

---

**THIS PROPOSED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED UNDER SECTION 1125(b) OF THE BANKRUPTCY CODE BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION FOR USE IN CONNECTION WITH THE SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN OF REORGANIZATION DESCRIBED HEREIN. ACCORDINGLY, THE FILING AND DISSEMINATION OF THIS PROPOSED DISCLOSURE STATEMENT ARE NOT INTENDED AND SHOULD NOT IN ANY WAY BE CONSTRUED AS A SOLICITATION OF VOTES ON THE PLAN, NOR SHOULD THE INFORMATION CONTAINED HEREIN BE RELIED UPON FOR ANY PURPOSE BEFORE A DETERMINATION BY THE BANKRUPTCY COURT THAT THE PROPOSED DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION.**

Peter W. Billings, A0330  
Gary E. Jubber, A1758  
Douglas J. Payne, A4113  
FABIAN & CLENDENIN,  
A Professional Corporation  
215 South State Street, Suite 1200  
Salt Lake City, Utah 84111-2323  
Telephone: (801) 531-8900

*Attorneys for Debtor-in-Possession,  
S.L.6, L.L.C.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

---

In re:

S.L.6, L.L.C.,

Debtor.

Bankruptcy Case No. 11-34911  
(Chapter 11)

Honorable William T. Thurman

---

**AMENDED DISCLOSURE STATEMENT WITH RESPECT TO AMENDED PLAN OF  
REORGANIZATION**

**Date: March 2, 2012**

**IMPORTANT**

---

**THIS DISCLOSURE STATEMENT IS SUBMITTED TO ALL CREDITORS OF S.L.6, L.L.C. ENTITLED TO VOTE ON THE PLAN OF REORGANIZATION HEREIN DESCRIBED, AND CONTAINS INFORMATION THAT MAY AFFECT YOUR DECISION TO ACCEPT OR REJECT THE PLAN OF REORGANIZATION. THIS DISCLOSURE STATEMENT IS INTENDED TO PROVIDE ADEQUATE INFORMATION AS REQUIRED BY THE BANKRUPTCY CODE AS TO THE PLAN OF REORGANIZATION. ALL CREDITORS AND INTEREST HOLDERS ARE URGED TO READ THE DISCLOSURE STATEMENT AND ATTACHMENTS WITH CARE AND IN THEIR ENTIRETY.**

**ON [ \_\_\_\_\_ (date), 2012], THE BANKRUPTCY COURT APPROVED THIS DISCLOSURE STATEMENT AS CONTAINING ADEQUATE INFORMATION UNDER SECTION 1125(b) OF THE BANKRUPTCY CODE. SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN OF REORGANIZATION HEREIN DESCRIBED AND ATTACHED AS EXHIBIT A, IS BEING SOUGHT FROM CREDITORS AND INTEREST HOLDERS WHOSE CLAIMS AGAINST, AND INTERESTS IN THE DEBTOR, ARE IMPAIRED UNDER THE PLAN OF REORGANIZATION. CREDITORS AND INTEREST HOLDERS ENTITLED TO VOTE ON THE PLAN OF REORGANIZATION ARE URGED TO VOTE IN FAVOR OF THE PLAN AND TO RETURN THE BALLOT INCLUDED WITH THIS DISCLOSURE STATEMENT UPON COMPLETION IN THE ENVELOPE PROVIDED.**

---

**GENERAL INFORMATION REGARDING DISCLOSURE STATEMENT AND PLAN**

S.L.6, L.L.C. submits this Disclosure Statement under section 1125 of the Bankruptcy Code and Bankruptcy Rule 3016. The purpose of this Disclosure Statement is to disclose information adequate to enable creditors who are entitled to vote to arrive at a reasonably informed decision in exercising their rights to vote on the Plan of Reorganization (the “Plan”). A copy of the Plan is attached as Exhibit A. Capitalized terms used but not defined in this Disclosure Statement shall have the meanings assigned to them in Article I of the Plan or in

the Bankruptcy Code and Bankruptcy Rules. All section references in this Disclosure Statement are to the Bankruptcy Code unless otherwise indicated. The Debtor has promulgated the Plan consistent with the provisions of the Bankruptcy Code. The purpose of the Plan is to provide the maximum recovery to each Class of Claims considering the assets and anticipated funds available for distribution to creditors. The Debtor believes that the Plan permits the maximum recovery for all Classes of Claims.

This Disclosure Statement is not intended to replace a careful review and analysis of the Plan, including the specific treatment of Claims under the Plan. It is submitted as an aid and supplement to your review of the Plan to explain the terms of the Plan. Every effort has been made to explain fully various aspects of the Plan as they affect creditors. If any questions arise, the Debtor urges you to contact its counsel to attempt to resolve your questions. You may, of course, wish to consult with your own counsel. If there is any conflict between the language of the Plan and the language of this Disclosure Statement, the language of the Plan shall govern.

Please carefully read the Disclosure Statement and Plan prior to deciding whether to accept or reject the Plan. Please give special attention to those parts of the Plan and Disclosure Statement treating your Claim or Interest in the Debtor. You are encouraged, in this regard, to consult with an attorney and/or an accountant to fully understand the Plan and the effect which it may have upon your rights.

### **PROCEDURAL INFORMATION**

A ballot for voting on the Plan is enclosed with this Disclosure Statement. Please review this carefully and fill out all portions of the ballot. In order to be counted, ballots must be

returned so that they are received no later than 5:00 p.m., Mountain Time, on \_\_\_\_\_ (date), 2012, at the following address.

Clerk, United States Bankruptcy Court  
United States Courthouse  
350 South Main Street, Room 301  
Salt Lake City, Utah 84101

A hearing on confirmation of the Plan will be held before the Honorable William T. Thurman, United States Bankruptcy Judge, in his courtroom in the United States Courthouse, 350 South Main Street, Salt Lake City, Utah 84101, on \_\_\_\_\_ (date), 2012, at \_\_\_\_\_ (time), Mountain Time.

Objections to confirmation of the Plan, if any, must be in writing and filed with the clerk of the Bankruptcy Court, at the above address, with copies served upon counsel for the Debtor and the Office of the United States Trustee, no later than \_\_\_\_\_ (date), 2012. The addresses for counsel for the Debtor and the Office of the United States Trustee are as follows:

For the Debtor:

S.L.6, L.L.C.  
1099 W. South Jordan Parkway  
South Jordan, Utah 84095

with a copy to:

Peter W. Billings  
Gary E. Jubber  
Douglas J. Payne  
Fabian & Clendenin  
215 South State Street, Suite 1200  
Salt Lake City, UT 84111  
Telephone: (801) 531-8900  
Facsimile: (801) 596-2814

For the United States Trustee:

Office of the United States Trustee  
405 S. Main Street, #300  
Salt Lake City, Utah 84111

Any objections to confirmation will be heard at the hearing on confirmation, at the place and time noted above.

**It is important that you vote.** The Plan places holders of claims and interests into various classes. Voting is conducted according to these classifications. In other words, the Plan is accepted or rejected class by class. A majority of claims in a class may bind the minority in that class. This majority is computed by both number and amount (a majority in number and two-thirds in amount), both being necessary to obtain acceptance of the class. Moreover, this majority is based upon claims actually voted, not upon claims outstanding. Hence, to be counted, **you must vote your claim.**

In connection with confirmation, the Court may confirm the Plan, even if a class of claims or interests does not accept the Plan, but only in the event that certain minimum requirements are established as set forth in 11 U.S.C. § 1129(b).

The Debtor believes that the Plan provides parties in interest with the best opportunity to realize the most value reasonably to be expected on account of claims against Debtor. Accordingly, THE DEBTOR URGES PARTIES TO ACCEPT THE PLAN.

**HISTORY AND ORGANIZATION OF THE DEBTOR**

**Business and History of the Debtor:**

S.L.6 was organized as a closely-held Utah limited liability company in February 2003. Since its inception, S.L.6 has been engaged in the development of real property located in Eagle Mountain, Utah County, Utah known as the SilverLake at Eagle Mountain subdivision. SilverLake at Eagle Mountain is a master planned community that has been approved for a total of 2,356 single-family units. Prior to the Debtor’s bankruptcy filing, 556 lots had been developed, of which 523 lots had been sold, leaving 33 fully developed lots owned by the Debtor. In addition to the fully-developed lots, the Debtor also owns approximately 266 acres of additional land that is part of the SilverLake master plan. In June 2011, Eagle Mountain City approved a Master Development Plan Amendment for the Debtor’s remaining 266 acres to be developed into 1,800 single-family lots.

The Debtor financed its development of the SilverLake Subdivision through a development loan with Zions First National Bank (“**Zions**” or “**Zions Bank**”). The Debtor and Zions agreed to a series of modifications to the development loan, the most recent occurring on or about June 29, 2009.

The Debtor began selling lots in the SilverLake Subdivision in approximately June 2004. The Debtor sold the following number lots in the subdivision from 2004 through 2010:

<u>Year</u>	<u>No. of Lots Sold</u>
2004	143
2005	233
2006	45

2007	23
2008	11
2009	31
2010	23

**Events Leading to Chapter 11 Filing:**

Sales of lots in SilverLake declined significantly during 2006 and 2007 due to the then-existing inventory of fully-developed lots selling out. Financing difficulties limited the Debtor's ability to deliver new product to match demand during 2006 and 2007. Sales declined in 2008 when the housing bubble burst in the United States and credit markets contracted. The Debtor was unable to negotiate further extensions of credit with Zions Bank after 2009. During 2010, Zions stopped granting partial reconveyances of its trust deeds on either individual lots or larger parcels, which effectively prevented the Debtor from being able to sell property. Zions Bank caused two notices of default to be recorded with respect to its loans against the Debtor's real property on April 4, 2011. The Debtor was unable to negotiate an extension of the loan secured by Zions' trust deeds. On September 8, 2011, Zions caused Notices of Sale to be issued with respect to its two trust deeds on the Debtor's property, and scheduled non-judicial foreclosure sales for October 14, 2011 at 11:00 a.m. and 11:15 a.m. The Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code on October 13, 2011.

