

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>IN RE:</b>	§	
	§	
<b>DLH MASTER LAND HOLDING, LLC</b>	§	
<b>ALLEN CAPITAL PARTNERS, LLC</b>	§	<b>CASE NO. 10-30561-HDH-11</b>
<b>RICHARD S. ALLEN, INC.,</b>	§	
<b>RICHARD S. ALLEN,</b>	§	<b>Jointly Administered</b>
	§	
<b>DEBTORS.</b>	§	<b>(CHAPTER 11)</b>

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**JOINT PLAN OF REORGANIZATION  
OF DEBTORS RICHARD S. ALLEN AND RICHARD S. ALLEN, INC.**

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Dated: August 18, 2010

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Debtors Richard S. Allen (“Allen”) and Richard S. Allen, Inc. (“RSAI”)(collectively referred to herein as “Debtors”), file this Joint Plan of Reorganization (the “Plan”) pursuant to section 1121(a) of the Bankruptcy Code. Reference is made to the Debtors’ Disclosure Statement, as well as the Disclosure Statement of Debtors Allen Capital Partners, LLC (“ACP”) and DLH Master Land Holding, LLC (“DLH”), for a discussion of the Debtors’ history, business, properties, results of operations, projections for future operations, risk factors, a summary and analysis of this Plan and certain related matters.

## **ARTICLE I**

### **DEFINITIONS, CONSTRUCTION, AND INTERPRETATION**

The capitalized terms used herein shall have the respective meanings set forth below. A capitalized term used herein that is not defined in this Article shall have the meaning ascribed to that term, if any, in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. Whenever the context requires, words denoting the singular number shall include the plural number and vice versa, and words denoting one gender shall include the other gender and vice versa. All exhibits and schedules attached to the Plan are incorporated herein.

**1.01. “Administrative Claim”** means any Claim for an Administrative Expense.

**1.02. “Administrative Expense”** means any cost or expense of administration of this case incurred on or before the Effective Date that is entitled to priority under section 507(a)(1) and allowed under section 503(b) of the Bankruptcy Code, including, without limitation, Fee Claims and all other claims for compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under the Bankruptcy Code, Reclamation Claims, Cure Claims, and all fees and charges assessed against the Debtor’s Estate under the Bankruptcy Code.

**1.03. “ACP”** means Allen Capital Partners, LLC, the Debtor in case no. 10-30562-HDH, whose bankruptcy case is being jointly administered in the Bankruptcy Court under case no. 10-30561-HDH along with the bankruptcy cases of Debtors DLH, Allen and RSAI.

**1.04. “Allen”** means Richard S. Allen, a Debtor in this jointly administered case.

**1.05. “Allen Equity Distribution”** means a distribution to Allen from RSAI, DLH or ACP on account of the Interests held by Allen in RSAI, DLH or ACP other than an Allen Tax Distribution or salary, bonuses and other compensation paid to Allen for services rendered by Allen to RSAI, DLH or ACP.

**1.06. “Allen Industrial”** means Allen Industrial, LP, a partnership in which RSAI has an Interest.

**1.07. “Allen Net Cash Flow”** means the income received by Allen from and after the Effective Date of the Plan, including but not limited to salary and other income, including income from sales of assets owned by Allen to the extent not the subject of an Allowed Secured Claim (net of any and all expenses of any such sales), net of income and/or capital gains taxes, and net of property taxes, costs of insurance, utilities, maintenance costs, medical and dental expenses, transportation expenses, and all other living expenses of Allen, as projected and

estimated in the Budget attached as Exhibit “1” to the Disclosure Statement, as may be updated from time to time after the Effective Date and sent to all creditors of Allen with unpaid Claims. Allen Net Cash Flow shall not include any Allen Equity Distribution or Allen Tax Distribution.

**1.08. “Allen Tax Distribution”** means a distribution to Allen from RSAI, ACP or DLH or one of their subsidiaries for the purpose of paying income taxes or capital gains taxes associated with a sale of property or other transaction by RSAI, DLH, ACP or one of their subsidiaries.

**1.09. “Allowance Date”** means the date on which a Claim, an Administrative Claim, or any Secured Claim becomes an Allowed Claim.

**1.10. “Allowed”** means, when used with respect to a Claim, an Administrative Claim, or an Interest, or any portion thereof, a Claim, Administrative Claim or an Interest, or any portion thereof (a) that has been allowed by a Final Order, (b) that was listed in the Schedules as neither disputed, contingent nor unliquidated and for which no timely Proof of Claim was filed, (c) for which a Proof of Claim in a liquidated amount has been timely filed pursuant to the Bankruptcy Code or any Final Order of the Bankruptcy Court and as to which either (i) no objection to its allowance has been filed on or before the Objection Deadline or within any other period fixed by the Bankruptcy Code or a Final Order of the Bankruptcy Court or (ii) any objection to its allowance has been settled, waived through payment, withdrawn, or denied by a Final Order of the Bankruptcy Court, or (d) that is expressly allowed in a liquidated amount in the Plan.

**1.11. “Avoidance Action”** means any cause of action under any of sections 544, 545, 546, 547, 548, 549, 550, 551 or 553(b) of the Bankruptcy Code, which actions are waived except as specified in the Plan in Debtors' respective estates, as appropriate.

**1.12. “Bankruptcy Code”** means the Bankruptcy Reform Act of 1978, as amended, and codified at title 11 of the United States Code.

**1.13. “Bankruptcy Court”** means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or such other court having jurisdiction over this case.

**1.14. “Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure, as prescribed by the United States Supreme Court pursuant to section 2075 of title 28 of the United States Code.

**1.15. “Bar Date”** means the last date established by the Bankruptcy Court for filing proofs of Claim in the bankruptcy cases of Allen and RSAI, respectively, provided, however, that if the Bankruptcy Court has ordered an extension of the time by which a particular Creditor or Holder of an Interest may file a proof of Claim (as defined and used in the Bankruptcy Code) or proof of Interest, the date set with respect to such Creditor or holder of an Equity Interest shall be the Bar Date with respect to such Creditor or holder of an Interest, but only as to such Creditor or Holder of an Interest.

**1.16. “BF Airport Partners”** shall refer to BF Airport Partners, LLC, an entity in which RSAI has an Interest.

**1.17. “Budget”** means the cash flow projection and budget of expenses and tax payments of Allen or RSAI, as applicable, attached to Allen and RSAI’s Disclosure Statement as Exhibits “1” and “2,” respectively.

**1.18. “Business Day”** means any day on which commercial banks are open for business in Dallas, Texas.

**1.19. “Cash”** means legal tender of the United States of America or Cash equivalents.

**1.20. “Claim”** shall have the meaning provided in section 101(5) of the Bankruptcy Code.

**1.21. “Claimant”** means the Holder of a Claim.

**1.22. “Collateral”** means any property of a Debtor subject to a valid and enforceable lien to secure the payment of a Claim.

**1.23. “Confirmation Date”** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

**1.24. “Confirmation Hearing”** means the hearing held by the Bankruptcy Court pursuant to Bankruptcy Code section 1128, scheduled to commence on\_\_\_\_\_, 2010, at \_\_\_\_:\_\_\_\_.m. Central Time, and as may be continued from time to time, on confirmation of the Plan.

**1.25. “Confirmation Order”** means the order of the Bankruptcy Court confirming this Plan.

**1.26. “Contract Rate”** shall mean the non-default contract rate of interest provided for in the promissory note or loan agreement, if any, between Allen or RSAI, as applicable, and the relevant Claimant with respect to the relevant Claim.

**1.27. “Cure Claim”** means a Claim arising from the assumption of an Executory Contract under section 365(b) of the Bankruptcy Code.

**1.28. “Debtors”** mean Debtors Richard S. Allen and Richard S. Allen, Inc., and shall also include, where applicable, Richard S. Allen and Richard S. Allen, Inc. from and after the Effective Date as reorganized pursuant to this Plan.

**1.29. “Disallowed”** means, when used with respect to a Claim, a Claim or the portion thereof which, in a properly entered order of the Bankruptcy Court, is fully and finally (a) denied allowance, or (b) is estimated for purposes of payment or other Plan Distributions at zero (\$0.00). Disallowed means, when used with respect to an Administrative Expense of a professional that is a Fee Claim, an Administrative Expense or portion thereof that is denied by the Bankruptcy Court or other court of competent jurisdiction or that is estimated by the Bankruptcy Court for purposes of payment or other Plan Distributions at zero (\$0.00).

**1.30. “Disclosure Statement”** means the Disclosure Statement of Allen and RSAI with respect to this Joint Plan of Reorganization, as well as the Disclosure Statement filed by Debtors ACP and DLH, as they may be altered, amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules, together with any Exhibits thereto.

**1.31. “Disputed”** when used with a respect to a Claim or Interest, means any such Claim or Interest that is listed in the Debtor’s Schedules as disputed, contingent or unliquidated, any Claim or Interest that is the subject of an objection filed in the Bankruptcy Court, any Claim or Interest that is disputed by the Debtors in any litigation, lawsuit or adversary proceeding in the Bankruptcy Court or any other court of competent jurisdiction, or any Claim or Interests that is not Allowed.

**1.32. “Distribution”** means the property required by this Plan to be distributed to the Holders of Allowed Claims and Interests.

**1.33. “DLH”** means DLH Master Land Holding, LLC, the Debtor in case no. 10-30561-HDH, whose case is being jointly administered by the Bankruptcy Court along with the bankruptcy cases of Debtors ACP, Allen and RSAI..

**1.34. “DLH/ACP Guaranty Claim”** means a Claim against Allen or RSAI based upon a guaranty signed by Allen or RSAI, as applicable, whereby Allen or RSAI guaranteed performance or payment of a loan or other indebtedness on which DLH and/or ACP is or was the borrower.

