

**PORZIO, BROMBERG & NEWMAN, P.C.**

John S. Mairo (JM 0670)

Michael J. Naporano (MN 1257)

(Mail To) P.O. Box 1997, Morristown, NJ 07962-1997

(Delivery to) 100 Southgate Parkway, Morristown, NJ 07960

Email: jsmairo@pbnlaw.com

Email: mjnaporano@pbnlaw.com

Telephone: (973) 538-4006

**Attorneys for Debtor and Debtor-in-Possession**

**HERRICK, FEINSTEIN LLP**

Andrew C. Gold

Hanh V. Huynh

2 Park Avenue

New York, New York 10016

Email: agold@herrick.com

Email: hhuynh@herrick.com

Telephone: (212) 592-1400

**Attorneys for W Financial Fund, LP**

**UNITED STATE BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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<b>In re:</b>	:	<b>Case No. 09-50723 (ESS)</b>
	:	
<b>20 BAYARD VIEWS, LLC,</b>	:	<b>Chapter 11</b>
	:	
<b>Debtor.</b>	:	
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**JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, AS MODIFIED**

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Pursuant to chapter 11 of the Bankruptcy Code, 20 Bayard Views, LLC, debtor and debtor-in-possession in the above-captioned Chapter 11 case (the “Debtor”), and W Financial Fund, LP, the Debtor’s pre-petition secured lender (“WFF,” and together with the Debtor, the “Plan Proponents”), hereby respectfully propose the following Joint Plan of Reorganization.

Reference is made to the Disclosure Statement accompanying the Plan, including the exhibits thereto, for a discussion of the Debtor’s history, business, results of operations and properties, and for a summary and analysis of the Plan.

All Holders of Claims should read the Disclosure Statement and the Plan carefully – and consult with their counsel and other applicable professionals – before voting to accept or reject the Plan.

## **ARTICLE I**

### **DEFINED TERMS, RULES OF INTERPRETATION,**

### **COMPUTATION OF TIME AND GOVERNING LAW**

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

1. For purposes of the Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and each pronoun, whether stated in the masculine, feminine or neuter gender, shall include the masculine, feminine and the neuter gender; (b) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may

be amended, modified or supplemented; (d) unless otherwise specified, all references in the Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to the Plan; (e) the words herein and hereto refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form in the Plan that is not defined herein but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

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

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

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form in the Plan:

1. “Administrative Claim” means a Claim for costs and expenses of administration of the Debtor’s estate under section 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date of

preserving the Estate and operating the businesses of Debtor; (b) compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed under section 330(a) or 331 of the Bankruptcy Code; (c) all fees and charges assessed against the Estate under 28 U.S.C. §§ 1911-1930; and (d) all obligations designated as Allowed Administrative Claims pursuant to an order of the Bankruptcy Court.

2. “Administrative Claims Bar Date” means twenty (20) days after the Effective Date at 4:00 p.m. prevailing Eastern Time, as the last day for filing all requests for payment of Administrative Claims incurred or accruing on or before the Effective Date, other than those Administrative Claims expressly excluded therefrom pursuant to prior order of the Bankruptcy Court.

3. “Allowed” means, with respect to any Claim, except as otherwise provided herein: (a) a Claim that has been scheduled by Debtor in its Schedules as other than disputed, contingent or unliquidated and as to which Debtor or other party in interest have not Filed an objection on or before the 60th day after the Effective Date; (b) a Claim that has been allowed by a Final Order; (c) a Claim that is allowed: (i) in any stipulation of amount and nature of Claim executed by the Debtor prior to the Effective Date and approved by the Bankruptcy Court; (ii) in any stipulation of amount and nature of Claim executed by the Reorganized Debtor, as the case may be, on or after the Effective Date and, to the extent necessary, approved by the Bankruptcy Court; (iii) in any stipulation of amount and nature of any Administrative Claim, Priority Claim or Priority Tax Claim executed by the Reorganized Debtor; or (iv) in any contract, instrument, indenture or other agreement entered into or assumed by Debtor in connection with and in accordance with the Plan; (d) a Claim relating to a rejected executory contract or unexpired lease that either (i) is not



a Disputed Claim or (ii) has been allowed by a Final Order, in either case only if a proof of Claim has been Filed by the Bar Date or has otherwise been deemed timely Filed under applicable law; or (e) a Claim that is allowed pursuant to the terms of this Plan.

4. “Allowed Claim” means a Claim that has been Allowed.

5. “Assets” means any and all of the respective real or personal property of any nature of the Debtor, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, Cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, claims, Causes of Action and any other general intangibles of Debtor, of any nature whatsoever, including, without limitation, the property of the estate pursuant to section 541 of the Bankruptcy Code.

6. “Avoidance Actions” mean all claims and causes of action which the Debtor has or had the power to assert pursuant to any or all of sections 510, 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code.

7. “Ballots” mean the ballots upon which Holders of Impaired Claims shall indicate their acceptance or rejection of the Plan in accordance with the Plan and the Voting Instructions.

8. “Bankruptcy Code” means as set forth in sections 101 *et seq.* of title 11 of the United States Code, and applicable portions of titles 18 and 28 of the United States Code, as applicable to the Chapter 11 Case.

9. “Bankruptcy Court” means the United States Bankruptcy Court for the Eastern District of New York having jurisdiction over this Chapter 11 Case and, to the extent of any reference made pursuant to section 157 of title 28 of the United States Code and/or the General

Order of such District Court pursuant to Section 151 of title 28 of the United States Code, the bankruptcy unit of such District Court.

10. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the Local Rules of the Bankruptcy Court.

11. “Bar Date” means April 1, 2010, the date set by the Bankruptcy Court as the last day for filing a proof of a claim arising prior to the Petition Date against the Debtor in this Chapter 11 Case, other than those Claims expressly excluded therefrom pursuant to an order of the Bankruptcy Court.

12. “Bayard Real Property” consists of certain real property located at 20 Bayard Street, Brooklyn, New York, which is where the Bayard Condominium Complex is located.

13. “Bayard Condominium Complex” means the 17 story, 62-unit residential complex with 46 parking spaces on the Bayard Real Property.

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

15. “Cash” means cash and cash equivalents, including, but not limited to, bank deposits, wire transfers, checks, and readily marketable securities, instruments and legal tender of the United States of America or instrumentalities thereof.

16. “Cash Collateral” means Cash in which the Debtor and WFF have an interest, including, but not limited to, rental income from the Units.

17. “Cash Collateral Reserve” means the funds in the approximate amount of \$40,000 retained by the Debtor pursuant to the Stipulation and Agreed Order Authorizing the Use of Cash

Collateral entered by the Bankruptcy Court on January 13, 2010 (the “Cash Collateral Order”) [Docket No. 36].

18. “Causes of Action” means any claim or cause of action of the Debtor, including, without limitation, any Avoidance Action, including, without limitation, those actions listed in the section of the Disclosure Statement titled “Preservation of Rights of Action; Settlement of Causes of Action” that are or may be pending on the Effective Date or instituted by the Reorganized Debtor after the Effective Date against any Entity and any objections to any Claims.

19. “Chapter 11 Case” means the case commenced under chapter 11 of the Bankruptcy Code by the Debtor on the Petition Date, styled 20 Bayard Views, LLC, Case No. 09-50723 (ESS), currently pending before the Bankruptcy Court.

20. “Claim” means a claim (as defined in section 101(5) of the Bankruptcy Code) against Debtor, including, but not limited to: (a) any right to payment from the Debtor whether or not such right is reduced to judgment, liquidated, unliquidated, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such performance 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.

21. “Class” means a category of Holders of Claims as set forth in Article III of the Plan.

22. “Collateral” means the Pre-Petition Collateral, the Cash Collateral Reserve, and any Cash Collateral.

23. “Condo Association Claim” means the Administrative Claim of the Bayard View Condominium Association in the amount of \$64,000.

24. “Confirmation” means the entry of the Confirmation Order, subject to all conditions specified in Article IX.A. of the Plan having been (a) satisfied or (b) waived pursuant to Article IX.B.

25. “Confirmation Date” means the date upon which the Confirmation Order is entered by the Bankruptcy Court on its docket, within the meaning of Bankruptcy Rules 5003 and 9021.

26. “Confirmation Hearing” means the duly noticed hearing to be held in accordance with section 1128(a) of the Bankruptcy Code at which confirmation of the Plan is considered by the Bankruptcy Court, as such hearing may be adjourned or continued from time to time.

27. “Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

28. “Contingent Claim” means a Claim that has accrued but nonetheless remains dependent on the occurrence of a future event that may never occur.

29. “Creditor” means any Holder of a Claim against the Debtor that arose on or prior to the Petition Date.

30. “Cure” means the distribution of Cash, or such other property as may be agreed upon by the parties or ordered by the Bankruptcy Court, with respect to the assumption and assignment of an executory contract or unexpired lease, pursuant to section 365 of the Bankruptcy Code, in an amount equal to all unpaid monetary obligations, without interest, or such other amount as may be agreed upon by the parties, under such executory contracts or unexpired leases, to the extent such obligations are enforceable under the Bankruptcy Code and applicable law.

31. “Debtor” means 20 Bayard Views, LLC.

32. “Debtor in Possession” means the Debtor in its capacity as debtor in possession in this Chapter 11 Case pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

33. “Debtor Released Parties” means the Debtor, Reorganized Debtor, Equity Security Holders and Guarantors.

34. “Disallowed” means, with reference to any Claim, a Claim or portion thereof that has been disallowed or expunged by Final Order of the Bankruptcy Court.

35. “Disclosure Statement” means the Debtor’s Disclosure Statement dated June 16, 2011, as amended, supplemented, or modified from time to time, describing the Plan, that was prepared and distributed in accordance with the Bankruptcy Code and Bankruptcy Rules and other applicable law.

36. “Disputed” means, with respect to any Claim, any Claim: (a) listed on the Schedules as unliquidated, disputed or contingent; or (b) as to which Debtor or any other party in interest have interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules or is otherwise disputed by Debtor in accordance with applicable law, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

37. “Distribution” means any consideration to be distributed to any Entity pursuant to the Plan.

38. “Distribution Date” means the date upon which a Distribution is made by the Reorganized Debtor in accordance with the Plan to Holders of Allowed Claims entitled to receive Distributions under the Plan.

