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Attorneys for Debtor,  
PACIFIC THOMAS CORPORATION

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE:

PACIFIC THOMAS CORPORATION,

Debtor.

**Case No.: 12-46534**

**Chapter 11**

**Date: September 11, 2014**

**Time: 10:30 a.m.**

**Room: 215**

**Judge: Hon. M. Elaine Hammond**

**DEBTOR'S FIFTH AMENDED DISCLOSURE STATEMENT IN SUPPORT OF  
FIFTH AMENDED PLAN OF REORGANIZATION, DATED AUGUST 5, 2014**

**INTRODUCTION**

This is Debtor's Fifth Amended Disclosure Statement in support of Debtor's Fifth Amended Plan of Reorganization. The Plan identifies each known creditor by name and describes how each claim will be treated if the Plan is confirmed.

Part 1 contains the treatment of creditors with secured claims; Part 2 contains the treatment of unsecured creditors consisting of Class 2A, Unsecured Claims, Trade Creditors, Class 2B, Unsecured Claims, Bifurcated, and Class 2C, General Unsecured Claims of Insiders.

In general, the proposed Fifth Amended Disclosure Statement

in support of Debtor's Fifth Amended Plan of Reorganization includes the following treatment of classes. The treatment of secured creditors in Class 1A-1E shall be noted below but shall either include a payoff amount in full, a pay-down amount greater than or equal to the estimated appraised value of the corresponding real property collateral, or an amount stipulated to by the creditor. The treatment of unsecured claims, Trade Creditors, Class 2A, shall be as follows: 100% of their allowed claims payable as a lump sum payment on the Effective Date. Treatment of unsecured claims, bifurcated, Class 2B shall be as follows: 100% of their allowed claims payable in monthly payments over sixty (60) months. Treatment of General Unsecured Claims of Insiders, Class 2C shall be as follows: 0% of their allowed claims payable in monthly payments over sixty (60) months. Taxes and other priority claims would be paid in full, as shown in Part 3, as of the Effective Date of the Plan.

Creditors in impaired classes are entitled to vote on confirmation of the Plan once the Fifth Amended Disclosure Statement has been approved. Objections to approval of the Fifth Amended Disclosure Statement must be filed and served, no later than September 4, 2014. The court will hold a hearing on approval of the Disclosure Statement on September 11, 2014 at 10:30AM. Upon approval of the Disclosure Statement, Debtor ("Debtor") shall properly notice a confirmation hearing for the Plan.

Attached to the Proposed Fifth Amended Disclosure Statement and Plan of Reorganization are exhibits containing financial information that may help you decide how to vote and whether to object to confirmation. **Exhibit 1** includes background information regarding Debtor and the events that led to the filing of the bankruptcy petition and describes significant events that have occurred during this Chapter 11 case. **Exhibit 2** contains an analysis of how much creditors would likely receive in a Chapter 7 liquidation. **Exhibit 3** shows Debtor's monthly income and expenses. **Exhibit 4** describes how much Debtor is required to pay on the Effective Date of the plan. **Exhibit 5** shows Debtor's monthly income and expenses related to each investment property projected over the next 5 years. **Exhibit 6** describes Debtor's trailing twelve months, which includes the income and expenses for the past year.

An individual chapter 11 debtor may have to surrender retained assets in order to confirm the plan if a creditor objects to the plan and if the court rules that the absolute priority rule does apply to this case.

Whether the Plan is confirmed is subject to complex legal rules that cannot be fully described here. You are strongly encouraged to read the Plan carefully and to consult an attorney to help you determine how to vote and whether to object to confirmation of the Plan.

If the Plan is confirmed, the payments promised in the Plan constitute new contractual obligations that replace the Debtor's pre-confirmation debts. Creditors may not seize their collateral or enforce their pre-confirmation debts so long as Debtor performs all obligations under the Plan. If Debtor defaults in performing Plan obligations, any creditor can file a motion to have the case dismissed or converted to a Chapter 7 liquidation, or enforce their non-bankruptcy rights. Debtor will be discharged from all pre-confirmation debts (with certain exceptions) if Debtor makes all Plan payments. Enforcement of the Plan, discharge of the Debtor, and creditors' remedies if Debtor defaults, are described in detail in Parts 5 and 6 of the Plan.

