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8 Possession

9
10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 In re
13 A-JVP1, LLC, a Nevada limited liability
14 company,
15 Debtor and Debtor-in-Possession.

Case No. [To Be Determined]

Chapter 11

**DEBTOR'S PLAN OF REORGANIZATION
DATED JULY 27, 2009**

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PLAN OF REORGANIZATION

A-JVP1, LLC, a Nevada limited liability company (the “Debtor”), the debtor and debtor-in-possession in the above-captioned Chapter 11 Case, hereby proposes the following plan of reorganization (the “Plan”) for the resolution of the Debtor’s outstanding Claims and equity interests.

All holders of Claims against, and equity interests in, the Debtor are encouraged to read the Plan and the related solicitation materials in their entirety before voting to accept or reject the Plan.

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, and those restrictions on modifications set forth in Section 11.1 of the Plan, the Debtor expressly reserves the right to alter, amend, or modify the Plan one or more times before its substantial consummation.

ARTICLE 1. DEFINITIONS AND RULES OF INTERPRETATION

For purposes of the Plan, all capitalized terms shall have the meanings ascribed to them in this Article 1 of the Plan. Any term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, retains the meaning specified for such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. Whenever the context requires, such terms include the plural as well as the singular, the masculine gender includes the feminine gender, and the feminine gender includes the masculine gender.

As used in the Plan, the following terms have the meanings specified below:

1.1. Additional Capital Contribution. Has the meaning set forth in the New Operating Agreement.

1.2. Administrative Agent. Aspen Financial Services, LLC, a Nevada limited liability company in its capacity as administrative agent for the Lenders.

1.3. Administrative Claim. A Claim for any cost or expense of administration of the Chapter 11 Case allowed under sections 503(b) or 507(b) of the Bankruptcy Code and entitled to priority under section 507(a)(2) of the Bankruptcy Code, including, without limitation: (a) fees

1 payable under 28 U.S.C. § 1930; (b) actual and necessary costs and expenses incurred in the
2 ordinary course of the Debtor's businesses; (c) actual and necessary costs and expenses of preserving
3 the Estate or administering the Chapter 11 Case; and (d) all Professional Fees to the extent Allowed
4 by Final Order under sections 330, 331, or 503 of the Bankruptcy Code.

5 **1.4. Administrative Claim Bar Date.** The date that is thirty (30) days after the Effective
6 Date.

7 **1.5. Allowed.** With reference to any Claim against or equity interest in the Debtor, (a) any
8 Claim which has been listed by the Debtor in the Schedules, as such Schedules may be amended by
9 the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and
10 not disputed or contingent and for which no contrary proof of claim or objection to Claim has been
11 filed, (b) any Claim or equity interest allowed hereunder, (c) any Claim, proof of which was filed on
12 or before the Bar Date, or, with respect to a Governmental Unit, before the Governmental Unit
13 Claims Bar Date, or equity interest, which is not Disputed, (d) any Claim or equity interest that is
14 compromised, settled or otherwise resolved pursuant to a Final Order of the Bankruptcy Court, or (e)
15 any Claim or equity interest which, if Disputed, has been allowed by Final Order.

16 **1.6. Bankruptcy Code.** Title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as
17 amended from time to time and as applicable to the Chapter 11 Case.

18 **1.7. Bankruptcy Court.** The United States Bankruptcy Court for the District of Nevada
19 that will have jurisdiction over the Chapter 11 Case.

20 **1.8. Bankruptcy Rules.** Collectively, the Federal Rules of Bankruptcy Procedure as
21 promulgated under 28 U.S.C. § 2075 and any Local Rules, as applicable to the Chapter 11 Case.

22 **1.9. Bar Date.** The date established by order of the Bankruptcy Court as the last day for the
23 filing of proofs of claim against the Debtor; provided, that the deadline for filing proofs of claim by
24 a Governmental Unit shall be the Governmental Unit Claims Bar Date.

25 **1.10. Business Day.** Any day other than a Saturday, Sunday, or legal holiday, as defined in
26 Bankruptcy Rule 9006(a).

27

28

1 **1.11. Cash.** Currency, certified checks, official checks, money orders, negotiable
2 instruments, and wire transfers of immediately available funds.

3 **1.12. Chapter 11 Case.** The case under Chapter 11 of the Bankruptcy Code in which the
4 Debtor is a debtor and debtor-in-possession, pending before the Bankruptcy Court.

5 **1.13. Claim.** A claim, as defined in section 101(5) of the Bankruptcy Code, against a Person
6 or its property, including, without limitation: (a) any right to payment, whether or not such right is
7 reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed,
8 undisputed, legal, equitable, secured, or unsecured arising at any time before the Effective Date; or
9 (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to
10 payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
11 matured, unmatured, disputed, undisputed, secured, or unsecured.

12 **1.14. Class.** A category of holders of Claims or equity interests that are substantially similar
13 in nature to the Claims or equity interests of other holders placed in such category, as designated in
14 Article 3 of the Plan.

15 **1.15. Class A Membership Interests.** The membership interests in the reorganized Debtor
16 to be issued to the Lenders pursuant to the Plan.

17 **1.16. Class B Membership Interests.** The membership interests in the reorganized Debtor
18 to be issued to the Parent pursuant to the Plan.

19 **1.17. Confirmation.** The entry of the Confirmation Order by the Bankruptcy Court.

20 **1.18. Confirmation Date.** The date on which the Bankruptcy Court enters the Confirmation
21 Order.

22 **1.19. Confirmation Hearing.** The hearing held by the Bankruptcy Court to consider
23 Confirmation of the Plan.

24 **1.20. Confirmation Order.** The order of the Bankruptcy Court confirming the Plan in
25 accordance with the Bankruptcy Code.