39. “Distribution Record Date” means the close of business on the Business Day immediately preceding the Effective Date.

40. “Effective Date” means the date selected by the Plan Proponents which is a Business Day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions specified in Article IX.B. of the Plan have been satisfied unless waived by the Plan Proponents.

41. “Entity” means an entity as defined in section 101(15) of the Bankruptcy Code.

42. “Estate” means, individually, the Estate of the Debtor in this Chapter 11 Case, created pursuant to section 541 of the Bankruptcy Code upon the commencement of this Chapter 11 Case.

43. “Exempt Taxes” means New York State Real Estate Transfer Taxes imposed under Article 31 of the New York State Tax Law, the New York City Real Property Transfer Taxes imposed under Title 11, Chapter 21 of the New York City Administrative Code, the New York State and New York City Mortgage Recording Taxes imposed under Article 11 of the New York State Tax Law and Section 11-2601 et seq. of the Administrative Code of the City of New York, and any other stamp, recording or similar tax subject to the exemption provisions section 1146(c) of the Bankruptcy Code.

44. “Excluded Claims” means all Avoidance Actions or other claims or causes of action against any party to an assumed contract or unexpired lease.

45. “Equity Security” means an equity security as defined in section 101(16) of the Bankruptcy Code.

46. “Face Amount” means (a) when used in reference to a Disputed Claim, the Disputed Claim amount, and (b) when used in reference to an Allowed Claim, the Allowed Claim amount.

47. “File” or “Filed” means file or filed with the Bankruptcy Court or its authorized designee in this Chapter 11 Case.

48. “Final Decree” means the decree in this Bankruptcy Case contemplated under Bankruptcy Rule 3022.

49. “Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek *certiorari* has expired and no appeal or petition for *certiorari* has been timely taken, or as to which any appeal that has been taken or any petition for *certiorari* that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which *certiorari* was sought.

50. “General Unsecured Claim” means any Unsecured Claim against the Debtor.

51. “Guarantor Actions” means the lawsuit styled BRT Realty Trust and W Financial Fund LP against Moshe Lax, Estate of Chaim Lax and Isaac Hager, Supreme Court of the State of New York, County of Nassau, Index No. 10-001473, together with any judgment collection activities, and the lawsuit styled BRT Realty Trust and W Financial Fund, LP against Estate of Chaim Lax and others, Supreme Court of the State of New York, County of Nassau, Index No. 10-011632.

52. “Guarantors” means Isaac Hager, Estate of Chaim Lax and Moshe Lax.

53. “Holder” means an Entity holding a Claim or Equity Security.

54. “Impaired” means with respect to a Claim or Class of Claims, a Claim or Class of Claims that is impaired within the meaning of section 1124 of the Bankruptcy Code.

55. “Insider” means an insider of any Debtor, as defined in section 101(31) of the Bankruptcy Code.

56. “Lender” means WFF, as lender under the Pre-Petition Credit Agreement.

57. “Lender Debt” means the debt owed WFF.

58. “Lien” means any charge against or interest in property (including, but not limited to, any mortgage, lien, pledge, charge, security interest, encumbrance or other security device of any kind) to secure payment of a debt or performance of an obligation.

59. “NewCo” means the entity to be formed by WFF prior to the Effective Date that will be the transferee of the Collateral.

60. “Parking Spaces” means the Debtor’s 40 parking spaces located at the Bayard Condominium Complex.

61. “Pendency Interest” means the interest that accrues on an oversecured Claim pursuant to § 506 between the Petition Date and Effective Date.

62. “Person” shall have the meaning set forth in section 101(41) of the Bankruptcy Code.

63. “Petition Date” means December 4, 2009, the date on which Debtor filed its petition for relief commencing this Chapter 11 Case.

64. “Plan” means this Chapter 11 Plan of Reorganization, either in its present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the Plan, the Bankruptcy Code and the Bankruptcy Rules, including, without limitation, any exhibits



and schedules hereto, either in its present form or as the same may be amended, modified or supplemented from time to time in accordance with the terms and provisions hereof.

65. “Plan Funding Account” means an account to be established and administered by Porzio, Bromberg & Newman, P.C., as disbursing agent on behalf of the Reorganized Debtor containing funds deposited from WFF in the amount of \$1,500,000.00 for payment of (i) Allowed Administrative Claims other than the Condo Association Claim; (ii) Allowed Priority Claims; (iii) Allowed Professional Fee Claims incurred on or before the Effective Date, provided, however, to the extent that the amount in the Plan Funding Account is insufficient to pay Allowed Professional Fee Claims in full, the Holders of such Allowed Professional Fee Claims agree to waive the balance of their claims as against the Collateral, WFF, NewCo and Transferee; and (iv) Allowed General Unsecured Claims.

66. “Plan Objection Deadline” means the deadline established by the Bankruptcy Court for filing and serving objections to Confirmation of the Plan.

67. “Plan Proponents” means the Debtor and WFF.

68. “Post-Petition Trade Debt” means debt incurred by the Debtor with its respective vendors incurred in the ordinary course of business and which shall be paid in the ordinary course of the Debtor’s business and according to stated terms between the Debtor and the respective vendor.

69. “Pre-Petition Collateral” means the Debtor’s Units, Parking Spaces and Storage Cages located at the Bayard Condominium Complex, together with the related current rents, leases, and security deposits.

70. "Pre-Petition Credit Agreement" means that certain Agreement of Consolidation, Extension and Modification of Mortgage entered into between WFF and the Debtor.

71. "Pre-Petition WFF Loan" means the one-year bridge loan WFF provided to the Debtor in October 2008 in the original aggregate principal amount of \$17,400,000.00.

72. "Priority Claim" means any Claim, other than an Administrative Claim or a Priority Tax Claim, to the extent entitled to priority under section 507(a) of the Bankruptcy Code.

73. "Priority Tax Claim" means a Claim of a governmental unit of the kind specified in sections 502(i), 507(a)(8) or 1129 (a)(9)(D) of the Bankruptcy Code.

74. "Pro Rata" means proportionately so that, with respect to a Claim, the ratio of (a) (i) the amount of property distributed on account of a particular Claim to (ii) the Allowed amount of the Claim, is the same as the ratio of (b) (i) the amount of property distributed on account of all Claims of the Class in which the particular Claim is included (other than Claims disallowed by Final Order) to (ii) the amount of all Claims in that Class (other than Claims disallowed by Final Order).

75. "Professional" means an Entity (a) employed pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 and 331 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code. Professionals shall only consist of the following: (i) Porzio Bromberg & Newman, P.C.; (ii) Moritt Hock & Hamroff LLP; (iii) Laub Consulting Services, LLC; (iv) Traxi LLC; (v) R.D. Geronimo Ltd.; and (vi) J.H. Cohn, LLP.

76. “Professional Fee Claim” means those fees and expenses claimed by Professionals pursuant to sections 330, 331 and/or 503 of the Bankruptcy Code, and accrued and unpaid as of the Effective Date.

77. “Proof of Claim” means a proof of claim Filed pursuant to section 501 of the Bankruptcy Code and/or any order of the Bankruptcy Court, together with supporting documents.

78. “Related Party Claims” means the general unsecured claims against the Debtor held by the following entities: Bayard Park, LLC; Jack Weingarten; LX Holdings; and South 4<sup>th</sup> Street.

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

80. “Restructuring Officer” means Martin Ehrenfeld.

81. “Schedules” means the schedules of assets and liabilities as the Bankruptcy Court requires Debtor to file pursuant to section 521 of the Bankruptcy Code, the Official Bankruptcy Forms and the Bankruptcy Rules, as they may be amended and supplemented from time to time, and Debtor’s statements of financial affairs filed with the Bankruptcy Court, as the Bankruptcy Court requires the Debtor to file pursuant to section 521 of the Bankruptcy Code, the Official Bankruptcy Forms and the Bankruptcy Rules, as they may be amended and supplemented from time to time.

82. “Secured Claim” means any Claim that is (a) secured in whole or part, as of the Petition Date, by a Lien which is valid, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, or (b) subject to setoff under section 553 of the Bankruptcy Code, but, with respect to both (a) and (b) above,

only to the extent of the value, net of any senior Lien, of the Estate's interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.

83. "Storage Cages" means the Debtor's storage units located at the Bayard Condominium Complex.

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

85. "Unimpaired Claim" means an unimpaired Claim within the meaning of section 1124 of the Bankruptcy Code.

86. "Units" means the Debtor's 37 unsold condominium units located at the Bayard Condominium Complex.

87. "Unsecured Claim" means any Claim against the Debtor or Estate that is not a Secured Claim, Administrative Claim, Priority Tax Claim, or Priority Claim.

88. "U. S. Trustee" means the Office of the United States Trustee for the District of New Jersey.

89. "Voting Deadline" means a date uncertain to be fixed by the Court if voting is required.

90. "Voting Instructions" means the instructions for voting on the Plan contained in Article I of the Disclosure Statement and in the Ballots.

91. “Voting Record Date” means the date as of which the identity of Holders of Claims is set for purposes of determining the Entities entitled to receive and vote on the Plan. Pursuant to Bankruptcy Rules 3017(d) and 3018(a), this date is the date of entry of the Bankruptcy Court’s order approving the Disclosure Statement or such other date as the Bankruptcy Court may set.

92. “WFF” means W. Financial Fund, LP and BRT Realty Trust collectively.

93. “WFF Allowed Claim” means the Allowed Secured Claim of WFF as determined by the Court or agreed to by the Debtor and WFF, but in no event less than \$23,200,000.00.

94. “WFF Lien” means collectively the Liens held by WFF in the Collateral.

95. “WFF Secured Claim” means collectively the Allowed Secured Claim of WFF in respect of (a) the balance due under the Pre-Petition Credit Agreement and Pre-Petition WFF Loan as of the Petition Date; and (b) the post-petition interest at the default rate, fees and costs allowable under Section 506(b) of the Bankruptcy Code.