#### **PART 1: TREATMENT OF SECURED CREDITORS**

##### **CLASS 1A: Summit Bank**

**Debtor to strip lien to value of collateral, adjust terms, make initial payment and pay remaining portion of unsecured balance over time.**

Class	Name of Creditor	Collateral	Value	Interest Rate	Monthly Payment
1A	Summit Bank	APN 25-701-11; APN 25-707-14; APN 25-0697-007-15; APN 019-0102-004	\$8,500,000	5.0% (Fixed)	\$2,083.33

**The secured claim in Class 1A is impaired and is entitled to vote on confirmation of the Plan.** Debtor contends that the value of the collateral is less than the amount of the claim, which is estimated to be approximately \$8,500,000.00. Before confirmation, Debtor will obtain an order from the court determining the value or approving a party stipulation determining the value of the above collateral in class 1A. Debtor will pay as a secured claim an amount equal to at least the value of the collateral or more. On the Effective Date, Debtor will pay towards Creditor 1A's claims a down-payment of \$8,000,000 even if the appraised value of the collateral is less than this amount. Debtor will pay the remaining balance (value

of creditor's allowed claim minus the down-payment) at **5.0%** fixed interest rate from the Effective Date of the Plan through **60** equal monthly payments. Payments will be due on the 15th day of the month, starting in the first full month after plan confirmation. Any remaining amount due is a general unsecured, bifurcated claim treated in Part 2, Class 2B.

Creditor in this class may not repossess or dispose of its collateral so long as Debtor is not in material default under the Plan (defined in Part 6(c)). The Court's Guidelines for Valuing and Avoiding Liens in Individual Chapter 11 Cases and Chapter 13 Cases will apply.

**CLASS 1B: Bank of the West**

**Debtor to Pay Full Amount Due on Effective Date.**

Name of Creditor	Amount of Claim	Disputed Y/N	Amount to be Paid	Monthly Payment
Bank of the West	\$3,180,339.34	N	\$3,180,339.34	\$0.00

**This class, Class 1B, Secured Claim is unimpaired and is not entitled to vote on confirmation of the Plan.** Bank of the West will receive on the Effective Date of the Plan a single payment equal to one hundred percent (100%) of its allowed claim.

Bank of the West may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). Debtor has indicated above whether a particular claim is disputed.

**CLASS 1C: Private Mortgage Fund, LLC**

**Debtor to strip lien to value of collateral, adjust terms, make initial payment and pay remaining portion of unsecured balance over time.**

Class	Name of Creditor	Collateral	Value	Interest Rate	Monthly Payment
1C	Private Mortgage Fund, LLC	APN 25-697-02-04; APN 25-697-3-6; APN 25-697-7-14	1,855,000.00	5.0% (Fixed)	\$2,729.17

**The secured claim in Class 1C is impaired and is entitled to vote on confirmation of the Plan.** Debtor contends that the value of the collateral is less than the amount of the claim, which is for \$1,855,000.00. Before confirmation, Debtor will obtain an order from the court determining the value or approving a party stipulation determining the value of the above collateral in class 1A. On the Effective Date, Debtor will pay towards Creditor 1A's claims a down-payment of \$1,200,000 even if the appraised value of the collateral is less than this amount. Debtor will pay the remaining balance (value of creditor's allowed claim minus the down-payment) at **5.0%** fixed interest rate from the Effective Date of the Plan through **60** equal monthly payments. Payments will be due on the 15th day of the month, starting in the first full month after plan confirmation. Any remaining amount due is a general unsecured, bifurcated claim treated in Part 2, Class 2B.

Creditor in this class may not repossess or dispose of its collateral so long as Debtor is not in material default under the Plan (defined in Part 6(c)). The Court's Guidelines for Valuing and Avoiding Liens in Individual Chapter 11 Cases and Chapter 13 Cases will apply.

**CLASS 1D: Jacol, LLC et al.**

**Debtor to strip lien to value of collateral, adjust terms, and pay over time.**

Class	Name of Creditor	Collateral	Value	Interest Rate	Monthly Payment
1D	Jacol	APN 25-697-02-04; APN 25-697-3-6; APN 25-697-7-14	\$700,000.00	5.0% (Fixed)	\$2,083.33

**The secured claim in Class 1C is impaired and is entitled to vote on confirmation of the Plan.** Debtor contends that the value of the collateral is less than the amount of the claim, which is for \$700,000.00. Before confirmation, Debtor will obtain an order from the court determining the value or approving a party stipulation determining the value of the above collateral in class 1A. On the Effective Date, Debtor will pay towards Creditor 1D's claims a down-payment of \$200,000 even if the appraised value of the collateral is less than this amount. Debtor will pay the remaining balance (value of creditor's allowed claim minus the down-payment) at **5.0%** fixed interest rate from the Effective Date of the Plan through **60** equal monthly

payments. Payments will be due on the 15th day of the month, starting in the first full month after plan confirmation. Any remaining amount due is a general unsecured, bifurcated claim treated in Part 2, Class 2B.