26 **1.21. Creditor.** Has the meaning set forth in section 101(10) of the Bankruptcy Code.

27 **1.22. Debtor.** Has the meaning set forth in the preamble to the Plan.
28

1 **1.23. Debtor Parties.** Has the meaning set forth in Section 5.10 of the Plan.

2 **1.24. Deed of Trust.** That certain Deed of Trust, Assignment of Rents, Security Agreement
3 and Fixture Filing dated as of August 23, 2006 securing the Note.

4 **1.25. Developer.** Focus Investment Group, LLC, a Nevada limited liability company.

5 **1.26. Disclosure Statement.** The disclosure statement for the Plan approved by the
6 Bankruptcy Court pursuant to section 1125(b) of the Bankruptcy Code.

7 **1.27. Disputed.** With respect to Claims, any Claim: (a) that is listed in the Schedules as
8 unliquidated, disputed, or contingent and as to which no proof of claim has been filed; or (b) as to
9 which the Debtor or any other proper party-in-interest has interposed a timely objection or request
10 for estimation, or has sought to equitably subordinate or otherwise limit recovery in accordance with
11 the Bankruptcy Code and the Bankruptcy Rules, or which is otherwise disputed by the Debtor in
12 accordance with applicable law and as to which such objection, request for estimation, or request for
13 subordination has not been withdrawn or determined by a Final Order.

14 **1.28. Distribution.** A payment of Cash to the holder of an Allowed Claim pursuant to the
15 Plan.

16 **1.29. Effective Date.** The later of: (a) the first Business Day that is at least eleven (11) days
17 after the Confirmation Date and on which no stay of the Confirmation Order is in effect; and (b) the
18 Business Day on which all of the conditions set forth in Section 6.2 of the Plan have been satisfied or
19 waived.

20 **1.30. Estate.** The estate created in the Debtor's Chapter 11 Case in accordance with
21 section 541 of the Bankruptcy Code.

22 **1.31. Final Decree.** A final decree closing this Chapter 11 Case.

23 **1.32. Final Order.** An order or judgment of the Bankruptcy Court: (a) as to which the time
24 to appeal, petition for certiorari, move for retrial, or seek other review or reconsideration has expired
25 and as to which no appeal, petition for certiorari, motion for retrial or other proceeding for review or
26 reconsideration is pending; (b) as to which any right to appeal, to petition for certiorari, to move for
27 retrial, or to seek other review or reconsideration has been waived in writing in form and substance
28

1 satisfactory to the Debtor; or (c) as to which, if an appeal, writ of certiorari, retrial or other review or
2 reconsideration has been sought, such order or judgment shall have been affirmed by the highest
3 court to which such order was appealed or from which such relief was sought or such court has
4 denied such appeal or such relief and the time to take any further appeal, petition for certiorari, move
5 for retrial or seek other review or reconsideration has expired; provided, however, that the possibility
6 that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous
7 rule under the Bankruptcy Rules, may be filed with respect to such order does not prevent such order
8 from being a Final Order.

9 **1.33. Governmental Unit.** Has the meaning set forth in section 101(27) of the Bankruptcy
10 Code.

11 **1.34. Governmental Unit Claims Bar Date.** The deadline for filing proofs of claim by a
12 Governmental Unit.

13 **1.35. Guarantee.** The guarantee issued by the Guarantor in favor of the Lenders in
14 connection with the Note.

15 **1.36. Guarantor.** John Ritter, an individual.

16 **1.37. Initial Class A Amount.** The Initial Class A Amount shall be an amount equal to the
17 original principal amount of the Note on the Effective Date and shall be increased on a monthly
18 basis at a rate of 1% per annum until such amount is paid from the proceeds of a sale.

19 **1.38. Lender.** A holder of a beneficial interest in the Note.

20 **1.39. Lien.** A lien as defined in section 101(37) of the Bankruptcy Code, except a lien that
21 has been avoided in accordance with sections 506, 544, 545, 546, 547, 548, 549, or 553 of the
22 Bankruptcy Code.

23 **1.40. Loan Documents.** Collectively, the Note, the Deed of Trust, the Guarantee and all of
24 the other agreements, documents and instruments evidencing or related to any Claims arising from
25 the Note.

26 **1.41. Local Rules.** The local rules of the United States Bankruptcy Court for the District of
27 Nevada governing proceedings in this Chapter 11 Case.

28

1 **1.42. Manager.** LEHM, LLC, a Nevada limited liability company to be established for the
2 purpose of managing the Debtor after the Effective Date.

3 **1.43. New Operating Agreement.** The operating agreement to govern the Debtor after the
4 Effective Date substantially in the form attached hereto as Exhibit A.

5 **1.44. Note.** That certain promissory note dated as of August 23, 2006 in the original
6 principal amount of \$15,770,000.00 issued by JV Properties, LLC and assumed by the Debtor prior
7 to the Petition Date.

8 **1.45. Note Claims.** The Claims of the Lenders under or in connection with the Note,
9 including, without limitation, any Claims in respect of principal, interest and fees.

10 **1.46. Old Membership Units.** The membership units in the Debtor issued prior to the
11 confirmation of the Plan.

12 **1.47. Parent.** JV Properties, LLC

13 **1.48. Person.** Any individual, corporation, partnership, limited liability company, joint
14 venture, association, joint-stock company, trust, unincorporated association or organization, or other
15 “person” as defined in section 101(41) of the Bankruptcy Code as well as any governmental agency,
16 Governmental Unit or associated political subdivision.

17 **1.49. Petition Date.** The date upon the Debtor files a petition for relief under chapter 11 of
18 the Bankruptcy Code.

