

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)
)
) **Hearing Date: May 9, 2016 at 10:00 a.m. (ET)**

DEBTORS' FIRST AMENDED CHAPTER 11 PLAN OF LIQUIDATION

PACHULSKI STANG ZIEHL & JONES LLP
Richard M. Pachulski (CA Bar No. 90073)
Maxim B. Litvak (CA Bar No. 215852)
Peter J. Keane (Bar No. 5503)
919 Market Street, 17th Floor | P.O. Box 8705
Wilmington, Delaware 19899-8705
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

Counsel to Debtors and Debtors in Possession

Dated: March 30, 2016

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.

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW	5
A. Rules of Interpretation, Computation of Time, and Governing Law	5
B. Defined Terms	6
III. TREATMENT OF ADMINISTRATIVE EXPENSES, TAX CLAIMS AND DIP FINANCING CLAIMS	28
A. Introduction	28
B. Administrative Expenses	28
C. Tax Claims	29
IV. CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS	30
A. Summary	30
B. Classification and Treatment of Claims and Interests	31
V. ACCEPTANCE OR REJECTION OF PLAN	39
A. Identification of Unimpaired Classes	39
B. Identification of Impaired Classes	39
C. Classes Permitted and Not Permitted to Vote	39
D. Effect of Non-Voting	40
E. Nonconsensual Confirmation	40
F. Postpetition Interest	40
VI. MEANS FOR IMPLEMENTATION OF THE PLAN	41
A. Sale of Assets	41
B. Beach Point Settlement	41
C. Continued Corporate Existence and Vesting of Assets	41
D. Corporate Action; Winding Up of Affairs	43
E. Plan Administrator	45
F. Source of Funding	48

G.	Retained Rights of Action of the Debtors.....	48
H.	Interests in Non-Debtor Affiliates and Subsidiaries	49
I.	Payment of Plan Expenses	49
J.	Dissolution of Debtors; Final Decree	50
K.	Records	50
VII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES.....		51
A.	Rejection of Executory Contracts and Unexpired Leases.....	51
B.	Bar Date for Rejection Damages	52
VIII. DISTRIBUTIONS AND RELATED MATTERS.....		53
A.	Dates of Distribution.....	53
B.	Cash Distributions.....	53
C.	Rounding of Payments.....	54
D.	Disputed Claims.....	54
E.	Undeliverable and Unclaimed Distributions.....	55
F.	Compliance with Tax Requirements.....	55
G.	Record Date in Respect to Distributions.....	56
H.	Reserves	56
IX. LITIGATION, OBJECTIONS TO CLAIMS, AND DETERMINATION OF TAXES		57
A.	Litigation; Objections to Claims; Objection Deadline.....	57
B.	Temporary or Permanent Resolution of Disputed Claims	58
C.	Setoffs	59
D.	Preservation of Retained Rights of Action	59
X. RELEASES, INJUNCTIONS, EXCULPATION AND RELATED PROVISIONS		61
A.	Injunctions.....	61
B.	Exculpation	62
C.	Debtors’ Release of CRO, Managers, and Other Parties	63
D.	Release by Creditors	64

E.	Release by Non-Debtor Affiliates of the Released Debtor/Beach Point Parties ..	65
F.	No Discharge	66
XI.	NO REGULATED RATE CHANGE WITHOUT GOVERNMENT APPROVAL.....	66
XII.	EXEMPTION FROM CERTAIN TRANSFER TAXES.....	66
XIII.	RETENTION OF JURISDICTION AND MISCELLANEOUS MATTERS	67
A.	Retention of Jurisdiction.....	67
B.	Miscellaneous Matters	70
XIV.	CONDITIONS TO EFFECTIVENESS.....	76
XV.	EFFECT OF CONFIRMATION.....	77
A.	Binding Effect of Confirmation.....	77
B.	Good Faith	77
C.	No Limitations on Effect of Confirmation.....	77
XVI.	MODIFICATION OR WITHDRAWAL OF PLAN.....	78
A.	Modification of Plan	78
B.	Withdrawal of Plan	78
XVII.	CONFIRMATION REQUEST	80

Debtors and debtors in possession Variant Holding Company, LLC, and its direct and indirect subsidiaries as set forth in footnote 1 hereof, hereby propose the following *Debtors' First Amended Chapter 11 Plan of Liquidation* pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* Capitalized terms used in this Plan shall have the meanings set forth in Article II hereof.

I.

INTRODUCTION

This 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. This Plan incorporates the terms of such sale.

Under this 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, or (b) have their obligations assumed or otherwise addressed pursuant to agreements with such holders.

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 this 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, and the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid closing, by no later than the Outside Plan Settlement Date.

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 this 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 this 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 this 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 this 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 this Plan, subject to the provisions hereof, 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 this Plan; and take such other actions required under or consistent with this Plan. The initial Plan Administrator will be Bradley D. Sharp, the Debtors' current Chief Restructuring Officer.