Creditor in this class may not repossess or dispose of its collateral so long as Debtor is not in material default under the Plan (defined in Part 6(c)). The Court's Guidelines for Valuing and Avoiding Liens in Individual Chapter 11 Cases and Chapter 13 Cases will apply.

**CLASS 1E: Alameda County Treasurer**

**Debtor to Pay Full Amount Due on Effective Date.**

Class	Name of Creditor	Collateral	Amount Due
1E	Alameda County Treasurer	APN 25-701-6-4; APN 25-697-2-4; APN 25-697-3-6; APN 25-697-7-14; APN 25-701-11, APN 25-707-14, APN 25-0697-007-15, APN 019-0102-004	\$500,000

**The secured claim in Class 1E is impaired and is entitled to vote on confirmation of the Plan.** Prior to confirmation, Debtor will obtain an order(s) or stipulation(s) fixing the secured amount of the above creditors' claims at zero. Debtor will pay **nothing** to this creditor as a secured claim. Any claim of a creditor whose lien is stripped is a bifurcated, unsecured claim treated in Part 2, Class 2B. Creditor in this class 1E shall retain its interest in the collateral consistent with the Court's Guidelines for Valuing and Avoiding Liens in Individual Chapter 11 Cases and Chapter 13 Cases.

Creditor in this class may not repossess or dispose of their collateral so long as Debtor is not in material default under the Plan (defined in Part 6(c)). The Court's Guidelines for Valuing and Avoiding Liens in Individual Chapter 11 Cases and Chapter 13 Cases will apply.

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## **PART 2: TREATMENT OF UNSECURED CREDITORS**

### **Class 2A: General Unsecured Claims, Trade Creditors**

Name of Creditor	Amount of Claim	Disputed Y/N	Amount to be Paid	Monthly Payment
BKD, LLP	\$11,135	N	\$11,135	\$0.00
Environmental Science Associates, Inc.	\$9,400	N	\$9,400	\$0.00
Wendel, Rosen, Black & Dean, LLP	\$12,635.01	N	\$12,635.01	\$0.00
KCA Engineers, Inc.	\$28,926.01	N	\$28,926.01	\$0.00
Pacific Gas & Electric Co.	\$3,689.11	N	\$3,689.11	\$0.00
Mujeres Unidas y Activas	\$3,500	N	\$3,500	\$0.00
Planned Parenthood Mar Monte, Inc.	\$36,720	N	\$36,720	\$0.00
<b>Total</b>	\$106,005.13		\$106,005.13	\$0.00

**This class, Class 2A, Unsecured Claims, Trade Creditors is unimpaired and is not entitled to vote on confirmation of the Plan.** Class 2A, shall consist of all allowed trade creditor claims of unsecured claims. Class 2A shall not include unsecured trade creditors with bifurcated claims, whose unsecured claim portions will be included in Class 2B. Class 2A will include allowed claims of creditors whose executory contracts or unexpired leases are being rejected under this Plan. Each creditor in Class 2A, under the proposed plan, will receive on the Effective Date of the Plan a single payment equal to one hundred percent (100%) of its allowed claim.

Creditors in class 2A may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). Debtor has indicated above whether a particular claim is disputed.

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**Class 2B: Unsecured Claims, Bifurcated**

Name of Creditor	Amount of Claim	Disputed Y/N	Monthly Payment Amount	Number of Payments
Summit Bank	\$500,000	N	\$8,333.33	60
Private Mortgage Fund, LLC	\$655,000	N	\$10,916.67	60
Jacol	\$500,000	N	\$8,333.33	60
Old Republic National	\$275,000.00 (est.)	N	\$4,583.33	60
<b>TOTAL</b>	\$1,930,000		\$32,166.66	

The unsecured claims in Class 2B are impaired and entitled to vote on confirmation of the Plan. Class 2B consists of those creditors with unsecured bifurcated creditor claims in an amount that equals the excess of an order for value for the applicable collateral issued by this Court. Allowed claims of Class 2B, Unsecured Creditors, Bifurcated, shall be paid as follows: Unsecured Claims, Bifurcated, will receive **one hundred percent (100%)** of their allowed claim. Said amount shall be payable in 60 equal monthly installments, due on the 15th day of the month, starting in the first full month after plan confirmation.

Creditors in this class may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). Debtor has indicated above whether a particular claim is disputed.

Claims for Class 2B will be paid only after payment in full to Classes 1A-1E and Class 2A.