## ARTICLE II

### ADMINISTRATIVE CLAIMS, PROFESSIONAL FEES

#### AND PRIORITY TAX CLAIMS

##### **A. Introduction**

Certain types of Claims are not placed into voting Classes; instead they are unclassified. They are not considered Impaired and they do not vote on the Plan because they are automatically entitled to the specific treatment provided for them in the Bankruptcy Code. As such, Debtor has not placed the following Claims in a Class:

**B. Administrative Claims (Other Than Professional Fee Claims)**

Except as otherwise provided for herein, and subject to the requirements of this Plan, on (i) the Effective Date or (ii) the Distribution Date immediately following the date on which an Administrative Claim becomes an Allowed Administrative Claim, the Holder of such Allowed Administrative Claim (other than Professional Fee Claims) shall receive, in full settlement, satisfaction, release and discharge of and in exchange for such Allowed Administrative Claim (a) payment of Cash from the Plan Funding Account in an amount equal to the unpaid portion of the Face Amount of such Allowed Administrative Claim, or (b) such other less favorable treatment as to which the Debtor, Reorganized Debtor and such Holder shall have agreed to in writing; provided however, that the Holder of the Condo Association Claim shall receive, in full settlement, satisfaction, release and discharge of and in exchange for such Allowed Administrative Claim, Cash equal to the unpaid portion of the Face Amount of such Allowed Administrative Claim payable by WFF in three equal monthly installments commencing on the Effective Date; further provided, however, that Allowed Administrative Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Chapter 11 Case shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto; further provided, however, that WFF shall have no Administrative Claim or right to any of the funds in the Plan Funding Account.

Notwithstanding any provision in the Plan regarding payment of Administrative Claims to the contrary, and without waiver of any argument available that such Claim is already time-barred by prior orders of the Bankruptcy Court and except for liabilities incurred by the Debtor in the ordinary course of business during the Chapter 11 Case including but not limited to Post-

Petition Trade Debt, all Administrative Claims required to be Filed and not Filed by the Administrative Claim Bar Date shall be deemed disallowed and discharged. Without limiting the foregoing, all fees payable under 28 U.S.C. § 1930 that have not been paid, shall be paid on or before the Effective Date.

**C. Professional Fee Claims**

The Reorganized Debtor shall pay Professionals from the Plan Funding Account all of their respective accrued and Allowed fees and reimbursement of expenses arising prior to the Effective Date. To the extent that the amount in the Plan Funding Account is insufficient to pay Allowed Professional Fee Claims in full, the Professionals have agreed to waive the balance of their claims as against the Collateral, WFF, NewCo and Transferee.

For all pre-Effective Date Professional Fee Claims, except Bankruptcy Clerk's Office fees and U.S. Trustee's fees, the Professional in question must file and serve a properly noticed final fee application and the Bankruptcy Court must rule on the application. Only the amount of fees and expenses Allowed by the Bankruptcy Court will be owed and required to be paid under the Plan. Each Holder of an Allowed Professional Fee Claim shall receive a cash distribution in an amount equal to such Holder's Pro Rata share of the Plan Funding Account after (x) funds have been set aside for Allowed Administrative Claims (excluding Professional Fee Claims and the Condo Association Claim); and (y) \$50,000 has been set aside for Holders of General Unsecured Claims. In calculating the Pro Rata distributions for each Professional, any pre-petition retainer held by a respective Professional shall not reduce their Pro Rata share and such Professional shall be permitted to apply its retainer to any unpaid amount of its Allowed Professional Fee Claim. By way of example, if the total Allowed Professional Fee Claims are

\$2.5 million and there is \$1.4 million in the Plan Funding Account for Professionals, then each Professional shall receive 56% of its Allowed Professional Fee Claim and a Professional holding a pre-petition retainer will be permitted to apply its retainer to the 44% of its unpaid Allowed Professional Fee Claim.

The Reorganized Debtor may retain and compensate professionals for services rendered following the Effective Date without order of the Bankruptcy Court.

Professionals requesting compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code for services rendered prior to the Effective Date must File and serve pursuant to the notice provisions of the Bankruptcy Rules, an application for final allowance of compensation and reimbursement of expenses not later than thirty (30) days after the Effective Date. All such applications for final allowance of compensation and reimbursement of expenses will be subject to the authorization and approval of the Bankruptcy Court. Holders of Administrative Claims (including, without limitation, Professionals) requesting compensation or reimbursement of such expenses pursuant to sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code that do not file such requests by the applicable deadline provided for herein shall be forever barred from asserting such claims against the Debtor, the Estate, Reorganized Debtor, or their successors, their assigns or their property. Any objection to Professional Fee Claims shall be filed on or before the objection deadline specified in the application for final compensation or order of the Bankruptcy Court.



**D. Priority Tax Claims**

The Debtor is not aware of any unpaid Priority Tax Claims. Except to the extent that any Allowed Priority Tax Claim has been paid prior to the Initial Distribution Date, each Holder of an Allowed Priority Tax Claim, if any, shall be entitled to receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, as shall have been determined by the Debtor in its sole discretion, (i) on the Effective Date, Cash equal to the unpaid portion of such Allowed Priority Tax Claim, or (ii) the Distribution Date immediately following the date on which the Priority Tax Claim becomes an Allowed Priority Tax Claim. Any Allowed Priority Tax Claim will be paid by the Reorganized Debtor from the Plan Funding Account.

**ARTICLE III**

**CLASSIFICATION AND TREATMENT OF CLAIMS**

**A. Summary**

The categories of Claims listed below classify Claims for all purposes, including voting, Confirmation and Distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim shall be deemed classified in a particular Class only to the extent that the Claim qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim qualifies within the description of such different Class. A Claim is in a particular Class only to the extent that such Claim is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

The classification of Claims against the Debtor pursuant to the Plan is as follows:

<b>Class</b>	<b>Status</b>	<b>Voting Rights</b>
Class 1 – Priority Claims	Unimpaired	Not Entitled to Vote
Class 2 – WFF Secured Claim	Impaired	Entitled to Vote
Class 3 – General Unsecured Claims	Impaired	Entitled to Vote
Class 4 – Equity Security Holders	Impaired	Entitled to Vote

**1. Class 1 – Priority Claims**

a. Classification: Class 1 consists of the Priority Claims against the Debtor.

b. Treatment: The Reorganized Debtor shall pay the Allowed amount of each Class 1 Priority Claim from the Plan Funding Account to each Entity holding a Class 1 Priority Claim on: (x) the Effective Date; or (y) the Distribution Date immediately following the date on which such Claim becomes Allowed. The Debtor is not aware of any Priority Claims (other than the Professional Fee Claims and Condo Association Claim addressed in Article II). The Reorganized Debtor shall pay each Entity holding a Class 1 Priority Claim in Cash in full in respect of such Allowed Claim without interest accruing from the Petition Date; provided, however, that such Entity may be treated on such less favorable terms as may be agreed to in writing by such Entity.

c. Voting: Class 1 is an Unimpaired Class and Holders of Class 1 Claims are not entitled to vote on the Plan.

**2. Class 2 –WFF Secured Claim**

a. Classification: Class 2 consists of the WFF Secured Claim against the Debtor.

b. Treatment: The WFF Secured Claim shall be treated as an Allowed Secured Claim. On the Effective Date, in accordance with the provisions of Article V.F hereof, (i) all of the Debtor’s right, title and interest in and to the Collateral shall be transferred, assigned and conveyed to NewCo, or a designee or assignee of NewCo, pursuant to sections 363(b) and 363(m) of the Bankruptcy Code in accordance with the terms and conditions of this Plan, free and clear of any and all other liens, claims, security interests, encumbrances, rights or interests of any kind except permitted title exceptions (“Permitted Encumbrances”) as set forth in Exhibit A of this Plan; (ii) to the extent not previously delivered, the Debtor shall deliver to WFF the documents and other property set forth in Article V.G of the Plan; and (iii) transfer and deliver to NewCo, or a designee or assignee of NewCo, the Cash Collateral Reserve and all Cash Collateral.

c. Voting: Class 2 is an Impaired Class and Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

**3. Class 3– General Unsecured Claims**

a. Classification: Class 3 consists of the Claims of Holders of General Unsecured Claims.

b. Treatment: On the Effective Date, or as soon thereafter as reasonably practicable, each Holder of an Allowed Class 3 General Unsecured Claim shall receive a Cash distribution in an amount equal to such Holder’s Pro Rata share of \$50,000 from the Plan Funding

Account; provided, however, the Holders of the Related Party Claims will not receive distributions.

c. Voting: Class 3 is an Impaired Class and Holders of Class 3 Claims are entitled to vote to accept or reject the Plan.

**4. Class 4 – Equity Security Holders**

a. Classification: Class 4 consists of the Holders of Equity Securities in the Debtor.

b. Treatment: Holders of Equity Securities in the Debtor shall retain such interest in the Reorganized Debtor. Holders of Equity Securities in the Debtor shall receive no Distributions under this Plan on account of such Equity Securities.

c. Voting: Class 4 is an Impaired Class and Holders of Class 4 Equity Securities are entitled to vote to accept or reject the Plan.

**ARTICLE IV**

**ACCEPTANCE OR REJECTION OF THE PLAN**

**A. Voting Classes**

Each Holder of an Allowed Claim in Classes 2 through 4 are entitled to vote either to accept or to reject the Plan. Only those votes cast by Holders of Allowed Claims shall be counted in determining whether acceptances have been received sufficient in number and amount to obtain Confirmation.

In the event of a controversy as to whether any Holder of an Allowed Claim or Plan Class is Impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

**B. Acceptance by Impaired Classes**

An Impaired Class of Claims shall be deemed to have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

**C. Presumed Acceptance/Rejection of Plan**

As indicated, Class 1 is not impaired and is therefore conclusively presumed to accept the Plan and is not entitled to vote.

**D. Nonconsensual Confirmation**

This Plan may be confirmed under the so-called “cram down” provisions set forth in section 1129(b) of the Bankruptcy Code if, in addition to satisfying the other requirements for confirmation, this Plan “does not discriminate unfairly” and is determined to be “fair and equitable” with respect to each Class of Claims that has not accepted this Plan (*i.e.*, dissenting Classes). In the event that any Impaired Class rejects the Plan, either of the Plan Proponents may request that the Bankruptcy Court confirm the Plan under this provision. Without limiting the foregoing, in the event that any Class of Claims entitled to vote on the Plan fails to accept the Plan as required by section 1129(a) of the Bankruptcy Code, the Plan may be amended in

accordance with Article XIII of the Plan and the Plan Proponents each reserves the right to seek confirmation of the Plan over such rejection pursuant to section 1129(b) of the Bankruptcy Code. Each of the Plan Proponents further reserves the right to make non-material alterations, amendments or modifications to the Plan, provided however that the Plan Proponents must act jointly to revoke or withdraw the Plan or make any material amendments or supplements thereto, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary, in accordance with section 1127 of the Bankruptcy Code and this Plan.