**Current Ownership of the Debtor.**

The current members/managers of the Debtor are:

<u>Member/Manager</u>	<u>Ownership</u>
Mortgage Investment Trust of Utah	6.2549%
Ron Thorne Construction	25.4256%
Milton P. Shipp IRA	7.7252%

Milton P. Shipp	4.5868%
Steven R. Young IRA	8.9124%
Grant Gifford	9.9302%
Dave Gifford	4.3737%
Paul Gifford	1.5871%
Rindlesbach Construction, Inc. Profit Sharing Plan	26.6174%

The Debtor is a member-managed limited liability company. The members of the Debtor have significant experience in real estate development and/or home construction in the State of Utah. The Operating Agreement provides that actions must be approved by a majority interest in the Debtor unless the Utah Limited Liability Company Act requires a greater interest approve an act. That statute requires 2/3 membership interest approval for actions not in the ordinary course of the company's business.

#### **ASSETS AND LIABILITIES OF THE DEBTOR**

**Assets:** The assets of the Estate are generally described as follows:

**SilverLake Subdivision Property:** The Debtor's real property is located in Eagle Mountain, Utah County, Utah. It is a master planned residential community known as the SilverLake at Eagle Mountain subdivision. The Debtor owns 33 fully developed lots. The additional approximately 266 acres of land owned by the Debtor was approved by Eagle Mountain City in June 2011 to be developed into an additional 1,800 single-family lots. The real property owned by the Debtor, together with associated water rights, is referred to hereafter as the "**Real Property.**" The Debtor, through its counsel, obtained an appraisal of the Real Property by J. Philip Cook and Associates, LLC in the summer of 2011 valuing the Real Property at \$16,750,000. Zions Bank obtained a recent appraisal by Anderson Appraisal Group



valuing the Real Property at \$7,000,000. The Debtor believes that the \$16,750,000 value of the Phil Cook appraisal is more accurate than the bank's appraisal. During the course of the bankruptcy, the Debtor has engaged in discussions with at least two potential buyers of the Real Property in which the potential price discussed was \$10,000,000 or less.

Cash: As of December 31, 2011, the Debtor had \$41,611.71 in cash in its Debtor-in-possession bank account.

Vehicles: The Debtor owns two old, used Winder Dairy milk trucks that it purchased for \$1,000 dollars each. The Debtor used the milk trucks as mobile billboards, often parking them in Eagle Mountain or in adjacent Saratoga Springs to advertize the Real Property to potential buyers. The Debtor believes the milk trucks have a nominal value of \$1,000 or less each.

Potential Claim against Zions Bank: The Debtor has a potential claim against Zions Bank for breach of a deposit account agreement. The Debtor's counsel has not investigated the merits of this potential claim. The value of the potential claim is unknown.

**Liabilities:**

Administrative Claims: The Debtor has no employees and has not been actively engaged in development activities related to the Property since the Petition Date. Accordingly, the Debtor has incurred no trade debt during the administration of the case. The Debtor has incurred post-petition claims to professionals hired by the Debtor since the Petition Date. Fabian & Clendenin, the Debtor's Bankruptcy counsel incurred fees and costs totaling approximately \$34,720 through December 31, 2011. Fabian & Clendenin has yet to submit a fee application to the Court. Fabian & Clendenin is holding in its trust account a retainer of \$68,051.76 paid to it

by the Debtor that can be used to pay fees and costs allowed by the Court. Fabian & Clendenin has incurred additional fees and costs since December 31, 2011, and will continue to incur fees and costs through the Effective Date. The Debtor is not aware of any other administrative claimants at the present time. Administrative claims would be paid on the Effective Date of the Plan unless otherwise agreed to by administrative claimants.

Taxes: The Debtor owes \$202,976.32 to the Utah County Treasurer for unpaid property taxes. The property taxes are secured by a first priority lien against the Debtor's real property. The Debtor is a Utah limited liability company, and therefore had no direct tax liability to either the Internal Revenue Service or the Utah State Tax Commission.

Secured Creditors: The Debtor owes approximately \$ 15,353,000.00 to Zions Bank on development loan obligations secured by two trust deeds against the Debtor's real property. The Debtor's obligations to Zions Bank were guaranteed by the Rindlesbach Construction, Inc. Profit Sharing Plan, Ron Thorne Construction, Inc., Mortgage Investment Trust of Utah, Ronald H. Thorne, Grant Gifford, Ralph J. Marsh, and Bruce Woodruff. Rindlesbach Construction, Inc. Profit Share Plan, Ron Thorne Construction, Inc., Mortgage Investment Trust of Utah, and Grant Gifford are members of the Debtor. Ronald H. Thorne is the principal of member Ron Thorne Construction, Inc., and Ralph J. Marsh and Bruce Woodruff are principals of member Mortgage Investment Trust of Utah.

General Unsecured Creditors: The claims of the General Unsecured Creditors total approximately \$378,000.

<u>Unsecured claimant</u>	<u>Amount</u>	<u>Claim No.</u>
Zions Bank (assignee of PC Development, Inc.)	\$18,971.11	1-1
Baugh Construction & Development, Inc.	\$24,640.00	3-1

Trane Engineering, P.C.	\$14,550.00	4-1
H&K Excavation	\$5,775.00	5-1
Silver Lake Master HOA	\$2,750.00	6-1
Karren, Hendrix, Stagg, Allen & Co.	\$2,297.92	Schedule F
Flagship Homes	\$10,000.00	Schedule F
S.L. Managers, LLC	<u>\$300,000.00</u>	Schedule F
TOTAL	<u>\$378,984.03</u>	

Included in that amount are the claims of S.L. Managers, L.L.C., Flagship Homes, and Silver Lake HOA, who appear to be insiders of the Debtor.

### **POST-FILING ACTIVITIES OF THE DEBTOR**

**Activities of the Debtor and Litigation:** The Chapter 11 petition was filed on October 13, 2011. The Debtor filed its original Schedules and Statement of Affairs on October 27, 2011. The original Meeting of Creditors was held on November 17, 2011. The Court fixed February 15, 2012 as the deadline for filing proofs of claim for all creditors except governmental units. The deadline for a governmental unit was fixed at 180 days from the Petition Date (or April 10, 2012).

Since filing its petition, the Debtor has engaged in discussions with Zions relating to a possible reduction of Zions' secured claim in connection with a sale of the Real Property. Members of the Debtor have also engaged in discussions and negotiations with potential buyers of the Real Property regarding a possible sale of the Real Property in its entirety, which discussions are continuing. The members of the Debtor have utilized their knowledge of real estate developers in Utah to approach potential interested buyers who they believe would have the capability to purchase the Real Property. Based upon the experience of the Debtor's members in the real estate development business, the Debtor believes that this approach will be

more effective and less expensive than listing the Real Property for sale with a real estate broker or agent.

### **SUMMARY OF THE PLAN**

The following is a summary of the Plan. For greater detail and comprehensive understanding, parties in interest should read the entire Plan which accompanies this Disclosure Statement. The summary of the Plan which follows, for the most part, contains the substantive portions of the Plan, such as treatment of claims and strategies for reorganization. It omits the procedural features of the Plan, such as mechanisms for objecting to claims, distributions of dividends, and conduct of post-confirmation litigation.<sup>1</sup>

#### **General Description of the Plan**

The Plan provides for the retention of all liens of Allowed Secured Claimants and for the Estate Representative, on behalf of the Reorganized Debtor, to endeavor to sell the Real Property for a period of six months from the Effective Date. The secured claims of the Utah County Treasurer and Zions Bank will be paid from the proceeds of any such sale. Any sale for less than an amount sufficient to pay in full the secured claims of Zions Bank shall require the consent of Zions. In event the Estate Representative is unable to sell the Real Property within six months following the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall convey the Real Property to Zions in full satisfaction of the debt to Zions. In that event, the lien of the Utah County Treasurer shall remain in full force and effect against the Real Property.

---

<sup>1</sup> This summary is not intended to be a substitute for the terms and conditions of the Plan itself and merely serves as a general overview of the Plan.

Claims of Unsecured Creditors totaling approximately \$335,919.03 will be paid pro rata from the surplus, if any, from the sale of the Real Property and other funds of the Debtor after payment of Priority Claims, Administrative Claims, and Secured Claims. Apparent insider unsecured creditors S.L. Managers, L.L.C., Flagship Homes, and Silver Lake HOA are classified separately from other unsecured creditors for purposes of voting under the Plan, but will be treated similarly. Holders of Equity Interests in the Debtor will receive a payment or distribution on account of their ownership interests only in the event that claimants with higher priority claims are paid in full.

**Classification of Claims:**

**Classes of Claims:** The Plan provides for the creation and treatment of Classes of Claims and Interests. These Classes are summarized as follows:

<b><u>Type of Claim</u></b>	<b><u>Class No.</u></b>	<b><u>Creditor</u></b>
Priority Claims	Class 1	
Secured Claims	Class 2A	Zions First National Bank
	Class 2B	Utah County Treasurer
Unsecured Claims	Class 3A	General Unsecured Creditors
	Class 3B	Unsecured Claim of apparent insiders
Interest Holders	Class 4	Equity Interest Holders

If a Creditor has filed a proof of claim by the deadline of February 15, 2012, the amount listed on the proof of claim will be the amount treated in the Plan unless the Estate Representative, on behalf of the Reorganized Debtor, objects to such Claim as provided in Article 2.2 of the Plan.

**Administrative Claims** are expenses incurred post-petition and pre-confirmation, which are essential to the rehabilitative effort of the Debtor during that time frame, and which qualify as such under Bankruptcy Code § 507(a) and 503(b). These are generally professional

fees, taxes and open account charges incurred and not paid for during the period following the Petition Date and prior to the Confirmation Date.

All Administrative Claims, including the U.S. Trustee fees, and attorneys' fees and costs payable to Debtor's professionals (as such fees and costs are approved by the Court), shall be paid by the Reorganized Debtor on the tenth (10<sup>th</sup>) business day following the Effective Date or, in the case of professional fees, at such later date as they are approved by the Court..