**1.35. “Effective Date”** means the first Business Day that is the later of (a) fifteen days after the Confirmation Date of this Plan if the Confirmation Order is not stayed prior to such date or, if the Confirmation Order is stayed, the first Business Day following the lifting, dissolution, or removal of such stay, or (b) the Confirmation Date of the DLH and ACP Plan if the Confirmation Order for those Debtors’ Plan is not stayed prior to such date or, if the Confirmation Order for the DLH and ACP Plan is stayed, the first Business Day following the lifting, dissolution, or removal of such stay. Provided, if the Confirmation Order for this Plan or the order confirming a plan of DLH and ACP in their chapter 11 cases has not become a Final Order by virtue of the commencement of any motion for rehearing or new trial pertaining to any such order or by virtue of the filing of a notice of appeal from any such order, Debtors may, at their sole option, defer the Effective Date until a date that is not later than eleven (11) days after the Confirmation Order has become a Final Order.

**1.36. “Estate”** means one of the Debtor’s estates in this case created pursuant to section 541 of the Bankruptcy Code.

**1.37. “Estate Action”** means any cause of action or right to payment arising under federal, state or common law that one of the Debtors or one of the Estates may hold against any Person, including Avoidance Actions.

**1.38. “Executory Contract”** means any prepetition executory contract or unexpired lease governed by section 365 of the Bankruptcy Code.



**1.39. “Face Amount”** means (a) when used in reference to a Disputed Claim, the full stated amount claimed by the Holder of the Claim in a timely filed Proof of Claim; (b) when used in reference to an unliquidated Claim, the amount of the Claim as estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code; and (c) when used in reference to an Allowed Claim, the Allowed amount of the Claim.

**1.40. “Fee Application”** means an application for the allowance of a Fee Claim.

**1.41. “Fee Claim”** means a Claim by a Professional or any other party-in-interest pursuant to sections 327, 328, 330, 331, 363, 503(b) or 1103 of the Bankruptcy Code or otherwise relating to services performed after the Petition Date and prior to and including the Effective Date.

**1.42. “Final Decree”** means the final decree entered by the Bankruptcy Court on or after the Effective Date and pursuant to Bankruptcy Rule 3022.

**1.43. “Final Order”** means (a) an order as to which the time to appeal, petition for certiorari or move for reargument, rehearing, reconsideration, new trial, or to alter or amend findings or judgment has expired and as to which no appeal, petition for certiorari or other proceedings for reargument, rehearing, reconsideration, new trial, or to alter or amend findings or judgment shall then be pending or (b) in the event that an appeal, writ of certiorari, reargument, rehearing, reconsideration, new trial, or motion to alter or amend findings or judgment thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or certiorari has been denied or from which reargument, rehearing, reconsideration, new trial, or motion to alter or amend findings or judgment was sought, and the time to take any further appeal, petition for certiorari or move for reargument, rehearing, reconsideration, new trial, or to alter or amend findings or judgment shall have expired, provided, however that no order shall fail to be a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure may be filed with

**1.44. “Foley”** means Tim Foley, the Holder of a Lien on Allen’s Badger Property and RSAI’s Interests in BF Airport and Allen Industrial.

**1.45. “Holder”** means a Person who is the beneficial owner of a Claim or Interest. For purposes of a Distribution, a Person must be a Holder as of the Initial Distribution Date. For purposes of voting to accept or reject this Plan, a Person must be a Holder as of the Voting Record Date.

**1.46. “Interest”** means any “equity security” (as defined in section 101 of the Bankruptcy Code) in a Debtor or another entity, as the context requires.

**1.47. “Judgment Rate”** shall mean the federal judgment rate provided in 28 U.S.C. §1961 in effect on the Effective Date.

**1.48. “Lien”** has the meaning provided in Bankruptcy Code section 101(37) and shall include a “statutory lien” as defined in Bankruptcy Code section 101(53).

**1.49. “Nichols”** mean Chuck Nichols, the Holder of a Lien on Allen’s Visalia Home and Allen’s Tehama Property.

**1.50. “Non-DLH/ACP Guaranty Claims”** means a Claim against Allen or RSAI based upon a guaranty signed by Allen or RSAI, as applicable, whereby Allen or RSAI guaranteed performance or payment of a loan or other indebtedness on which DLH and/or ACP was not a borrower. A Non-DLH/ACP Guaranty Claim shall include any Claim based upon a guaranty of a subsidiary of ACP, DLH or RSAI that is not in bankruptcy and whose claim is not being treated under the ACP or DLH Plan. A Non-DLH/ACP Guaranty Claim shall be treated as a General Unsecured Claim under Class 6 of this Plan.

**1.51. “Non-Tax Priority Claim”** means any Claim that, if Allowed, would be entitled to priority in payment under Bankruptcy Code section 507(a) other than a Priority Tax Claim or an Administrative Claim.

**1.52. “Objection Deadline”** means the date by which objections to Claims shall be filed with the Bankruptcy Court and served upon the respective Holder(s) thereof as provided in section 12.01 of the Plan, which date, for the Debtor, shall be ninety (90) days after the Effective Date unless extended by order of the Bankruptcy Court.

**1.53. “Other Secured Claim”** means a Secured Claim other than the First Pacific Bank Secured Claim, the Bank of America Secured Claim, the M&I Bank Secured Claim, the Pacific Western Bank Secured Claim, the Foley Secured Claim, the Nichols Secured Claim, and the Pointe Property Group Secured Claim.

**1.54. “Person”** means and includes natural persons, corporations, limited partnership, general partnerships, joint ventures, trusts, land trusts, business trusts, unincorporated organizations, or other organizations, irrespective of whether they are legal entities, governments and agencies and political subdivisions thereof or other entities.

**1.55. “Petition Date”** means May 3, 2010.

**1.56. “Plan” or “Plan of Reorganization”** means this Plan of Reorganization either in its present form or as it may hereafter be altered, amended or modified from time to time.

**1.57. “Priority Tax Claim”** means any Claim against the Debtor that, if Allowed, would be entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code.

**1.58. “Professional”** means a Person defined as a professional person in sections 327 or 1103 of the Bankruptcy Code who has been employed pursuant to an order of the Bankruptcy Court in this chapter 11 case and any professional seeking compensation or reimbursement of costs and expenses in connection with this chapter 11 case pursuant to section 503(b)(4) or 1129(a)(4) of the Bankruptcy Code.

**1.59. “Rancho Santa Fe Residence”** means Allen’s homestead located at 15395 Las Planideras, Rancho Santa Fe, CA 92067.

**1.60. “Rejection Damage Claim”** means a Claim by a party to an Executory Contract with the Debtor that has not been assumed by the Debtor pursuant to this Plan or a prior Final Order of the Bankruptcy Court entered in this case.

**1.61. “RSAI”** means Richard S. Allen, Inc., a Debtor in this jointly administered case.

**“RSAI Net Cash Flow”** means the revenue from operations of RSAI from and after the Effective Date of the Plan, including but not limited to revenue from sales of assets owned by RSAI (net of any and all expenses of any such sales), net of income and/or capital gains taxes if any, and net of property taxes, costs of insurance, legal fees, tax preparation fees, California state taxes, and all other operating expenses of RSAI, as projected and estimated in the Budget attached as Exhibit “2” to the Disclosure Statement, as may be updated from time to time after the Effective Date and sent to all creditors of RSAI with unpaid Claims. RSAI Net Cash Flow shall not include any RSAI Equity Distribution or RSAI Tax Distribution.

**1.62. “RSAI Equity Distribution”** means a distribution to RSAI from DLH or ACP on account of the Interests held by RSAI in DLH or ACP.

**1.63. “RSAI Tax Distribution”** means a distribution to RSAI from ACP or DLH or one of their subsidiaries for the purpose of paying income taxes or capital gains taxes associated with a sale of property or other transaction by DLH or ACP or one of their subsidiaries.

**1.64. “Secured Claim”** means a Claim that is secured by a security interest in or a lien on property of the Estate to the extent of the value, as of the Effective Date or such other date established by the Bankruptcy Court, of such Claim Holder’s interest in the Estate’s interest in such property as determined by a Final Order of the Bankruptcy Court pursuant to section 506 of the Bankruptcy Code or as otherwise agreed upon in writing by the Debtor and the Claim Holder. Secured Claims shall include Claims secured by security interests or liens junior in priority to existing security interests or liens, whether by operation of law, contract, or otherwise, but solely to the extent of the value, as of the Effective Date or such other date established by the Bankruptcy Court, of such Claim Holder’s interest in the Estate’s interest in such property after giving effect to all security interests or liens senior in priority.

**1.65. “Schedules”** means the schedules of assets and liabilities and the statement of financial affairs filed by the Debtors as required by section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as such schedules and statement have been or may be supplemented or amended.

**1.66. “Tehama Property”** means Allen’s approximate 15.01 acre property located in the Tehama development in Carmel, CA.

**1.67. “Unsecured Claim”** means a Claim that is not a Secured Claim, and Administrative Claim, a Priority Tax Claim or a Non-Tax Priority Claim

**1.68. “Visalia Home”** means Allen’s secondary residence located at 5916 W. Elowin Dr., Visalia, CA 93291.

## **ARTICLE II**

## **UNCLASSIFIED CLAIMS**

### **2.01. Administrative Claims.**

All Administrative Claims shall be treated as follows:

(a) **Time for Filing Administrative Claims.** The Holder of any Administrative Claim that is incurred, accrued or in existence prior to the Effective Date, other than (i) a Fee Claim, (ii) an Allowed Administrative Claim, or (iii) a liability incurred and paid in the ordinary course of business by a Debtor must file with the Bankruptcy Court and serve on all parties required to receive such notice an application for the allowance of such Administrative Claim on or before thirty (30) days after the Effective Date. Such notice must include at a minimum (i) the name of the Holder of the Claim, (ii) the amount of the Claim, and (iii) the basis of the Claim. Failure to timely and properly file and serve the application required under this Section shall result in the Administrative Claim being forever barred and discharged.

(b) **Time for Filing Fee Claims.** Each Professional who holds or asserts an Administrative Claim that is a Fee Claim for compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date shall be required to file with the Bankruptcy Court and serve on all parties required to receive such notice a Fee Application within ninety (90) days after the Effective Date. Failure to timely and properly file and serve a Fee Application as required under this Section shall result in the Fee Claim being forever barred and discharged. No Fee Claim will be deemed Allowed until an order allowing the Fee Claim becomes a Final Order or by consent of the Debtors. Any objection to a Fee Claim must be filed within twenty (20) days after the date the Fee Application is served. No hearing may be held until the twenty (20) day objection period has terminated.