The Disclosure Statement, distributed with this Plan, contains a discussion of the Debtors' history, a summary of the Debtors' assets and liabilities, a summary of what Holders of Claims and Interests will receive under this Plan, a discussion of certain alternatives to this Plan, and a summary of the procedures and voting requirements necessary for Confirmation of this Plan. The Disclosure Statement is intended to provide Holders of Claims with information sufficient to enable such Holders to vote on this Plan. All Holders of Claims entitled to vote on this Plan are encouraged to carefully read the Disclosure Statement and this Plan before voting to accept or reject this Plan.

II.

**DEFINED TERMS, RULES OF INTERPRETATION,
COMPUTATION OF TIME, AND GOVERNING LAW**

A. Rules of Interpretation, Computation of Time, and Governing Law

For purposes of “this Plan” or “the Plan” as used herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter gender; (b) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references in the Plan to sections and exhibits are references to sections and exhibits of or to the Plan; (e) the words “herein” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form in the Plan that is not defined in the Plan, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning set forth in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

Except to the extent that the Bankruptcy Code, Bankruptcy Rules or other federal law is applicable, and subject to the provisions of the Plan or any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

B. Defined Terms

The following definitions shall apply to capitalized terms used in the Plan:

1. “Administrative Expense” means an unpaid administrative expense of the kind described in sections 503(b) and 507(a)(2) of the Bankruptcy Code against the applicable Debtor, including, without limitation, (a) the actual, necessary costs and expenses of preserving the Estate of the applicable Debtor, including wages, salaries, or commissions for services rendered after the commencement of the applicable Chapter 11 Case, (b) compensation and reimbursement of expenses of professionals to the extent allowable under sections 327, 328, 330(a), 331, 503(b) and/or 1103 of the Bankruptcy Code and Allowed or otherwise payable pursuant to orders of the Court, (c) all fees and charges assessed against the applicable Estate under 28 U.S.C. § 1930, including the fees, if any, due to the United States Trustee, and (d) the Beach Point DIP Claims.

2. “Administrative Expense Objection Deadline” has the meaning set forth in Article XIII.B.3 of this Plan.

3. “Allowed” means with respect to any Claim, Administrative Expense or Interest, except as otherwise provided herein: (a) a Claim that has been scheduled by the applicable Debtor in its Schedules as other than disputed, contingent or unliquidated which has not been superseded by a filed proof of claim and which scheduled Claim has not been amended; (b) a Claim or Administrative Expense that has been allowed by a Final Order; (c) a Claim that is allowed by the applicable Liquidating Debtor on or after the Effective Date and, if and to the extent necessary, approved by the Bankruptcy Court; (d) a Claim or Administrative Expense that has been timely filed by the applicable Bar Date for which no objection has been filed by the applicable Objection Deadline or the Administrative Expense Objection Deadline; or (e) a Claim or Administrative Expense that is allowed pursuant to the terms of this Plan.

4. “Avoidance Claims” means any Rights of Action for the recovery of avoidable transfers arising under chapter 5 of the Bankruptcy Code or applicable federal or state law and the proceeds thereof.

5. “Ballot” means the form distributed to each Holder of an Impaired Claim entitled to vote on the Plan, on which is to be indicated, among other things, acceptance or rejection of the Plan.

6. “Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as amended, as set forth in title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as now in effect or hereafter amended.

7. “Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, or such other

court of competent jurisdiction as may be administering the Chapter 11 Cases or any part thereof, as applicable.

8. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure promulgated pursuant to 28 U.S.C. § 2075, as now in effect or hereinafter amended, together with the Local Rules of the Bankruptcy Court.

9. “Bar Date” means (a) March 17, 2015, at 4:00 p.m. prevailing Eastern time for all Claims against Variant arising prior to the Petition Date, including Claims arising under § 503(b)(9) of the Bankruptcy Code; (b) March 17, 2015, at 4:00 p.m. prevailing Eastern time for all Claims of Governmental Units against Variant before the Petition Date; (c) April 11, 2016, at 4:00 p.m. prevailing Eastern time for all Claims against the Debtors other than Variant arising prior to the Petition Date, including Claims arising under § 503(b)(9) of the Bankruptcy Code; (d) July 11, 2016, at 4:00 p.m. prevailing Eastern time for all Claims of Governmental Units against the Debtors other than Variant before the Petition Date; and (e) such other date as the Bankruptcy Court may set by Order for Administrative Expenses or any other Claims not covered in the Bar Date Order.

10. “Bar Date Order” means the Order of the Bankruptcy Court at docket number 211 in Variant’s Chapter 11 Case and the Order of the Bankruptcy Court at docket number 786 in the remaining Debtors’ Chapter 11 Cases.

11. “Beach Point Acquired Assets” means the “Acquired Assets” as defined in the Beach Point Purchase Agreement, to the extent the Beach Point Funds are the “Successful Bidder” (as defined in the Beach Point Purchase Agreement) for such Acquired Assets.

12. “Beach Point Assumption Order” means the order of the Bankruptcy Court dated January 19, 2016 at docket number 698 in the Chapter 11 Cases, assuming the Beach Point Settlement Agreement.