19 **1.50. Plan.** This plan of reorganization, either in its present form or as it may be amended,
20 supplemented or modified from time to time, including, without limitation, all of its annexed
21 exhibits and schedules and the Plan Documents.

22 **1.51. Plan Documents.** The New Operating Agreement and all other material documents
23 required to implement the provisions of the Plan, which shall be filed with ten (10) days of the
24 Confirmation Hearing.

25 **1.52. Professionals.** Those Persons employed in accordance with an order of the
26 Bankruptcy Court under sections 327 or 1103 of the Bankruptcy Code and to be compensated for
27 services under sections 327, 328, 329, 330, and 331 of the Bankruptcy Code.
28

1 **1.53. Professional Fees.** The Administrative Claims for compensation and reimbursement
2 of expenses of Professionals submitted in accordance with sections 330 or 331 of the Bankruptcy
3 Code, or any Administrative Claims Allowed by the Bankruptcy Court pursuant to section 503(b)(4)
4 of the Bankruptcy Code.

5 **1.54. Property.** All of the Debtor's right, title and interest of any nature in property of any
6 kind, wherever located, as specified in section 541 of the Bankruptcy Code, including, without
7 limitation, any real property owned by the Debtor as of the Confirmation Date.

8 **1.55. Property Tax Claims.** Any Claims of a Governmental Unit for property taxes related
9 to the Property, whether such liability is *in rem*, *in personam* or both.

10 **1.56. Pro Rata Share.** The proportion that an Allowed Claim bears to the aggregate amount
11 of all Claims in a particular class, including, without limitation, Disputed Claims that have not been
12 disallowed by a Final Order.

13 **1.57. Releasing Lenders.** Has the meaning set forth in Section 5.10.

14 **1.58. Releasing Lender Parties.** Has the meaning set forth in Section 5.10.

15 **1.59. Schedules.** The schedules of assets and liabilities, the list of holders of interests, and
16 the statements of financial affairs filed by the Debtor under section 521 of the Bankruptcy Code and
17 Bankruptcy Rule 1007, as such schedules, lists, and statements may have been or may be
18 supplemented or amended from time to time.

19 **1.60. Secured Claim.** (a) A Claim against the Debtor secured by a Lien on any Assets,
20 which Lien is valid, perfected, and enforceable under applicable law and is not void or subject to
21 avoidance under the Bankruptcy Code or applicable non-bankruptcy law, and which is duly
22 established in the Chapter 11 Case, but only to the extent of the value of the holder's interest in the
23 Debtor's interest in the Assets that secure payment of the Claim; (b) a Claim against the Debtor that
24 is subject to a valid right of recoupment or setoff under section 553 of the Bankruptcy Code, but
25 only to the extent of the Allowed amount subject to recoupment or setoff as provided in section
26 506(a) of the Bankruptcy Code; and (c) a Claim deemed or treated under the Plan as a Secured
27 Claim; provided, that, to the extent that the amount of any such Secured Claim is less than the
28

1 amount of the Claim which has the benefit of any such Lien or right of recoupment or setoff, the
2 balance of such Claim shall be treated as an Unsecured Claim.

3 **1.61. Service Fee.** A fee in the amount of a fee equal to 0.5% of the original principal
4 amount of the Note to be paid to the Administrative Agent by the Debtor under the New Operating
5 Agreement.

6 **1.62. Steering Committee.** Has the meaning set forth in the New Operating Agreement.

7 **1.63. Supplemental Capital Contribution.** Has the meaning set forth in the New
8 Operating Agreement.

9 **ARTICLE 2. TREATMENT OF UNCLASSIFIED CLAIMS**

10 **2.1. Unclassified Claims.** As provided in section 1123(a)(1) of the Bankruptcy Code,
11 Administrative Claims, including, without limitation, Claims for Professional Fees are not classified
12 for purposes of voting on, or receiving distributions under, the Plan. Holders of such Claims are not
13 entitled to vote on the Plan. All such Claims instead are treated separately in accordance with this
14 Article 2 and in accordance with the requirements set forth in section 1129(a)(9)(A) of the
15 Bankruptcy Code.

16 **2.2. Administrative Claims.**

17 **2.2.1. Generally.** Each Administrative Claim other than a Claim for Professional
18 Fees shall be paid in full in Cash by the Debtor on the later to occur of (a) the Effective Date; (b) the
19 tenth (10th) day after such Administrative Claim is Allowed; and (c) such date as the holder of any
20 such Administrative Claim and the Debtor may agree.

21 **2.2.2. Requests for Payment.** All requests for payment of Administrative Claims,
22 other than requests for payment of Claims for Professional Fees, must be filed by the Administrative
23 Claim Bar Date or the holders thereof shall be forever barred from asserting such Administrative
24 Claims against the Debtor.

25 **2.3. Claims for Professional Fees.** Each Person seeking an award by the Bankruptcy Court
26 of Professional Fees: (a) must file a final application for allowance of compensation for services
27 rendered and reimbursement of expenses incurred through the Effective Date within thirty (30) days
28

1 of the Effective Date; and (b) if the Bankruptcy Court grants such an award, must be paid in full in
 2 Cash in such amounts as are allowed by the Bankruptcy Court as soon thereafter as practicable. All
 3 final applications for allowance and disbursement of Professional Fees must be in compliance with
 4 all of the requirements of the Bankruptcy Code, the Bankruptcy Rules and any applicable guidelines
 5 and with all of the terms and conditions set forth in any applicable order of the Bankruptcy Court,
 6 including, without limitation, the Confirmation Order, and all other orders governing payment of
 7 Professional Fees.

8 **2.4. Post-Effective Date Professional Fees.** All Professional Fees for services rendered in
 9 connection with the Chapter 11 Case and the Plan after the Effective Date may be paid by the Debtor
 10 upon receipt of an invoice for such services, or on such other terms to which the Debtor and the
 11 relevant Professional may agree, without the need for further Bankruptcy Court authorization or
 12 entry of a Final Order.