(c) **Allowance of Administrative Claims.** An Administrative Claim with respect to which notice has been properly filed pursuant to Section 2.01(a) of the Plan shall become an Allowed Administrative Claim if no objection is filed within sixty (60) days after its filing and service. If an objection is filed within such sixty (60) day period, the Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by a Final Order. An Administrative Claim that is a Fee Claim, and with respect to which a Fee Application has been properly filed and served pursuant to Section 2.01(b) of the Plan, shall become an Allowed Administrative Claim only to the extent Allowed by a Final Order.

(d) **Payment of Allowed Administrative Claims.** Each Holder of an Allowed Administrative Claim shall be paid the amount of such Holder's Allowed Administrative Claim in Cash on or as soon as practicable after the Allowance Date, or receive such other treatment as otherwise specified in this Plan, or shall receive such other treatment as agreed upon in writing by the Debtors and such Holder; provided, however, that an Administrative Claim representing a liability incurred in the ordinary course of business by the Debtors may be paid in the ordinary course of business by the Debtors; and provided, further, that the payment of any Allowed Cure Claim may be made, at the sole election of the Debtor, in one or more monthly payments of Cash over a period of twelve (12) months after the Allowance Date or such other period as the Bankruptcy Court may determine. All Allowed Fee Claims, after deducting any retainer, shall be paid by the Debtor within thirty (30) days after such Claims are Allowed by a Final Order.

## **2.02. Priority Tax Claims.**

Each Holder of an Allowed Priority Tax Claim shall be paid the Allowed amount of such Claim pursuant to (a) the provisions of section 1129(a)(9)(C) of the Bankruptcy Code in equal annual installments commencing on the first anniversary of the Petition Date, with the final payment of the unpaid balance thereof to be made on the fifth anniversary of the Petition Date, together with interest thereon at the Judgment Rate, or (b) such other terms as the Holder of such Claim and the relevant Debtor may agree; provided, however, that the Debtors shall have the right to pay any Allowed Priority Tax Claim, or any unpaid balance of such Claim, in full, at any time after the Effective Date, without premium or penalty.

## **2.03. U.S. Trustee Fees.**

The Debtors shall be responsible for timely payment of United States Trustee quarterly fees incurred pursuant to 28 U.S.C. § 1930(a)(6). Any fees due as of the most recent quarterly invoice prior to the Confirmation Date will be paid in full within thirty (30) days after the Effective Date. After the Effective Date, the Debtor shall pay United States Trustee quarterly fees as they accrue until this case is closed by the Bankruptcy Court. The Debtor shall serve on the United States Trustee a quarterly financial report for each quarter (or portion thereof) that the case remains open.

# **ARTICLE III** **CLASSIFICATION OF CLAIMS AND INTERESTS**

## **3.01. Introduction.**

All Claims and Interests, except Administrative Claims and Priority Tax Claims, are placed in the Classes set forth below. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified.

The Plan, though proposed jointly by the Debtors, constitutes a separate plan for each Debtor. The Plan contemplates separate Classes for each Debtor for voting and distribution purposes, and Ballots will be tabulated separately for each of the Debtors.

Except for the unclassified Claims discussed in Article II above, Section 3.02 of the Plan sets forth a designation of Classes of all Claims and Interests in accordance with Bankruptcy Code section 1122(a). A Claim or Interest is classified in a particular Class only to the extent any portion of the Claim or Interest qualifies within the description of the Class and is classified in a different Class to the extent any portion of the Claim or Interest qualifies within the description of that different Class. If a Claim or Interest is acquired or transferred, the Claim or Interest shall be placed in the Class in which it would have been placed if it were owned by the original Holder of such Claim or Interest. A Claim or Interest is also placed in a particular Class for the purpose of receiving Distributions only to the extent that such Claim or Interest is an Allowed Claim or an Allowed Interest in that Class and such Claim or Interest has not been paid, satisfied or released before the Effective Date.

## **3.02. Claims Against and Interests in the Debtors.**

- (a) Class 1: Non-Tax Priority Claims
  - (i) Class 1A: Non-Tax Priority Claims Against Allen

- (ii) Class 1B: Non-Tax Priority Claims Against RSAI
- (b) Class 2: Secured Tax Claims
  - (i) Class 2A: Secured Tax Claims Against Allen
  - (ii) Class 2B: Secured Tax Claims Against RSAI
- (c) Class 3: Secured Claims Against Allen
  - (i) Class 3A: First Pacific Bank Secured Claim Against Rancho Santa Fe Residence
  - (ii) Class 3B: Bank of America and Nichols Secured Claims Against Visalia Home
  - (iii) Class 3C: M&I Bank and Nichols Secured Claims Against Tehama Property
  - (iv) Class 3D: Foley Secured Claim Against Badger Property
  - (v) Class 3E: Pointe Property Group Secured Claim Against Allen's Interests in RSAI
  - (vi) Class 3F: Other Secured Claims Against Allen
- (d) Class 4: Secured Claims Against RSAI
  - (i) Class 4A: Foley Secured Claims Against RSAI Interests in BF Airport Partners and Allen Industrial
  - (ii) Class 4B: Pacific Western Secured Claim Against Personal Property, Goods, Accounts, Etc. of RSAI
  - (iii) Class 4C: Other Secured Claims Against RSAI
- (e) Class 5: DLH/ACP Guaranty Claims
  - (i) Class 5A: DLH/ACP Guaranty Claims Against Allen
  - (ii) Class 5B: DLH/ACP Guaranty Claims Against RSAI
- (f) Class 6: General Unsecured Claims and Non-DLH/ACP Guaranty Claims
  - (i) Class 6A: General Unsecured Claims Against Allen
  - (ii) Class 6B: General Unsecured Claims Against RSAI
- (g) Class 7: Interests in RSAI

**ARTICLE IV**  
**IDENTIFICATION OF UNIMPAIRED AND IMPAIRED  
CLAIMS AND INTERESTS**

**4.01. Unimpaired Claims and Interests**

Claims against the Debtor in Classes 1 and 2, and Class 7 Interests in RSAI are not impaired under this Plan, and the Holders of those Claims are conclusively presumed to have accepted this Plan under section 1126(f) of the Bankruptcy Code.

**4.02. Impaired Claims**

Claims against the Debtors in Classes 3, 4, 5 and 6 are impaired under this Plan, and the Holders of those Claims are entitled to vote to accept or reject this Plan.

**4.03. Controversy Concerning Impairment**

In the event of a controversy as to whether any Claim or class of Claims is impaired under this Plan, the Bankruptcy Court will, after notice and a hearing, determine the controversy.

**ARTICLE V**  
**TREATMENT OF CLAIMS AND INTERESTS**

**5.01. Non-Tax Priority Claims – Classes 1A and 1B**

On or as soon as practicable after the later of (a) the Effective Date or (b) the Allowance Date with respect to a Non-Tax Priority Claim, the Holder of such Allowed Non-Tax Priority Claim shall receive from the relevant Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Non-Tax Priority Claim, (a) Cash in an amount equal to the Allowed amount of its Non-Tax Priority Claim, or (b) such other, less favorable treatment to which such Holder and the relevant Debtor agree in writing. To the extent an Allowed Non-Tax Priority Claim entitled to priority treatment under 11 U.S.C. §§ 507(a)(4) or (5) exceeds the statutory cap applicable to such Claim, such excess shall be treated as a Class 6 General Unsecured Claim against the relevant Debtor.

**5.02. Secured Tax Claims – Classes 2A and 2B**

With respect to any Allowed Secured Tax Claim for tax years prior to 2010, to the extent not already paid, on or as soon as practicable after the later of (a) the Effective Date or (b) the Allowance Date with respect to a Secured Tax Claim, the Holder of such Allowed Secured Tax Claim shall receive from the relevant Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Secured Tax Claim, (a) Cash equal to the value of its Allowed Secured Tax Claim, including interest thereon at the rate provided under applicable non-bankruptcy law pursuant to Bankruptcy Code section 511 from the Petition Date through the date such Claim is paid in full, (b) the Collateral securing the Allowed Secured Tax Claim, or (c) such other, less favorable treatment as may be agreed upon in writing by the relevant Reorganized Debtor and such Holder.

The Holder of a Secured Tax Claim for ad valorem taxes for any tax year from 2010 and thereafter shall retain all rights and remedies for payment thereof in accordance with applicable non-bankruptcy law.

Notwithstanding any other provision of the Plan, each Holder of an Allowed Secured Tax Claim shall retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold by the relevant Debtor free and clear of such Lien or is abandoned as to Collateral in which the Holder holds a first priority Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the Holder of such Allowed Secured Tax Claim (i) has been paid Cash equal to the value of its Allowed Secured Tax Claim and/or (ii) has received a return of the Collateral securing its Allowed Secured Tax Claim, or (iii) has been afforded such other treatment as to which the relevant Debtor and such Holder shall have agreed upon in writing, or (b) such purported Lien has been determined by a Final Order to be invalid or otherwise avoidable. To the extent that a Secured Tax Claim exceeds the value of the interest of the Estate in the property that secured such Claim, such Claim shall be deemed Disallowed pursuant to Bankruptcy Code section 502(b)(3).

If a Debtor fails to timely pay any payment required under this Section 5.02, the affected Holder of an Allowed Secured Tax Claim shall send written notice of default to the relevant Debtor. If the default is not cured within twenty-one (21) days after notice of default is mailed, such Holder may proceed with any remedies for collection of all amounts due under applicable non-bankruptcy law without further order of the Bankruptcy Court.