**E. How to Vote**

A form of Ballot is being provided to Creditors in Classes 2 through 4 by which Creditors in such Classes may vote their acceptance or rejection of the Plan. The Ballot for voting on the Plan gives most of you one important choice to make with respect to the Plan – you can vote for or against this Plan. To vote on the Plan, please complete the Ballot, as indicated thereon, (1) by indicating on the enclosed ballot that (a) you accept the Plan or (b) reject the Plan and (2) by signing your name and mailing the ballot in the envelope provided for this purpose.

IN ORDER TO BE COUNTED, BALLOTS MUST BE COMPLETED, SIGNED AND RECEIVED NO LATER THAN 4:00 p.m. Prevailing Eastern Time ON \_\_\_\_\_, 2011 AT THE FOLLOWING ADDRESS:

**20 Bayard Views, LLC Ballot Processing  
c/o Porzio, Bromberg & Newman, P.C.  
100 Southgate Parkway  
Morristown, NJ 07962  
Attn: Maria Dermatis**

IF YOUR BALLOT IS NOT PROPERLY COMPLETED, SIGNED AND RECEIVED AS DESCRIBED, IT WILL NOT BE COUNTED. IF YOUR BALLOT IS DAMAGED OR

LOST, YOU MAY REQUEST A REPLACEMENT BY ADDRESSING A WRITTEN REQUEST TO THE ADDRESS SHOWN ABOVE. FACSIMILE OR ELECTRONICALLY SUBMITTED BALLOTS WILL NOT BE COUNTED.

**ARTICLE V**

**MEANS OF IMPLEMENTATION OF THE PLAN**

**A. Continued Corporate Existence**

The Debtor shall continue to exist as the Reorganized Debtor after the Effective Date in accordance with the laws of New York and pursuant to its formation documents and operating agreement in effect prior to the Effective Date.

**B. Operations of the Reorganized Debtor**

On and after the Effective Date, the Reorganized Debtor may operate its business, may use, acquire and dispose of property, may retain, compensate and pay any professionals or advisers, and compromise or settle any causes of action, claims or interests without the supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code and the Bankruptcy Rules other than restrictions expressly imposed by the Plan or the Confirmation Order.

**C. Post-Effective Date Management of the Reorganized Debtor**

Except as expressly provided in this Plan and the formation documents and operating agreement of the Reorganized Debtor, (as amended from time to time), the operation, management and control of the Reorganized Debtor shall be the general responsibility of its Restructuring Officer.

**D. Employment Agreements**

As of the Effective Date, the Reorganized Debtor shall have the authority, without need for any approval by the Bankruptcy Court, (i) to maintain, amend, or revise existing employment agreements, subject to the terms and conditions of any such agreement, and (ii) to enter into new employment agreements. The Debtor had no retirement benefit agreements with past or current employees.

**E. Approval of Settlement**

The Debtor and WFF have reached a settlement of their disputed issues as are set forth in the Plan. The settlement was reached through multiple negotiation sessions conducted before the Bankruptcy Court and the respective state courts in the Guarantor Actions. Confirmation of the Plan will constitute approval of their settlement which, in short, provided for the funding of the Plan Funding Account, releases and the transfer of the Collateral.

**F. Transfer of the Collateral**

On the Effective Date, the Debtor shall irrevocably transfer, assign and convey, by bargain and sale deed without covenants (the “Deed”), in the form annexed hereto as Exhibit B, to NewCo, or a designee or assignee of NewCo (each a “Transferee”), all of its right, title and interest in and to the Units and the Parking Spaces free and clear of any and all liens, claims, security interests, encumbrances, rights or interests of any kind or nature whatsoever, including any liability for any local, federal or state stamp or similar tax, including, without limitation, any Exempt Taxes, other than any Permitted Encumbrances. At the option of WFF, the Units and Parking Spaces shall be irrevocably transferred, assigned and conveyed to Transferee subject to the indebtedness evidenced by the Pre-Petition Credit Agreement and related loan documents in



connection with the Pre-Petition WFF Loan. In connection with the transfer, assignment and conveyance of the Units and Parking Spaces to Transferee, the Debtor shall designate Transferee as “Sponsor-Designee” pursuant to Paragraph 19 of the Declaration of Condominium of 20 Bayard Views, LLC.

On the Effective Date, the Debtor shall assign to Transferee all of its right, title and interest in and to the licenses for the Storage Cages free and clear of any and all liens, claims, security interests, encumbrances, rights or interests of any kind or nature whatsoever. On the Effective Date, the Debtor also shall transfer by wire transfer to Transferee the Cash Collateral Reserve and any Cash Collateral free and clear of any and all liens, claims, security interests, encumbrances, rights or interests of any kind or nature whatsoever.

The transfer, assignment and conveyance of the Collateral (including the Units, Parking Spaces, Storage Spaces, Cash Collateral Reserve and any Cash Collateral) to Transferee shall be approved by the Bankruptcy Court as an absolute and irrevocable sale of the Collateral which the Debtor has made to Transferee for fair consideration and reasonably equivalent value.

On the Effective Date, the Debtor, each of its members and their respective constituent general partners and limited partners, if any, and all agents, employees and affiliates of the Debtor shall have relinquished and surrendered full management and control of the Collateral to Transferee. From and after the Effective Date, Transferee shall be vested with ownership, management and control of the Collateral; and the Debtor or the Reorganized Debtor, as the case may be, each of its members, general and limited partners, if any, and all agents, employees and affiliates of the Debtor or the Reorganized Debtor, as the case may be, shall have no further right, title and/or interest in and to the Collateral.

**G. Deliveries at Closing**

On the Effective Date, the Debtor shall deliver to Transferee the below items to the extent the listed item is within the Debtor's custody and/or control. If an item is not within the Debtor's custody and/or control, the Debtor shall cooperate with WFF in attempting to obtain the item.

1. The Deed, in the form annexed hereto as Exhibit B, conveying the Units and Parking Spaces, together with their appurtenant common interest, to Transferee as provided in the Plan. The Deed shall be duly executed and acknowledged by the Debtor and Transferee and shall be in form for recording.

2. Any tax return required in connection with any New York City Real Property Transfer Tax, New York State Real Estate Transfer Tax, and any other transfer taxes payable by reason of the conveyance of the Unit by the Seller to the Purchaser. Each such tax return shall be duly executed by the Debtor and Transferee and acknowledged, sworn to or affirmed by the Debtor and Transferee before a notary public, where appropriate.

3. A bill of sale, conveying and transferring to Transferee all right, title and interest of the Debtor, if any, in and to all articles of personal property that are included in this sale pursuant to the Plan, executed by the Debtor, in the form annexed hereto as Exhibit C.

4. A Real Property Transfer Report (Form RP-5217NYC) in proper form for submission (the "Transfer Report"). The Transfer Report shall be duly executed by the Debtor and Transferee.

5. A certification of non-foreign status, duly signed by the Debtor, in the form required by Section 1445 of the Internal Revenue Code and the regulations promulgated thereunder.

6. An assignment of all of the Debtor's right, title and interest, as landlord or otherwise, in and to each of the leases of the Units (the "Tenant Leases") and of any security deposits actually held by the Debtor on the Effective Date, duly executed by the Debtor in the form annexed hereto as Exhibit D.

7. Fully executed originals, or, to the extent any such originals are not in the possession of the Debtor or its managing agent, copies, certified by the Debtor as true and correct, of the Tenant Leases, together with tenant files, SCRIE and DRIE orders, and filings with DHCR.

8. A notice to the tenants under the Tenant Leases substantially in the form annexed hereto as Exhibit E, duly executed by the Debtor, directing each such tenant to pay to Transferee or to such entity as Transferee may direct all rentals or other sums due from such tenant whether occurring prior to, on or after the Effective Date and directing such tenant to send all notices under its lease to the address set forth therein as designated by Transferee.

9. A statement by the Bayard Views Condominium Association Board that the common charges and any special assessments then due and payable with respect to the Units have been paid to the last day of the month in which the Effective Date occurs.

10. Such instruments, agreements or other documents as may be necessary or convenient in order to effectuate any of the provisions of the Plan, or requested by WFF or Transferee or the title company insuring Transferee's title to consummate the transactions contemplated herein, or to confirm any of the provisions of this Plan, which shall be executed and, if and to the extent appropriate or required, acknowledged or sworn to or affirmed by the Debtor before a notary public.

11. Resignations from their positions on the Bayard Views Condominium Association Board duly executed by the board members who are on the Effective Date board members by reason of the Debtor's ownership of the Units, together with a written designation, duly executed by the Debtor in its capacity as the Declarant under the Declaration of Condominium of 20 Bayard Views, LLC, designating two persons designated by Transferee or WFF as replacements for the board members and officers submitting their resignations.

12. Any transferable certificates, licenses, permits, authorizations and approvals issued for or with respect to the Units by governmental and quasi-governmental authorities having jurisdiction.

13. All keys or key cards and alarm codes to, and all combinations to, any locks on, all entrance doors to, and any equipment and utility rooms located in, the Units, if any, appropriately tagged for identification.

14. An affidavit of compliance with smoke detector/alarm installation.

15. The transfer of the Debtor's tenant security deposits posted by its tenants in connection with the Units provide for in Article VI.G of this Plan.

16. Mutual releases by and between WFF, Newco, and Transferee, and Moshe Lax, Martin Ehrenfeld and the other defendants in the lawsuit styled BRT Realty Trust and W Financial Fund, LP against Estate of Chaim Lax and others, Supreme Court of the State of New York, County of Nassau, Index No. 10-011632, in the form annexed hereto as Exhibit F.

17. Any construction warranties, construction plans, as-built plans, and any other documents relating to the construction of the Bayard Condominium Complex or the Units.