13 **ARTICLE 3. CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

14 In accordance with section 1123(a)(1) of the Bankruptcy Code, all Claims of Creditors
 15 (except those Claims receiving treatment as set forth in Article 2) and holders of equity interests,
 16 including holders of Old Membership Units are placed in the Classes described below for all
 17 purposes, including, without limitation, voting on, Confirmation of, and Distribution under, the Plan:

18 Class 1	Property Tax Claims	Unimpaired, deemed to accept
19 Class 2	Note Claims	Impaired, entitled to vote
20 Class 3	Old Membership Units	Impaired, entitled to vote

21 **ARTICLE 4. TREATMENT OF CLAIMS AND EQUITY INTERESTS**

22 **4.1. Class 1 – Property Tax Claims.**

23 **4.1.1. Impairment and Voting.** Class 1 consists of Property Tax Claims. Property
 24 Tax Claims are unimpaired by the Plan; consequently, the holders of Property Tax Claims are
 25 deemed to have accepted the Plan.

26 **4.1.2. Treatment.** On the Effective Date, each holder of an Allowed Property Tax
 27 Claim shall receive a single Cash payment equal to the sum of (a) its Allowed Property Tax Claim
 28

1 and (b) all accrued postpetition interest calculated at the rate required by applicable nonbankruptcy
2 law.

3 **4.2. Class 2 – Note Claims.**

4 **4.2.1. Impairment and Voting.** Class 2 consists of the Note Claims. Note Claims
5 are impaired by the Plan; consequently, the holders of Note Claims are entitled to vote on the Plan.

6 **4.2.2. Treatment.** On the Effective Date, each holder of a Note Claim shall receive,
7 in complete satisfaction of such Claim, its Pro Rata Share of 100% of the Class A Membership
8 Interests. Such membership interests shall have all of the rights and obligations set forth in the New
9 Operating Agreement.

10 **4.3. Class 3 – Old Membership Units.**

11 **4.3.1. Impairment and Voting.** Class 3 consists of the Old Membership Units. Old
12 Membership Units are impaired by the Plan; consequently, the holders of Old Membership Units are
13 entitled to vote on the Plan.

14 **4.3.2. Treatment.** On the Effective Date, the Old Membership Units shall be
15 exchanged for the Class B Membership Interests. Such membership interests shall have all of the
16 rights and obligations set forth in the New Operating Agreement.

17 **ARTICLE 5. IMPLEMENTATION OF THE PLAN**

18 **5.1. Issuance of Class A Membership Interests.** On the Effective Date, the Old
19 Membership Units shall be cancelled and the Debtor shall issue, without further order of the
20 Bankruptcy Court or need for corporate approval, the Class A Membership Interests and the Class B
21 Membership Interests as provided for in the Plan.

22 **5.2. Adoption of Operating Agreement.** On and after the Effective Date and without further
23 order of the Bankruptcy Court or need for corporate approval, the Debtor shall adopt the New
24 Operating Agreement and such agreement shall supercede all other operating agreements in respect
25 of the Debtor. The New Operating Agreement shall provide at all times that, upon the sale of
26 Property, the proceeds shall be paid first to reimburse the makers of the Supplemental Capital
27 Contributions for any such amounts contributed plus an 8% annual return, second, to the makers of
28

1 Additional Capital Contributions for any such amounts contributed plus an 8% annual return, third,
2 until the holders of Class A Membership Interests have received the Initial Class A Amount, (a) 90%
3 to the holders of Class A Membership Interests on a pro rata basis; provided that the pro rata
4 distributions of the Class A members shall be adjusted so that the makers of Supplemental Capital
5 Contributions receive an additional 12% annual return at the expense of the Class A members that
6 did not make an Additional Capital Contribution, and (b) 10% to the Parent, and, fourth, 70% to the
7 holders of Class A Membership Interests on a pro rata basis and 30% to the Parent.

8 **5.3. Management.** Without limiting the generality of paragraph 5.2 above, on and after the
9 Effective Date, the Debtor shall be managed by the Manager and the Steering Committee. The entry
10 of the Confirmation Order shall ratify and approve all actions taken by the Debtor prior to the date
11 thereof. Without limiting the generality of the foregoing, the Manager, with the assistance of the
12 Developer, shall perform, at the expense of the Debtor, all of the pre-development and entitlement
13 work that is necessary and reasonable to prepare the Property for sale and, where commercially
14 practicable, improve the entitlement and master planning status of the Property. The Manager shall
15 also market and sell the Property, at the expense of the Debtor, when commercially reasonable,
16 subject to the approval of the Steering Committee and the holders of Class A Membership Interests
17 as more particularly set forth in the New Operating Agreement.

18 **5.4. Release of Liens.** Pursuant to section 1142(b) of the Bankruptcy Code, the entry of the
19 Confirmation Order shall constitute a direction by the Bankruptcy Court to the Administrative Agent
20 and the Lenders to execute the documents necessary to release the Deed of Trust and any Liens
21 granted thereby shall be deemed satisfied as of the Effective Date without further order of the
22 Bankruptcy Court.

23 **5.5. Certain Provisions Affecting Lenders.** Approval of the Plan by Lenders holding 51%
24 or more of the total amount of Allowed Note Claims shall be deemed to constitute an action by such
25 Lenders to release the Guarantor from all of its obligations under the Guarantee and shall be binding
26 upon all Lenders pursuant to the terms of Chapter 645B of the NRS as amended by Section 8 of AB
27 513.