13. “Beach Point Claims” means any Claim asserted by the Beach Point Funds against the Debtors in accordance with the terms of, and Allowed pursuant to, the Beach Point Settlement Agreement, excluding the Beach Point DIP Claims.

14. “Beach Point DIP Claims” means any Claim asserted by the Beach Point Funds against the Debtors in accordance with the terms of the Beach Point DIP Agreement, including the Tranche A Obligations and Tranche B Obligations thereunder.

15. “Beach Point DIP Agreement” means that certain *Amended and Restated Debtor-in-Possession Loan, Security and Guaranty Agreement* dated as of January 14, 2016 between the Debtors, as borrowers and guarantors, the Beach Point Funds, as lenders, and Cortland Capital Market Services LLC, as administrative agent, as such agreement may be amended, modified or supplemented.

16. “Beach Point Funds” means BPC VHI, L.P., Beach Point Total Return Master Fund, L.P., Beach Point Distressed Master Fund, L.P., and any successor(s) thereto or assign(s) thereof.

17. “Beach Point Parties” means the Beach Point Funds, Beach Point Capital Management LP, and BPC AS LLC.

18. “Beach Point Purchase Agreement” means that certain *Portfolio Purchase and Sale Agreement*, dated as of January 18, 2016, between certain of the Debtors, as sellers, and

the Beach Point Funds, as buyer, as it may be amended, modified or supplemented from time to time.

19. “Beach Point Settlement Agreement” means that certain *Settlement Agreement*, dated as of October 17, 2014, between the Debtors, the Beach Point Funds, and certain other parties, which was approved by the Bankruptcy Court in Variant’s Chapter 11 Case pursuant to the Beach Point Settlement Order and which was assumed by the remaining Debtors through the Beach Point Assumption Order.

20. “Beach Point Settlement Order” means the order of the Bankruptcy Court dated November 3, 2014 at docket number 152 in Variant’s Chapter 11 Case, approving the Beach Point Settlement Agreement.

21. “Business Day” means any day, other than a Saturday, a Sunday or a “legal holiday,” as defined in Bankruptcy Rule 9006(a).

22. “Cash” means currency of the United States of America and cash equivalents, including, but not limited to, bank deposits, immediately available or cleared checks, drafts, wire transfers and other similar forms of payment.

23. “Chapter 11 Cases” means the cases commenced under chapter 11 of the Bankruptcy Code by each Debtor on the applicable Petition Date and pending before the Bankruptcy Court.

24. “Claim” means any claim against the applicable Debtor within the meaning of section 101(5) of the Bankruptcy Code that is not an Administrative Expense,

including, without limitation, claims of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code.

25. “Class” means each category of Claims or Interests classified in Article IV of the Plan pursuant to section 1122 of the Bankruptcy Code.

26. “Confirmation” means the approval by the Bankruptcy Court of the Plan in accordance with the provisions of chapter 11 of the Bankruptcy Code, as effectuated by the Confirmation Order.

27. “Confirmation Date” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket.

28. “Confirmation Hearing” means the hearing(s) on Confirmation of the Plan, to be held on the date or dates established by the Bankruptcy Court pursuant to section 1129 of the Bankruptcy Code, as it may be adjourned or continued from time to time.

29. “Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan in accordance with the provisions of chapter 11 of the Bankruptcy Code, in form and substance reasonably acceptable to the Debtors.

30. “Consummation” means substantial consummation of the Plan as that term is used in section 1127(b) of the Bankruptcy Code.

31. “Creditor” means any Person who is the Holder of a Claim or an Administrative Expense against the applicable Debtor.

32. “Creditor-Releasor” has the meaning set forth in Article X.E of this Plan.

33. “Debtors” means Variant and the remaining debtors and debtors in possession identified in footnote 1 of this Plan, either in their capacities as debtors and debtors in possession under chapter 11 of the Bankruptcy Code in the Chapter 11 Cases or otherwise from and after the Effective Date.

34. “Debtor Retained Professionals” has the meaning set forth in Article X.B of this Plan.

35. “Disallowed” means, with respect to a Claim, Interest, Administrative Expense, or portion thereof, that is either a Disputed Claim, or it is determined that the Claim, Interest, Administrative Expense, or portion thereof is not allowed under the Bankruptcy Code by any of a Final Order, the Plan, or a stipulation or settlement with the applicable Debtor.

36. “Disclosure Statement” means the *Disclosure Statement in Respect of Debtors’ First Amended Chapter 11 Plan of Liquidation*, as it may be amended, modified or supplemented from time to time, submitted pursuant to section 1125 of the Bankruptcy Code in connection with the solicitation of acceptances of the Plan.

37. “Disputed Claim” means (a) a Claim, Interest or Administrative Expense that is subject to a pending objection filed by the Objection Deadline or the Administrative Expense Objection Deadline, as applicable, or for which the Bankruptcy Court’s order allowing or disallowing such Claim, Interest or Administrative Expense is on appeal; (b) a Claim, on account of which a proof of Claim was filed or which has been otherwise asserted, (i) for which a corresponding Claim has not been listed in the applicable Debtor’s Schedules or for which the corresponding Claim is listed in the applicable Debtor’s Schedules with a lower amount, with a

differing classification, or as disputed, contingent, or unliquidated, and (ii) which has not been allowed either by a Final Order, the Plan, or under a stipulation or settlement with the applicable Debtor or Liquidating Debtor; (c) any contingent or unliquidated Claim; or (d) a Claim that is not Allowed.