**Class 2C: General Unsecured Claims of Insiders**

Name of Creditor	Amount of Claim	Disputed Y/N	Monthly Payment Amount	Number of Payments
Jill Worsley	\$4,240.00	N	0	0
Thomas Capital Investments	\$571,534.90	N	0	0



Darrow Family Partners	\$1,350,908.00	N	0	0
A.M. Tarbell Trust	\$60,525.42	N	0	0
Richard Douglas Worsley	\$75,000.00	N	0	0
Thomas Koolaupoko Inv. c/o Darrow/Whitney	\$368,574.00	N	0	0
Buhla R. Darrow Trust	\$388,863.99	N	0	0
<b>TOTAL</b>	<b>\$2,819,646.31</b>		<b>0</b>	<b>0</b>

**The unsecured claims in Class 2C are impaired and not entitled to vote on confirmation of the Plan. Class 2C consists of those general unsecured claims of insiders.** Allowed Class 2C Unsecured Claims of Insiders will not receive any of their allowed claim. Class 2C insiders shall have their existing shares of Pacific Thomas Corporation cancelled and new shares issued in the Reorganized Debtor conditional to paying off the Eagle restructuring loan but also may be issued additional new shares in the Reorganized Debtor in exchange for a further new value investment.

### **PART 3: TREATMENT OF PRIORITY AND ADMINISTRATIVE CLAIMS**

#### **(a) Professional Fees.**

The following professional shall be paid a portion of its fees upon confirmation and approval of the court but have agreed to accept payments over time for the balance of its fees as follows. Payments will be made monthly, due on the 15<sup>th</sup> day of the month, starting in the first full month after plan confirmation or upon approval by the court, whichever is later.

Name and Role of Professional	Estimated Amount	Monthly Payment Amount	Number of Payments
Matlock Law Group, P.C., Debtor's General Insolvency Counsel	\$240,000 total. \$180,000 payable upon the Effective Date and approval of the court and \$60,000 in monthly payments as provided herein (est.)	\$2,000	30

[Trustee Counsel]	\$900,000 total. \$800,000 payable upon the Effective Date and approval of the court and \$100,000 in monthly payments as provided herein (est.)	\$3,333.33	30
[Trustee Kyle Everett]	\$240,000 total. \$180,000 payable upon the Effective Date and approval of the court and \$60,000 in monthly payments as provided herein (est.)	\$2,000	30
Trustee Accountant	\$25,000 total. \$25,000 payable upon the Effective Date.	\$0	0

Professionals may not take collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Estate professionals are not entitled to vote on confirmation of the Plan.**

(b) Other Administrative Claims. Debtor will pay other allowed claims entitled to priority under section 503(b) in full on the Effective Date; except expenses incurred in the ordinary course of Debtor's business or financial affairs, which shall be paid when normally due and payable (these creditors are not listed below). All fees payable to the United States Trustee as of confirmation will be paid on the Effective Date; post-confirmation fees to the United States Trustee will be paid when due.

Administrative Creditors may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Administrative claimants are not entitled to vote on confirmation of the Plan.**

Name of Administrative Creditor	Estimated Amount of Claim
Clerk's Office Fees	\$0.00
Office of the U.S. Trustee Fees	\$650 (3rd qtr 2014)

(c) Tax Claims. Debtor will pay allowed claims entitled to priority under section 507(a)(8) in full over time with interest (at the non-bankruptcy statutory interest rate) in equal

amortizing payments in accordance with section 511 of the Bankruptcy Code. Notwithstanding the secured claim in Section 1E by the Alameda County Treasurer, there are no further priority tax claims due at this time. To the extent that any priority tax claim should exist, it shall be paid upon the Effective Date of the Plan.

Priority tax creditors may not take any collection action against Debtor so long as Debtor is not in material default under the Plan (defined in Part 6(c)). **Priority tax claimants are not entitled to vote on confirmation of the Plan.**

Name of Creditor	Estimated Amount of Claim	Statutory Interest Rate	Payment Amount	Number of Payments
None	N/A	N/A	N/A	N/A

#### **PART 4: EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

(a) Executory Contracts/Unexpired Leases Assumed. Debtor assumes the following executory contracts and/or unexpired leases upon confirmation of this Plan and will perform all pre-confirmation and post-confirmation obligations thereunder. Post-confirmation obligations will be paid as they come due. There are no assumed executor contract claims at this time.