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1 **5.6. Certain Tax Provisions.** Pursuant to section 1146(a) of the Bankruptcy Code, the
2 making or delivery of an instrument of transfer as part of a transaction authorized by the Plan,
3 including, without limitation, any transfers of Property shall not be taxed under any law imposing a
4 stamp tax or similar tax.

5 **5.7. Issuance of New Membership Units.** Pursuant to section 1145(a) of the Bankruptcy
6 Code, section 5 of the Securities Act of 1933 and any state or local law requiring registration for the
7 offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or
8 dealer in, a security shall not apply to the issuance of the Class A Membership Interests and the
9 Class B Membership Interests. In addition, pursuant to section 1125(e) of the Bankruptcy Code, any
10 Persons that solicit the acceptance or rejection of the Plan, in good faith and in compliance with the
11 Bankruptcy Code, or that participate, in good faith and in compliance with the applicable provisions
12 of this title, in the offer, issuance, sale or purchase of a security, offered or sold under the Plan, shall
13 not be liable, on account of such solicitation or participation, for violation of any applicable law,
14 rule, or regulation governing solicitation of acceptance or rejection of a plan or the offer, issuance,
15 sale or purchase of securities.

16 **5.8. Post-confirmation matters.** Except as otherwise set forth in the Plan, including,
17 without limitation, in Section 5.9, on and after the Effective Date, without need for further action by
18 the members or managers of the Debtor, and without further order of the Bankruptcy Court, the
19 Debtor shall be appointed estate representative under section 1123 of the Bankruptcy Code and shall
20 be solely responsible for and shall have authority to: (a) make all Distributions required to be made
21 on or after the Effective Date to the holders of Allowed Claims; (b) settle, resolve and object to
22 Claims; (c) pay all fees payable under 28 U.S.C. § 1930; (d) file any post-Confirmation reports
23 required by the Bankruptcy Code or the Bankruptcy Court; (e) retain, employ and utilize such
24 Professionals as may be necessary without further approval of the Bankruptcy Court; (f) do all things
25 necessary and appropriate to fulfill the duties and obligations of the Debtor under the Plan, the
26 Confirmation Order, the Bankruptcy Code and the Bankruptcy Rules; (g) move for the entry of a
27 Final Decree and prepare and file any pleadings as may be required by the Bankruptcy Court in
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1 connection with the Final Decree and the closing of the Chapter 11 Case and (h) dissolve the Debtor
2 upon the entry of a Final Decree. The Debtor, in its capacity as estate representative, shall comply
3 with all withholding and reporting requirements imposed upon it by any Governmental Unit under
4 applicable law and all Distributions shall be subject to such withholding and reporting requirements,
5 if any.

6 **5.9. Certain Distribution Provisions Concerning the Lenders.** Distributions to the
7 Lenders on account of the Class A Membership Interests shall be made by the Administrative Agent.
8 The Administrative Agent shall make such distributions in accordance with any prepetition agency
9 or other agreements between the Administrative Agent and the Lenders and the Administrative
10 Agent shall receive the Service Fee provided for in the New Operating Agreement in connection
11 with such Distributions. In connection with such Distributions, the entry of the Confirmation Order
12 shall constitute a direction for the Administrative Agent to deliver the Deed of Trust to the Debtor on
13 the Effective Date for cancellation.

14 **5.10. Release of Claims by Releasing Lenders.** On the Effective Date, each of the Lenders
15 voting in favor of the Plan (each a "Releasing Lender") and the Administrative Agent, on behalf of
16 itself and each of its agents, successors, assigns and representatives of any kind (collectively, the
17 "Releasing Lender Parties"), shall and hereby does voluntarily forever release and discharge the
18 Debtor, any other obligors under the Note, the Guarantee or the Property, and each of such Person's
19 respective agents, successors, assigns and representatives of any kind (collectively, the "Debtor
20 Parties") from any and all claims, demands, causes of action and rights of every kind, nature or
21 character arising or existing on or before the Effective Date arising out of or in any way related to
22 the Note, the Guarantee or the Property; whether absolute, inchoate or contingent; whether
23 determined or undetermined, known or unknown, proven or unproven; whether held individually,
24 jointly, or jointly and severally; whether arising directly, indirectly, derivatively, or by way of any
25 legal or equitable right of subrogation, contribution, indemnity, estoppel, marshalling of assets or
26 otherwise; whether for compensation, relief, protection, punishment or any other remedy or result of
27 any kind, character or nature; whether based upon any intentional or negligent conduct, strict
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1 liability, any tort of any kind, upon any breach of any contract or upon any other grounds or upon
2 any other theory whatsoever; whether asserted or subject to assertion by complaint, cross-complaint,
3 counterclaim, affirmative defense, or other pleading, by motion, by notice or otherwise; whether
4 asserted or subject to assertion in any jurisdiction, in any court or other forum or with any federal,
5 state, county, municipal or other governmental authority, agency or official; and whether arising at
6 law, in equity or otherwise.

7 **5.11. Release of Claims by Debtor Parties.** On the Effective Date, each Debtor Party
8 hereby forever releases and discharges each Releasing Lender Party from any and all claims,
9 demands, causes of action and rights of every kind, nature or character arising or existing on or
10 before the Effective Date arising out of or in any way related to the Note, the Guarantee or the
11 Property; whether absolute, inchoate or contingent; whether determined or undetermined, known or
12 unknown, proven or unproven; whether held individually, jointly, or jointly and severally; whether
13 arising directly, indirectly, derivatively, or by way of any legal or equitable right of subrogation,
14 contribution, indemnity, estoppel, marshalling of assets or otherwise; whether for compensation,
15 relief, protection, punishment or any other remedy or result of any kind, character or nature; whether
16 based upon any intentional or negligent conduct, strict liability, any tort of any kind, upon any
17 breach of any contract or upon any other grounds or upon any other theory whatsoever; whether
18 asserted or subject to assertion by complaint, cross-complaint, counterclaim, affirmative defense, or
19 other pleading, by motion, by notice or otherwise; whether asserted or subject to assertion in any
20 jurisdiction, in any court or other forum or with any federal, state, county, municipal or other
21 governmental authority, agency or official; and whether arising at law, in equity or otherwise.