**H. Exemption From Certain Transfers**

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of a security, or the making or delivery of an instrument from the Debtor to a Reorganized Debtor or any other Entity pursuant to this Plan, including, without limitation, the transfer of the Collateral to Transferee, and the granting or recording of any Lien or mortgage on any property under the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, recording tax, or other similar tax or governmental assessment and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without payment of any such tax or governmental assessment.

**I. Operation Between Confirmation and Effective Date**

The Debtor shall continue to operate as a Debtor-In-Possession during the period from the Confirmation Date through and until the Effective Date in the ordinary course of its business and pursuant to the terms of the Cash Collateral Order, as amended and extended.

**J. Authority to Effectuate Plan**

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan shall be deemed to be authorized and approved without further approval from the Bankruptcy Court. The Confirmation Order shall act as an order modifying Debtor's operating agreement such that the provisions of this Plan can be effectuated. The Plan Proponents shall be authorized, without further application to or order of the Bankruptcy Court, to take whatever

action is necessary to achieve the Effective Date and carry out the Plan and to effectuate the Distributions provided for thereunder.

**K. Post-Confirmation Status Report**

Unless the Effective Date has already occurred, within 120 days of the entry of the Confirmation Order, the Reorganized Debtor shall file a status report (which shall be delivered to WFF seven days before filing and be reasonably acceptable to WFF) with the Bankruptcy Court explaining what progress has been made toward the Effective Date of the confirmed Plan. The status report shall be served on the U.S. Trustee and those parties who have requested notice post-Confirmation. Further status reports reasonably acceptable to WFF shall be filed every 60 days and served on the same entities until the Effective Date. Nothing contained in the Plan shall modify the Reorganized Debtor's obligation to file post-confirmation monthly operating reports pursuant to Local Rule 2015-1.

**L. Escrows**

All escrows previously established in this Chapter 11 Case and still in existence on the Effective Date shall continue in effect, be administered, and the escrowed funds released, according to their terms and any orders of the Bankruptcy Court previously entered.

**M. Binding Effect**

Except as otherwise expressly provided in the Plan, on and after the Effective Date, the Plan and all exhibits thereto shall bind WFF and all Holders of Claims.

**N. Good Faith**

Confirmation of the Plan shall constitute a finding that: (i) this Plan has been proposed in good faith and in compliance with applicable provisions of the Bankruptcy Code; and (ii) the

solicitation of acceptances or rejections of this Plan by all Entities has been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

**ARTICLE VI**

**TREATMENT OF EXECUTORY CONTRACTS**

**AND UNEXPIRED LEASES**

**A. Assumption of Executory Contracts and Unexpired Leases**

Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, as of the Effective Date, the Debtor shall be deemed to have assumed each pre-petition executory contract and unexpired lease to which it is a party and assigned such executory contract and unexpired lease to the Reorganized Debtor unless such executory contract or unexpired lease (a) was previously assumed or rejected upon motion by a Final Order, (b) previously expired or terminated pursuant to its own terms; or (c) is the subject of any pending motion, including to assume, to assume on modified terms, to reject or to make any other disposition filed by the Debtor on or before the Confirmation Date. In accordance with this, the Debtor shall be deemed to have assumed each of its leases for Units, Parking Spaces and/or Storage Cages, and as of the Effective Date, assigned each such lease to Transferee. The Confirmation Order shall constitute an order of the Bankruptcy Court under section 365(a) of the Bankruptcy Code approving the assumption and/or assignment of prepetition executory contracts and unexpired leases described above, as of the Effective Date.

**B. Assignment of Executory Contracts and Unexpired Leases**

To the extent provided under the Bankruptcy Code or other applicable law, any executory contract or unexpired lease transferred and assigned pursuant to this Plan shall remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including those of the type described in section 365(b)(2) of the Bankruptcy Code) that prohibits, restricts or conditions such transfer or assignment. To the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty condition renewal or extension or modify any term or condition upon any such transfer and assignment constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

**C. Cure Rights for Executory Contracts and Unexpired Leases Assumed Under Plan**

Any monetary amounts by which each executory contract and unexpired lease to be assumed pursuant to the Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by Cure. The Debtor believes there are no Cure amounts for any of its executory contracts and unexpired leases to be assumed, other than the Debtor's executory contract with the Bayard Views Condominium Association which has a Cure amount of \$64,000.00. If there is a dispute regarding (a) the nature or amount of any Cure, (b) the ability of the Reorganized Debtor or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be



assumed, or (c) any other matter pertaining to assumption, Cure shall occur following the entry of a Final Order by the Bankruptcy Court resolving the dispute and approving the assumption or assumption and assignment, as the case may be; provided, however, that the Debtor or Reorganized Debtor, as applicable, shall be authorized to reject any executory contract or unexpired lease to the extent the Debtor or Reorganized Debtor, in the exercise of their sound business judgment, conclude that the amount of the Cure obligation as determined by such Final Order, renders assumption of such executory contract or unexpired lease unfavorable to the Debtor or Reorganized Debtor. Except with respect to the Cure amount owed to the Bayard Views Condominium Association, the Debtor or Reorganized Debtor, as the case may be, shall be responsible to pay all Cure obligations from the Plan Funding Account.

**D. Rejection of Executory Contracts and Unexpired Leases**

The contracts and leases set forth on Schedule 1 hereto shall be deemed rejected as of the Effective Date. The month-to-month lease of Unit PHB between the Debtor and Mendy Chudaitov shall be deemed rejected as of the Effective Date, and the Debtor shall take all steps necessary to ensure that the tenant of Unit PHB shall have vacated Unit PHB prior to the Effective Date. Any service contracts with the Debtor, whether or not listed on Schedule 1, shall be deemed rejected as of the Effective Date. The Debtor, with the prior written consent of WFF, reserves the right, at any time prior to the Effective Date, except as otherwise specifically provided in the Plan, to seek to reject any executory contract or unexpired lease to which the Debtor is a party and to file a motion requesting authorization for the rejection of any such executory contract or unexpired lease.

If the rejection of an executory contract or unexpired lease pursuant to the Plan results in a Claim, then such Claim shall be forever barred and shall not be enforceable against the Debtor or Reorganized Debtor or the properties of any of them unless a Proof of Claim is filed with the claims agent and served upon counsel to the Reorganized Debtor within thirty (30) days after entry of the Confirmation Order. The foregoing applies only to Claims arising from the rejection of an executory contract or unexpired lease; any other Claims held by a party to a rejected contract or lease shall have been evidenced by a Proof of Claim filed by earlier applicable Bar Date or shall be barred and unenforceable.

**E. Assumption of Governmental Licenses**

In the event that any license granted to the Debtor by a governmental unit, and in effect immediately prior to the Effective Date, is considered to be an executory contract and is not otherwise terminated or rejected by the Debtor, such license shall be deemed to be assumed and assigned to Transferee pursuant to section 365 of the Bankruptcy Code and Article VI.A of the Plan.

**F. Continuing Obligations Owed to Debtor**

1. Continuing obligations of third parties to the Debtor under insurance policies, contracts, or leases that have otherwise ceased to be executory or have otherwise expired on or prior to the Effective Date, including, without limitation, continuing obligations to pay insured claims, to defend against and process claims, to refund premiums or overpayments, to provide indemnification, contribution or reimbursement, to grant rights of first refusal, to maintain confidentiality, or to honor releases, shall continue and shall be binding on such third parties

notwithstanding any provision to the contrary in the plan, unless otherwise specifically terminated by the Debtor or by order of Bankruptcy Court.

2. To the extent any insurance policy under which the insurer has a continuing obligation to pay the Debtor or a third party on behalf of the Debtor is held by the Bankruptcy Court to be an executory contract, such insurance policy shall be treated as though it is an executory contract that is assumed pursuant to section 365 of the Bankruptcy Code and Article VII.A of the Plan. Any and all Claims (including Cure) arising under or related to any insurance policies or related insurance agreements that are assumed by the Debtor prior to or as of the Effective Date: (i) shall not be discharged; (ii) shall be Allowed Administrative Claims; and (iii) shall be paid in full in the ordinary course of business of the Reorganized Debtor as set forth in Article II.B of the Plan.

**G. Continuing Obligation with Respect to Tenant Security Deposits**

Prior to the Effective Date, the Debtor shall provide WFF an accounting of the Debtor's tenant security deposits posted by its tenants in connection with the Units. On the Effective Date, the Debtor shall transfer to Transferee the tenant security deposits and Transferee shall maintain accounts holding such tenant security deposits. In accordance with applicable state law, those security deposits will remain the property of the tenants. Accordingly, tenants shall not have Claims against the Debtor or Transferee with respect to a respective tenant's security deposit so long as Transferee continues to maintain the tenant's security deposit in an account segregated from Transferee's business accounts. At the conclusion of any lease term with a tenant, Transferee shall administer the tenant's security deposit in accordance with the terms of the parties' respective lease and applicable state law.

**H. Limited Extension of Time to Assume or Reject**

1. In the event of a dispute as to whether a contract or lease is executory or unexpired, the right of the Debtor or the Reorganized Debtor to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract or lease is executory or unexpired.

2. In the event the Debtor or the Reorganized Debtor becomes aware after the Confirmation Date of the existence of an executory contract or unexpired lease that was not included in the Schedules, the right of the Reorganized Debtor to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after the date on which the Debtor or the Reorganized Debtor becomes aware of the existence of such contract or lease.

**I. Post-Petition Contracts and Leases**

The Debtor shall not be required to assume or reject any contract or lease entered into by the Debtor after the Petition Date. Any such contract or lease shall continue in effect in accordance with its terms after the Effective Date, unless the Debtor or Reorganized Debtor has obtained a Final Order of the Bankruptcy Court approving rejection or other termination of such contract and lease.

**J. Treatment of Claims Arising From Assumption or Rejection**

All Allowed Claims for Cure arising from the assumption of any executory contract or unexpired lease shall be treated as Administrative Claims pursuant to Article II.B of the Plan; all Allowed Claims arising from the rejection of an executory contract or unexpired lease shall be treated, to the extent applicable, as General Unsecured Claims, unless otherwise ordered by Final Order of the Bankruptcy Court; and all other Allowed Claims relating to an executory contract or

unexpired lease shall have such status as they may be entitled to under the Bankruptcy Code as determined by Final Order of the Bankruptcy Court.

