CONSTITUTE ADVICE TO ANY PARTY, AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE PERSONAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM. EACH HOLDER OF A CLAIM, AS WELL AS EACH HOLDER OF AN INTEREST, IS URGED TO CONSULT WITH SUCH HOLDER’S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

IRS Circular 230 Notice. To ensure compliance with IRS Circular 230, Holders of Claims and Interests are hereby notified that: (a) any discussion of federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by Holders of Claims and Interests for the purpose of avoiding penalties that may be imposed on them under the Tax Code; (b) such discussion is written in connection with the promotion or marketing by the Debtors of the transactions or matters addressed herein; and (c) Holders of Claims and Interests should seek advice based on their particular circumstances from an independent tax advisor.

A. Federal Taxation Issues Related to Pass-Through Entities in General

For U.S. federal income tax law purposes, an entity can be organized as a corporation, a partnership, or a hybrid entity (otherwise known as S corporations and limited liability companies). The two primary differences between corporations and partnerships are how the entity's earnings are taxed and whether or not the shareholder/owners are shielded from the liabilities of the entity. Generally, corporations are treated as independent tax-paying entities, unaffected by the personal characteristics of their shareholders or changes in their composition as a result of transfers of stock from old shareholders to new ones, giving rise to the potential for double taxation. Because corporations are treated independently, corporate income is taxed to a corporation as it is received or accrued, and is taxed at the shareholder level when and if the corporation distributes earnings to the shareholders or they sell their stock. Partnerships, however, are not entities subject to income tax. Instead, the partners are taxed directly on partnership income whether or not it is actually distributed to them.

Hybrid entities, on the other hand, combine the two primary differences between corporations and partnerships. As to S corporations, shareholders are shielded from entity level liability similar to that of a corporation; however, generally, the earnings of the entity are taxed at the ownership level similar to that of a partnership. As to limited liability companies, member-owners are shielded from entity level liability similar to that of a corporation; however, unique to the LLC, an option exists to be taxed as a corporation or taxed as a partnership, provided that the LLC has at least two member-owners, as set forth under Treasury Regulations Section 301.7701-3.

Generally, pass-through entities are subject to a single layer of tax on their earnings at the ownership level (partner, member, or shareholder depending on entity type). Taxable income of pass-through entities is computed at the entity level (generally each type of entity will file a tax return showing no tax liability at the entity level); however, each owner is taxed separately on his, her, or its distributive share of income, gain, loss, deduction, and/or credit, as applicable. The character of the items included in taxable income is determined at the entity level with no regard to the owners' individual characteristics. With respect to tax attributes, pass-through entities are generally not allowed to maintain certain tax attributes, such as net operating losses, given such entities are not directly taxable. These tax attributes pass-through to the owners, and usage, carryback, or carryforward of these attributes is determined at the ownership level.

BECAUSE THE FINAL TAX TREATMENT OUTCOME DEPENDS ON EACH PARTY'S SPECIFIC SITUATION, PARTIES IN INTEREST ARE URGED TO CONSULT WITH THEIR TAX ADVISORS REGARDING THE TAX IMPLICATIONS TO THEM WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED UNDER OR IN CONNECTION WITH THE PLAN AND THEIR SPECIFIC SITUATION, AND NOTHING HEREIN IS INTENDED TO CONSTITUTE ADVICE TO ANY PARTY.

B. Consequences to Creditors

1. Holders of Claims

Generally, a holder of a Claim should in most, but not all circumstances, recognize gain or loss equal to the difference between the “amount realized” by such holder in exchange for its Claim and such holder’s adjusted tax basis in the Claim. The “amount realized” is equal to the sum of the cash and the fair market value of any other consideration received under a plan of reorganization in respect of a holder’s Claim. The tax basis of a holder in a Claim will generally be equal to the holder’s cost therefore. To the extent applicable, the character of any recognized gain or loss (*e.g.*, ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the holder, the nature of the Claim in the holder’s hands, the purpose and circumstances of its acquisition, the holder’s holding period of the Claim, and the extent to which the holder previously claimed a deduction for the worthlessness of all or a portion of the Claim. Generally, if the Claim is a capital asset in the holder’s hands, any gain or loss realized will generally be characterized as capital gain or loss, and will constitute long-term capital gain or loss if the holder has held such Claim for more than one year.