22 **5.12. Corporate Authority.** The entry of the Confirmation Order shall constitute
23 authorization for the Debtor to take or cause to be taken all corporate actions necessary or
24 appropriate to implement all provisions of, and consummate, the Plan, and the Plan Documents prior
25 to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed
26 to have been authorized and approved by the Bankruptcy Court without further approval, act or
27 action under any applicable law, order, rule, or regulation, including, without limitation, any action
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1 required by holders of Old Membership Units, including, among other things, the issuance of Class
2 A Membership Interests and Class B Membership Interests, and the adoption of the New Operating
3 Agreement under the Plan.

4 **ARTICLE 6. CONDITIONS PRECEDENT**

5 **6.1. Condition to Confirmation.** It is a condition precedent to Confirmation that the
6 Bankruptcy Court enter a Confirmation Order in form and substance reasonably acceptable to the
7 Debtor.

8 **6.2. Conditions to Effectiveness.** The following are conditions precedent to the occurrence
9 of the Effective Date:

- 10 (a) the Confirmation Date shall have occurred;
- 11 (b) the Confirmation Order shall have been entered and shall be a Final Order;
- 12 (c) no request for revocation of the Confirmation Order under section 1144 of the
13 Bankruptcy Code shall have been made, or, if made, remain pending;
- 14 (d) the Debtor shall have received all approvals necessary or appropriate to
15 substantially consummate the Plan; and
- 16 (e) each and every Plan Document shall be fully executed and in form and
17 substance satisfactory to the Debtor.

18 **6.3. Waiver of Conditions.** Conditions to Confirmation and the occurrence of the Effective
19 Date may be waived in whole or in part by the Debtor at any time without notice, an order of the
20 Bankruptcy Court, or any further action other than proceeding to Confirmation and consummation of
21 the Plan.

22 **6.4. Failure of Conditions.** If the Effective Date shall not occur, the Debtor and all other
23 parties in interest shall retain all their rights and remedies as if the Plan had not been proposed.
24 Among other things, the Plan shall be null and void and nothing contained in the Plan shall: (a)
25 constitute a waiver of any Claims against or equity interests in the Debtor or (b) prejudice in any
26 manner the rights of the Debtor or the Lenders.

1 **ARTICLE 7. [RESERVED]**

2 **ARTICLE 8. DISPUTED CLAIMS**

3 **8.1. Objection Deadlines.** Any objections to Administrative Claims and all other Claims
4 made after the Effective Date shall be filed and served on the holders of such Administrative Claims
5 and Claims not later than thirty (30) days after the Effective Date or such later date as may be
6 approved by the Bankruptcy Court via *ex parte* request.

7 **8.2. Prosecution of Disputed Claims.** The Debtor, as estate representative, may object to
8 the allowance of Claims and Administrative Claims filed with the Bankruptcy Court with respect to
9 which liability is disputed in whole or in part. All objections that are filed and prosecuted as
10 provided herein shall be litigated to Final Order or compromised and settled in accordance with
11 Section 13.1.

12 **8.3. Entitlement to Plan Distributions upon Allowance.** Notwithstanding any other
13 provision of the Plan, no Distribution shall be made with respect to any Claim to the extent it is a
14 Disputed Claim, unless and until such Disputed Claim becomes an Allowed Claim. When a Claim
15 that is not an Allowed Claim as of the Effective Date becomes an Allowed Claim (regardless of
16 when), the holder of such Allowed Claim shall thereupon become entitled to receive Distributions in
17 respect of such Claim the same as though such Claim had been an Allowed Claim on the Effective
18 Date.

19 **ARTICLE 9. EFFECT OF CONFIRMATION**

20 **9.1. Revesting of Assets.** Subject to the provisions of the Plan and the Confirmation Order,
21 the property of the Estate, including, without limitation, the Property, shall vest in the Debtor on the
22 Effective Date. As of the Effective Date, all such property, including, without limitation, the
23 Property, shall be free and clear of all Claims, Liens and equity interests, including, without
24 limitation, any claims arising from the Note, any Liens arising from the Deed of Trust and the Old
25 Membership Units to the fullest extent permitted by section 1141(c) of the Bankruptcy Code, except
26 as otherwise provided in the Plan or the Confirmation Order. From and after the Effective Date, the
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1 Debtor shall be free of any restriction imposed by the Bankruptcy Court, the Bankruptcy Code and
2 the Bankruptcy Rules, other than the obligations set forth in the Plan, or the Confirmation Order.

3 **9.2. Discharge.** Except as provided in the Plan or the Confirmation Order, the rights
4 afforded under the Plan and the treatment of Claims and equity interests under the Plan are in
5 exchange for and in complete satisfaction, discharge, and release of, all Claims. Except as provided
6 in the Plan or the Confirmation Order, Confirmation discharges the Debtor and the reorganized
7 Debtor from all Claims or other debts that arose before the Effective Date, and all debts of the kind
8 specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not: (a) a proof of
9 claim based on such debt is filed or deemed filed under Section 501 of the Bankruptcy Code; (b) a
10 Claim based on such debt is Allowed under Section 502 of the Bankruptcy Code; or (c) the holder of
11 a Claim based on such debt has accepted the Plan.