**Treatment of Claims that are Impaired Under the Plan:** Under the Plan Certain Classes of Claims are impaired within the meaning of Bankruptcy Code § 11 23(a)(2) and (3) and are treated in the Plan as follows:

**Class 1:** This Class consists of Priority Claims other than Administrative Claims. The Debtor believes there are no creditors in this Class.

**Class 2A:** This Class consists of the Secured Claim of Zions Bank in the amount of approximately \$ 15,353,000.00 which is secured by the Real Property. The Debtor believes there may be a potential claim against Zions for possible breach of a deposit agreement which could give rise to a possible right to offset against Zions. The Debtor has yet to investigate the potential claim against Zions. The Class 2A Claim of Zions shall be allowed in an amount to be determined by the Court or agreed to by the parties.

1. The lien of Zions as it existed on the Petition Date shall be retained as security for the payment or performance by the Debtor of all sums as provided herein.
2. Except to the extent expressly modified in the Plan, nothing contained in the Plan or the Confirmation Order shall alter or affect the rights, claims, and defenses of Zions

and the Debtor with respect to this Claim. Interest shall accrue on the secured claim of Zions from the Petition Date at the non-default contractual rate set forth in the loan documents.

3. The Estate Representative, on behalf of the Reorganized Debtor, shall endeavor to sell the property securing Zions' claim for a period of six months from the Effective Date. Any sale for an amount less than the amount necessary to pay off Zions' claim in full shall require the consent of Zions. Upon the sale of the Real Property, Zions' lien shall attach to the sale proceeds and Zions shall be paid the balance of its Allowed Secured Claim from the sale proceeds.

4. In the event the Estate Representative, on behalf of the Reorganized Debtor, does not sell the Real Property within six months of the Effective Date, the Estate Representative will convey the Real Property to Zions in full satisfaction of the Debtor's obligations to Zions.

**Class 2B:** This Class consists of the Secured Claim of the Utah County Treasurer in the amount of approximate amount of \$202,976.32, which is secured by a lien against the Real Property of the Debtor.

1. The lien of Utah County Treasurer as it existed on the Petition Date shall be retained as security for the payment or performance by the Debtor of all sums as provided herein.

2. Except to the extent expressly modified in the Plan, nothing contained in the Plan or the Confirmation Order shall alter or affect the rights, claims, and defenses of the Utah County Treasurer and the Debtor with respect to this Claim.

3. The Estate Representative, on behalf of the Reorganized Debtor, shall endeavor to sell the Real Property securing the Utah County Treasurer's claim for a period of six months from the Effective Date. The lien of the Utah County Treasurer shall attach to the sale proceeds, and the Utah County Treasurer shall be paid the balance of its Allowed Secured Claim from the sale proceeds. Interest shall accrue on the secured claim of the Utah County Treasurer from the Petition Date at the statutory rate provided by law for real property taxes in Utah.

4. In the event the Estate Representative, on behalf of the Reorganized Debtor, does not sell the Real Property within six months of the Effective Date, the Estate Representative will surrender the Real Property to Zions subject to the lien of the Utah County Treasurer.

**Class 3A:** This Class consists of the non-insider **General Allowed Unsecured Claims**. The Debtor's schedules list \$35,919.03 in non-insider general unsecured claims. These amounts may change depending on the amounts asserted in claims that may be filed with the bankruptcy court. If a creditor timely files a proof of claim, its claim will be allowed in that amount unless the Estate Representative, on behalf of the Reorganized Debtor, objects within the time provided under the Plan. Objected to claims shall be Allowed in an amount determined by the Court or as agreed to by the parties. Claims of creditors that do not timely file proofs of claim will be allowed in the amounts scheduled to the extent the schedules indicate the claims are not disputed, are liquidated, and are not contingent. The Claim shall be Allowed in an amount determined by the Court or as agreed to by the parties. Class 3A General Unsecured Creditors shall be paid from the proceeds of the sale the Real Property and other assets provided there are funds remaining from the proceeds after the payment of Secured, Priority and



Administrative Claims. To the extent such funds are available, Class 3B General Unsecured Creditors shall be paid pro-rata with holders of Class 3B apparent insider unsecured claims up to the full amount of their Allowed Claims, with interest from the Petition Date at the federal judgment rate of 28 U.S.C. § 1961.

**Class 3B:** This Class consists of the general unsecured claims of apparent insiders S.L. Managers, L.L.C. in the amount of \$300,000, Flagship Homes in the amount of \$10,000, and Silver Lake HOA in the amount of \$2,750. Class 3B Class 3A General Unsecured Creditors shall be paid from the proceeds of the sale the Real Property and other assets provided there are funds remaining from the proceeds after the payment of Secured, Priority and Administrative Claims. To the extent such funds are available, Class 3B Unsecured Creditors shall be paid pro-rata with holders of Class 3A claims up to the full amount of their Allowed Claims, with interest from the Petition Date at the federal judgment rate of 28 U.S.C. § 1961.

**Class 4:** This Class consists of the Equity Interests in the Debtor: In the event that proceeds from the sale of assets of the Debtor are sufficient to pay in full, with interest, the claims of secured creditors and other claims with a priority greater than claims of equity interest holders, then following payment in full of such senior claims, the holders of interests in the Debtor shall receive membership interests in the Reorganized Debtor to the same extent as their respective equity interests existed in the Debtor pre-petition. In the event that claims with a higher priority are not paid in full, holders of Class 4 Interests in the Debtor shall not receive or retain any interest in the Reorganized Debtor.

**Treatment of Executory Contracts and Unexpired Leases**

1. The Debtor shall reject each and every Executory Contract, effective as of the Effective Date, except those listed below. On the Effective Date, but effective as of the Petition Date, as provided in the Bankruptcy Code, and unless otherwise specified in the Plan or in the Confirmation Order, each Executory Contract shall be deemed rejected.

2. Any Claim for damages arising from the rejection under the Plan of an Executory Contract, to the extent not dealt with otherwise in the Plan, must be filed with the Court within ten (10) days after the Confirmation Date or be forever barred from receiving any benefit under the Plan. If they are filed and Allowed they will be treated in Class 3A or Class 3B under the Plan.

3. As to those Executory Contracts which the Debtor shall assume under the Plan, such assumption shall be effective as of the Effective Date.

4. All cure payments that may be required by 11 U.S.C. § 365(b) under any Executory Contract that is assumed or assumed and assigned under the Plan shall be made by the Reorganized Debtor. In the event of a dispute regarding (i) the amount of any cure payments, (ii) the ability of the Purchaser to provide adequate assurance of future performance, or (iii) any other matter pertaining to assumption or assignment, cure payments shall be made following the entry of a Final Order resolving such dispute.

5. The Debtor reserves the right, as to any Executory Contract, whether or not the Debtor may have made an election respecting such Contract to assume or reject the same,

to seek relief from the Court in the nature of an order recharacterizing such Contract as a security agreement or financing transaction.

6. Without limiting any of the foregoing, the Debtor elects to assume any development agreements with Eagle Mountain City relating to the Real Property, and other executory agreements with governmental entities that affect the Real Property.

**Means for Execution, Implementation and Administration of the Plan.**

1. **General.** The Plan shall be implemented as described in Article VII of the Plan. Unless any of the particular means (or any particular option within a particular means) for implementing the Plan is made mandatory in the Plan or by the Confirmation Order, the Debtor shall have sole discretion in the exercise of the means and options identified below, and in the timing and follow-through pertaining to each and all of them.

2. **Sale or Transfer of Assets.** The Estate Representative, on behalf of the Reorganized Debtor, shall take steps to immediately sell the Debtor's Real Property. Any such sale of the Real Property shall either be at a price sufficient to pay in full all claims secured by the Real Property, or shall be made with the consent of secured creditors. In the event the Estate Representative has not sold the Real Property within six months from the Effective Date, the Estate Representative shall convey to Zions the Real Property and other collateral of Zions in full and complete satisfaction of the claim of Zions. The Utah County Treasurer shall retain its lien against the Real Property.

3. **Payment of Claims.** The Reorganized Debtor shall be solely responsible for the payment of all Allowed Claims and Interest Holders under the Plan.

4. **Retention and Prosecution of Claims.** Pursuant to 1123(b)(3)(B) of the Bankruptcy Code, the Reorganized Debtor's rights to object to all Claims and Interests asserted against the Estate and all of the Debtor's causes of action, including, without limitation: (1) all Claims and causes of action disclosed in the Schedules which are hereby incorporated herein by reference; (2) any and all other Claims and causes of action that the Debtor held pre-confirmation; and (3) the Debtor's causes of action asserted in any adversary proceeding which is pending as of the Confirmation Date. The claims and causes of action retained by the Reorganized Debtor include, but are not limited to, a claim by the Debtor against Zions for breach of a deposit agreement or other contracts.

Unless a Claim or cause of action against any Person is expressly waived or released in the Plan or any Final Order of the Bankruptcy Court, the Estate expressly reserves such Claim or cause of action for later adjudication (including without limitation, Claims and causes of action not specifically identified or which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts and circumstances which may change or be different from those which the Debtor now believes to exist) and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusions, claim preclusion, waiver, estoppel (judicial equitable, or otherwise) or laches shall apply to such Claims or causes of action upon or after the confirmation or consummation of the Plan based on the Disclosure Statement, the Plan, or the Confirmation Order, except where such Claims or causes of action have been expressly released in the Plan or any other Final Order of the Bankruptcy Court.

The Reorganized Debtor, through the Estate Representative, shall retain and may enforce all claims, interests, and causes of action of the Debtor and the Estate which have not been settled or adjudicated prior to the Effective Date, including, without limitation, all claims and causes of action to recover money or property and to determine the validity, extent, or priority of a lien or other interest in property, whether arising under bankruptcy law or non-bankruptcy law, and whether or not commenced prior to the Confirmation Date. All such claims and causes of action of the Debtor and the Estate against any Person, at the sole option of the Estate Representative, may be used to offset any payment or distribution due to such Person under the Plan. Moreover, where applicable, 11 U.S.C. § 502(d) may be employed in this regard by the Debtor.