### **5.03. Secured Claims Against Allen– Class 3**

(a) **First Pacific Bank Secured Claim Against Rancho Santa Fe Residence (Class 3A).** The current Holder of the First Pacific Bank note secured by a first lien on the Rancho Santa Fe Residence, believed to be Citi National Bank as a result of the acquisition of the First Pacific Bank note through the receivership of First Pacific Bank (“Citi National”), shall retain a first Lien on Allen’s Rancho Santa Fe Residence to the extent of the Allowed amount of such Holder’s Secured Claim until paid in full. The Holder of the Allowed Class 3A First Pacific Bank Secured Claim shall retain a first lien on the Rancho Santa Fe Residence until paid in full. As of the Effective Date, the Holder of such Allowed Class 3A Secured Claim shall receive a 30-year mortgage note secured by a first Lien deed of trust on the Rancho Santa Residence at a 4.60% per annum fixed rate of interest, payable in equal monthly installments of principal and interest beginning on the first day of the month following the first full month after the Effective Date. The parties shall execute necessary loan documents consistent with the treatment provided for in this section within 30 days after the Effective Date.

The balance of the funds that were pre-paid to First Pacific Bank by Allen prior to Petition Date, which Allen has been informed are being held in escrow by the Holder of Class 3A Secured Claim, shall be applied to the first monthly payments after the Effective Date on the 30-year mortgage note until the balance of the funds held by such Holder have been exhausted, at which point Allen shall pay the monthly payments of principal and interest to the Holder of the Allowed Class 3A Secured Claim.



(b) **Bank of America and Nichols Secured Claims Against Visalia Home (Class 3B).** The Visalia Home is already or will be listed for sale as soon as practicable after the Effective Date, and shall continue to be listed and marketed for sale for a period of three years from the Effective Date at a price not to exceed the current listing price of \$1,800,000. Bank of America shall retain its first Lien on the Visalia Home to the extent of its Allowed Class 3B Secured Claim, and Nichols shall retain his second Lien on the Visalia Home to the extent of his Allowed Class 3B Secured Claim.

Bank of America's Allowed Secured Claim shall include accrued and unpaid interest at the Contract Rate from the Petition Date until such Claim is paid in full, and Bank of America shall receive payment of interest that has accrued on its Allowed Secured Claim from the Petition Date to the Effective Date within 30 days after the Effective Date, and shall receive post-Effective Date monthly payments of interest on its Allowed Secured Claim at the Contract Rate on the 15<sup>th</sup> day of each month beginning with the first full month after the Effective Date until the Visalia Home is sold. The Nichols Allowed Class 3B Secured Claim shall include accrued and unpaid interest at 7% per annum until the Visalia Home is sold, but only in the event and to the extent that such interest has not been paid by Allen, RSAI, ACP or DLH at the time of such sale.

Upon the sale of the Visalia Home, the net sales proceeds, after payment of all commissions, property taxes and all other expenses incident to the sale, shall be paid first to Bank of America to the extent of the then unpaid amount of its Allowed Class 3B Secured Claim against the Visalia Home, including any accrued and unpaid interest through the date of sale, and then (provided there are any remaining net sales proceeds) to Nichols to the extent of the then unpaid amount of his Allowed Class 3B Secured Claim against the Visalia Home, including any accrued and unpaid interest at 7% per annum through the date of sale. Any net sales proceeds remaining after payment of the then unpaid amount of Bank of America's Allowed Class 3B Secured Claim against the Visalia Home and the then unpaid amount of Nichols' Allowed Class 3B Secured Claim against the Visalia Home shall be included in computing Allen Net Cash Flow for purposes of quarterly Distributions of Net Cash Flow in accordance with the terms of this Plan. For purposes of computing the then unpaid amount of Nichols' Allowed Class 3B Secured Claim, any payment received by Nichols from RSAI, Allen, DLH or ACP to date shall be credited against his Allowed Class 3B Secured Claim.

If the Visalia Home is not sold within the three year period after the Effective Date, the Visalia Home shall be put up for auction, or sold pursuant to such other sales process as Allen, Bank of America and Nichols shall agree, at a minimum price to be agreed upon by Allen, Bank of America and Nichols, but in no event less than the amount necessary to pay Bank of America's Allowed Class 3B Secured Claim against the Visalia Home in full. The net proceeds of any such sale shall be distributed as set forth above.

(c) **M&I Bank and Nichols Secured Claims Against Tehama Property (Class 3C).** The Tehama Property is already or will be listed for sale as soon as practicable after the Effective Date, and shall continue to be listed and marketed for sale for a period of three years from the Effective Date at a price not to exceed the current listing price of \$2,600,000. M&I Bank shall retain its first Lien on the Tehama Property to the extent of its Allowed Class

3C Secured Claim, and Nichols shall retain his second Lien on the Tehama Property to the extent of his Allowed Class 3C Secured Claim.

M&I Bank's Allowed Class 3C Secured Claim shall include accrued and unpaid interest at the Contract Rate from the Petition Date until such claim is paid in full, and M&I Bank shall receive payment of interest that has accrued on its Allowed Secured Claim from the Petition Date to the Effective Date within 30 days after the Effective Date, and M&I Bank shall receive monthly payments of interest on its Allowed Class 3C Secured Claim at the Contract Rate on the 15<sup>th</sup> day of each month beginning with the first full month after the Effective Date until the Tehama Property is sold. The Nichols Allowed Class 3C Secured Claim shall include accrued and unpaid interest at 7% per annum until the Tehama Property is sold, but only in the event and to the extent that such interest has not been paid by Allen, RSAI, ACP or DLH at the time of such sale.

Upon the sale of the Tehama Property, the net sales proceeds, after payment of all commissions, property taxes and all other expenses incident to the sale, shall be paid first to M&I Bank to the extent of the then unpaid amount of its Allowed Class 3C Secured Claim, including any accrued and unpaid interest through the date of sale, and then (provided there are any remaining net sales proceeds) to Nichols to the extent of the then unpaid amount of his Allowed Class 3C Secured Claim against the Tehama Property, including any accrued and unpaid interest at 7% per annum through the date of sale. Any net sales proceeds remaining after payment of the then unpaid amount of M&I Bank's Allowed Class 3C Secured Claim and the then unpaid amount of Nichols' Allowed Class 3C Secured Claim shall be included in computing Allen Net Cash Flow for purposes of Distributions of Allen Net Cash Flow in accordance with the terms of this Plan. For purposes of computing the then unpaid amount of Nichols' Allowed Class 3C Secured Claim, any payment received by Nichols from RSAI, Allen, DLH or ACP to date shall be credited against his Allowed Class 3C Secured Claim.

If the Tehama Property is not sold within the three year period after the Effective Date, the Tehama Property shall be put up for auction, or sold pursuant to such other sales process as Allen, M&I Bank and Nichols shall agree, at a minimum price to be agreed upon by Allen, M&I Bank and Nichols, but in no event less than the amount necessary to pay M&I Bank's Allowed Class 3C Secured Claim in full. The net proceeds of any such sale shall be distributed as set forth above.

(d) **Foley Secured Claim Against Badger Property (Class 3D).** The Badger Property shall be listed for sale as soon as practicable after the Effective Date if not already listed for sale by that time, and shall continue to be listed and marketed for sale for a period of three years from the Effective Date. Foley shall retain his first Lien on the Badger Property to the extent of his Allowed Class 3D Secured Claim against the Badger Property.

Foley's Allowed Secured Claim shall include accrued and unpaid interest at 7% per annum until the Badger Property is sold, but only in the event and to the extent that he has not been paid such interest by Allen, RSAI, ACP or DLH at the time of such sale.

Upon the sale of the Badger Property, the net sales proceeds, after payment of all commissions and all other expenses incident to the sale, shall be paid to Foley to the extent of the

then unpaid amount of his Allowed Class 3D Secured Claim against the Badger Property, including any accrued and unpaid interest at 7% per annum through the date of sale, but only to the extent such interest has not been paid by Allen, RSAI, ACP or DLH at the time of such sale. Any net sales proceeds remaining after payment of the unpaid amount of Foley's Allowed Secured Claim against the Badger Property shall be included in computing Allen Net Cash Flow for purposes of Distributions of Allen Net Cash Flow in accordance with the terms of this Plan. For purposes of computing the then unpaid amount of Foley's Allowed Class 3D Secured Claim, any payment received by Foley from RSAI, Allen, ACP or DLH to date shall be credited against his Allowed Class 3C Secured Claim.

If the Badger Property is not sold within the three year period after the Effective Date, the Badger Property shall be put up for auction, or sold pursuant to such other sales process as Allen and Foley shall agree, at a minimum price to be agreed upon by Allen and Foley, and the net proceeds shall be distributed as set forth above.

(e) **Pointe Property Group Secured Claim Against Allen's Interests in RSAI (Class 3E).** Pointe Property Group shall retain its Liens in the Collateral securing its Allowed Secured Claim. Pointe Property Group's Allowed Class 3E Secured Claim shall include accrued and unpaid interest at the Contract Rate from the Petition Date to the date its Allowed Class 3E Secured Claim is paid in full. Pointe Property Group shall receive \$100,000 plus accrued and unpaid interest at the Contract Rate on or before the second anniversary date after the Effective Date from quarterly distributions of Allen Net Cash Flow, which will be made within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, until Pointe Property Group's Allowed Class 3E Secured Claim is paid in full; provided, however, in no event shall such quarterly payments reduce Allen's cash balance below \$250,000.

(f) **Other Secured Claims Against Allen (Class 3F)** Allen does not believe there are any Other Secured Claims secured by Collateral owned by Allen other than those in Class 3A through 3E. However, to the extent there are any such Allowed Class 3F Other Secured Claims, they will be treated as follows: On or as soon as practicable after the later of (i) the Effective Date or (ii) the Allowance Date, each Holder of an Allowed Other Secured Claim against Allen shall receive from Allen, in full satisfaction, settlement, release and discharge of and in exchange for such Claim, (i) Cash equal to the value of its Allowed Class 3F Other Secured Claim upon the sale of the Collateral, (ii) the Collateral securing the Allowed Class 3F Other Secured Claim, or (iii) such other, less favorable treatment as to which such Holder and Allen shall have agreed upon in writing.

(g) **Release of Liens.** After payment in full of an Allowed Class 3 Secured Claim, the Holder of such Claim shall release all Liens securing such Claim, and file any UCC termination statements to terminate any UCC-1 statements previously filed with respect to such Liens.