12 **9.3. Judgments Void.** Any judgment obtained before or after the Confirmation Date in any
13 court other than the Bankruptcy Court shall be null and void as a determination of the liability of the
14 Debtor with respect to any debt treated by the Plan.

15 **ARTICLE 10. RETENTION OF JURISDICTION**

16 Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective
17 Date, the Bankruptcy Court shall retain and have all authority and jurisdiction as is allowed under
18 the Bankruptcy Code and other applicable law to enforce the provisions, purposes, and intent of the
19 Plan including, without limitation, matters or proceedings that relate to:

20 (a) allowance, disallowance, determination, liquidation, classification, estimation,
21 or establishment of the priority or secured or unsecured status of any Claim, including, without
22 limitation, the resolution of any request for payment of any Administrative Claim and the resolution
23 of any and all objections to the allowance or priority of Claims;

24 (b) requests for payment of Claims entitled to priority under section 507(a) of the
25 Bankruptcy Code, including, without limitation, compensation and reimbursement of expenses for
26 Professionals to the extent Bankruptcy Court approval therefore is required under the Plan or the
27 Confirmation Order;

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1 (c) the title, rights or interests of the Debtor in any property, including, without
2 limitation, the Property and the recovery of all assets and property of the Estate wherever located;

3 (d) any right, power, action, or duty of the Debtor, the Administrative Agent or
4 the Developer under the Plan;

5 (e) any determination or estimation necessary or appropriate under section 505 of
6 the Bankruptcy Code or other determination or estimation relating to tax returns filed or to be filed
7 by the Debtor for periods through the end of the fiscal year in which the Effective Date occurs,
8 including, without limitation, the determination of the amount of taxes, net operating losses, tax
9 attributes, tax benefits, tax refunds, and related matters of the Debtor;

10 (f) ensuring that Distributions to holders of Allowed Claims are accomplished in
11 accordance with the Plan;

12 (g) resolution of controversies and disputes, including, without limitation, the
13 correction of any mistake, defect, or omission regarding consummation, interpretation or
14 enforcement of the Plan, the Confirmation Order, and any agreements referred to in the Plan or
15 executed in contemplation of or to implement the Plan;

16 (h) resolution of any motions, adversary proceedings, contested or litigated
17 matters, and any other matters involving the Debtor that may be pending on the Effective Date;

18 (i) entry of such orders as may be necessary or appropriate to implement or
19 consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements
20 or documents created in connection with the Plan;

21 (j) modification of the Plan before or after the Effective Date under section 1127
22 of the Bankruptcy Code or any contract, instrument, release, or other agreement or document created
23 in connection with the Plan; or remedy any defect or omission or reconcile any inconsistency in any
24 Bankruptcy Court order, the Plan, or any contract, instrument, release, or other agreement or
25 document created in connection with the Plan in such manner as may be necessary or appropriate to
26 consummate the Plan, to the extent authorized by the Bankruptcy Code;

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1 (k) the entry of an order including injunctions necessary to enforce the title,
 2 rights, and powers of the Debtor and the purposes and intent of the Plan, and to impose such
 3 limitations, restrictions, terms and conditions of such title, rights and powers as the Bankruptcy
 4 Court may deem necessary;

5 (l) implementation of the provisions of the Plan and entry of such orders (i) in aid
 6 of Confirmation of the Plan, including, without limitation, appropriate orders to protect the Debtor
 7 from actions by holders of Claims, or (ii) as are necessary or appropriate if the Confirmation Order is
 8 for any reason modified, stayed, reversed, revoked, or vacated;

9 (m) determination of any other matters that (i) may arise in connection with or
 10 relate to the Plan, the Confirmation Order or any contract, instrument, release, or other agreement or
 11 document created in connection with the Plan or the Confirmation Order except as otherwise
 12 provided in the Plan, or (ii) are otherwise provided under the Bankruptcy Code or other applicable
 13 law; and

14 (n) entry of a Final Decree closing the Chapter 11 Case, including, without
 15 limitation, provisions for injunctive relief as may be equitable, consistent with Bankruptcy
 16 Rule 3022 and for retention of jurisdiction for the Bankruptcy Court for purposes of this Article 10.

17 **ARTICLE 11. AMENDMENT AND WITHDRAWAL OF PLAN**

18 **11.1. Amendment of the Plan.** At any time before the Confirmation Date, the Debtor may
 19 alter, amend, or modify the Plan under section 1127(a) of the Bankruptcy Code; provided that the
 20 Debtor may not materially modify the treatment of any Class that has accepted the Plan without the
 21 consent of such Class. After the Confirmation Date and before substantial consummation of the Plan
 22 as defined in section 1101(2) of the Bankruptcy Code, the Debtor may, under section 1127(b) of the
 23 Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission
 24 in, or reconcile any inconsistencies in the Plan or the Confirmation Order, and to implement such
 25 action as may be necessary to carry out the purposes and effects of the Plan so long as such
 26 proceedings do not materially and adversely affect the treatment of holders of Claims under the Plan;

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1 provided, that prior notice of such proceedings shall be served in accordance with the Bankruptcy
2 Rules or applicable order of the Bankruptcy Court.

3 **11.2. Revocation or Withdrawal of the Plan.** The Debtor reserves the right to revoke or
4 withdraw the Plan at any time and for any reason before the Confirmation Date. Without limiting
5 the generality of the foregoing, the Debtor may withdraw the Plan in the event that any Class does
6 not accept the Plan or if there is substantial opposition to the Plan from any Lender notwithstanding
7 such acceptance. If the Plan is withdrawn or revoked, then the Plan shall be deemed null and void,
8 and nothing contained in the Plan or any Plan Documents shall be deemed a waiver of any Claims by
9 or against the Debtor or any other Person in any further proceedings involving the Debtor.