38. “Distributable Assets” means, except as otherwise noted below, any and all real or personal property of the applicable Debtor of any nature, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, inventory, accounts, chattel paper, Cash (including Cash that may be upstreamed or paid to the applicable Debtor or Liquidating Debtor by such Debtor’s subsidiaries and other corporate affiliates, derived from the sale or other disposition of such entities’ assets), deposit accounts, reserves, deposits, contractual rights, intellectual property rights, Claims, Retained Rights of Action, books and records, any other general intangibles of the applicable Debtor, and any and all proceeds of the foregoing, as the case may be, of any nature whatsoever (whether liquidated or unliquidated, matured or unmatured, or fixed or contingent), including, without limitation, property of the applicable Estate within the scope of section 541 of the Bankruptcy Code. Notwithstanding the foregoing, the term “Distributable Assets” does not include any property that has been abandoned by the applicable Estate pursuant to a Final Order of the Bankruptcy Court.

39. “DSI” means Development Specialists, Inc.

40. “DSI Parties” means those employees and other personnel of DSI, who have been or may be provided by DSI prior to the Effective Date to provide services and support to the Debtors, including, without limitation, Bradley D. Sharp in his capacity as Chief Restructuring Officer of the Debtors.

41. “Effective Date” means the first Business Day after the Confirmation Date immediately following the first day upon which all of the conditions to the occurrence of the Effective Date have been satisfied or waived in accordance with the Plan.

42. “Entity” and “Entities” mean an entity as defined in section 101(5) of the Bankruptcy Code or more than one thereof.

43. “Equity Security” means any equity security as defined in section 101(16) of the Bankruptcy Code in a Debtor.

44. “Estates” means the estates created pursuant to section 541(a) of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

45. “Federal Judgment Rate” means the interest rate on federal judgments, in effect for the calendar week of the Petition Date, and is based on the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System.

46. “Fee Applications” mean applications of Professional Persons under sections 330, 331 or 503 of the Bankruptcy Code for allowance of compensation and reimbursement of expenses in the Chapter 11 Cases.

47. “File” or “Filed” means filed of record and entered on the docket in the Chapter 11 Cases.

48. “Final Order” means a judgment, order, ruling or other decree issued and entered by the Bankruptcy Court or by any state or other federal court or other tribunal which judgment, order, ruling or other decree has not been reversed, stayed, revoked, modified, supplemented or amended and as to which (a) the time to appeal or petition for review, rehearing or certiorari has expired and as to which no appeal or petition for review, rehearing or certiorari is pending, or (b) any appeal or petition for review, rehearing or certiorari has been finally decided and no further appeal or petition for review, rehearing or certiorari can be taken or granted.

49. “Final Resolution Date” means the date on which all Disputed Claims of Creditors shall have been resolved by Final Order or otherwise finally determined.

50. “FX3 Cash Collateral Order” means the order of the Bankruptcy Court in the Debtors’ Chapter 11 Cases captioned *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*, dated February 12, 2016 at docket number 811.

51. “FX3 Lender” means 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, and any successor(s) thereto or assign(s) thereof.

52. “FX3 Lender Claims” means any Claim asserted by the FX3 Lender against the Debtors in accordance with the terms of the FX3 Loan Documents.

53. “FX3 Loan Documents” means the “Loan Documents” as defined in the FX3 Cash Collateral Order.

54. “General Unsecured Claim” means a Claim against the applicable Debtor, other than (a) an Administrative Expense, (b) a Tax Claim, (c) a Priority Non-Tax Claim, (d) a Beach Point Claim, (e) an Intercompany Claim, (f) a Miscellaneous Secured Claim, and (g) a Subordinated Claim.

55. “Governmental Unit” has the meaning set forth in section 101(27) of the Bankruptcy Code.

56. “Holder” means the beneficial owner of any Claim, Interest, or Administrative Expense.

57. “H14 Lender” means Centennial Bank, and any successor(s) thereto or assign(s) thereof.

58. “H14 Lender Claims” means any Claim asserted by the H14 Lender against the Debtors in accordance with the terms of the H14 Loan Documents.

59. “H14 Loan Agreement” means that *Loan Agreement*, dated as of September 13, 2013, originally executed by and between certain of the Debtors and Doral Bank.

60. “H14 Loan Documents” means the “Loan Documents” as defined in the H14 Loan Agreement.

61. “Impaired” has the meaning set forth in section 1124 of the Bankruptcy Code.

62. “Independent Managers” has the meaning set forth in Article X.B of this Plan.