(h) **Treatment of Unsecured Portion of Allowed Secured Claims.** If any Allowed Secured Claim in Class 3A, 3B, 3C, 3D, 3E or 3F exceeds the value of the Collateral securing such Claim, then pursuant to Bankruptcy Code section 506(a), any such excess amount

shall be deemed to be and shall be treated as a Class 6A General Unsecured Claim Against Allen.

**5.04. Secured Claims Against RSAI – Class 4**

(a) **Foley Secured Claims Against RSAI Interests in BF Airport Partners and Allen Industrial (Class 4A).** Foley shall retain his first Lien on RSAI's Interests in BF Airport Partners and Allen Industrial to the extent of his Allowed Class 4A Secured Claim against RSAI.

Foley's Allowed Class 4A Secured Claim shall include accrued and unpaid interest at 7% per annum until such Allowed Class 4A Secured Claim is paid in full, but only to the extent such interest has not been paid by Allen, RSAI, ACP or DLH at the time of a Distribution with respect to such Allowed Class 4A Secured Claim.

To the extent of the then unpaid amount of Foley's Allowed Class 4A Secured Claim, Foley shall receive quarterly payments of RSAI Net Cash Flow received by RSAI from BF Airport Partners and/or Allen Industrial within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, until Foley's Allowed Class 4A Secured Claim is paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000. For purposes of computing the then unpaid amount of Foley's Allowed Class 4A Secured Claim, any payment received by Foley from Allen, RSAI, ACP or DLH to date shall be credited against his Allowed Class 4A Secured Claim.

(b) **Pacific Western Secured Claim Against Personal Property, Goods, Accounts, Etc. of RSAI (Class 4B).** Pacific Western shall retain its lien on the Collateral securing its Allowed Class 4B Secured Claim as set forth in the applicable security agreement and UCC-1 filed by Pacific Western. Pacific Western's Allowed Class 4B Secured Claim shall include accrued and unpaid interest at the Contract Rate (7% per annum), but only in the event and to the extent that such interest has not been paid by Allen or ACP at the time of any Distribution on Pacific Western's Allowed Class 4B Secured Claim.

To the extent of the then unpaid amount of Pacific Western's Allowed Class 4B Secured Claim, Pacific Western shall receive quarterly payments of RSAI Net Cash Flow received from sources other than BF Airport Partners and Allen Industrial (which RSAI Net Cash Flow is Collateral for the Foley Allowed Class 4A Secured Claim against RSAI) within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, until Pacific Western's Allowed Class 4B Secured Claim is paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000. Upon payment in full of Foley's Allowed Class 4A Secured Claim, all RSAI Net Cash Flow shall be included for purposes of calculating any remaining quarterly Distributions to Pacific Western, subject to the \$200,000 cash balance limitation. For purposes of computing the then unpaid amount of Pacific Western's Allowed Class 4B Secured Claim, any payment received by Pacific

Western from RSAI, ACP, DLH or Allen to date shall be credited against Pacific Western's Allowed Class 4B Secured Claim.

(c) **Other Secured Claims Against RSAI (Class 4C)** RSAI does not believe there are any Other Secured Claims secured by Collateral owned by RSAI other than those in Class 4A and 4B. However, to the extent there are any such Allowed Class 4C Other Secured Claims, they will be treated as follows: On or as soon as practicable after the later of (i) the Effective Date or (ii) the Allowance Date, each Holder of an Allowed Class 4C Other Secured Claim against RSAI shall receive from RSAI, in full satisfaction, settlement, release and discharge of and in exchange for such Claim, (i) Cash equal to the value of its Allowed Class 4C Other Secured Claim upon the sale of the Collateral, (ii) the Collateral securing the Allowed Class 4C Other Secured Claim, or (iii) such other, less favorable treatment as to which such Holder and RSAI shall have agreed upon in writing.

(d) **Release of Liens.** After payment in full of an Allowed Class 4 Secured Claim, the Holder of such Claim shall release all Liens securing such Claim, and file any UCC termination statements to terminate any UCC-1 statements previously filed with respect to such Liens.

(e) **Treatment of Unsecured Portion of Allowed Secured Claims.** If any Allowed Secured Claim in Class 4A or 4B exceeds the value of the Collateral securing such Claim, then pursuant to Bankruptcy Code section 506(a), any such excess amount shall be deemed to be and shall be treated as a Class 6B General Unsecured Claim Against RSAI.

#### **5.05. DLH/ACP Guaranty Claims – Class 5**

(a) **DLH/ACP Guaranty Claims Against Allen (Class 5A).** The Holder of an Allowed Class 5A DLH/ACP Guaranty Claim against Allen shall have no right to enforce the guaranty that is the basis of such Claim against Allen as long as ACP and/or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of such Claim, is performing under the terms of its respective Plan with respect to the treatment of such Holder's Claim against ACP and/or DLH based upon the loan or other indebtedness to which the Guaranty Claim in question is related. However, to the extent ACP and/or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of an Allowed Class 5A DLH/ACP Guaranty Claim, does not perform under the terms of its respective Plan with respect to the treatment of the Claim based upon the loan or other indebtedness to which the Guaranty Claim in question is related, then Allen's guaranty of such loan or other indebtedness shall survive beyond the Effective Date of the Plan, but such guaranty shall only survive to the extent of the then unpaid Allowed Amount of the Holder's Claim against ACP or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of the Guaranty Claim, pursuant to the terms of the DLH or ACP Plan, whichever is applicable. Thus, if the Holder of an Allowed Class 5A DLH/ACP Guaranty Claim against Allen elected to receive the DLH or ACP 50% Notes pursuant to the ACP or DLH Plan, whichever is applicable, then such Holder's Allowed Class 5A DLH/ACP Guaranty Claim against Allen shall only survive and be Allowed against Allen to the extent of the then unpaid amount of the DLH or ACP 50% Notes that such Holder elected to receive under the DLH or ACP Plan.

Notwithstanding the foregoing treatment, the Holders of Allowed Class 5A DLH/ACP Guaranty Claims against Allen shall receive a pro rata share of 50% of any Allen Equity Distribution based upon the then unpaid total amount of the Allowed Class 5A DLH/ACP Guaranty Claims against Allen, unless (i) such Holder also holds an Allowed Class 5B DLH/ACP Guaranty Claim against RSAI and has already received a share of the RSAI Equity Distribution pursuant to the terms of section 5.05(b) below, and (ii) such Allen Equity Distribution is being made from RSAI to Allen out of the same funds that were the subject of the RSAI Equity Distribution from which the Holder already received a pro rata Distribution from RSAI.

An Allowed Class 5A DLH/ACP Guaranty Claim against Allen shall include any accrued and unpaid interest at the rate provided for in the Plan of ACP or DLH (whichever is the borrower on the loan or other indebtedness that is the subject of such Allowed Class 5A DLH/ACP Guaranty Claim) for the loan or other indebtedness that is the subject of such Allowed Class 5A DLH/ACP Guaranty Claim.

For purposes of computing the then unpaid amount of an Allowed Class 5A DLH/ACP Guaranty Claim against Allen, any payments made to date to the Holder of such Claim by Allen, RSAI, ACP or DLH with respect to same indebtedness that is the subject of such Holder's Allowed Class 5A DLH/ACP Guaranty Claim against Allen shall be credited against the Allowed Amount of the Claim. Furthermore, in no event shall a Holder's Class 5A DLH/ACP Guaranty Claim against Allen be Allowed in an amount greater than such Holder's Claim is Allowed against DLH and/or ACP with respect to the same indebtedness that is the subject of such Guaranty Claim pursuant to the DLH and/or ACP Plan.

(b) **DLH/ACP Guaranty Claims Against RSAI (Class 5B).** The Holder of an Allowed Class 5B DLH/ACP Guaranty Claim against RSAI shall have no right to enforce the guaranty that is the basis of such Claim against RSAI as long as ACP and/or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of such Claim, is performing under the terms of its respective Plan with respect to the treatment of such Holder's Claim against DLH and/or ACP based upon the loan or other indebtedness to which the Guaranty Claim in question is related. However, to the extent ACP and/or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of an Allowed Class 5B DLH/ACP Guaranty Claim, does not perform under the terms of its respective Plan with respect to the treatment of the Claim based upon the loan or other indebtedness to which the Guaranty Claim in question is related, then RSAI's guaranty of such loan or other indebtedness shall survive beyond the Effective Date of the Plan, but such guaranty shall only survive to the extent of the then unpaid Allowed Amount of the Holder's Claim against ACP or DLH, whichever is the borrower on the loan or other indebtedness that is the subject of the Guaranty Claim, pursuant to the terms of the DLH or ACP Plan, whichever is applicable. Thus, if the Holder of an Allowed Class 5B DLH/ACP Guaranty Claim against RSAI elected to receive the DLH or ACP 50% Notes pursuant to the ACP or DLH Plan, whichever is applicable, then the such Holder's Allowed Class 5B DLH/ACP Guaranty Claim against RSAI shall only survive and be Allowed against RSAI to the extent of the then unpaid amount of the DLH or ACP 50% Notes that such Holder elected to receive under the DLH or ACP Plan.

Notwithstanding the foregoing treatment, the Holders of Allowed Class 5B DLH/ACP Guaranty Claims against RSAI shall receive a pro rata share of 50% of any RSAI Equity Distribution based upon the then unpaid total amount of the Allowed Class 5B DLH/ACP Guaranty Claims against RSAI.

In addition, beginning with the first calendar quarter after the payment in full of Allowed Class 4A and Class 4B Secured Claims against RSAI, the Holders of Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, together with the Holders of Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, shall receive quarterly payments within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31) of a pro rata share of 50% of RSAI Net Cash Flow based upon the then unpaid total amount of all Allowed Class 5B DLH/ACP Guaranty Claims and all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, until all Allowed Class 5B DLH/ACP Guaranty Claims and all Allowed Class 6B General Unsecured Claims and Non-DLH Guaranty Claims against RSAI have been paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000.