5. **Objections to Claims and Interests.** The Estate Representative, on behalf of the Reorganized Debtor, may object to the allowance of any Claim or Interest, before, on, or within 90 days after the Effective Date.

6. **Distributions under the Plan.** Except as otherwise provided in the Plan, in the Confirmation Order, or in any Order of the Court in aid of consummation of the Plan, the following provisions shall govern distributions pursuant to the Plan:

a. **No Distribution on Account of Claims that Have Not Become Allowed Claims.** Notwithstanding any other provision of the Plan, no payment or distribution shall be made with respect to any Claim that has not become an Allowed Claim, except that the Debtor may distribute consideration attributable to any undisputed portion of a Claim and withhold the remainder.

b. Reserves for Claims that Have Not Become Allowed Claims.

Distributions on account of Claims that have not become Allowed Claims shall be governed by the following provisions:

(1) The Estate Representative, on behalf of the Reorganized Debtor, shall not be required to withhold funds or consideration, designate reserves, or make other provisions for the payment of any Claims that have been disallowed by a Final Order of the Court.

(2) Except as otherwise provided in the Plan, the Estate Representative, on behalf of the Reorganized Debtor, shall not be required to withhold funds or consideration, designate reserves, or make other provisions for the payment of any Claims that have been disallowed by an Order of the Court that has not become a Final Order as of any applicable time for distribution under the Plan, unless the Court orders otherwise.

7. Administrative Compliance.

a. United States Trustee's Fees Prior to the Effective Date. The Estate Representative, on behalf of the Reorganized Debtor, shall comply with all applicable reporting and administrative regulations, including the payment of fees, if any, to the United States Trustee pursuant to the provisions of 28 U.S.C. § 1930. Beginning from the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall comply with all applicable reporting and administrative regulations, including the payment of fees to the United States Trustee pursuant to the provisions of 28 U.S.C. §

1930. At the time of a proposed distribution under the terms of the Plan, including applicable distributions made on the Effective Date, the Reorganized Debtor shall (1) calculate the appropriate fee, if any, to be paid with respect to such distribution under the provisions of 28 U.S.C. § 1930, and (2) pay such fee to the United States Trustee. The Reorganized Debtor shall ensure that sufficient funds are allocated to the payment to be made to the United States Trustee before funds are distributed to any other creditors.

### **THE POST-CONFIRMATION DEBTOR**

Upon confirmation, Grant Gifford will be the Estate Representative of the Reorganized Debtor. The Estate Representative will market the Real Property on behalf of the Reorganized Debtor for the period provided in the Plan, will manage the affairs of the Reorganized Debtor during such time, and will make any distributions or conveyances required under the Plan. Mr. Gifford has great familiarity with the Real Property and past marketing efforts.

### **ALTERNATIVES TO CONFIRMATION OF PLAN**

The Debtor believes that the Plan affords holders of Claims the potential for the greatest realization on the Debtor's assets, and therefore, is in the best interest of all Creditors. The Debtor believes that a six month sales period in which the Debtor's members can pursue an orderly sale of the Real Property would result in a higher sales price than would a forced liquidation by a Chapter 7 Trustee. Allowing Zions to foreclose on its trust deeds would leave virtually nothing for unsecured creditors. Zions Bank believes that confirmation of the Plan will also leave virtually nothing for unsecured creditors. The Debtor's only potential asset other than

the Real Property is a possible breach of contract claim against Zions Bank for breach of a deposit agreement arising from Zions Bank applying \$1.4 million dollars the Debtor had deposited toward the amounts owed the bank. Certain members of the Debtor believe that the claim has merit. Zions Bank believes that there is not merit to such a claim. The Debtor's attorneys have not fully investigated the potential claim.

Another alternative would be a reorganization plan under which the loan to Zions is stretched out and the interest rate reduced to market rate. The reorganized Debtor would sell some lots wholesale and use the proceeds of such sales to make some payment to Zions and the remainder of the proceeds would be used to develop more lots to be sold on a retail basis. Based upon the recent MAI appraisal of the Real Property, the Debtor believes the value of the Real Property is sufficient to pay in full the claims of all creditors, with interest. The Debtor's members are all experienced in the real estate development business in Utah and have extensive contacts with developers and other potentially interested buyers. Therefore, such a plan is feasible, but the Debtor understands that Zions would strongly oppose such a plan. Therefore, the members have elected to propose this Plan which the members believe will be acceptable to Zions, but if not, can be confirmed over the objections of Zions.

If this Plan or a reorganization plan is not confirmed, the only alternative would be conversion of the case to a Chapter 7. In a Chapter 7, a trustee would be appointed to liquidate the Estate as soon as practicable. The Debtor believes that conversion of the case would not result in any distribution to Unsecured Creditors. While it is possible that Unsecured Creditors would receive no distribution under the Plan if the sales price for the Real Property is less than the amount necessary to pay Zions in full or if the Real Property is surrendered to Zions



Bank, if there is a sale of the Real Property at the value of the appraisal obtained by the Debtor, or any realization on possible claims against Zions Bank, there is a possibility of a distribution to unsecured creditors under the Plan. As discussed above, Zions Bank does not believe a sale of the Real Property under the Plan would satisfy the bank's secured claim.

### **TAX CONSEQUENCES**

The following discussion summarizes certain of the important federal income tax consequences of the transactions described herein and in the Plan. This discussion is for informational purposes only and does not constitute tax advice. This summary is based upon the Internal Revenue Code and the Treasury Regulations promulgated thereunder, including judicial authority and current administrative rulings and practice. Neither the impact on foreign holders of claims and equity interests nor the tax consequences of these transactions under state and local law is discussed. Also, special tax considerations not discussed herein may be applicable to certain classes of taxpayers, such as financial institutions, broker-dealers, life insurance companies and tax-exempt organizations. Furthermore, due to the complexity of the transactions contemplated in the Plan, and the unsettled status of many of the tax issues involved, the tax consequences described below are subject to significant uncertainties. No opinion of counsel has been obtained and no ruling has been requested from the Internal Revenue Service (“**IRS**”) on these or any other tax issues. There can be no assurance that the IRS will not challenge any or all of the tax consequences of the Plan, or that such a challenge, if asserted, would not be sustained.

HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTOR ARE THEREFORE URGED TO CONSULT WITH THEIR TAX ADVISORS REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE

TRANSACTIONS DESCRIBED HEREIN AND IN THE PLAN.

To ensure compliance with requirements imposed by the IRS in Circular 230, we inform you that, unless we expressly state otherwise in this communication (including any attachments), any tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or other matter addressed.

**Tax Consequences to the Debtor**

Cancellation of Indebtedness. Generally, the Debtor will realize cancellation of debt (“COD”) income to the extent that the Debtor pays a creditor pursuant to the Plan an amount of consideration in respect of a Claim against the Debtor that is worth less than the amount of such Claim. For this purpose, the amount of consideration paid to a creditor generally will equal the amount of cash or the fair market value of property paid to such creditor. Because the Debtor will be in a bankruptcy case at the time the COD income is realized (if any is realized), the Debtor will not be required to include COD income in gross income, but rather will be required to reduce tax attributes by the amount of COD income so excluded.

In addition, the Debtor is a Utah limited liability company, and its tax attributes pass through to its members. As a result, any tax consequences to the Debtor should not adversely affect the Plan, but should instead be realized through the Debtor’s members’ tax situations. The Debtor recommends that its members should seek independent tax advice concerning the effect of the Plan on their respective tax situations.

**Tax Consequences to Creditors**

In General. The federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, on: (a) whether its Claim constitutes a debt or security for federal income tax purposes, (b) whether the claimant receives consideration in more than one tax year, (c) whether the claimant is a resident of the United States, (d) whether all the consideration by the claimant is deemed by be received by that claimant as part of an integrated transaction, (e) whether the claimant reports income using the accrual or cash method of accounting, and (f) whether the holder has previously taken a bad debt deduction or worthless security deduction with respect to the Claim.

Gain or Loss on Exchange. Generally, a holder of an Allowed Claim will realize a gain or loss on the exchange under the Plan of his or her Allowed Claim for cash and other property in an amount equal to the difference between (i) the sum of the amount of any cash and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to accrued but unpaid interest on the Allowed Claim), and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the holder's taxable income). Any gain recognized generally will be a capital gain (except to the extent the gain is attributable to accrued but unpaid interest or accrued market discount, as described below) if the Claim was a capital asset in the hand of an exchanging holder, and such gain would be a long-term capital gain if the holder's holding period for the Claim surrendered exceeded one (1) year at the time of the exchange. Any loss recognized by a holder of an Allowed Claim will be a capital loss if the Claim constitutes a "security" for federal income tax purposes or is otherwise held as a capital

asset. For this purpose, a “security” is a debt instrument with interest coupons or in registered form.

### **Information Reporting and Backup Withholding**

Under the backup withholding rules of the Internal Revenue Code, holders of Claims may be subject to backup withholding at the rate of 31 percent with respect to payments made pursuant to the Plan unless such holder (i) is a corporation or comes within certain other exempt categories and, when required, demonstrates this fact, or (ii) provides a correct taxpayer identification number and certifies under penalties of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividends and interest income. Any amount withheld under these rules will be credited against the holder’s federal income tax liability. Holders of Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

### **Importance of Obtaining Professional Assistance**

THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE, AND FOREIGN TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN MANY AREAS, UNCERTAIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR EQUITY INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OWN TAX ADVISOR REGARDING SUCH TAX CONSEQUENCES.

**THE DEBTOR'S RECOMMENDATION REGARDING THE PLAN**

The Debtor recommends that parties in interest vote to accept the Plan. The Plan is a better alternative than liquidation of the Debtor.

DATED this 2nd day of March, 2012.