10 **ARTICLE 12. ACCEPTANCE OR REJECTION OF THE PLAN**

11 **12.1. Impaired Classes to Vote.** Each holder of a Claim or equity interest in an impaired
12 Class shall be entitled to vote separately to accept or reject the Plan unless such holder is deemed to
13 accept or reject the Plan.

14 **12.2. Acceptance by Class of Creditors.** An impaired Class of holders of Claims shall
15 have accepted the Plan if the Plan is accepted by holders of at least two-thirds in dollar amount and
16 more than one-half in number of the Allowed Claims of such Class that have voted to accept or
17 reject the Plan.

18 **ARTICLE 13. MISCELLANEOUS**

19 **13.1. Settlement of Objections after Effective Date.** From and after the Effective Date,
20 the Debtor, in its capacity as estate representative, may litigate to Final Order, propose settlements
21 of, or withdraw objections to, all pending or filed Disputed Claims and may settle or compromise
22 any Disputed Claim without notice and a hearing and without approval of the Bankruptcy Court.

23 **13.2. Holding of, and Failure to Claim, Undeliverable Distributions.** All Distributions
24 other than Distributions to the Lenders are to be made to the holder of each Allowed Claim by the
25 Debtor as estate representative at the address of such holder listed on the Schedules or proof of claim
26 filed by such holder at the time of such Distribution. Distributions to the Lenders are to be made by
27 tendering such Distributions to the Administrative Agent for the benefit of the Lenders at the last
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1 written address provided by the Administrative Agent to the Debtor for such purpose. If any
2 holder's Distribution is returned as undeliverable, no further Distributions to such holder shall be
3 made unless and until the Debtor is notified of such holder's then current address, at which time all
4 required Distributions shall be made to such holder. Undeliverable Distributions shall be held by the
5 Debtor until such Distributions are claimed. All Claims for undeliverable Distributions must be
6 made within ninety (90) days following a Distribution. After such date, all unclaimed Distributions
7 shall be allocated pro rata to the members of the Class related to such Distribution notwithstanding
8 any federal or state escheat laws to the contrary.

9 **13.3. Fractional Amounts.** Notwithstanding anything contained herein to the contrary,
10 payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar
11 under the Plan would otherwise be called for, the actual payment made will reflect a rounding of
12 such fraction to the nearest dollar (up or down), with half dollars being rounded down.

13 **13.4. Ex Parte Relief.** Upon *ex parte* motion by the Debtor after the Confirmation Date, the
14 Bankruptcy Court may enter such other and further orders as may be necessary or appropriate to
15 instruct and direct the Debtor and others, and to facilitate the Distributions contemplated in the Plan.

16 **13.5. Exculpation.** The Debtor, the Administrative Agent, the Manager and the Developer
17 and their respective officers, directors, agents, managers, shareholders or attorneys shall not be liable
18 for any actions or omissions taken or not taken in connection with or arising out of the
19 administration of the Chapter 11 Case, pursuit of confirmation of the Plan, the consummation of the
20 Plan, or the administration of the Plan or the property to be distributed under the Plan, except for
21 gross negligence or willful misconduct as determined by Final Order of the Bankruptcy Court.

22 **13.6. Binding Effect.** The Plan shall be binding on, and shall inure to the benefit of, the
23 Debtor and the holders of all Claims and equity interests and their respective successors and assigns.

24 **13.7. Governing Law.** Except to the extent that the Bankruptcy Code or other federal law is
25 applicable, the rights, duties and obligations of the Debtor, all Creditors and any other Person arising
26 under the Plan shall be governed by, and construed and enforced in accordance with, the internal
27 laws of the State of Nevada, without giving effect to Nevada's choice of law provisions.

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1 **13.8. Modification of Payment Terms.** At any time after the Effective Date, the Debtor
2 may modify the treatment of any Allowed Claim or equity interest in any manner adverse to the
3 holder of such Claim or equity interest only with the prior written consent of the holder whose
4 Allowed Claim or equity interest treatment is being adversely affected.

5 **13.9. United States Trustee Fees.** The Debtor shall pay all quarterly fees payable to the
6 U.S. Trustee after Confirmation in connection with the Chapter 11 Case, consistent with applicable
7 provisions of the Bankruptcy Code, Bankruptcy Rules, and 28 U.S.C. § 1930(a)(6).

8 **13.10. Computation of Time.** In computing any period of time prescribed or allowed by
9 the Plan, the day of the act, event, or default from which the designated period of time begins to run
10 shall not be included. The last day of the period so computed shall be included unless it is a
11 Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in the
12 Bankruptcy Court, a day on which weather or other conditions have made the clerk's office
13 inaccessible, in which event the period runs until the end of the next day which is not one of the
14 aforementioned days.

15 **13.11. Final Decree.** After the Estate is fully administered, the Debtor shall file an
16 application for a Final Decree, and shall serve the application on the U.S. Trustee, together with a
17 proposed Final Decree.

18 **13.12. No Admissions.** AS TO CONTESTED MATTERS, ADVERSARY
19 PROCEEDINGS AND OTHER CAUSES OF ACTION OR THREATENED CAUSES OF
20 ACTIONS, THIS PLAN SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN
21 ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER
22 AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS PLAN SHALL NOT BE
23 ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE
24 CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, AND OTHER
25 LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, AND EQUITY
26 INTERESTS IN, THE DEBTOR, AS A DEBTOR AND DEBTOR-IN-POSSESSION IN THIS
27 CHAPTER 11 CASE.

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IN WITNESS WHEREOF, the Debtor caused the Plan to be executed as of July 27, 2009.

A-JVP1, LLC, a Nevada limited liability company
By: LEHM, LLC, its Manager

By /s/ John A. Ritter
John A. Ritter, its Manager