Furthermore, to the extent that there is RSAI Net Cash Flow that is not Collateral for the Allowed Class 4A or Class 4B Secured Claims against RSAI prior to the payment in full of the Allowed Class 4A and Class 4B Secured Claims against RSAI, the Holders of Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, together with the Holders of Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, shall receive quarterly payments within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, of a pro rata share of 50% of the RSAI Net Cash Flow that is not Collateral for the Allowed Class 4A or Class 4B Secured Claims against RSAI, based upon the then unpaid total amount of all Allowed Class 5B DLH/ACP Guaranty Claims and all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, until all Allowed Class 5B DLH/ACP Guaranty Claims and all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Claims against RSAI have been paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000.

An Allowed Class 5B DLH/ACP Guaranty Claim against RSAI shall include any accrued and unpaid interest at the rate provided for in the Plan of ACP or DLH (whichever is the borrower on the loan or other indebtedness that is the subject of such Allowed Class 5B DLH/ACP Guaranty Claim) for the loan or other indebtedness that is the subject of such Allowed Class 5B DLH/ACP Guaranty Claim.

For purposes of computing the then unpaid amount of an Allowed Class 5B DLH/ACP Guaranty Claim, any payments made by Allen, RSAI, ACP or DLH to date to the Holder of such Claim with respect to same indebtedness that is the subject of such Holder's Allowed Class 5B DLH/ACP Guaranty Claim against RSAI shall be credited against the Allowed Amount of the Claim. Furthermore, in no event shall a Holder's Class 5B DLH/ACP Guaranty Claim against RSAI be Allowed in an amount greater than such Holder's Claim is Allowed against DLH and/or ACP with respect to the same indebtedness that is the subject of such Guaranty Claim pursuant to the DLH and/or ACP Plan.

#### **5.06. General Unsecured Claims and Non-DLH/ACP Guaranty Claims – Class 6**

(a) **General Unsecured Claims and Non-DLH/ACP Guaranty Claims Against Allen (Class 6A).** The Holders of Allowed Class 6A General Unsecured Claims and the Holders of Allowed Non-DLH/ACP Guaranty Claims against Allen shall receive quarterly payments within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, of a pro rata share of Allen Net Cash Flow based upon the then unpaid total amount of all Allowed Class 6A General Unsecured Claims and Non-DLH/ACP Guaranty Claims against Allen, until all Allowed Class 6A General Unsecured Claims and Non-DLH/ACP Guaranty Claims against Allen have been paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$250,000.

For purposes of computing the then unpaid amount of an Allowed Class 6A General Unsecured Claim or Non-DLH/ACP Guaranty Claim, any payments made to date to the Holder of such Claim by Allen, RSAI, DLH, ACP or other co-debtor on the indebtedness that is the subject of such Claim shall be credited against the Allowed Amount of the Claim.

The Allowed amount of a General Unsecured Claim or a Non-DLH/ACP Guaranty Claim shall include interest at the federal judgment rate from the Petition Date to the date of payment, but only to the extent such interest has not been paid to date by a co-obligor or co-guarantor.

(b) **General Unsecured Claims and Non-DLH/ACP Guaranty Claims Against RSAI (Class 6B).** Beginning with the first calendar quarter after the payment in full of Allowed Class 4A and Class 4B Secured Claims against RSAI, the Holders of Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, together with the Holders of Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, shall receive quarterly payments within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31) of a pro rata share of 50% of RSAI Net Cash Flow based upon the then unpaid total amount of all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims and all Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, until all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims and all Allowed Class 5B DLH/ACP Guaranty Claims against RSAI have been paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000.

Furthermore, to the extent that there is RSAI Net Cash Flow that is not Collateral for the Allowed Class 4A or Class 4B Secured Claims against RSAI prior to the payment in full of the Allowed Class 4A and Class 4B Secured Claims against RSAI, the Holders of Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims against RSAI, together with the Holders of Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, shall receive quarterly payments within thirty (30) days after the end of each calendar quarter (March 31, June 30, September 30 and December 31), beginning with the first full calendar quarter after six months after the Effective Date, of a pro rata share of 50% of the RSAI Net Cash Flow that is not Collateral for the Allowed Class 4A or Class 4B Secured Claims against RSAI, based upon the then unpaid total amount of all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty Claims and all Allowed Class 5B DLH/ACP Guaranty Claims against RSAI, until all Allowed Class 6B General Unsecured Claims and Non-DLH/ACP Guaranty



Claims and all Allowed Class 5B DLH/ACP Guaranty Claims against RSAI have been paid in full; provided, however, in no event shall such quarterly payments reduce RSAI's cash balance below \$200,000.

For purposes of computing the then unpaid amount of an Allowed Class 6B General Unsecured Claim or Non-DLH/ACP Guaranty Claim, any payments made to date to the Holder of such Claim by Allen, RSAI, DLH or ACP shall be credited against the Allowed Amount of the Claim.

The Allowed amount of a Class 6B General Unsecured Claim or a Non-DLH/ACP Guaranty Claim shall include interest at the federal judgment rate from the Petition Date to the date of payment, but only to the extent such interest has not been paid to date by a co-obligor or co-guarantor.

#### **5.07. Allen Interests in RSAI – Class 8**

Allen is the Holder of 100% of the Interests in RSAI, and Allen shall retain all Interests in RSAI post-Effective Date, subject to the Allowed Class 3E Secured Claim of Pointe Property Group.

### **ARTICLE VI** **ACCEPTANCE OR REJECTION OF PLAN**

#### **6.01. Impaired Classes to Vote**

Each impaired Class will be entitled to vote separately to accept or reject this Plan. A Holder of an Allowed Claim or Interest in an impaired Class may vote to accept or reject this Plan. A Holder of a Claim or Interest as to which an objection has been filed and that has not been temporarily allowed for purposes of voting on this Plan may not vote. A Holder of a contingent or unliquidated Claim may vote on this Plan in an amount based on the portion, if any, of the Claim shown as non-contingent, liquidated and undisputed in the Schedules, or equal to \$1.00 if not so shown.

#### **6.02. Class Acceptance Requirement**

A Class of Claims or Interests that is entitled to vote to accept or reject the Plan shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims or Interests in such Class that have voted on the Plan.

#### **6.03. Cramdown**

This Section shall constitute the Debtors' request, pursuant to Section 1129(b)(1) of the Bankruptcy Code, that the Bankruptcy Court confirm the Plan notwithstanding the fact that the requirements of Section 1129(a)(8) may not be met. The Debtor reserves the right to amend the Plan as may be necessary to obtain confirmation of the Plan under Section 1129(b) of the Bankruptcy Code. The Debtors assert that this Plan provides for fair and equitable treatment of all Classes of Claims and Interests.

### **ARTICLE VII**

## **MISCELLANEOUS PROVISIONS RELATED TO TREATMENT OF CLAIMS**

### **7.01. Allowed Claims**

Notwithstanding any provision herein to the contrary, the Debtors shall make Distributions only to Holders of Allowed Claims. No Holder of a Disputed Claim will receive any Distribution on account thereof until and to the extent that its Disputed Claim becomes an Allowed Claim. The Debtors, in their sole discretion, may withhold Distributions otherwise due hereunder to the Holder of a Claim until the Objection Deadline, to enable the Debtor to file a timely objection thereto. Any Holder of a Disputed Claim that becomes an Allowed Claim will receive its Distributions accruing before the Allowance Date, without post-petition interest (except as otherwise expressly provided in the Plan), as soon as practicable after the Allowance Date in accordance with the provisions of the Plan.

### **7.02. Postpetition Interest**

Except as otherwise explicitly provided herein or in an order of the Bankruptcy Court, no Holder of an Allowed Claim shall be entitled to or receive post-petition interest with respect to any portion of an Allowed Claim.

### **7.03. Alternative Treatment**

Notwithstanding any provision herein to the contrary, any Holder of an Allowed Claim may receive, instead of the Distribution or treatment to which it is entitled hereunder, any other Distribution or treatment to which it and the Debtor may agree in writing, so long as such alternative treatment is substantially the same as or less favorable than the treatment otherwise prescribed for such Holder by the Plan.

## **ARTICLE VIII TREATMENT OF EXECUTORY CONTRACTS**

### **8.01. General Treatment of Executory Contracts: Rejected**

The Plan constitutes and incorporates a motion by the Debtor to reject, as of the Effective Date, all Executory Contracts to which the Debtor is a party, except for Executory Contracts that (a) have been assumed or rejected pursuant to Final Order of the Bankruptcy Court, or (b) are the subject of a separate motion pursuant to section 365 of the Bankruptcy Code to be filed and served by the Debtor on or before the Confirmation Date.

### **8.02. Cure Payments and Release of Liability**

All Allowed Cure Claims that may be required by section 365(b)(1) of the Bankruptcy Code under any Executory Contract that is assumed under this Plan or pursuant to a prior Final Order of the Bankruptcy Court shall be made in accordance with Section 2.01(d) of the Plan. **[David, is the reference to 2.01 correct? That deals with payment of Admin Claims]**. To the extent that a party to an assumed Executory Contract has not filed an appropriate pleading with the Bankruptcy Court on or before the thirtieth (30th) day after the Effective Date disputing the amount of any Cure Claim offered to it, the cure of any other defaults, the promptness of the Cure Claim payments, or the provisions of adequate assurance of future performance, then such party shall be deemed to have waived its right to dispute such matters.

### **8.03. Bar to Rejection Claims**

If the rejection of an Executory Contract by the Debtor results in damages to the other party or parties to such Executory Contract, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or its properties or agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor by the earlier of (a) thirty (30) days after the Effective Date or (b) such other deadline as the Bankruptcy Court may set for asserting a Claim for such damages.

### **8.04. Rejection Claims**

Any Claim arising from the rejection of an Executory Contract shall be treated as a General Unsecured Claim pursuant to the Plan, except as limited by the provisions of sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code and mitigation requirements under applicable law. Nothing contained herein shall be deemed an admission by the Debtor that such rejection gives rise to or results in a Claim or shall be deemed a waiver by the Debtor of any objections to such Claim if asserted.