/s/ Douglas J. Payne

Peter W. Billings

Gary E. Jubber

Douglas J. Payne

FABIAN & CLENDENIN,

A Professional Corporation

*Attorneys for Debtor-in-Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of March, 2012, I caused the foregoing document to be filed electronically via the electronic filing system of the United States Bankruptcy Court for the District of Utah, which caused a true and correct copy of the foregoing to thereafter be served electronically via the Bankruptcy Court's ECF noticing system upon those parties registered to receive electronic service in this case.

/s/ Joan Showalter

# **EXHIBIT A**

Peter W. Billings, A0330  
Gary E. Jubber, A1758  
Douglas J. Payne, A4113  
FABIAN & CLENDENIN,  
A Professional Corporation  
215 South State Street, Suite 1200  
Salt Lake City, Utah 84111-2323  
Telephone: (801) 531-8900

*Attorneys for Debtor-in-Possession,  
S.L.6, L.L.C.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

<p>In re:</p> <p>S.L.6, L.L.C.,</p> <p>Debtor.</p>	<p>Bankruptcy Case No. 11-34911 (Chapter 11)</p> <p>Honorable William T. Thurman</p>
--	--

**DEBTOR'S PLAN OF REORGANIZATION**

**Dated March 2, 2012**

S.L.6, L.L.C., Debtor and Debtor-in-Possession in the above-captioned Chapter 11 case (“**S.L.6**” or “**Debtor**”) by and through its attorneys, Fabian & Clendenin, proposes this plan of reorganization (the “**Plan**”) and requests confirmation thereof pursuant to 11 U.S.C. §1129.



## ARTICLE I

### DEFINITIONS

Unless this Plan or the context requires otherwise, all capitalized terms used in this Plan shall have the meanings assigned to them in Article I. A term used, but not defined in the Plan shall have the meaning, if any, given to it in the Bankruptcy Code or Bankruptcy Rules. Terms include the plural, as well as the singular, as the context may suggest or require.

1.1 “**Administrative Claim**” means a Priority Claim arising before the Effective Date under Sections 503(b) and 507(a)(1) of the Bankruptcy Code, including without limitation, any actual and necessary expenses of preserving the Estate, any actual and necessary expenses of operating the business of the Debtor, all compensation or reimbursement of expenses allowed by the Bankruptcy Court under the provisions of Sections 330, 331, or 503 of the Bankruptcy Code, any fees or charges assessed against the Estate under the provisions of Section 1930 of chapter 23 of title 28 of the United States Code, and all Claims arising from employment with the Debtor on or after the Petition Date, except for Claims that are also Secured Claims.

1.2 “**Allowed Claim**” or “**Allowed**” means a Claim, other than an Allowed Administrative Claim, allowed pursuant to this Plan, (a) for which a Proof of Claim has been filed with the Court within the time fixed by the Court, and is not listed as contingent or unliquidated, or (b) which is listed by the Debtor on its Schedules as liquidated in amount and not disputed, contingent or unknown as to amount, and in either case as to which no objection has been filed or, if an objection has been filed there has been entered a Final order allowing such Claim. “Allowed Claim” or “Allowed” shall not include: (1) any Claim for prepayment

premiums or penalties or interest attributable to default or penalty rates, except as expressly permitted by the Bankruptcy Code or the Plan, (2) unmatured or unearned interest as of the Petition Date, except as expressly permitted by the Bankruptcy Code or the Plan, (3) any amount in excess of an amount allowed by the Court pursuant to 11 U.S.C. § 502(c), (4) any Claim of any entity from which property is recoverable under 11 U.S.C. §§ 542, 543, 550, or 553, or that is a transferee of a transfer avoidable under 11 U.S.C. §§ 544, 545, 547, 548, or 549, unless such entity or transferee has turned over the property or paid the amount for which such entity or transferee is liable under 11 U.S.C. §§ 542, 543, 550, or 553, or (5) any Claim of any entity from which property was recoverable under 11 U.S.C. §§ 542, 543, 550, or 553, or that was a transferee of a transfer avoidable under 11 U.S.C. §§ 544, 545, 547, 548, or 549, regardless of any applicable period of limitation, to the extent of the amount for which such entity would have been liable or required to pay or the value of the property which such entity would have been required to turn over or pay under 11 U.S.C. §§ 542, 543, 550, or 553.

1.3 **“Bankruptcy Code”** means Title 11 of the United States Code, as now in effect or hereafter applicable to the Case.

1.4 **“Bankruptcy Rules”** or **“Rule”** means the Federal Rules of Bankruptcy Procedures, as amended, and the local rules of the Court, as applicable in the case.

1.5 **“Bankruptcy Court”** or **“Court”** means the United States Bankruptcy Court for the District of Utah, Central Division, or such other court having competent jurisdiction of the Case.

1.6 “**Case**” means this reorganization under Chapter 11 of the Bankruptcy Code, commenced October 13, 2011, Case No. 11-34911, currently pending in the Bankruptcy Court.

1.7 “**Claim**” means any right to payment from the Debtor, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, legal, equitable, secured or unsecured; or any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from the Debtor whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

1.8 “**Confirmation**” means the issuance by the Court of a Confirmation Order.

1.9 “**Confirmation Date**” means the date on which the Court enters Confirmation Order on the docket of the Court.

1.10 “**Confirmation Order**” means the order entered by the Court confirming the Plan pursuant to the provisions of Section 1129 of the Bankruptcy Code.

1.11 “**S.L.6**” means S.L.6, L.L.C., a Utah limited liability company, Debtor and Debtor in Possession, the proponent of the Plan.

1.12 “**Creditor**” or “**Claimant**” means any Person asserting a Claim against the Debtor or the Estate.

1.13 “**Debtor**” means S.L.6, L.L.C., a Utah limited liability company.

1.14 “**Disputed Claim**” means that portion (including, where appropriate, the whole) of any Claim (other than an Allowed Claim), (a) either (i) that is listed in the Debtor’s

schedule of liabilities as disputed, contingent, or unliquidated, or (ii) that is listed in the Debtor's schedule of liabilities and as to which a Proof of Claim exceeds the scheduled amount, or varies from the scheduled priority, or differs from the nature or scope of the scheduled security, or (iii) that is not listed in the Debtor's schedule of liabilities, but as to which a Proof of Claim has been filed with the Court, or (iv) as to which an objection has been filed, and (b) that has not become an Allowed Claim.

1.15 “**Effective Date**” shall mean the date designated by the Debtor which shall be no less than fifteen (15) days, and no more than thirty (30) days, following the Confirmation Date.

1.16 “**Estate**” or “**Bankruptcy Estate**” means the estate of the Debtor, as created and existing pursuant to the provisions of Section 541 of the Bankruptcy Code.

1.17 “**Estate Representative**” means Grant Gifford. In the event Mr. Gifford resigns or otherwise cannot continue to serve as Estate Representative, any party in interest may, after notice and hearing, request that the bankruptcy court appoint a qualified person as successor Estate Representative.

1.18 “**Final Order**” means an order or judgment of the Court as to which (a) any appeal or petition for review or rehearing that has been taken has been finally determined or dismissed or (b) the time for appeal has expired and no notice of appeal or petition for review or rehearing has been filed. Notwithstanding any other provision of the Plan, the Debtor, in its sole discretion, may treat any order of the Court that is not subject to a stay as a Final Order under the provisions of the Plan.

1.19 “**Interest**” means any equity interest in the Debtor, and any option, warrant or other agreement requiring the issuance of any such equity interest.

1.20 “**Person**” means any individual, corporation, partnership, joint venture, trust, estate, unincorporated organization, governmental unit, government (or any agency or political subdivision thereof), or other entity.

1.21 “**Petition Date**” means October 13, 2011, the date upon which the Debtor filed its petition commencing this Chapter 11 case.

1.22 “**Plan**” means this Chapter 11 Plan either in its present form or as it may be altered, amended or modified from time to time in accordance with the provisions of Chapter 11 of the Bankruptcy Code and applicable rules.

1.23 “**Priority Claim**” means an Allowed Unsecured Claim entitled to priority treatment pursuant to Section 507 (a) of the Bankruptcy Code.

1.24 “**Priority Tax Claim**” means a Priority Claim of a governmental unit entitled to priority treatment pursuant to the provisions of Sections 507(a)(8) of the Bankruptcy Code, other than Secured Claims.

1.25 “**Real Property**” means that real property owned by the Debtor located in Eagle Mountain City, Utah County, State of Utah (consisting of 33 fully developed residential lots and an additional 266 acres of undeveloped land), together with any Water Rights owned by the Debtor.

1.26 “**Reorganized Debtor**” means the Debtor on and after the Effective Date.

1.27 “**Schedules**” means the Schedules of Assets and Liabilities and the Statement of Financial Affairs filed by the Debtor in the Case, together with amendments thereto.

1.28 “**Secured Claim**” means a Claim of a creditor that is secured by property of the Estate, to the extent of the value of the Claimant’s interest in the Estate’s interest in such property, as provided by 11 U.S.C. § 506(a), or as agreed upon by such entity, on the one hand, and the Debtor or Reorganized Debtor, on the other hand, “Secured Claim” also means a Claim of a creditor that is subject to set off, under 11 U.S.C. § 553, to the extent of the amount subject to set off, as provided in 11 U.S.C. § 506(a).

1.29 “**Secured Creditor**” means the holder of a Secured Claim or Administrative Claim.

1.30 “**Unsecured Claim**” means a Claim that is not a Secured Claim, nor a Priority Claim and is not otherwise entitled to priority under 11 U.S.C. §§ 503 or 507. Unsecured Claims include, without limitation, all Claims arising from the rejection of leases and other executory contracts, and all Claims held by the Debtor's trade vendors and suppliers.

1.31 “**Water Rights**” means any water rights owned or controlled by the Debtor, including any water rights appurtenant to the Real Property or banked with the Eagle Mountain City in connection with development of the Real Property.