Name of Counter-Party	Description of Contract/Lease	Estimated Total Cure Amount	Installment Amount	Number of Installments
Pacific Trading Ventures	Commercial Lease	N/A	0	0
Mujeres Unidas Y Activas	Commercial Lease	N/A	0	0
Avila Trucking	Commercial Lease	N/A	0	0
Performance Contracting, Inc.	Commercial Lease	N/A	0	0
Clark Construction	Commercial Lease	N/A	0	0
Budget Parking	Commercial Lease	N/A	0	0
Safe Parking	Commercial Lease	N/A	0	0

(b) Executory Contracts/Unexpired Leases Rejected. Debtor rejects the following executory contract and/or unexpired lease and surrenders any interest in the affected property, and allows the affected creditor to obtain possession and dispose of its property, without further order of the court. Claims arising from rejection of executory contracts have been included in Class 2 (general unsecured claims). There is no anticipated claim as a result of the rejection of the executory contract listed herein.

Name of Counter-Party	Description of Contract/Lease
N/A	N/A

(c) Executory contracts and unexpired leases not specifically assumed or rejected above will be deemed assumed.

#### **PART 5: DISCHARGE AND OTHER EFFECTS OF CONFIRMATION**

(a) Discharge. Debtor shall not receive a discharge of debts until Debtor makes all payments due under the Plan or the court grants a hardship discharge.

(b) Vesting of Property. On the Effective Date, all property of the estate and interests of the Debtor will vest in the reorganized Debtor pursuant to § 1141(b) of the Bankruptcy Code free and clear of all claims and interests except as provided in this Plan, subject to revesting upon conversion to Chapter 7 as provided in Part 6(f) below.

(c) Plan Creates New Obligations. Except as provided in Part 6(d) and (e), the obligations to creditors that Debtor undertakes in the confirmed Plan replace those obligations to creditors that existed prior to the Effective Date of the Plan. Debtor's obligations under the confirmed Plan constitute binding contractual promises that, if not satisfied through performance of the Plan, create a basis for an action for breach of contract under California law. To the extent a creditor retains a lien under the Plan, that creditor retains all rights provided by such lien under applicable non-Bankruptcy law.

#### **PART 6: REMEDIES IF DEBTOR DEFAULTS IN PERFORMING THE PLAN**

(a) Creditor Action Restrained. The confirmed Plan is binding on every creditor whose claims are provided for in the Plan. Therefore, even though the automatic stay terminates on the Effective Date with respect to secured claims, no creditor may take any action to enforce either the pre-confirmation obligation

or the obligation due under the Plan, so long as Debtor is not in material default under the Plan, except as provided in Part 6(e) below.

(b) Obligations to Each Class Separate. Debtor's obligations under the Plan are separate with respect to each class of creditors. Default in performance of an obligation due to members of one class shall not by itself constitute a default with respect to members of other classes. For purposes of this Part 6, the holders of all administrative claims shall be considered to be a single class, the holders of all priority claims shall be considered to be a single class, and each non-debtor party to an assumed executory contract or lease shall be considered to be a separate class.

(c) Material Default Defined. If Debtor fails to make any payment, or to perform any other obligation required under the Plan, for more than 10 days after the time specified in the Plan for such payment or other performance, any member of a class affected by the default may serve upon Debtor and Debtor's attorney a written notice of Debtor's default. If Debtor fails within 30 days after the date of service of the notice of default either: (i) to cure the default; (ii) to obtain from the court an extension of time to cure the default; or (iii) to obtain from the court a determination that no default occurred, then Debtor is in Material Default under the Plan to all the members of the affected class.

(d) Remedies Upon Material Default. Upon Material Default, any member of a class affected by the default: (i) may file and serve a motion to dismiss the case or to convert the case to Chapter 7; or (ii) without further order of the court has relief from stay to the extent necessary, and may pursue its lawful remedies to enforce and collect Debtor's pre-confirmation obligations.

(e) Claims not Affected by Plan. Upon confirmation of the Plan, and subject to Part 5(c), any creditor whose claims are left unimpaired under the Plan may, notwithstanding paragraphs (a), (b), (c), and (d) above, immediately exercise all of its contractual, legal, and equitable rights, except rights based on default of the type that need not be cured under section 1124(2) (A) and (D).

(f) Effect of Conversion to Chapter 7. If the case is at any time converted to one under Chapter 7, property of the Debtor shall vest in the Chapter 7 bankruptcy estate to the same extent provided for in section 348(f) of the Bankruptcy Code upon the conversion of a case from Chapter 13 to Chapter 7.