63. “Interest” means (a) any Equity Security, including all membership interests, shares or similar securities, whether or not transferable or denominated “stock” and whether issued, unissued, authorized or outstanding; (b) any warrant, option, or contractual right to purchase, sell, subscribe or acquire such Equity Securities at any time and all rights arising with respect thereto; and (c) any similar interest in the Debtors.

64. “Intercompany Claim” means any Claim against the applicable Debtor asserted by any of the other Debtors.

65. “Intermediate Debtors” means Debtors Laser Focus Holding Company, LLC; Laser Focus Commercial Investments, LLC; Houston 2 Apartments, LLC; Houston 14 Apartments, LLC; 12500 Plaza Apartments, LLC; Numeric Commercial Investments, LLC; FX3 Apartment Investors, LLC; Royal Numeric FX Investments, LLC; Majestic Heights Apartments, LLC; Sonterra Apartments, LLC; and Toscana Villas Apartments, LLC, either in their capacities as debtors and debtors in possession under chapter 11 of the Bankruptcy Code in the Chapter 11 Cases or otherwise from and after the Effective Date.

66. “IRS” means the Internal Revenue Service.

67. “Lien” means any charge against or interest in property to secure payment or performance of a Claim, debt, or obligation.

68. “Liquidating Debtors” means the Debtors on and after the Effective Date.

69. “Litigation Cost Fund” means a fund in the amount of \$250,000 that will be created, subject to the terms and conditions of Article IV.B.6.b.i of this Plan, to reimburse costs incurred from and after the Effective Date in pursuing the Retained Rights of Action against the Prepetition Insider Parties for the benefit of Holders of Allowed General Unsecured Claims (other than Holders of the Beach Point Claims) against Variant and the Intermediate Debtors who voted in favor of this Plan.

70. “LURA Claim” means any Secured Claim under that certain loan from the City of Houston to Debtors 10400 Sandpiper Apartments, LLC and 10301 Vista Apartments, LLC, as evidenced by a Promissory Note dated March 19, 2009 in the principal amount of \$10,500,000 and a Deed of Trust, Security Agreement and Financing Statement, dated effective March 19, 2009, encumbering the properties owned by such Debtors located at 10400 Sandpiper Drive and 10301 Sandpiper Drive in Houston, Texas.

71. “Miscellaneous Secured Claim” means any Secured Claim, including a LURA Claim, but excluding a Mortgage Lender Claim or a Beach Point Claim.

72. “Mortgage Lender Claims” means any of the FX3 Lender Claims, H14 Lender Claims, and the Oaks Lender Claims, each of which is also a Secured Claim, as applicable to a Debtor.

73. “Net Distributable Assets” means the Distributable Assets of the applicable Debtor from and after the Effective Date, once such assets have been reduced to Cash, net of amounts necessary to fund the payment of Allowed Administrative Expenses, Tax Claims, Priority Non-Tax Claims, Mortgage Lender Claims, Miscellaneous Secured Claims, the UCC

Fund, the Litigation Cost Fund, and Plan Expenses of the Debtors and/or reserves established for any of the foregoing, and excluding those Distributable Assets of the Debtors that are subject to any Liens until such time that such Liens are satisfied or otherwise addressed in full.

74. “Oaks” means Debtor Oaks at Stonecrest Apartments, LLC, either in its capacity as debtor and debtor in possession under chapter 11 of the Bankruptcy Code in the Chapter 11 Cases or otherwise from and after the Effective Date.

75. “Oaks Lender” means Arbor Realty SR, Inc., and any successor(s) thereto or assign(s) thereof.

76. “Oaks Lender Claims” means any Claim asserted by the Oaks Lender against Oaks in accordance with the terms of the Oaks Loan Documents.

77. “Oaks Loan Agreement” means that *Loan Agreement*, dated as of May 17, 2013, executed by and between Debtor Oaks and the Oaks Lender.

78. “Oaks Loan Documents” means the “Loan Documents” as defined in the Oaks Loan Agreement.

79. “Objection Deadline” means the deadline to object to Claims and/or Interests specified in Article IX.A of the Plan, as may be extended pursuant thereto.

80. “Outside Plan Settlement Date” means July 29, 2016; provided, however, if the FX3 Lender and H14 Lender have not sought relief from the automatic stay to pursue any remedy against the Debtors or their assets, the Outside Plan Settlement Date shall be the later of (i) October 31, 2016, or (ii) November 30, 2016, if the Bankruptcy Court has entered a report and recommendation by August 31, 2016 (a) approving the transactions contemplated under the

Beach Point Purchase Agreement, or any higher and better purchase agreement for the Debtors' assets that is approved by the Bankruptcy Court, and/or (b) confirming this Plan.

81. "Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority, governmental unit or other entity of whatever nature.

82. "Petition Date" means, as to Variant, August 28, 2014, and as to the remaining Debtors, January 12, 2016, the dates on which the Debtors filed their respective petitions for relief under chapter 11 of the Bankruptcy Code.

83. "Plan" means this *Debtors' First Amended Chapter 11 Plan of Liquidation*, as it may be amended or modified from time to time.

84. "Plan Administrator" means Bradley D. Sharp, who currently serves as the Debtors' Chief Restructuring Officer, or any duly selected successor.