## **ARTICLE II**

### **ALLOWANCE OF CREDITORS' CLAIMS**

2.1 The Claims which appear in the Schedules shall be deemed Allowed and will be treated as provided in the Plan unless said Claims are listed as contingent, disputed or unliquidated. Any creditor of the Debtor whose Claim is listed in the Schedules as contingent, disputed or unliquidated is not entitled to vote on the Plan and shall receive no distribution under the Plan unless such Creditor shall have filed a proof of claim containing documentation of said Creditor's Claim on or before February 15, 2012 (on or before April 10, 2012 for a Creditor that is a governmental entity).

2.2 The Estate Representative, on behalf of the Reorganized Debtor, may object to any Claim filed by a creditor which either exceeds the amount of the Claim acknowledged by the Debtor herein or which states a Claim not listed in the Schedules. Such objections may be brought either before or within 90 days after the Effective Date of the Plan for consideration by the Court after notice and hearing, if, at the time of any proposed distribution, any objection to a Claim has not been resolved, that Creditor's portion will be held by the Estate Representative, on behalf of the Reorganized Debtor, in reserve until all Disputed Claims are resolved.

2.3 The Claims to be administered in this Plan constitute all Claims, including contingent, disputed and unliquidated Claims, against the Debtor of which the Debtor is aware.

**ARTICLE III**  
**UNCLASSIFIED CLAIMS**

The Plan treats the following Claims which, pursuant to Bankruptcy Code § 1123(a)(1), remain unclassified for purposes of voting and Confirmation.

3.1 **Administrative Claims**. Except to the extent that the holder of a particular Claim has agreed to different treatment, or as otherwise set forth this Section 3.1, Administrative Claims shall be paid in full on the Effective Date of the Plan or at such later time as the Administrative Claim is Allowed. Allowed Administrative Claims that represent liabilities or obligations incurred by the Debtor in the ordinary course of business, or obligations under any executory contract assumed by the Debtor, shall be paid in the ordinary course of business in accordance with the terms of any agreements, orders, or applicable law relating thereto.

Administrative Claims, except those of the Debtor's attorneys and accountants, must be filed no later than ten (10) days after the Confirmation Date unless otherwise agreed to by the administrative claimant. All such Claims not timely filed shall be barred from any distribution under the Plan.

3.2 **Priority Tax Claims**. Holders of Allowed pre-petition unsecured Claims of governmental entities entitled to priority under 11 U.S.C. § 507(a)(8), if any, shall receive the full amount of such Claims through equal annual installments, commencing on October 13, 2012. The total of all installments shall equal the amount of each such Allowed Claim plus interest thereon at the applicable statutory rate(s) in effect as of the Confirmation Date. Final



and complete payment on such Allowed Claim will be made not later than five years after the Petition Date.

#### **ARTICLE IV**

##### **CLASSIFIED CLAIMS**

###### **4.1 General Provisions.**

4.1.1 A Claim or Interest is in a particular Class only to the extent that the Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, disallowed, released, withdrawn, waived, settled, or otherwise satisfied. No negative inferences in this regard should be drawn from the fact that disputes as to Claims are recognized expressly in the proposed treatment of some Classes, but not others.

4.1.2 Unless the Plan expressly provides otherwise, when a Class includes a subclass, each subclass is a separate Class for all purposes under the Bankruptcy Code, including, without limitation, voting and distribution.

4.1.3 Any holder of any Claim in any Class may agree, pursuant to 11 U.S.C. § 1123(a)(4), to a treatment of such Claim that is less favorable than any other Claim in such Class.

4.1.4 Notwithstanding any treatment of a Claim or Class of Claims, by payment or otherwise, which the Plan proposes to commence as of a date certain, and/or which is measured from a date certain, such as the Effective Date, wherever such Claims are Disputed Claims, whether or not such dispute takes the form of litigation, then such treatment shall commence and/or be measured from the Final Order resolving such dispute.

4.1.5 The Plan will not provide any distributions on account of a Claim to the extent that such Claim has been paid, disallowed, released, withdrawn, waived, settled, or otherwise satisfied as of the Effective Date, including without limitation payments by third party guarantors, sureties, co-obligors, or insurers, whether governmental or nongovernmental.

4.1.6 The Plan will not provide any distributions on account of any Claim, the payment of which has been assumed by a third party.

4.1.7 Except as otherwise provided in the Plan or by further order of the Court, all treatments, allowances, or payments of Claims which have been specified or otherwise fixed or required by order of the Court prior to Confirmation shall not be impaired by the Plan.

4.2 **Classification of Claims and Interest Holders.** The following is a designation of Classes of Claims and Interest Holders, pursuant to 11 U.S.C. § 1123(a)(i):

4.2.1 **Priority Claims.**

**Class 1.** All Priority Claims other than Administrative Claims and Priority Tax Claims (any Unsecured Claim entitled to priority pursuant to 11 U.S.C. §§507(3), (4), (5), (6), (7) and (9)).

4.2.2 **Secured Claims.**

**Class 2A** The Claim of Zions First National Bank secured by liens on the Real Property.

**Class 2B** The Claim of the Utah County Treasurer secured by a lien on the Debtor's real property.

4.2.3 **Unsecured Claims.**

**Class 3A** The Claims of general Unsecured Creditors who are not insiders of the Debtor.

**Class 3B** The Claims of S.L. Managers, L.L.C., Flagship Homes, and Silver Lake HOA, who are apparent insiders of the Debtor within the meaning of 11 U.S.C. § 101(31).

4.2.4 **Equity Interests.**

**Class 4** The Equity Interests in the Debtor held by its members.

4.3 **Proof of Claim Amount.** If a Creditor has filed a proof of claim, the amount listed on the proof of claim will be the amount treated in the Plan unless the Debtor objects to such Claim as provided in Section 2.2 above.

**ARTICLE V**

**TREATMENT OF CLASSES OF CLAIMS**

5.1 **Priority Claims.**

5.1.1 **Class 1 Priority Claims**

5.1.1.1. Any holder of a Class 1 Priority Claim shall be paid in full on the Effective Date. The Debtor believes there are no Class 1 Priority Claimants.

5.2 **Secured Claims.**

5.2.1 **Class 2A Zions First National Bank.**

5.2.1.1. Allowed Claim. Zions First National Bank (“**Zions**”) shall have an Allowed Class 2A Claim in an amount either agreed to by the Creditor and the Debtor, or allowed by Order of the Bankruptcy Court. Such Claim shall be an Allowed Secured Claim.

5.2.1.2. Lien Retention. Zions shall retain its liens on the Real Property and any other collateral with the same validity, priority and to the same extent as existed pre-petition.

5.2.1.3 Sale of Real Property. The Estate Representative, on behalf of the Reorganized Debtor, shall endeavor to sell the Real Property within six months of the Effective Date upon such terms and conditions as are reasonable. The consent of Zions shall be required for any sale that would result in proceeds insufficient to pay the claims of Zions in full, with interest. Post-petition interest on Zions' secured claim shall be calculated based upon the non-default contract interest rate contained in the Third Renewal and Substitute Promissory Note dated June 29, 2009 between the Debtor and Zions. The liens of the Class 2A claimant shall attach to the proceeds of any such sale. Upon the closing of the sale of the Real Property, the Class 2A claimant shall be paid the balance of the amount owing on its Allowed Secured Claim from the sale proceeds, or such lesser amount as may be agreed to by Zions.

5.2.1.4 Surrender of Collateral as Indubitable Equivalent in Absence of Sale. In the event the Estate Representative does not sell the Real Property within six months of the Effective Date as provided in Section 5.2.1.3, the Estate Representative, on behalf of the Reorganized Debtor, shall convey to Zions the Real Property and other collateral securing Zions liens in full satisfaction of the obligations of the Debtor to Zions.

5.2.1.5 Impaired. Zions is impaired under the Plan.

**5.2.2 Class 2B Utah County Treasurer.**

5.2.2.1. Allowed Claim. The Utah County Treasurer shall have an Allowed Class 2B Claim in an amount either agreed to by the Creditor and the Estate Representative, on behalf of the Reorganized Debtor,, or allowed by Order of the Bankruptcy

Court. Such Claim shall be an Allowed Secured Claim secured by a statutory lien for property taxes on the Debtor's Real Property.

5.2.2.2. Lien Retention. The Utah County Treasurer shall retain its lien on the Real Property with the same validity, priority and to the same extent as existed pre-petition.

5.2.2.3. Sale of Real Property. The Utah County Treasurer will be paid the full amount of its claim, including interest at the applicable statutory rate for Utah real property taxes, from the proceeds of a sale of the Real Property pursuant to Section 7.2 below. In the event the Estate Representative, on behalf of the Reorganized Debtor, does not sell the Real Property, Utah County Treasurer shall retain its lien on the Real Property when the Real Property is conveyed to Zions.

5.2.2.4. Impaired. The Utah County Treasurer is impaired under the Plan.

### 5.3 Unsecured Creditors.

#### 5.3.1. Class 3A General Unsecured Creditors.

5.3.1.1. Payment. Class 3A General Unsecured Creditors shall be paid from the proceeds of the sale the Real Property and other assets provided there are funds remaining from the proceeds after the payment of Secured, Priority and Administrative Claims. To the extent such funds are available, Class 3A General Unsecured Creditors shall be paid pro rata with holders of Class 3B apparent insider unsecured claims up to the full amount of their Allowed Claims, with interest from the Petition Date at the federal judgment rate of 28 U.S.C. § 1961.

5.3.1.2. Full Satisfaction of Claims. Such treatment shall be in full and complete satisfaction of all Claims, obligations or liabilities of the Debtor to all Class 3A Creditors.

5.3.1.3. Impaired. Class 3A Creditors are impaired under the Plan.

**5.3.2 Class 3B Claims of Apparent Insiders.**

5.3.2.1. Payment. Class 3B General Unsecured Creditors shall be paid from the proceeds of the sale the Real Property and other assets provided there are funds remaining from the proceeds after the payment of Secured, Priority and Administrative Claims. To the extent such funds are available, Class 3B General Unsecured Creditors shall be paid pro rata with holders of Class 3A claims up to the full amount of their Allowed Claims, with interest from the Petition Date at the federal judgment rate of 28 U.S.C. § 1961.