(g) Retention of Jurisdiction. The bankruptcy court may exercise jurisdiction over proceedings concerning: (i) whether Debtor is in Material Default of any Plan obligation; (ii) whether the time for performing any Plan obligation should be extended; (iii) adversary proceedings and contested matters pending as of the Effective Date or specifically contemplated in this Plan to be filed in this court (see Part 7(f)); (iv) whether the case should be dismissed or converted to one under Chapter 7; (v) any objections to claims; (vi) compromises of controversies under Fed. R. Bankr. Pro. 9019; (vii) compensation of professionals; and (viii) other questions regarding the interpretation and enforcement of the Plan.

## **PART 7: GENERAL PROVISIONS**

(a) Effective Date of Plan. The Effective Date of the Plan is the fifteenth day following the date of the entry of the order of confirmation, if no notice of appeal from that order has been filed. If a notice of appeal has been filed, Debtor may waive the finality requirement and put the Plan into effect, unless the order confirming the Plan has been stayed. If a stay of the confirmation order has been issued, the Effective Date will be the first day after that date on which no stay of the confirmation order is in effect, provided that the confirmation order has not been vacated.

(b) Disputed Claims and Disputed Claims Reserve. Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth below. The deadline for filing a proof of claim in this case was July 1, 2013 for persons other than governmental units. The deadline for governmental units to file their proof of claim is before 180 days after the date relief was entered. The deadline for filing objections to claims is 90 days after the Confirmation Date, or 90 days after the applicable claims deadline, whichever is later. Disputed Claims Reserve. Debtor will create a reserve for disputed claims. Each time Debtor makes a distribution to the holders of allowed claims, Debtor will place into a reserve the amount that would have been distributed to the holders of disputed claims if such claims had been allowed in the full amount claimed. If a disputed claim becomes an allowed claim, Debtor shall immediately distribute to the claimant from the reserve an amount equal to all distributions due to date under the plan calculated using the

amount of the allowed claim. Any funds no longer needed in reserve shall be returned to Debtor.

(c) Cramdown. Pursuant to section 1129(b) of the Bankruptcy Code, Debtor reserves the right to seek confirmation of the Plan despite the rejection of the Plan by one or more classes of creditors.

(d) Severability. If any provision in the Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of the Plan.

(e) Governing Law. Except to the extent a federal rule of decision or procedure applies, the laws of the State of California govern the Plan.

(f) Lawsuits. Debtor believes that causes of action for fraudulent transfers, voidable preferences, or other claims for relief exist against the following parties: None.

Summit Bank filed a lawsuit against Debtor. The outcome of said lawsuit may affect the lien priority and treatment of Class 1A and 2B creditors.

(g) Notices. Any notice to the Debtor shall be in writing, and will be deemed to have been given three days after the date sent by first-class mail, postage prepaid and addressed as follows: Pacific Thomas Corporation, Attn: Randall Whitney, c/o Matlock Law Group, P.C., 1485 Treat Blvd., Suite 200, Walnut Creek, CA 94597.

(h) Post-Confirmation United States Trustee Fees. Following confirmation, Debtor shall continue to pay quarterly fees to the United States Trustee to the extent, and in the amounts, required by 28 U.S.C. § 1930(a)(6). So long as Debtor is required to make these payments, Debtor shall file with the court quarterly reports in the form specified by the United States Trustee for that purpose.

(i) Deadline for § 1111(b) Election. Creditors with an allowed secured claim can make a timely election under section 1111(b) no later than 14 days before the first date set for the hearing on confirmation of the Plan.

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## PART 8: PLAN FEASIBILITY

There are at least two important aspects of a feasibility analysis. The first aspect considers whether the Debtor will have enough cash on hand on the Effective Date of the Plan to pay all the claims and expenses which are entitled to be paid on such date. The Plan Proponent maintains that this aspect of feasibility is satisfied as illustrated here:

Estimated Cash that the Debtor will have on hand	
by Effective Date:	\$14,469,912.00
To Make Payment: Est. Administrative claim down payments	\$1,185,000.00
To Pay: Statutory costs & charges	\$650.00
Balance after paying these amounts.....	\$13,284,262.00

Proceeds of the Eagle Group Finance refinance that the Debtor will have on hand by Effective Date:

\$14,240,000.00

PLUS the amounts estimated to be in the Debtor in Possession

"DIP" accounts on the effective date:

\$229,912 [amounts as of June 2014 per Trustee's Monthly Operating Report]

Total Proceeds for Plan Implementation:

\$14,469,912

### Uses of \$14,469,912 Proceeds in Plan

To Pay Off in Entirety: Classes 1B and 1E:	\$3,680,339.00
To Make Pay-Down Amounts to Class 1A, 1C, and 1D:	\$9,400,000.00
To Pay Off in Entirety: Class 2A:	\$106,000.00
To Make Administrative Claims Payments:	<u>\$1,185,000.00</u>
Balance after paying these amounts.....	\$98,573.97