## **ARTICLE VII**

### **PROVISIONS GOVERNING DISTRIBUTIONS**

#### **A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, or as may be ordered by the Bankruptcy Court, Distributions on account of those Claims that are Allowed as of the Effective Date and are entitled to receive Distributions under the Plan, shall be made by the Reorganized Debtor on the Effective Date and on such subsequent Distribution Dates as set forth in the Plan. Distributions on account of Claims that become Allowed after the Effective Date shall be made on the next subsequent Distribution Date, in each case without interest. Notwithstanding anything herein to the contrary, funds contained in the Plan Funding Account may not be commingled or used for the payment of any Allowed Claim other than (i) Allowed Administrative Claims (other than the Condo Association Claim); (ii) Allowed Priority Claims; (iii) Allowed Professional Fee Claims; and (iv) Allowed General Unsecured Claims. After payment of the Allowed Administrative Claims, Allowed Priority Claims, Allowed Professional Fee Claims and Allowed General Unsecured Claims in accordance with the Plan, all of the remaining funds in the Plan Funding Account shall be and revested in the Reorganized Debtor free and clear of all Claims.

At the close of business on the Distribution Record Date, the claims register for all Claims shall be closed, and there shall be no further changes in the record holders of such Claims. Except as provided herein, the Debtor, Reorganized Debtor, and each of their respective agents, successors, and assigns shall have no obligation to recognize any transfer of Claims

occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the claims register as of the close of business on the Distribution Record Date irrespective of the number of Distributions to be made under the Plan to such Entities on the date of such Distributions.

**B. Distributions; Causes of Action**

If, as a result of the pursuit of any Causes of Action, a Claim would arise from a recovery pursuant to section 550 of the Bankruptcy Code after Distributions under the Plan have commenced, the Reorganized Debtor shall be permitted to reduce the recovery by an amount that reflects the value of the treatment that would have been accorded to the Claim under the Plan, thereby effectively treating the Claim through the reduction.

**C. Manner of Payment**

Any payment of Cash made under the Plan may be made either by check drawn on a domestic bank, by wire transfer, or by automated clearing house transfer from a domestic bank, at the option of the Reorganized Debtor.

The Reorganized Debtor in making Distributions under the Plan, shall comply with applicable tax withholding and reporting requirements imposed by any governmental unit, and all Distributions made pursuant to the Plan shall be subject to such withholding and reporting requirements. The Reorganized Debtor, may withhold the entire Distribution due to any Holder of an Allowed Claim until such time as such Holder provides the Reorganized Debtor with the necessary information to comply with any reporting and withholding requirements of any governmental unit. Any funds so withheld will then be paid by the Reorganized Debtor to the appropriate authority. If the Holder of an Allowed Claim fails to provide to the Reorganized

Debtor the information necessary to comply with any reporting and withholding requirements of any governmental unit within thirty (30) days from the date of first notification by the Reorganized Debtor to the Holder of such Allowed Claim about the need for such information or for the Cash necessary to comply with any applicable withholding requirements, then the Holder's Distribution shall be treated as an undeliverable Distribution in accordance with Article VII.E below.

**D. Transmittal of Distributions to Parties Entitled Thereto**

All Distributions by check shall be deemed made at the time such check is duly deposited in the United States mail, postage prepaid. All Distributions by wire transfer shall be deemed made as of the date the Federal Reserve or other wire transfer is made. Except as otherwise agreed with the Holder of an Allowed Claim in respect thereof or as provided in the Plan, any property to be distributed on account of an Allowed Claim shall be distributed by mail, upon compliance by the Holder with the provisions of the Plan, to (a) the latest mailing address Filed for the Holder of an Allowed Claim entitled to a Distribution, (b) the latest mailing address Filed for a Holder of a Filed power of attorney designated by the Holder of such Claim to receive Distributions, (c) the latest mailing address Filed for the Holder's transferee as identified in a Filed notice served on Debtor pursuant to Bankruptcy Rule 3001(e), or (d) if no such mailing address has been Filed, the mailing address reflected on the Schedules or in the Debtor's books and records.

**E. Disputed Claims and Unclaimed Property**

Notwithstanding all references in the Plan to Claims that are Allowed, in undertaking the Pro Rata calculations concerning Allowed Claims under the Plan, including the determination of

the amount of Distributions due to the Holders of Allowed Claims, each Disputed Claim shall be treated as if it were an Allowed Claim, as appropriate, except that if the Bankruptcy Court estimates the portion of a Disputed Claim to be Allowed or otherwise determines the amount which would constitute a sufficient reserve for a Disputed Claim (which estimations and determinations may be requested by the Reorganized Debtor), such amount as determined by the Bankruptcy Court shall be used as to such Claim.

The Distributions due in respect of Disputed Claims based on the calculations required by the Plan shall be reserved for the Holders of the Disputed Claims and deposited into the account or trust. The amount so deposited on behalf of a Creditor holding a particular Disputed Claim is referred to herein as the "Reserve Amount."

After an objection to a Disputed Claim is withdrawn or determined by Final Order, the Distributions due on account of any resulting Allowed Claim shall be paid by the Reorganized Debtor from the Reserve Amounts for such Creditor held in the account or trust together with the interest, if any, actually accrued on the Reserve Amounts (up to a maximum of the interest actually accrued on the amount of the resulting Allowed Claim). Such payment shall be made on the next Subsequent Distribution Date. No interest shall be due to a Disputed Claim holder based on the delay attendant to determining the allowance of such Claim except as set forth in this subsection.

Should the Distribution on account of any Allowed Claim of such Creditor exceed the Reserve Amount, the shortfall may be paid from available sums, if any, for the next Distribution, provided that, in no event shall the Creditor have recourse to any payments already made to



others or to sums reserved by the Reorganized Debtor in connection with the account or trust or for ongoing fees and costs of administering Debtor's Estate or effectuating the Plan.

After an objection to such a Disputed Claim is sustained in whole or in part by a Final Order, any Reserve Amounts for such Claim held in the respective account or trust in excess of the Distributions due on account of any resulting Allowed Claim may be removed by the Reorganized Debtor from the respective Reserve Fund and treated as available funds for ongoing costs and fees and Distributions.

At the election of the Reorganized Debtor, any property, which is unclaimed for ninety (90) days after Distribution thereof by mail to the last known mailing address of the party entitled thereto, shall revert in the Reorganized Debtor, as available funds for ongoing costs and fees. Notwithstanding the foregoing, if any mail sent to a Creditor at the last known mailing address by the Reorganized Debtor, is returned without a forwarding address and the Creditor does not Claim its Distribution within ninety (90) days after it is mailed to the Creditor, the Reorganized Debtor shall strike the Creditor's Claim from the Creditor list, issue no more checks to such Creditor and, for the purposes of future Distributions, treat the Creditor's Claim as if it were disallowed.

**F. Setoffs**

The Reorganized Debtor, may, but shall not be required to, setoff against any Claim, and the payments and/or Distribution of other property to be made under the Plan in respect of such claim, any Claims of any nature whatsoever Debtor may have against the Holder of a Claim, but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver by Debtor or Reorganized Debtor of any such claim the held against such Holder.

**G. Saturday, Sunday or Legal Holiday**

If any payment, Distribution, or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or Distribution or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**H. Fractional Cents**

Notwithstanding any other provisions of the Plan to the contrary, no payment of fractional cents will be made under the Plan. Cash will be issued to Holders entitled to receive a Distribution of Cash in whole cents (rounded-down to the nearest whole cent when and as necessary).

**I. Corporate Action**

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan involving the corporate structure of the Debtor shall be deemed to be authorized and approved without any requirement of further action by Debtor, Debtor's shareholders, Debtor's board of directors, and/or the Reorganized Debtor.

**J. De Minimis Payments and Distributions**

Notwithstanding any other provision of this Plan, de minimis payments of less than \$50 need not be made by the Reorganized Debtor on account of any Allowed Claim; provided that such de minimis payments that would otherwise be made on the Initial Distribution Date or a subsequent Distribution Date shall carry over until the next date of a Distribution until the cumulative amount of Distributions to which the Holder of such Allowed Claim is more than \$50, at which time the cumulative amount of such Distributions shall be paid to such Holder. De

minimis payments that will not be distributed as of the final Distribution Date shall be treated as undeliverable Distributions as provided in Article VII.E above.

## **ARTICLE VIII**

### **PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

#### **A. Prosecution of Objections to Claims**

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and except as set forth in the Plan, the Debtor, Reorganized Debtor, and their respective professionals and shall have the exclusive right to make and File objections to any Claims.

The Debtor and Reorganized Debtor shall have until sixty (60) days following the Effective Date to File objections to the applicable filed or scheduled proofs of Claim filed prior to the Effective Date; provided, however, that the Debtor or Reorganized Debtor, may apply to the Bankruptcy Court for an extension of such deadline for cause.

Pursuant to an Order entered by the Bankruptcy Court setting the Bar Date, any person or entity holding a claim scheduled as disputed, unliquidated or contingent were required to file a proof of claim before the Bar Date. The following persons/entities were scheduled as holding disputed claims and did not file proofs of claim by the Bar Date: BAC Group Ltd.; Guma Corp.; Luxury Designs, Inc.; Parking Depot; and Supreme Wood Floors (collectively, the “Non-Filing Parties”). In accordance with the terms of the order establishing the Bar Date, the Non-Filing Parties are barred, estopped and enjoined from asserting any Claim against the Debtor and Reorganized Debtor and the property of the Debtor and Reorganized Debtor is discharged from any and all indebtedness, liens or liability with respect to any claims of the Non-Filing Parties.

Except as set forth in the Plan, nothing in the Plan, the Disclosure Statement, the Confirmation Order or any order in aid of Confirmation, shall constitute, or be deemed to constitute, a waiver or release of any claim, cause of action, right of setoff, or other legal or equitable defense that Debtor had immediately prior to the commencement of this Chapter 11 Case or the Effective Date, against or with respect to any Claim. Except as set forth in the Plan, upon Confirmation, the Reorganized Debtor shall have, retain, reserve and be entitled to assert all such claims, Causes of Action, rights of setoff and other legal or equitable defenses that Debtor had immediately prior to the Effective Date or prior to the commencement of this Chapter 11 Case as if this Chapter 11 Case had not been commenced.