5.3.2.2. Impaired. The Class 3B Creditors are impaired under the Plan.

**5.4 Equity Interests in the Debtor.**

5.4.1. Class 4 Equity Interests in the Debtor: In the event that proceeds from the sale of assets of the Debtor are sufficient to pay in full, with interest, the claims of secured creditors and other claims with a priority greater than claims of equity interest holders, the holders of interests in the Debtor shall, following distribution to such senior, receive membership interests in the Reorganized Debtor or rights to distribution to the same extent as those equity interests existed in the Debtor pre-petition. In the event that claims with a higher priority are not paid in full, holders of Class 4 Interests in the Debtor shall not receive anything under the Plan.

## ARTICLE VI

### TREATMENT OF EXECUTORY CONTRACTS AND LEASES

6.1 Executory Contracts. The Debtor shall reject each and every Executory Contract, effective as of the Effective Date, except those Executory Contracts listed below. On the Effective Date, but effective as of the Petition Date, as provided in the Bankruptcy Code, and unless otherwise specified in the Plan or in the Confirmation Order, each Executory Contract that is not assumed shall be deemed rejected.

6.2 Any Claim for damages arising from the rejection under this Plan of an Executory Contract, to the extent not dealt with otherwise in the Plan, must be filed with the Court within ten (10) days after the Confirmation Date or be forever barred from receiving any benefit under the Plan. Such Claims shall be treated as Class 3B General Unsecured Claims under the Plan.

6.3 As to those executory contracts which the Debtor shall assume under this Plan, such assumption shall be effective as of the Effective Date.

6.4 Any cure payments that may be required by 11 U.S.C. § 365 under any Executory Contract that is assumed under this Plan shall be made by the Estate Representative, on behalf of the Reorganized Debtor,. In the event of a dispute regarding (i) the amount of any cure payments, (ii) the ability of the Estate Representative, on behalf of the Reorganized Debtor, to provide, on behalf of the Reorganized Debtor, adequate assurance of future performance, or (iii) any other matter pertaining to assumption or assignment, cure payments shall be made following the entry of a Final Order resolving such dispute.

6.5 The Reorganized Debtor, reserves the right, as to any Executory Contract, whether or not the Debtor may have made an election respecting such contract to assume or reject the same, to seek relief from the Court in the nature of an order recharacterizing such contract as a security agreement or financing transaction.

6.6 Without limiting any of the foregoing, the Debtor elects to assume any development agreements with Eagle Mountain City relating to the Real Property, and other executory agreements with governmental entities that affect the Real Property.

## **ARTICLE VII**

### **EXECUTION AND IMPLEMENTATION OF THE PLAN**

7.1 **General.** The Plan shall be implemented as described in this Article VII. Unless any of the particular means (or any particular option within a particular means) for implementing the Plan is made mandatory in the Plan or by the Confirmation Order, the Estate Representative, on behalf of the Reorganized Debtor, shall have sole discretion in the exercise of the means and options identified below, and in the timing and follow-through pertaining to each and all of them. Upon the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall have the authority to liquidate the Real Property and take all other actions necessary to implement this Plan.

7.2 **Sale or Transfer of Assets.** The Estate Representative, on behalf of the Reorganized Debtor, shall take steps to immediately sell the Debtor's Real Property. Any such sale of the Real Property shall either be at a price sufficient to pay in full all claims secured by the Real Property, or shall be made with the Consent of secured creditors. In the event the Estate



Representative, on behalf of the Reorganized Debtor, has not sold the Real Property within six months from the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall convey to Zions the Real Property and other collateral of Zions in full and complete satisfaction of the claim of Zions. The Utah County Treasurer shall retain its lien against the Real Property.

7.3 **Payment of Claims.** The Estate Representative, on behalf of the Reorganized Debtor, shall be solely responsible for the payment of all Allowed Claims and Interest Holders under the Plan.

7.4 **Retention Preservation of Claim Objections and Causes of Action.** Pursuant to 1123(b)(3)(B) of the Bankruptcy Code, the rights of the Estate Representative, on behalf of the Reorganized Debtor, to object to all Claims and Interests asserted against the Estate and all of the Debtor's causes of action, including, without limitation: (1) all Claims and causes of action disclosed in the Schedules which are hereby incorporated herein by reference; (2) any and all other Claims and causes of action that the Debtor held pre-confirmation; and (3) the Debtor's causes of action asserted in any adversary proceeding which is pending as of the Confirmation Date. The claims and causes of action retained by the Estate Representative, on behalf of the Reorganized Debtor, include, but are not limited to, a possible claim by the Debtor against Zions for breach of a deposit account agreement.

Unless a Claim or cause of action against any Person is expressly waived or released in the Plan or any Final Order of the Bankruptcy Court, the Estate expressly reserves such Claim or cause of action for later adjudication (including without limitation, Claims and causes of action

not specifically identified or which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts and circumstances which may change or be different from those which the Debtor now believes to exist) and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusions, claim preclusion, waiver, estoppel (judicial equitable, or otherwise) or laches shall apply to such Claims or causes of action upon or after the confirmation or consummation of the Plan based on the Disclosure Statement, the Plan, or the Confirmation Order, except where such Claims or causes of action have been expressly released in the Plan or any other Final Order of the Bankruptcy Court.

The Estate Representative, on behalf of the Reorganized Debtor, shall retain and may enforce all claims, interests, and causes of action of the Debtor and the Estate which have not been settled or adjudicated prior to the Effective Date, including, without limitation, all claims and causes of action to recover money or property and to determine the validity, extent, or priority of a lien or other interest in property, whether arising under bankruptcy law or non-bankruptcy law, and whether or not commenced prior to the Confirmation Date. All such claims and causes of action of the Debtor and the Estate against any Person, at the sole option of the Estate Representative, on behalf of the Reorganized Debtor,, may be used to offset any payment or distribution due to such Person under the Plan. Moreover, where applicable, 11 U.S.C. § 502(d) may be employed in this regard by the Debtor.

7.5 **Objections to Claims and Interests.** The Estate Representative, on behalf of the Reorganized Debtor, may object to the allowance of any Claim or Interest, before, on, or within 90 days after the Effective Date.

7.6 **Distributions Under the Plan.** Except as otherwise provided in the Plan, in the Confirmation Order, or in any Order of the Court in aid of consummation of the Plan, the following provisions shall govern distributions pursuant to the Plan:

7.6.1 **No Distribution on Account of Claims that Have Not Become Allowed Claims.** Notwithstanding any other provision of the Plan, no payment or distribution shall be made with respect to any Claim that has not become an Allowed Claim, except that the entity responsible for distribution may distribute consideration attributable to any undisputed portion of a Claim and withhold the remainder.

7.6.2 **Reserves for Claims that Have Not Become Allowed Claims.** Distributions on account of Claims that have not become Allowed Claims shall be governed by the following provisions:

7.6.2.1 The Estate Representative, on behalf of the Reorganized Debtor, shall not be required to withhold funds or consideration, designate reserves, or make other provisions for the payment of any Claims that have been disallowed by a Final Order of the Court.

7.6.2.2 Except as otherwise provided in the Plan, the Estate Representative, on behalf of the Reorganized Debtor, shall not be required to withhold funds or consideration, designate reserves, or make other provisions for the payment of any Claims that have been

disallowed by an Order of the Court that has not become a Final Order as of any applicable time for distribution under the Plan, unless the Court orders otherwise.

7.7 **Unclaimed Cash.** If any Person entitled to receive Cash under the Plan cannot be located on the date a distribution under the Plan is due, such Cash will be set aside and held in a segregated, interest-bearing fund to be maintained by the entity responsible for such distribution under the Plan. If such Person is located within one year of the Effective Date, such Cash, together with any interest earned thereon, will be paid to such Person. If such Person cannot be located within one year of the Effective Date, any such Cash and accrued interest will become the property of and shall be released to, the Debtor as Reorganized Debtor. Nothing contained in this Plan shall require the Estate Representative, on behalf of the Reorganized Debtor, to attempt to locate such Person. It is the obligation of each Person claiming rights under the Plan to keep the Estate Representative, on behalf of the Reorganized Debtor, advised of his current address by sending written notice of any changes to the Estate Representative.

7.8 **Un-negotiated Items.** Checks or drafts issued to Persons holding Allowed Claims and not presented for payment within ninety days following mailing thereof to the last known address of such Person shall be deemed non-negotiable thereafter.

7.9 **Fractional Dollars.** Any other provision of the Plan notwithstanding, no distributions of fractional dollars will be made under the Plan. Distributions will reflect a rounding of fractions to the nearest whole dollar (up or down).

7.10 **Distribution Dates.** Whenever any distribution to be made under the Plan is due on a day other than a Business Day, such distribution will instead be made, without

penalty or interest, on the next Business Day. The Court shall retain power, after the Confirmation Date, to extend distribution dates for cause, upon motion and after notice and a hearing to affected parties.

7.11 **Distributions to be Applied First to Priority Claims.** Any distribution under the Plan on account of any Allowed Claim shall be applied by the recipient first to satisfy any Allowance of Administrative Claim, Allowed Tax Claim, or other Allowed Claim of the recipient which is entitled to priority under 11 U.S.C. § 503 or 507, and only after all such priority Claims are fully satisfied, to any Allowed Claims not entitled to such priority.

7.12 **Orders Respecting Distributions.** After Confirmation of the Plan, the Court shall retain jurisdiction to enter orders in aid of consummation of the Plan respecting distributions under the Plan, and to resolve any disputes concerning distributions under the Plan.

7.13 **Retention of Rights.** In the event that payments under the Plan are not made when due, the Creditors of the Debtor retain all their rights under the Bankruptcy Code, except as expressly modified by the Plan.

7.14 **Discharge of Debtor.** The Confirmation of the Plan shall be in complete satisfaction and discharge of all Claims against the Debtor pursuant to 11 U.S.C. § 1141(d).