A Holder who received Cash in satisfaction of its Claims may recognize ordinary income or loss to the extent that any portion of such consideration is characterized as accrued interest. A Holder who did not previously include in income accrued but unpaid interest attributable to its Claim, and who receives a distribution on account of its Claim pursuant to the Plan, will be treated as having received interest income to the extent that any consideration received is characterized for United States federal income tax purposes as interest, regardless of whether such Holder realizes an overall gain or loss as a result of surrendering its Claim. A Holder who previously included in its income accrued but unpaid interest attributable to its Claim should recognize an ordinary loss to the extent that such accrued but unpaid interest is not satisfied, regardless of whether such Holder realizes an overall gain or loss as a result of the distribution it may receive under the Plan on account of its Claim.

Under the Plan, certain Creditors may receive only a partial distribution of their Allowed Claims. Whether the Holder of such Claims will recognize a loss or any other tax treatment will depend upon facts and circumstances that are specific to the nature of the Holder and its Claims. Creditors should consult their own tax advisors.

2. Non-United States Persons

A Holder of a Claim that is a Non-U.S. Person generally will not be subject to United States federal income tax with respect to property (including money) received in exchange for such Claim pursuant to the Plan, unless (i) such Holder is engaged in a trade or business in the United States to which income, gain or loss from the exchange is “effectively connected” for United States federal income tax purposes, or (ii) if such Holder is an individual, such Holder is present in the United States for 183 days or more during the taxable year of the exchange and certain other requirements are met.

C. Importance of Obtaining Professional Tax Assistance

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIM HOLDER'S OR INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIM AND INTEREST HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

X.

ALTERNATIVES TO PLAN AND MISCELLANEOUS MATTERS

A. Alternatives to Debtors' Proposed Plan

The Debtors believe that if the Plan is not confirmed, or is not confirmable, the alternatives to the Plan include: (a) conversion of the Chapter 11 Cases to chapter 7; (b) dismissal of the Debtors' cases; or (c) an alternative plan of reorganization or liquidation which, in the Debtors' view, would offer less favorable treatment to creditors than that proposed under the Plan.

1. Liquidation Under Chapter 7

If no plan can be confirmed, the Debtors' Chapter 11 Cases may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed to liquidate the Debtors' assets for distribution to Creditors in accordance with the priorities established by the Bankruptcy Code. For the reasons previously discussed above, the Debtors believe that Confirmation of the Plan will provide Creditors with a recovery that is expected to be substantially more than could be achieved in a liquidation under chapter 7 of the Bankruptcy Code.

2. Dismissal

Dismissal of the Chapter 11 Cases would result in each individual creditor having to protect its own rights through legal action, likely resulting in, among other things, numerous suits and other proceedings being commenced and actions being taken by secured creditors to protect or foreclose upon their collateral, requiring the Debtors to expend substantial time and resources to respond to and address such matters. The Debtors believe that dismissal of the Chapter 11 Cases would result in disparate, delayed and potentially smaller recoveries by Creditors.

B. No Res Judicata Effect

Notwithstanding anything to the contrary in the Plan, or in this Disclosure Statement, the provisions of this Disclosure Statement and the Plan which permits the Debtors to enter into settlements and compromises of any potential litigation, will not have and are not intended to have any *res judicata* effect with respect to any prepetition Claims and causes of action that are not otherwise treated under the Plan, and will not be deemed a bar to asserting such Claims and causes of action.

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XI.

CONCLUSION

The Debtors believe that the Plan is in the best interest of Creditors and urge Creditors to vote to accept the Plan.

February 28, 2016



Bradley D. Sharp
Chief Restructuring Officer of
Debtors and Debtors in Possession

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Exhibit 1

Plan

Filed Separately

Exhibit 2

Disclosure Statement Order

Filed Separately

Exhibit 3

Corporate/Organizational Chart