The sources of the cash Debtor will have on hand by the Effective Date, as shown above are:

\$229,912.00	Cash in DIP Accounts (est. based on Chapter 11 Trustee's Monthly Operating Reports),
\$14,240,000.00	Cash proceeds from Eagle Group Finance.
<u>\$14,469,912.00</u>	<b>Total</b>

Debtor and proposed lender Eagle Group Finance, pursuant to Debtor's Motion to Approve Post-Petition Financing and confirmation of Debtor's Fifth Amended Plan, intend to finalize loan documents and close a transaction under the Plan proposed hereunder to use the proceeds of such a refinance loan to fund the Reorganized Debtor, that implements the Plan outlined herein. See Exhibit 4.

The second aspect considers whether the Proponent will have enough cash over the life of the Plan to make the required Plan payments. Debtor has consulted with several financial professionals regarding aspects of the Fifth Amended Plan. Financial Modeling Specialists of Walnut Creek, CA, has assisted in preparing pro forma income statements over five years based on current demand level for commercial leasing space near the BART station in the Fruitvale District of Oakland. In preparing the projected financials, Debtor consulted with numerous real estate professionals that know the local Fruitvale District commercial leasing market and also the self-storage industry. Based on the input from these financials, Debtor worked with financial professionals to prepare the projected income statements.

Overall, The cash flow from operations on a pro forma basis includes interest expense for the refinancing Eagle Group loan [less interest reserve utilized and added on to loan balance] expense, for a net debt service monthly expense on this loan of \$58,000, as shown below on Exhibit 3, yielding a projected net income after plan payments of \$2,315 per month, *after plan payments.*

The projected financial statements are based on a number of assumptions, including the successful reorganization of the Debtor's business in a timely manner, continued strength in local market conditions, and the achievements of the projections reflected in the Fifth Amended Plan of Reorganization, such as equivalent leases being closed to those previously being contemplated with Debtor at the time of filing, increased rent revenues to reflect the currently strong leasing conditions in the local market, a stabilization of the vacancy rates in the self-storage business upon confirmation of Debtor's proposed Fifth Amended Plan, and availability of debt and equity capital throughout Debtor's Plan.

Based on the current projected financials, Financial Modeling Specialists of Walnut Creek, CA prepared a valuation of the Reorganized Debtor utilizing a discounted cash flow and weighted average cost of capital methodology to estimate a range of enterprise value and prepared a Net Present Value analysis considering relevant discount rates related to Debtor's industry, business size, marketability, and specific company risks to assist with the WACC calculation. According to the valuation analysis, the Enterprise Value of the Reorganized Debtor is

estimated to be approximately \$20MM-\$24MM, when considering a terminal value with a 5% growth rate, an overall weighted average cost of capital of 11.46% - 14.6%, and the current dollar amount levels of proposed new equity and debt.

Debtor Pacific Thomas Corporation ("Debtor") holds a unique relationship with the several properties located on East 12<sup>th</sup> Street and 29<sup>th</sup> Avenue. In addition to the self-storage asset under the brand name SAFE STORAGE, the property consists of two (2) commercial buildings and hosts three (3) parking lots located next door to the Fruitvale BART station.

Revenues have been increasing at the Pacific Thomas Properties for past 10 years on a year over year basis. The revenue increases are primarily due to the expansion of the Safe Storage self-storage operation, being increased from 56,000 leasable square feet to over 100,000 square feet as currently situated. As of June 2013, the Safe Storage operation is operating at 76% occupancy and has a composite lease rate of approximately \$1.56 per square foot.

The Safe Storage business used to be operated by Pacific Trading Ventures, who leased the self-storage property for \$70,000 per month. Additionally, the Safe Storage Management Company leased parking areas and commercial spaces for the operation of their business of Budget Truck Rental and Safe Parking program. Debtor intends to incorporate these functions within the reorganized entity.