**B. Estimation of Claims**

The Debtor and Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor and Reorganized Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor or the Reorganized Debtor, as the case may be, may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim.

**C. Cumulative Remedies**

All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. Until such time as such Claim becomes an Allowed Claim, such Claim shall be treated as a Disputed Claim for purposes related to allocations, Distributions, and voting under the Plan.

**D. Payments and Distributions on Disputed Claims**

On the Distribution Dates, the Reorganized Debtor shall transfer and maintain for each respective Reserve Account such amounts of Cash the Reorganized Debtor shall determine to be necessary to retain on that Distribution Date on account of the Disputed Claims for which the respective Account is established. In determining the amount of Cash to contribute to each respective Account, Reorganized Debtor shall be entitled to rely upon the estimation, if any, of any Disputed Claims pursuant to the Plan to determine the amount of Cash so reserved, without objection by the Holder of the Disputed Claim. As and when authorized by a Final Order, Disputed Claims that become Allowed Claims shall be paid first from the respective Account corresponding to such Disputed Claim and second from the remaining funds, if any, in the possession of the Reorganized Debtor, until such time that the Holder of such Allowed Claim receives all payments and Distributions to which such Holder is entitled under the Plan. Notwithstanding any provision in the Plan to the contrary, no partial payments and no partial Distributions will be made with respect to a Disputed Claim until the resolution of such disputes by settlement or Final Order. Unless otherwise agreed by the Reorganized Debtor, a Creditor

who holds both (an) Allowed Claim(s) and (a) Disputed Claim(s) will not receive a Distribution, nor accrue interest thereon, until such dispute is resolved by settlement or Final Order.

**E. Allowance of Claims**

Except as expressly provided in the Plan, no Claim shall be deemed Allowed by virtue of the Plan, Confirmation, or entry of the Confirmation Order, unless and until such Claim is deemed Allowed or the Bankruptcy Court enters a Final Order in this Chapter 11 Case allowing such Claim.

**F. Controversies Concerning Impairment**

If a controversy arises as to whether any Claims or any Class of Claims are Impaired under the Plan, the Bankruptcy Court, after notice and a hearing, shall determine such controversy before the Confirmation Date. If such controversy is not resolved prior to the Effective Date, the Bankruptcy Court's interpretation of the Plan shall govern.

**ARTICLE IX**

**CONDITIONS PRECEDENT TO CONFIRMATION**

**OF THE PLAN AND ACHIEVING THE EFFECTIVE DATE**

**A. Condition Precedent to Confirmation**

Before Confirmation may occur, the following conditions precedent must occur:

1. The Confirmation Order shall approve in all respects all of the provisions, terms and conditions of the Plan; and
2. The proposed form of the Confirmation Order is satisfactory in form and substance to each of the Debtor, WFF and the U.S Trustee.

**B. Conditions Precedent to Achieving the Effective Date**

Before the Effective Date may occur, the following conditions precedent must occur:

1. The Confirmation Order shall have been signed by the Bankruptcy Court and duly entered on the docket for this Chapter 11 Case by the Clerk of the Bankruptcy Court in form and substance acceptable to Debtor, WFF and the U.S. Trustee;
2. The Confirmation Order shall be a Final Order;
3. WFF shall have funded the Plan Funding Account;
4. All material actions, documents, and agreements necessary to implement the Plan shall have been effected or executed.
5. WFF shall deliver to the Debtor stipulations discontinuing with prejudice the Guarantor Actions.
6. Delivery to WFF of the mutual release agreement described in Article V.G.16 of the Plan.
7. The Debtor shall have complied with all of the provisions of the Plan, including, but not limited to, Articles V.E and F of the Plan.

The Plan Proponents may jointly waive any of the conditions of the Confirmation and/or the Effective Date of the Plan, in whole or in part, set forth in Article IX of the Plan at any time, without notice, without leave or order of the Bankruptcy Court.

**C. Effect of Non-Occurrence of Conditions to Achieving the Effective Date**

If the Confirmation Order is vacated, the Plan shall be null and void in all respects, and nothing contained in the Plan or the Disclosure Statement shall: (a) constitute a waiver or release

of any Claims by or against the Debtor; (b) prejudice in any manner the rights of Debtor, or (c) constitute an admission, acknowledgment, offer or undertaking by Debtor in any respects.

**D. Notice of Effective Date**

On the Effective Date, or as soon thereafter as reasonably practicable, the Reorganized Debtor shall File with the Bankruptcy Court a “Notice of Effective Date” in a form reasonably acceptable to the U.S. Trustee, which notice shall be served on all creditors and constitute appropriate and adequate notice that this Plan has become effective. The Plan shall be deemed effective as of 12:01 a.m., prevailing Eastern Time, on the Effective Date specified in such filing.

**ARTICLE X**

**EFFECT OF ACHIEVING THE EFFECTIVE DATE**

**A. Vesting Of Assets**

Except as otherwise expressly provided in this Plan and the Confirmation Order, on the Effective Date, the Debtor’s Assets, other than the Collateral, shall be transferred to and vest in the Reorganized Debtor free of any Claims, Liens and Interests, to be managed and used by the Reorganized Debtor to carry out the Plan and effectuate the Distributions provided for in the Plan.

**B. Discharge of Claims Against the Debtor and the Reorganized Debtor**

On the Effective Date, except as otherwise expressly provided in this Plan or the Confirmation Order, the Confirmation of this Plan shall as of the Effective Date: (i) discharge the Debtor, the Reorganized Debtor and any of their Assets from all Claims demands, liabilities and other debts that arose on or before the Effective Date, including, without limitation, all debts of the kind specified in section 502 of the Bankruptcy Code, whether or not (A) a Proof of Claim



based on such debt is filed or deemed filed pursuant to section 501 of the Bankruptcy Code, (B) a Claim based on such debt is Allowed pursuant to section 502 of the Bankruptcy Code, (C) a Claim based on such debt is or has been disallowed by order of the Bankruptcy Court, or (D) the Holder of a Claim based on such debt has accepted this Plan; and (ii) preclude all Entities from asserting against the Debtor, the Reorganized Debtor or any of their Assets any other or further Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, all pursuant to sections 524 and 1141 of the Bankruptcy Code. The discharge provided in this provision shall void any judgment obtained against the Debtor at any time, to the extent that such judgment relates to a discharged Claim. The Debtor is discharged from any Claims and agreements related to debts that arose on or before the Effective Date and such debts, Claims and agreements are deemed restructured and new as set forth in the Plan.

**C. Injunction Related to the Discharge**

Except as otherwise provided in this Plan or the Confirmation Order, all Entities that have held, currently hold or may hold Claims or other debts or liabilities against the Debtor or other right of an Equity Security Holder in any or all of the Debtor that are discharged pursuant to the terms of this Plan are permanently enjoined, on and after the Effective Date, from taking any of the following actions on account of any such Claims, debts, liabilities or rights: (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim debt, liability, or right other than to enforce any right to a Distribution pursuant to this Plan; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award decree or order against the Debtor, the Reorganized Debtor or any of their

Assets on account of any such Claim debt, liability, or right; (iii) creating, perfecting or enforcing any Lien or encumbrance against the Debtor, the Reorganized Debtor or any of their Assets on account of any such Claim debt liability, or right; (iv) asserting any right of setoff subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtor, the Reorganized Debtor or any of their Assets on account of any such Claim debt, liability, or right; and (v) commencing or continuing any action in any manner, in anyplace that does not comply with or is inconsistent with the provisions of this Plan or the Confirmation Order. Such injunction shall extend to any successor of the Debtor, the Reorganized Debtor and any of their Assets. Any entity injured by a willful violation of such injunction shall recover actual damages, including costs and attorneys' and experts' fees and disbursements, and, in appropriate circumstances, may recover punitive damages from the willful violator.

**D. Preservation of Rights of Action by the Debtor and the Reorganized Debtor**

Except as provided in this Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with this Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, the Reorganized Debtor, shall retain and may enforce, and shall have the sole right to enforce, any claims, demands, rights and Causes of Action that the Debtor or Estate may hold against any Entity, as appropriate. The Reorganized Debtor, and its successors and assigns, may pursue such retained claims, demands, rights or Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor holding such claims, demands, rights or Causes of Action. Further, the Reorganized Debtor retain their rights to file and pursue, and shall have the sole right to file

and pursue any adversary proceedings against any account debtor related to debit balances or deposits owed to the Debtor.

By accepting Distributions pursuant to the Plan, each Holder of an Allowed Claim receiving Distributions pursuant to the Plan will be deemed to have specifically consented to the injunctions set forth herein.

**E. Limitation of Liability**

Except as expressly set forth in the Plan, on and after the Effective Date, neither of the Plan Proponents, nor their successors or assigns, including the Reorganized Debtor or Transferee, nor any of their respective past and present officers, directors, employees, members, agents, representatives, shareholders, attorneys, accountants, financial advisors, investment bankers, lenders, consultants, experts, and Professionals and agents for the foregoing shall have or incur any liability for, and are expressly exculpated and released from, any claim (as defined in section 101(5) of the Bankruptcy Code) of any past or present actions taken or omitted to be taken under or in connection with, related to, effecting, or arising out of the following: (i) the Debtor's and/or Reorganized Debtor operations after the Petition Date; (ii) this Chapter 11 Case; (iii) the post-petition administration of the Debtor's Cash, Assets, and real and personal property; (iv) the pursuit of Confirmation; (v) the formulation, preparation, dissemination, implementation, administration, confirmation, or achieving the Effective Date of the Plan and the Disclosure Statement; (vi) the sale and liquidation of the Assets (including the prosecution of Causes of Action), or the property to be distributed under the Plan; (vii) any other act taken or omitted to be taken in connection with the Debtor's business after the Petition Date; or (viii) any contract, instrument, release, or other agreement entered into or created in connection with the foregoing;

except only for actions or omissions to act to the extent determined by a court of competent jurisdiction (in a Final Order) to be by reason of such party's gross negligence, willful misconduct or fraud.