## **ARTICLE IX** **EFFECT OF CONFIRMING THIS PLAN**

### **9.01. Binding Effect**

This Plan shall be binding upon and inure to the benefit of the Debtors, all present and future Holders of Claims and Interests, and their respective successors and assigns.

### **9.02. Discharge of Debtor**

*All consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims against the Debtor of any nature whatsoever or against the Debtor's assets or properties. Except as otherwise expressly provided in this Plan, entry of the Confirmation Order acts as a discharge of all Claims against the Debtor and the Debtor's assets and properties, arising at any time before the Effective Date, regardless of whether a proof of Claim was filed, whether the Claim is Allowed, or whether the Holder of the Claim votes to accept this Plan or is entitled to receive a Distribution under this Plan. Upon the entry of the Confirmation Order, any Holder of a discharged Claim will be precluded from asserting against the Debtor or any of its assets or properties any other or further Claim based on any document, instrument, act, omission, transaction or other activity of any kind or nature that occurred before the Effective Date. The Confirmation Order will be a judicial determination of discharge of all liabilities of the Debtor, and the Debtor will not be liable for any Claims and will only have the obligations as are specifically provided for in this Plan.*

### **9.03. Cancellation Of Instruments And Agreements.**

Upon the occurrence of the Effective Date, except as otherwise expressly provided in this Plan, all promissory notes, guarantees, instruments or agreements evidencing, giving rise to or

governing any Claim shall be deemed canceled and annulled without further act or action under any applicable agreement, law, regulation, order or rule; obligations of Debtors under such promissory notes, guarantees, instruments or agreements shall be discharged and the Holders thereof shall have no rights against Debtors or their Estates; and such promissory notes, guarantees, instruments, or agreements shall evidence no such rights, except the right to receive the Distributions provided for in this Plan.

## **ARTICLE X**

### **MEANS FOR EXECUTION OF THIS PLAN**

#### **10.01. Vesting of Assets**

Except as otherwise provided in the Plan or the Confirmation Order, upon the Effective Date, all property of each Debtor's estate, wherever situated, shall vest in each respective Debtor, as reorganized pursuant to this Plan, free and clear of all Claims to the full extent permitted by law including the Bankruptcy Code.

#### **10.02. No Merger or Substantive Consolidation**

Debtors shall not be merged with or into or substantively consolidated with or into any entity.

#### **10.03. Management of RSAI After the Effective Date.**

From and after the Effective Date, the management of RSAI will remain the same. Allen will remain President and Chief Executive Officer and sole owner of RSAI.

#### **10.04. Sources of Cash for Plan Distributions**

The sources of Cash necessary for Allen and RSAI to pay Allowed Claims that are to be paid in Cash under the Plan will be: (a) the Cash of the Debtors Allen and RSAI on hand as of the Effective Date; (b) Allen and RSAI Net Cash Flow after the Effective Date; and (c) Allen and RSAI Equity Distributions after the Effective Date.

#### **10.05. Management of Debtors' Assets After Effective Date**

Debtors shall continue to manage and control each of their respective assets and any other assets within their control, directly or indirectly, after the Effective Date, and to the extent this Plan provides for the sale of certain of the Debtors' assets, the Debtors shall manage and control the sale of those assets and shall liquidate such assets as expeditiously as reasonably possible, consistent with the terms of this Plan and the goal of maximizing the value thereof for the benefit of the Holders of Claims secured by a Lien on those assets and Interest Holders.

## **ARTICLE XI**

### **METHOD OF DISTRIBUTION**

#### **11.01. Means of Implementation**

The Debtors will make all Distributions required under this Plan, subject to the provisions of this Plan.

### **11.02. Means of Cash Payment**

Cash payments made pursuant to this Plan will be in U.S. funds, by the means agreed to by the payor and the payee, including by check or wire transfer, or, in the absence of an agreement, by a commercially reasonable manner as the payor will determine in its sole discretion.

### **11.03. Delivery of Distributions**

Distributions to Holders of Allowed Claims will be made by the Debtor (a) at the addresses set forth on the proofs of Claim, (b) at the addresses set forth in any written notice of address change delivered to the Debtors after the filing date of any related proof of Claim, (c) at the addresses reflected in the Schedules if no proof of Claim has been filed and the Debtors have not received a written notice of a change of address, or (d) at the last known address of the Holder if no proof of Claim has been filed. If any Holder's Distribution is returned as undeliverable, no further Distributions to the Holder will be made unless and until the Debtor is notified of the Holder's then current address, at which time all missed Distributions will be made to the Holder without interest. Amounts in respect of undeliverable Distributions made by or through the Debtors will be returned to the Debtors until the Distributions are claimed. All claims for undeliverable Distributions shall be made on or before the one-year anniversary of the Distribution to the Creditor that was undeliverable. After such date, such undeliverable Distributions shall become an asset available to the Debtors and the Creditors entitled to the undeliverable Distributions shall thereafter have no further rights or entitlements to the undeliverable Distributions.

### **11.04. Fractional Dollars; De Minimis Distributions**

Any other provision of this Plan notwithstanding, payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar under this Plan would otherwise be called for, the actual payment made will reflect a rounding of the fraction to the nearest whole dollar (up or down), with half dollars being rounded down. The Debtors will not make any payment of less than twenty-five dollars (\$25.00) with respect to any Claim or Interest unless a request is made in writing to the Debtors.

### **11.05. Allocation of Plan Distribution Between Principal and Interest**

To the extent that any Allowed Claim entitled to a Distribution under this Plan is composed of principal indebtedness and accrued but unpaid interest thereon, the Distribution will, to the extent permitted, be allocated for income tax purposes to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to the portion of the Claim representing accrued but unpaid interest.

### **11.06. Unclaimed Distributions**

Any Distributions that are unclaimed shall be retained by the Debtors, and any entitlement of any Holder of any Claim to such Distributions shall be extinguished and forever barred. Unclaimed Distributions shall be deposited into a pool for redistribution to other Holders of Allowed Claims in the same Class as the intended recipient of the unclaimed Distribution.

## **ARTICLE XII**

### **CLAIMS RESOLUTION**

#### **12.01. Objections to Claims by the Debtors**

The Debtors will have authority to object to and contest the allowance of any claims filed with the Bankruptcy Court. Unless a different date is set by order of the Bankruptcy Court, all objections to Claims must be filed by the Objection Deadline, which shall be ninety (90) days after the Effective Date. All Disputed Claims shall be litigated to Final Order unless estimated by the Bankruptcy Court for purposes of Distribution; provided, however, that the Debtors may compromise and settle any Disputed Claim, subject to the approval of the Bankruptcy Court.

#### **12.02. Distributions on Account of Contested Claims**

(a) **No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no Distribution shall be made with respect to any Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim by Final Order or is estimated for purposes of Distribution by the Bankruptcy Court. In the case of a Holder of a Claim who is also alleged to be holding property that is recoverable by virtue of any Avoidance Action or liable on any Avoidance Action brought, filed, joined, or adopted by Debtors as of the date of a particular Distribution, such Holder's Claim shall then be and shall thereafter continue to be a Disputed Claim until such Avoidance Action is fully resolved by Final Order and, if and to the extent the Holder of such Claim is found to be obliged to turnover property or to pay a monetary amount, such Final Order is fully performed and satisfied by such Holder, and such Holder shall receive no Distributions under this Plan until such time.

(b) **Distribution After Allowance.** As soon as practicable after a Disputed Claim becomes an Allowed Claim, the Holder of an Allowed Claim shall receive a Distribution in an amount of dollars equal to the aggregate of all the Distributions which such holder would have received had such Disputed Claim been an Allowed Claim on the Effective Date. Distributions to each Holder of a Disputed Claim, to the extent that such Claim becomes an Allowed Claim, shall be made in accordance with the provisions of the Plan governing the Class of Claims to which such Claim belongs. The Debtors shall have the right to make or direct the making of all distributions to the Holders of Allowed Claims. All Disputed Claims shall be litigated to Final Order unless estimated by the Bankruptcy Court for purposes of Distribution; provided, however, that the Debtors may compromise and settle any Disputed Claim, subject to the approval of the Bankruptcy Court.

#### **12.03. Objections to Claims by the Debtors**

Unless a Claim is expressly described as an Allowed Claim pursuant to or under the Plan, or otherwise becomes an Allowed Claim prior to or after the Effective Date, the Debtors reserve any and all objections to any and all Claims and motions or requests for the payment of Claims, whether Administrative Expense, Priority, Secured or Unsecured, including, without limitation, any and all objections to the validity or amount of any and all alleged Administrative Claims, Priority Tax Claims, Non-Tax Priority Claims, DLH/ACP Guaranty Claims, General Unsecured

Claims, Non-DLH/ACP Guaranty Claims, Interests, Liens and security interests, whether under the Bankruptcy Code, other applicable law or contract.

#### **12.04. Standing and Responsibility to Object to Claims**

Prior to the Effective Date, Debtors shall be responsible for pursuing any objection to the allowance of any Claim. From and after the Effective Date, Debtors will retain responsibility for administering, disputing, objecting to, compromising or otherwise resolving and making Distributions, if any, with respect to all Claims.

### **ARTICLE XIII** **ASSERTION OF ESTATE ACTIONS**

#### **13.01. Assertion of Estate Actions, Defenses and Counterclaims**

Except as otherwise provided in the Plan, the Confirmation Order, or in any contract, instrument or other agreement entered into in connection with the Plan, in accordance with section 1123(b)(3) of the Bankruptcy Code, the Debtor shall retain and may exclusively prosecute, settle, or compromise any Estate Action. The Debtor shall also retain and may prosecute and enforce all defenses, counterclaims, and rights against or with respect to all Claims asserted against the Debtor or the Estate.

#### **13.02. Treatment of Avoidance Actions.**

Generally, the Debtors waive all Avoidance Actions belonging to the Debtors' Estates pursuant to sections 544, 545, 546, 547, 548 or 549 of the Bankruptcy Code. Notwithstanding the foregoing, all Avoidance Actions are preserved in the estate for the benefit of creditors if (a) such an Avoidance Action has been brought or otherwise asserted prior to the Confirmation Date or (b) such Avoidance Action has been asserted as part of an objection to a Claim where either (i) such objection was brought prior to the Confirmation Date or (ii) the Claim in question was filed after the applicable bar date.