7.15 **Administration of Property.** The Debtor shall administer all the Property of the Estate, including avoidance actions, and shall, in its discretion, prosecute, collect, sell, transfer, assign, convey, lease, use or otherwise liquidate or employ all of the Property of the estate to pay all Creditors in accordance with the Plan and to pay the post costs and expenses of the Plan.

7.16 **Causes of Actions.** The Estate Representative, on behalf of the Reorganized Debtor, shall have the discretion to initiate and prosecute all causes of action that are part of the Property of the Estate, including without limitation any avoidance actions.

7.17 **Administrative Compliance.**

7.18.1 **United States Trustee's Fees.** Prior to the Effective Date, the Debtor shall comply with all applicable reporting and administrative regulations, including the payment of fees, if any, to the United States Trustee pursuant to the provisions of 28 U.S.C. § 1930. Beginning from the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall comply with all applicable reporting and administrative regulations, including the payment of fees to the United States Trustee pursuant to the provisions of 28 U.S.C. § 1930. At the time of a proposed distribution under the terms of the Joint Plan, including applicable distributions made on the Effective Date, the Estate Representative, on behalf of the Reorganized Debtor, shall (1) calculate the appropriate fee, if any, to be paid with respect to such distribution under the provisions of 28 U.S.C. § 1930, and (2) pay such fee to the United States Trustee. The Estate Representative, on behalf of the Reorganized Debtor, shall ensure that sufficient funds are allocated to the payment to be made to the United States Trustee before funds are distributed to any other creditors.

**ARTICLE VIII**

**EFFECTS OF PLAN CONFIRMATION**

8.1 **Satisfaction of Claims and Interests.** Holders of Claims and Interests shall receive the distributions and treatment provided for in this Plan, if any, in full settlement

and satisfaction of all such Claims and Interests, including, without limitation, any interest accrued thereon.

8.2 **Release**. Except as expressly provided in the Plan, on the Effective Date, all Persons who have held, hold, or may hold Claims or Interests, in consideration for the provisions of the Plan, will be deemed to have forever waived, released, and discharged all rights or Claims, whether based upon tort, fraud, contract, statute, rule, custom, or otherwise, which they heretofore, now, or hereafter possess or may possess against the Debtor.

8.3 **Discharge**. The Debtor shall receive a discharge to the extent permitted by 11 U.S.C. § 1141.

8.4 **Revesting**. Except as otherwise expressly provided in the Plan or the Confirmation Order, property of the Estate shall vest in the Estate Representative on behalf of the Reorganized Debtor, free and clear of all Claims, Interests, liens, encumbrances, charges, and other interests of creditors and shareholders.

8.5 **Injunction**. Except as otherwise expressly provided in the Plan, the Confirmation Order shall provide that all Persons who have held, or may hold, Class 2 Claims against the Debtor, or liens against or interests in property of the Debtor or the Estate securing such Claims or Interests, are permanently enjoined on and after the Confirmation Date from taking (among other actions) any of the following actions against the Debtor, or the property of the Debtor, or property of the Estate, with respect to such Claims or Interests: (a) commencing or continuing in any manner any action or proceeding of any kind with respect to any such Claim or Interest; (b) the enforcement, attachment, collection, or recovery by any manner or means of any

judgment, award, decree, or order; (c) creating, perfecting, or enforcing any lien or encumbrance of any kind; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due or to become due to such Persons; and (e) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

8.6 **Post-Confirmation Date Employment and Payment of Professionals.**

On and after the Confirmation Date, the Estate Representative, on behalf of the Reorganized Debtor, may employ professionals for services to be performed after the Confirmation Date, without approval of the Court. On and after the Confirmation Date, the Estate Representative, on behalf of the Reorganized Debtor, may pay professionals for services performed or to be performed or expenses incurred after the Confirmation Date, without prior approval of the Court; provided, however, that such payments for services or expenses incurred prior to the Effective Date shall be disclosed to the Court and shall be subject to the Court's final approval as reasonable. On motion and such notice as may be appropriate, the Court shall determine the reasonableness of such payments.

8.7 **Retention of Jurisdiction.** Notwithstanding entry of the Confirmation Order or occurrence of the Effective Date, the Court shall retain jurisdiction to the fullest extent permitted by law, including, without limitation, to enter any orders or to take any action specified in the Plan, including, without limitation, the following:

8.7.1 To enable any party in interest to commence and consummate any and all proceedings that may be brought to set aside Liens other than those securing Class 2, 3



and 4 Claims or to recover any preferences, transfers, assets or damages to which the Debtor may be entitled under the provisions of the Bankruptcy Code or other federal or state law;

8.7.2 To hear and determine all Claims, including Administrative Claims and Claims arising from the rejection of any Executory Contract and any objections which may be made thereto;

8.7.3 To liquidate or estimate damages or determine the manner and time for such liquidation or estimation in connection with any contingent or unliquidated Claim;

8.7.4 To adjudicate all Claims to any lien on any Property of the Debtor or any proceeds thereof;

8.7.5 To adjudicate all Claims or controversies arising during the pendency of the Chapter 11 case;

8.7.6 To recover all assets and properties of the Debtor, wherever located, to the extent necessary for the consummation of the Plan;

8.7.7 To allow or disallow any Claim;

8.7.8 To determine the propriety of the terms and conditions of the sale of any Property of the Debtor;

8.7.9 To make any orders which may be necessary or appropriate to carry out the provisions of this Plan;

8.7.10 To allow, disallow, reconsider (subject to 11 U.S.C. § 502 and applicable Bankruptcy Rules), estimate, liquidate, classify, reclassify or determine any Claims

against the Debtor, including, without limitation, Claims for fees or other Claims for compensation or reimbursement;

8.7.11 To hear and determine all Claims, adversary proceedings, applications, motions, and contested or litigated matters, arising under the Bankruptcy Code, or arising in or related to the Case, whether filed or commenced before or after the Confirmation Date, and to adjudicate and enforce claims or causes of action or choses in action of the Debtor or the Debtor's Estate, arising under the Bankruptcy Code, or arising in or related to the Case, whether or not pending on the Confirmation Date;

8.7.12 To resolve controversies and disputes regarding interpretation and implementation of the Plan;

8.7.13 To enter orders for the purpose of aiding, implementing or interpreting the Plan, including, without limitation, orders (which may include contempt or other sanctions) to enforce the Plan, and to protect the Debtor, and any other entity having rights under the Plan;

8.7.14 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;

8.7.15 To modify the Plan as provided by applicable law;

8.7.16 To determine all questions and disputes regarding title to assets of the Debtor, as may be necessary to implement the Plan;

8.7.17 To determine any and all applications for the assumption or rejection of Executory Contracts, and to hear and determine, and if need be, to liquidate, whether by estimation or otherwise, any and all Claims arising therefrom;

8.7.18 To enforce and to determine actions and disputes concerning the discharge, releases, and injunctions contemplated by the Plan, and to require Persons holding liens to release such liens in compliance with the Plan;

8.7.19 To fix the value of collateral in connection with any claim;\

8.7.20 To enter any order pursuant to 11 U.S.C. § 505 or otherwise to determine any tax of the Debtor, whether before or after Confirmation, including, without limitation, to determine any and all tax effects of the Plan; and

8.7.21 To enter a final decree closing the Case and making such final administrative provisions for the Case as may be necessary or appropriate.

## **ARTICLE IX**

### **MODIFICATION OF THE PLAN**

9.1 The Plan may be modified before or after the Confirmation Date pursuant to 11 U.S.C. § 1127.

## **ARTICLE X**

### **GENERAL PROVISIONS**

10.1 **Governance of the Debtor as Reorganized Debtor.** Notwithstanding anything which may be to the contrary in applicable non-bankruptcy law, the Estate Representative, on behalf of the Reorganized Debtor, shall have full authority to execute the

terms and conditions of the Plan. In the event that all claims and interests senior to Class 4 equity interests in the Debtor are paid the full amounts of their allowed claims, Class 4 interest holders shall, at that time, be entitled to receive membership interests in the Reorganized Debtor equal to their membership interests as they existed on the Petition Date, and the Estate Representative, on behalf of the Reorganized Debtor, shall transfer management of the Reorganized Debtor to holders of those interests.

10.2 **Bar Date for Administrative Claims.** Unless the Court fixes a different deadline, all applications for allowance of Administrative Claims other than Claims by professionals employed by the Debtor shall be filed not later than thirty (30) days after the Effective Date. All such Administrative Claims not filed within this thirty (30) day deadline shall be forever barred. Objections to any such Administrative Claims may be filed on or before fifteen (15) days after such application is filed, but no later than ten (10) days prior to hearing before the Court on the same. The Court shall determine all such Administrative Claims.

10.3 **Severability.** Should any provision in this Plan be determined by the Court or any appellate court to be unenforceable following the Effective Date, such determination shall in no way limit the enforceability and operative effect of any and all other provisions of this Plan.

10.4 **Successors and Assigns.** The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the heir, executor, administrator, representative, successor, or assign of such Person.

10.5 **Further Authorization.** The Estate Representative, on behalf of the Reorganized Debtor, shall be entitled to seek such orders, judgments, injunctions, and rulings from the Court, in addition to those specifically listed in the Plan, as may be necessary or convenient to carry out the intentions and purposes, and to give full effect to the provisions, of the Plan. The Court shall retain jurisdiction to enter such orders, judgments, injunctions, and rulings.

DATED this 2nd day of March, 2012.

/s/ Douglas J. Payne

Peter W. Billings

Gary E. Jubber

Douglas J. Payne

FABIAN & CLENDENIN,

A Professional Corporation

*Attorneys for Debtor-in-Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of March, 2012, I caused the foregoing document to be filed electronically via the electronic filing system of the United States Bankruptcy Court for the District of Utah, which caused a true and correct copy of the foregoing to thereafter be served electronically via the Bankruptcy Court's ECF noticing system upon those parties registered to receive electronic service in this case.

/s/ Joan Showalter