85. "Plan Expenses" means the expenses incurred or payable by the Liquidating Debtors 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. Reserves for Plan Expenses shall not exceed \$300,000 and the Liquidating Debtors shall not pay, and the Beach Point Funds shall not be obligated to fund, any Plan Expenses in excess of such reserves, absent the express written consent of the Beach Point Funds. "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 and, in any case, shall not exceed \$250,000. For the avoidance of doubt, the Beach Point Funds shall not be obligated to fund -- separate from the UCC Fund -- any Plan Expenses incurred relating to resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

86. “Plan Supplement” means the supplement to the Plan to be Filed by the Debtors with the Bankruptcy Court, which supplement shall contain forms of certain substantially final documents required for the implementation of the Plan, no later than ten (10) days prior to the Confirmation Hearing.

87. “Post-Effective Date Service List” means a service list comprised of the Plan Administrator and his or her counsel, the Office of the United States Trustee, and any other party that specifically requests in writing that the Plan Administrator add such party’s name to the list.

88. “Prepetition Insider Parties” means (a) Courtland Gettel, (b) Kathryn Rose Nighswander; (c) any immediate and extended family members of Courtland Gettel and/or Kathryn Rose Nighswander, (d) Gettel Children’s Trust, (e) Gettel Children’s Trust 2, (f) Gettel Children’s Trust 3, (g) Conix, Inc., (h) Conix WH Holdings, LLC; (i) Numeric Holding Company, LLC; (j) Walker’s Dream Trust; (k) Peter Cash Doye; (l) Jeffrey H. Greenberg; (m) Sui Generis WS, LLC; (n) JH Greenberg & Associates, PLLC; (o) Forward Progress Enterprises, LLC; (p) Variant Management Company, LLC; (q) Conix Enterprises, Inc.; (r) Variant Manager,

LLC; (s) Cajun Capital, LLC; (t) Conix Residential Investments, LLC; (u) Escrow Management Services, LLC; (v) First Fremont Properties, LLC; (w) First Mountain Properties, LLC; (x) MVCA, LLC; (y) Sober Luxury, LLC; (z) Pecan Crossing Apartments, LLC; (aa) Remington Oaks Apartments, LLC; (bb) Variant Royalty Group, L.P.; (cc) Standard Holding Company, LLC; (dd) Worldwide Financial Investments, LLC; (ee) Michael Bernstein; (ff) any other insiders of the Debtors that existed as of or prior to Variant's Petition Date; and (gg) each of the foregoing party's respective trustees, managers, affiliates, successors, or assigns (excluding the Debtors, any other direct or indirect subsidiaries of Variant, and the Released Parties as defined in Article X.C of this Plan).

89. "Priority Non-Tax Claim" means any Claim, other than a Tax Claim, to the extent entitled to priority under section 507(a) of the Bankruptcy Code.

90. "Pro Rata" means proportionately, so that with respect to any distribution, the ratio of (a) (i) the amount of property to be distributed on account of a particular Claim or particular group of Claims to (ii) the amount of such particular Claim or group of Claims, is the same as the ratio of (b) (i) the amount of property to be distributed on account of all Claims or groups of Claims sharing in such distribution to (ii) the amount of all Claims or groups of Claims sharing in such distribution.

91. "Professional Fee Claim" means an Administrative Expense of a Professional Person for compensation for services rendered and reimbursement of costs, expenses or other charges incurred on or after the Petition Date and on or before the Effective Date.

92. “Professional Person” means Persons retained or to be compensated by the Debtors or their Estates pursuant to sections 326, 327, 328, 330, 503(b), and/or 1103 of the Bankruptcy Code.

93. “Property-Owning Debtors” means Debtors 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; 7170 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; 4101 Pointe Apartments, LLC; 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; Sandridge Apartments, LLC; and Oaks, either in their capacities as debtors and debtors in possession under chapter 11 of the Bankruptcy Code in the Chapter 11 Cases or otherwise from and after the Effective Date.

94. “Record Date” means the Effective Date.

95. “Released Parties” has the meaning set forth in Article X.C of this Plan.

96. “Releasor Affiliates” has the meaning set forth in Article X.E of this Plan.

97. “Released Debtor/Beach Point Parties” has the meaning set forth in Article X.D of this Plan.

98. “Retained Rights of Action” means all Rights of Action belonging to the applicable Debtor as of the Effective Date, including, without limitation and as applicable,

Avoidance Claims (including those disclosed in the Schedules), but excluding those Rights of Action specifically released under the Plan or transferred under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid. The Retained Rights of Action include, without limitation, any and all rights of the Debtors to pursue any Rights of Action against (a) any third parties, whether or not pending and whether or not disclosed or referenced in the Schedules, and (b) subject to the terms and conditions of Article IV.B.6.b.i of this Plan, the Prepetition Insider Parties.