#### **13.03. Setoffs**

The Debtors may, but will not be required to, set off against any Claim, and the Distributions to be made pursuant to this Plan in respect of the Claim, claims of any nature whatsoever that the Debtor may have against the Holder of the Claim, provided, however, that neither the failure to do so nor the allowance of any Claim hereunder will constitute a waiver or release by the Debtor of any claim that the Debtor may have against the Holder. The Holder of a Disputed Claim who asserts a right of setoff will retain the right, subject to any defenses of the Debtor, until the earlier of the time when (a) the Disputed Claim becomes Allowed, in whole or in part, or (b) the Claim is Disallowed by a Final Order of the Bankruptcy Court.

### **ARTICLE XIV** **CONDITIONS PRECEDENT TO CONFIRMATION OF THIS PLAN**

#### **14.01. Conditions to Confirmation**

The Bankruptcy Court will not enter the Confirmation Order unless and until each of the following conditions has been satisfied or duly waived (if waivable):

(a) The documents implementing this Plan will be in form and substance acceptable to the Debtor, and will have been provided to the Bankruptcy Court.

(b) The Confirmation Order is in a form and substance acceptable to the Debtor and, among other things, makes findings that particular subsections of section 1129 of the Bankruptcy Code have been met, including (i) that the Debtor and its representatives have proposed and obtained confirmation of this Plan in good faith; (ii) that this Plan is in the best interests of creditors and (iii) that this Plan is fair and equitable to Holders of Claims and Interests.

(c) The Confirmation Order authorizes and directs the Debtor to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, and other agreements or documents contemplated by this Plan.

The foregoing conditions to the confirmation of the Plan may be waived in whole or in part by the Debtors upon approval of the Bankruptcy Court.

## **ARTICLE XV**

### **RETENTION OF JURISDICTION**

#### **15.01. Jurisdiction**

Until the case is closed, the Bankruptcy Court will retain the jurisdiction as is legally permissible under applicable law, including under sections 105(a) and 1142 of the Bankruptcy Code, including that which is necessary to ensure that the purpose and intent of this Plan are carried out and to hear and determine all objections thereto that could have been brought before the entry of the Confirmation Order. The Bankruptcy Court will retain jurisdiction to hear and determine all Claims against and Interests in the Debtors and to enforce all Estate Actions that may exist on behalf of the Debtors, over which the Bankruptcy Court otherwise has jurisdiction. Nothing contained in this Plan will prevent the Debtors from taking any action as may be necessary in the enforcement of any cause of action that may exist on behalf of the Debtors and that may not have been enforced or prosecuted by the Debtors.

#### **15.02. Examination of Claims**

Following the Confirmation Date, the Bankruptcy Court will retain jurisdiction to decide disputes concerning the classification and allowance of any Claim or Interest and the reexamination of Claims and Interests that have been allowed for the purposes of voting, and the determination of any objections as may be filed to Claims and Interests. The failure by the Debtor to object to, or to examine, any Claim or Interest for the purposes of voting will not be deemed a waiver of the Debtors' rights to object to, or to re-examine, the Claim or Interest in whole or in part.

#### **15.03. Determination of Disputes**

The Bankruptcy Court will retain jurisdiction after the Confirmation Date to determine all questions and disputes regarding title to the assets of the Estates, disputes concerning the allowance of Claims and Interests, and determination of all causes of action, controversies,



disputes, or conflicts, whether or not subject to any pending action, as of the Confirmation Date, for the Debtors to recover assets pursuant to the provisions of the Bankruptcy Code.

#### **15.04. Additional Purposes**

The Bankruptcy Court will retain jurisdiction for the following additional purposes after the Effective Date:

(a) to hear and determine any modification of the Plan pursuant to section 1127 of the Bankruptcy Code, to cure any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary or appropriate to carry out the purposes and effects thereof;

(b) to issue injunctions, enter and implement other orders and take such other actions as may be necessary or appropriate to execute, interpret, implement, consummate, or enforce the terms and conditions of the Plan and the transactions contemplated thereunder, the Confirmation Order, or any other order of the Bankruptcy Court, or to maintain the integrity of the Plan following confirmation;

(c) to hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument or other document governing or relating to any of the foregoing;

(d) to construe and apply any findings of fact and/or conclusions of law made in or in connection with the Confirmation Order;

(e) to adjudicate matters arising in this case, including matters relating to the formulation and consummation of this Plan;

(f) to enter any orders, including injunctions, as are necessary to enforce title, rights, and powers of the Debtors and to impose any limitations, restrictions, terms and conditions on the title, rights, and powers as the Bankruptcy Court may deem necessary;

(g) to hear and determine any dispute involving or affecting the existence, nature, scope, validity or enforceability of the Debtors' discharge referred to in Article IX of the Plan and the Bankruptcy Code;

(h) to enter a Final Decree closing this case;

(i) to correct any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

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

(k) to hear and allow applications for fees and expenses pursuant to sections 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;

(l) to decide issues concerning federal tax reporting and withholding that arise in connection with the confirmation or consummation of the Plan;

(m) to decide issues concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(n) to adjudicate any issues concerning assumption or rejection of Executory Contracts, including any disputes concerning Rejection Damage Claims or Cure Claims;

(o) to hear and determine any and all objections to any Claims or Interests, including Administrative Claims, including the allowance, classification, priority, secured status, compromise, estimation, or payment thereof;

(p) to hear and determine any litigation, including but not limited to Estate Actions, or causes of action belonging to the Debtor; and

(q) to hear and to determine any other matter related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code.

## **ARTICLE XVI**

### **GENERAL NOTICES, DEFAULT AND MISCELLANEOUS PROVISIONS**

#### **16.01. General Notices**

All notices required to be given in connection with this Plan should be delivered by United States certified mail, postage prepaid, return receipt requested addressed to the Debtor or the Debtor at the following addresses:

Richard S. Allen  
Richard S. Allen, Inc.  
1700 Pacific Avenue, Suite 1250  
Dallas, Texas 75201

and to counsel for the Debtors at the following address:

Douglas J. Buncher  
Neligan Foley LLP  
325 N. St. Paul, Suite 3600  
Dallas, TX 75201

#### **16.02. Asserting and Curing Default Under the Plan**

If the Debtors default under the provisions of the Plan (as opposed to default under the documentation executed in implementing the terms of the Plan, which documents may provide independent bases for relief concerning the assertion and cure of defaults), any creditor or party in interest desiring to assert a default will provide the Debtors with written notice of the alleged

default. The Debtors will have thirty (30) days from receipt of written notice to cure the alleged default. If the default is not cured, any creditor or party in interest may then file with the Bankruptcy Court, and serve on counsel for the Debtors, a motion to compel compliance with the applicable provision of this Plan. The Bankruptcy Court, on finding a material default, will issue orders compelling compliance with the pertinent provisions of the Plan.

#### **16.03. Compliance with Tax Requirements**

In connection with this Plan, the Debtors will comply with any withholding and reporting requirements imposed by federal, state, and local taxing authorities, and Distributions will be subject to the withholding and reporting requirements.

#### **16.04. Modification or Revocation of this Plan**

The Debtors reserve the right to modify the Plan either before or after the Confirmation Hearing, to the fullest extent permitted under section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, including but not limited to modifications necessary to negotiate the resolution of an objection to Confirmation of this Plan. The Debtors reserve the right to withdraw or revoke the Plan at any time before the Confirmation Date, or thereafter prior to the Effective Date. The Debtors may amend the Plan before or after the Effective Date as provided in section 1127 of the Bankruptcy Code.

#### **16.05. Effect of Withdrawal or Revocation**

If the Debtors revoke or withdraw this Plan before the Confirmation Date, or if the Confirmation Date or the Effective Date does not occur, then this Plan will be null and void. In such event, nothing contained in this Plan will be deemed to constitute a waiver or release of and Claims by or against the Debtors or any other Person, or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors.

#### **16.06. Due Authorization**

Each and every Holder of an Allowed Claim who elects to participate in the Distributions provided for in this Plan warrants that it is authorized to accept, in consideration of such Claim or Interest, the Distributions provided for in this Plan and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by it under the Plan.

#### **16.07. Implementation**

The Debtors will be authorized to take all necessary steps, and perform all necessary acts, to consummate the terms and conditions of this Plan.

#### **16.08. Ratification**

The Confirmation Order will ratify all transactions effected by the Debtors during the pendency of this case.

#### **16.09. Term of Injunctions or Stays**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in this case under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays continued in this Plan or the Confirmation Order), will remain in full force and effect until the Effective Date.

#### **16.10. Integration Clause**

This Plan is a complete, whole, and integrated statement of the binding agreement between the Debtor, its creditors, and other parties-in-interest upon the matters herein. Parol evidence shall not be admissible in an action regarding this Plan or any of its provisions.

#### **16.11. Interpretation**

Unless otherwise specified, all section, article and exhibit references in the Plan are to the respective section in, article of or exhibit to the Plan, as the same may be amended, waived, or modified from time to time. The headings of the articles, paragraphs and sections of the Plan and table of contents in the Plan are inserted for convenience of reference only and shall not limit or otherwise affect the provisions of the Plan or its interpretation. Nothing herein shall be deemed as a judicial admission by the Debtors.

#### **16.12. Severability of Plan Provisions**

If any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable before the Confirmation Date, the Bankruptcy Court, at the request of the Debtors, will have the power to alter and interpret the term or provisions to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provisions held to be invalid, void, or unenforceable, and the 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 this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by the holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### **16.13. Governing Law**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), the laws of (a) the State of Texas shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed or amended in connection with the Plan and (b) the state of incorporation of RSAI shall govern corporate governance matters and any causes of action arising under state law with respect to RSAI, in either case without giving effect to the principles of conflicts of law thereto.

DATED: August 18, 2010

/s/Richard S. Allen  
Richard S. Allen

RICHARD S. ALLEN, INC.

By: /s/Richard S. Allen  
Richard S. Allen, President and CEO

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