Projections for the Pacific Thomas properties from July 2013 going forward for the next 5 years show positive potential due to both internal and external factors. See **Exhibit 5**. The most

significant internal factor is the expiration of the 2005/2010 lease with Safe Storage Management Company, which the Chapter 11 Trustee terminated. By either a takeover of the leased space or through a newly negotiated lease with an increased rental amount commensurate to market rental rates, Pacific Thomas anticipates that it will be able to recognize a robust 15-20% increase in net profit. At current rents and expenses, the difference between re-entering into leases with Safe Storage Management Company and Pacific Trading Ventures versus handling said affairs directly through the Debtor amount to essentially a revenue neutral outcome. In other words, if the leases are not renewed, then the Debtor, pursuant to its Fifth Amended Plan of Reorganization, will assume both the rental revenues and the expenses, including those costs to manage the storage units. Debtor believes that the market for rental property itself, both commercial and self-storage, in the Fruitvale area of Oakland can deliver revenue increases in the coming years compared to the depressed revenue obtained during the 2008-2013 time period. The reasons for such increase are described below. In a takeover scenario, Pacific Thomas would assume the approximate \$115,000 gross revenues that were projected for the Safe Storage facility as of October 2013. Rents for the self-storage operations should see a year over year increase in rental rates by approximately 6-8 % consistent with the rental rate increases showing throughout the Oakland metro multi-family rental market. As of last year, Oakland achieved a 12% increase in rental rates, and was ranked #2 nationwide fastest growing rental market. Additionally, Safe Storage

operations have been improving and occupancy continues to gain approximately 1% per month.

By July 2015, Pacific Thomas would be able to demonstrate the approximate 15 - 18% occupancy increase coupled with the rental rate increases to bring its gross revenue per month closer to \$145,000.

Additional to the self-storage asset increasing over time, the commercial property activities continue to thrive and improve. Most importantly, the impacts felt from the local ACMC Highland Hospital \$1.0Billion renovation and new Acute Tower being built have been a positive result for Pacific Thomas. Primarily, the general contractor, Clark Construction, has been a primary tenant for Pacific Thomas properties by utilizing parking spaces for employees, employing shuttle buses for transportation, and using the commercial space for both logistical off-sites but also as a showroom for their "mock" hospital rooms being built at the Highland campus. Clark now occupies the commercial space and pays an additional \$3,700 per month for space, along with their parking use.

With stipulated termination of Planned Parenthood's lease of a commercial space located at Debtor's 1111 29<sup>th</sup> Ave building, Debtor anticipates that it will be able to sign a new lease that will bring a triple net (NNN) lease rent of at least \$12,000 per month to the Pacific Thomas financials within 2-3 months after the Effective Date. See **Exhibit 5**.

Additionally, Performance Contracting Inc. has taken more commercial parking space and also utilizes storage space for their contracting needs. However, to account for Debtor probably

not being able to continue to collect the full rent amount per the lease agreement for too much longer due to Summit Bank's efforts to foreclose the real property owned by Nova Group, which is utilized by Performance Contracting Inc., Debtor reduced its projected income stream from Performance Contracting Inc. in its income and expense projections accordingly. See **Exhibit 5**.

As Debtor's financial income and expense projections demonstrate, Debtor projects the Pacific Thomas Properties will generate sufficient income to service all of the creditor's debts under the plan. See **Exhibit 5**. The final payment under the Plan is expected to be paid on or before the 60<sup>th</sup> month after Plan confirmation.

The Proponent has provided the financial projections discussed above. Please refer to **Exhibit 5** for a complete set of the detailed, relevant financial projections. YOU ARE ADVISED TO CONSULT WITH YOUR ACCOUNTANT OR FINANCIAL ADVISOR IF YOU HAVE ANY QUESTIONS PERTAINING TO THESE FINANCIAL PROJECTIONS.

In summary, the Plan proposes to pay the Class 1 through 2C creditors through revenue generated by the rent proceeds and the sale or refinance of the Pacific Thomas Properties, per the treatments listed above.

The Reorganized Debtor will refinance the Eagle Group Finance loan before the expiration of its loan term, as extended; if the Reorganized Debtor is not able to refinance the Eagle Group Finance loan before the expiration of its loan term, as extended, the Reorganized Debtor agrees to sell the safe storage parcels of the Pacific Thomas Properties.

The Plan Proponent contends that Debtor's financial projections are reasonable in light of the current economic conditions in the Fruitvale district of Oakland. Therefore, Debtor's Fifth Amended Plan is workable and has a reasonable likelihood of success pursuant to §1129(a)(11) subject to this Court's approval of its Motion for Post-Petition Financing and subsequent execution of loan documents and closing of the Refinancing Transaction. As a result, the Plan Proponent believes that its Fifth Amended Disclosure Statement adequately describes a feasible Fifth Amended Plan of Reorganization.

Dated: August 5, 2014

/s/ Randall Whitney  
Pacific Thomas Corporation,  
Debtor  
Randall Whitney

/s/ Anne-Leith Matlock  
Attorney for Debtor