99. “Rights of Action” means any and all claims, demands, rights, defenses, actions, causes of action (including, without limitation and as applicable, Avoidance Claims), suits, contracts, agreements, obligations, accounts, defenses, offsets, powers and privileges of any kind or character whatsoever, known or unknown, suspected or unsuspected, whether arising prior to, on or after the Petition Date, in contract or in tort, at law or in equity, or under any other theory of law, held by any Person against any other Person, and any proceeds thereof, including but not limited to (1) rights of setoff, counterclaim or recoupment, and claims on contracts or for breaches of duties imposed by law; (2) the right to object to Claims or Interests; (3) claims pursuant to section 362 of the Bankruptcy Code; (4) such claims and defenses as fraud, negligence, breach of fiduciary duty, corporate waste, unlawful dividends, mistake, duress and usury; (5) all claims or rights under Bankruptcy Code sections 542, 543, 544, 547, 548, 549, 550, 551, 552, and 553, all fraudulent-conveyance and fraudulent-transfer laws, all non-bankruptcy laws vesting in creditors’ rights to avoid, rescind, or recover on account of transfers, all preference laws, the Uniform Fraudulent Transfer Act (as it may have been codified in any

particular jurisdiction), the Uniform Fraudulent Conveyance Act (as it may have been codified in any particular jurisdiction), and all similar laws and statutes; (6) claims for tax refunds; and (7) any other claims which may be asserted against affiliates, insiders and/or any other third parties.

100. “Schedules” means the schedules of assets and liabilities and statement of financial affairs filed by the applicable Debtor with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as they have been or may be amended from time to time.

101. “Secured Claim” means any Claim of any Person (a) that is secured by a Lien on property in which the applicable Debtor or its Estate has an interest, which Lien is valid, perfected and enforceable and not subject to avoidance under applicable law or by reason of a Final Order but only to the extent of the value, as determined by the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code, of any interest of the claimant in the property of the applicable Estate securing such Claim or (b) to the extent that such Person has a valid right of setoff under section 553 of the Bankruptcy Code.

102. “Snowdon Parties” means Snowdon Partners Properties 16, LLC, Snowdon Partners Huddie, LLC, and any successor(s) thereto or assign(s) thereof.

103. “Snowdon Settlement Agreement” means that certain *Settlement and Contribution Agreement*, dated as of October 17, 2014, between Variant, Numeric Commercial Investments, LLC, the Snowdon Parties, and certain other parties, which was approved by the Bankruptcy Court in Variant’s Chapter 11 Case pursuant to the Snowdon Settlement Order.

104. “Snowdon Settlement Order” means the order of the Bankruptcy Court dated November 3, 2014 at docket number 153 in Variant’s Chapter 11 Case, approving the Snowdon Settlement Agreement.

105. “Subordinated Claim” means 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.

106. “Tax” means any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign taxing authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance, stamp, occupation and withholding tax. “Tax” shall include any interest or additions attributable to, imposed on or with respect to such assessments.

107. “Tax Claim” means any Claim for any Tax to the extent that it is entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code.

108. “Tenant Leases” means any and all leases, subleases, licenses, usufructs and other occupancy agreements affecting the properties owned by the Property-Owning Debtors that are between the Debtors or any agent, affiliate, or representative thereof, on the one hand,

and any Person who occupies or has a right to occupy space owned by the Property-Owning Debtors pursuant to any of the foregoing leases or agreements, on the other hand.

109. “Timely Filed” means, with respect to a Claim, Interest, or Administrative Expense, that a proof of such Claim or Interest or request for payment of such Administrative Expense was filed with the Bankruptcy Court within such applicable period of time fixed by the Plan, statute, or pursuant to both Bankruptcy Rule 3003(c)(3) and a Final Order (including the Bar Date Order), or has otherwise been deemed timely filed by a Final Order of the Bankruptcy Court.

110. “UCC Fund” means a fund in the amount \$1,000,000 that will be created, subject to the terms and conditions of Article IV.B.6.b.i of this Plan, for the benefit of Holders of Allowed General Unsecured Claims against Variant and the Intermediate Debtors (other than Holders of the Beach Point Claims) who vote in favor of this Plan, minus any reasonable fees and expenses in an amount not to exceed \$250,000 incurred resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

111. “Unclaimed Property” means all Cash deemed to be “Unclaimed Property” pursuant to Article VIII.E of the Plan.

112. “Unimpaired” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

113. “Variant” means Debtor Variant Holding Company, LLC, either in its capacity as debtor and debtor in possession under chapter 11 of the Bankruptcy Code in the Chapter 11 Cases or otherwise from and after the Effective Date.

III.
TREATMENT OF ADMINISTRATIVE EXPENSES,
TAX CLAIMS AND DIP FINANCING CLAIMS

A. 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.

B. 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.

C. 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.

IV.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. **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.

B. 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.

1. Class 1 – Priority Non-Tax Claims

- a. Classification: Class 1 consists of all Priority Non-Tax Claims against each Debtor.
- b. 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.

c. 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.

2. Class 2 – Miscellaneous Secured Claims

a. 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.

b. 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.

c. 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.

3. Class 3 – Mortgage Lender Claims

a. 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.

b. Treatment:

(1) *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 this 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.

(2) *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 this 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.

(3) *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 this Plan on account of such Oaks Lender Claim, (i) a Cash payment from Oaks equal to the Allowed amount of such Claim, or (ii) such other treatment as otherwise agreed by the Holder of such Claim and Oaks.

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

4. Class 4 – Beach Point Claims

a. Classification: Class 4 consists of all Beach Point Claims against each Debtor.

b. 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 this 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 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 this 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 this 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.

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

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

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

b. 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.

c. 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.

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

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

b. 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, and does not object to confirmation of, the Plan, (B) Class 6 votes in favor of the Plan, (C) the Confirmation Order becomes a Final Order by no later than the Outside Plan Settlement Date, and (D) the transactions under the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid close by no later than the Outside Plan Settlement Date. 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. The Debtors shall take commercially reasonable efforts to complete the transactions necessary for the settlement contemplated under this Article IV.B.6.b.i on or before the Outside Plan Settlement Date.

(ii) *Distribution Absent Settlement*: Regardless of whether the settlement distribution described in Article IV.B.6.b.i above 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 this Plan on account of such General Unsecured Claim except as set forth in Article IV.B.6.b.i above, 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.b.i above.**

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

7. Class 7 – Subordinated Claims and Intercompany Claims

a. Classification: Class 7 consists of all Subordinated Claims and Intercompany Claims against each Debtor.

b. 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.**

c. 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.

8. Class 8 – Interests in the Debtors

a. Classification: Class 8 consists of all Interests in each Debtor.

b. 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.**

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

V.

ACCEPTANCE OR REJECTION OF PLAN

A. 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

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

Class 7 – Subordinated Claims and Intercompany Claims

B. 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

C. 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.

D. 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.

E. 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.

F. 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.

VI.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. 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.

B. 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 hereof.

C. 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 this 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.

D. 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 this Plan and bankruptcy and non-bankruptcy law, and (iii) all matters

provided under this 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 this 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 this 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.

E. 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 this Plan, subject to the provisions hereof. The Plan Administrator shall serve in such capacity through the earlier of the date the Debtors are dissolved in accordance with this 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) 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 this 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.

F. Source of Funding

The source of all distributions and payments under this 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.

G. Retained Rights of Action of the Debtors

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.

H. 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.

I. 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 or expenses incurred resolving Claims and effectuating distributions to Creditors of Variant or the Intermediate Debtors.

J. Dissolution of Debtors; 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.

K. 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 this 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 this Plan.

VII.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. 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 this 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 this Plan. Tenant Leases shall "ride through" the Chapter 11 Cases unaffected, and shall be assigned to the purchaser of the Property-Owning Debtors' properties pursuant to the Beach Point Purchase Agreement or any Bankruptcy Court-approved overbid.

B. 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.

VIII.

DISTRIBUTIONS AND RELATED MATTERS

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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.

H. Reserves

In making any distributions in respect of Claims under this 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.

IX.

LITIGATION, OBJECTIONS TO CLAIMS, AND DETERMINATION OF TAXES

A. Litigation; Objections to Claims; 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.

B. 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.

C. 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.

D. 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.

X.

RELEASES, INJUNCTIONS, EXCULPATION AND RELATED PROVISIONS

A. **Injunctions**

1. **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.

2. **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.

B. 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 this Article X.B 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.

C. Debtors' Release of CRO, 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 this Article X.C 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).

D. 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-Releasers”), 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.

E. 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 “Releaser 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.

F. No Discharge

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

XI.

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.

XII.

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.

XIII.

RETENTION OF JURISDICTION AND MISCELLANEOUS MATTERS

A. 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.

B. Miscellaneous Matters

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 this Article XIII.B.3, 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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).

15. Choice of Law

Except to the extent a rule of law or procedure is supplied by federal law (including but not limited to the Bankruptcy Code and the Bankruptcy Rules), this 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.

XIV.

CONDITIONS TO EFFECTIVENESS

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; provided, however, that waiver of condition (C) requires prior written approval by the Beach Point Funds.

XV.

EFFECT OF CONFIRMATION

A. 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.

B. 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.

C. 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.

XVI.

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.

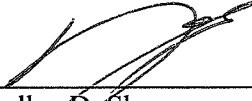
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XVII.

CONFIRMATION REQUEST

The Debtors request that the Bankruptcy Court confirm the Plan and that it do so, if applicable, pursuant to section 1129(b) of the Bankruptcy Code notwithstanding the rejection of the Plan by any Impaired Class.

March 30, 2016



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

PACHULSKI STANG ZIEHL & JONES LLP
Richard M. Pachulski (CA Bar No. 90073)
Maxim B. Litvak (CA Bar No. 215852)
Peter J. Keane (Bar No. 5503)
919 Market Street, 17th Floor | P.O. Box 8705
Wilmington, Delaware 19899-8705
Telephone: (302) 652-4100
Facsimile: (302) 652-4400
E-mail: rpachulski@pszjlaw.com
mlitvak@pszjlaw.com
pkeane@pszjlaw.com

Counsel to Debtors and Debtors in Possession