**F. Release of WFF**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtor and the Reorganized Debtor, including without limitation, any successor to the Debtor or the Reorganized Debtor, shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action (including Avoidance Actions), and liabilities whatsoever in connection with or related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, the Pre-Petition Credit Agreement, the Pre-Petition WFF Loan, the Guarantor Actions, or the Plan, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the conduct of the Debtor's business, the Reorganized Debtor, the Chapter 11 Cases, the Pre-Petition Credit Agreement, the Pre-Petition WFF Loan, the Guarantor Actions, or the Plan, and that may be asserted by or on behalf of the Debtor or the Reorganized Debtor against WFF or any of the present or former shareholders, directors, officers, employees, representatives, agents and professional advisors of WFF.

**G. Release of Debtor Released Parties**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, WFF, NewCo, Transferee and the Debtor Released Parties shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action (including Avoidance Actions), and liabilities whatsoever in connection with or related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, the Pre-Petition Credit Agreement, the Pre-Petition WFF Loan, the Guarantor Actions, or the Plan, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the conduct of the Debtor's business, the Reorganized Debtor, the Chapter 11 Case, the Pre-Petition Credit Agreement, the Pre-Petition WFF Loan, the Guarantor Actions, or the Plan, and that may be asserted by or on behalf of WFF, NewCo, Transferee or the Debtor Released Parties against the Debtor Released Parties.

**H. Release of Liens**

Except as otherwise expressly provided in this Plan or in any contract, instrument, indenture or other agreement or document expressly incorporated by reference in this Plan, upon the occurrence of the Effective Date, the Confirmation Order shall release any and all Liens other than as otherwise provided in this Plan; *provided, however*, that this provision *shall not* prevent Liens from attaching to the Reorganized Debtor's Assets as provided for by this Plan.

**I. Terms of Existing Injunctions or Stays**

Unless otherwise provided herein, all injunctions or stays provided for in this Chapter 11 Case pursuant to sections 105, 362 or 525 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date. The Plan and Confirmation Order will permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released or enjoined pursuant to the Plan.

**ARTICLE XI**

**RETENTION OF JURISDICTION**

Notwithstanding entry of the Confirmation Order or the Effective Date having occurred, this Chapter 11 Case having been closed, or Final Decree having been entered, the Bankruptcy Court shall have jurisdiction of matters arising out of, and related to this Chapter 11 Case and the Plan under, and for the purposes of, sections 105(a), 1127, 1142 and 1144 of the Bankruptcy Code and for, among other things, the following purposes:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or status of any Claim, including the resolution of any request for payment of any Administrative Claim or Priority Tax Claim and the resolution of any and all objections to the allowance or priority of Claims;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

3. resolve any matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom;

4. ensure that Distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan, including ruling on any motion or objection Filed pursuant to the Plan;

5. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving any or all of the Debtor or their affiliates, directors, employees, agents or Professionals that may be pending on the Effective Date;

6. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan or the Disclosure Statement;

7. resolve any cases, controversies, suits or disputes that may arise in connection with achieving the Effective Date, interpretation or enforcement of the Plan, or any Entity's obligations incurred in connection with the Plan, including, among other things, any avoidance actions or subordination actions under sections 510, 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code;

8. issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with achieving the Effective Date or enforcement of the Plan, except as otherwise provided herein;

9. resolve any cases, controversies, suits or disputes with respect to the releases, injunction and other provisions contained in Article X and enter such orders as may be necessary or appropriate to implement such releases, injunction and other provisions;

10. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

11. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan or the Disclosure Statement;

12. enter an order and/or Final Decree concluding this Chapter 11 Case;

13. to consider any modification of the Plan under section 1127 of the Bankruptcy Code and/or modification of the Plan before “substantial consummation” as defined in section 1101(2) of the Bankruptcy Code;

14. to protect the property of the Estate from adverse Claims or interference inconsistent with the Plan, including to hear actions to quiet or otherwise clear title to such property based upon the terms and provisions of the Plan, or to determine a Debtor’s exclusive ownership of claims and Causes of Action retained or otherwise dealt with under the Plan;

15. to hear and determine matters pertaining to abandonment of property of the Estate;

16. to consider any modifications of the Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;



17. to interpret, enforce and address any and all issues relating to any Orders, including without limitation all sale orders entered in this Chapter 11 Case pursuant to section 363 of the Bankruptcy Code, previously entered in this Chapter 11 Case to the extent such Orders are not superseded or inconsistent with the Plan;

18. to recover all Assets of Debtor and property of the Estate wherever located;

19. to hear and determine matters concerning state, local, and federal taxes in accordance with sections 345, 505, and 1146 of the Bankruptcy Code.

20. to hear and act on any other matter not inconsistent with the Bankruptcy Code;

21. to consider and act on the compromise and settlement of any litigation, Claim against or cause of action on behalf of the Estate; and

22. to interpret and enforce the injunctions contained in the Confirmation Order and Plan.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

#### **A. Payment of Statutory Fees**

All fees payable pursuant to 28 U.S.C § 1930 as determined by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid on or before the Effective Date. The Reorganized Debtor shall pay all statutory fees due and payable, under 28 U.S.C § 1930, plus accrued interest under 31 U.S.C. § 3717, on all disbursements, including Plan payments and disbursements inside and outside of the ordinary course of business, until the entry of a final decree, dismissal or conversion of the case to Chapter 7.

**B. Modification of Plan**

Except in the case of non-material modifications or amendments, prior to entry of the Confirmation Order, the Plan may only be modified jointly by the Plan Proponents. After the entry of the Confirmation Order, WFF or the Reorganized Debtor may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan, if (a) the Plan has not been substantially consummated and (b) the Bankruptcy Court authorizes the proposed modifications after notice and a hearing.

**C. Revocation of Plan**

The Plan Proponents reserve the right, to the extent provided under the Bankruptcy Code, to jointly withdraw the Plan at any time before substantial consummation of the Plan if any of the following events occur: (a) the Confirmation Order is not entered by [ ], **2011**; (b) the Effective Date does not occur by [ ], **2011**; (c) the Effective Date of the Plan is not substantially achieved by [ ]; or (d) the Confirmation Order is reversed or revoked, then, in each case at the option of Debtor, the Plan shall be deemed null and void. In any of those events, nothing contained in the Plan shall be deemed to constitute a waiver of any claim by the Plan Proponents or to prejudice in any manner the rights of the Plan Proponents in any further proceedings involving the Debtor.

**D. Successors and Assigns**

The rights, benefits and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign of such Entity.

**E. Reservation of Rights**

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. The filing of the Plan, the statements or provisions contained therein, or the taking of any action by the Plan Proponents with respect to the Plan shall not be, or shall not be deemed to be, an admission or waiver of any rights of the Plan Proponents with respect to Claims prior to the Effective Date.

**F. Post-Confirmation Effectiveness of Proofs of Claims**

Proofs of Claims shall, upon the Effective Date, represent only the right to participate in the Distributions contemplated by the Plan (to the extent the claims set forth in such Proofs of Claims are Allowed) and otherwise shall have no further force or effect.

**G. Term of Injunctions or Stays**

Unless otherwise provided, all injunctions or stays provided for in this Chapter 11 Case under sections 105 and 362 of the Bankruptcy Code or otherwise in effect on the Confirmation Date shall remain in full force and effect until the Effective Date.

**H. Further Assurances**

The Plan Proponents, Reorganized Debtor and all Holders of Claims receiving Distributions under the Plan and all other parties in interest shall, from time to time, prepare,

execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

**I. Entire Agreement**

The Plan supersedes all prior discussions, understandings, agreements, and documents pertaining or relating to any subject matter of the Plan.

**J. Failure of Bankruptcy Court to Exercise Jurisdiction**

If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction, or is otherwise without jurisdiction over any matter arising out of this Chapter 11 Case, including any of the matters set forth in the Plan, the Plan shall not prohibit or limit the exercise of jurisdiction by any other court of competent jurisdiction with respect to such matter.

**K. Governing Law**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the internal laws of the State of New York shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan, without regard to the conflict of laws provisions of the State of New York.

**L. Headings**

The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner shall affect the provisions or interpretation(s) of the Plan.

**M. Notices**

Any pleading, notice or other document required by the Plan to be served on or delivered to Debtor shall be sent by first class U.S. mail, postage prepaid to:

To Debtor:

20 Bayard Views, LLC  
c/o Martin Ehrenfeld  
580 Fifth Avenue, Suite 501  
New York, NY 10036

With copies to:

Porzio, Bromberg & Newman, P.C.  
100 Southgate Parkway  
Morristown, NJ 07962  
Attn: John S. Mairo  
Warren J. Martin  
Counsel for the Debtor

To WFF:

W Financial Fund, LP  
c/o David Heiden  
149 Madison Avenue  
New York, NY 10016

With copies to:

Herrick, Feinstein LLP  
2 Park Avenue  
New York, NY 10016  
Attn: Andrew Gold  
Hanh Huynh  
Counsel for WFF

**N. Filing of Additional Documents**

On or before the Effective Date, the Plan Proponents may File such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

**O. Enforceability**

Should any provision in the Plan be determined to be unenforceable, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of the Plan.

**P. Severability**

The provisions of the Plan shall not be severable unless such severance is agreed to by the Plan Proponents, and such severance would constitute a permissible modification of the Plan pursuant to section 1127 of the Bankruptcy Code.

**Q. Notice of Default under the Plan**

Unless otherwise agreed, no default shall be declared under the Plan unless any payment or performance due under the Plan (other than a payment required on the Effective Date) shall not have been made or deemed made thirty (30) calendar days after written notice of the default is received by Plan Proponents. Any notice of default as provided for in the Plan or in any exhibit to the Disclosure Statement shall (a) conspicuously state that it is a notice of default; (b) describe with particularity the nature of the default, including a reference to the specific provisions of the Plan as to which a default or defaults have allegedly occurred; and (c) describe any action required to cure the default, including the exact amount of any payment required to cure such default, if applicable.

**R. Investments**

Reorganized Debtor shall be permitted from time to time to invest all or a portion of the Cash contained in any of the Reserve Funds in securities issued or directly guaranteed by the United States government or any agency thereof, commercial paper of corporations rated at least

“A-1” by Standard & Poor’s Corporation or rated at least “P-1” by Moody’s Investor Services, Inc., interest bearing certificates of deposit, time deposits, bankers’ acceptances and overnight bank deposits, and repurchase agreements.

**S. Reliance**

The Plan Proponents and their respective agents, employees and professionals, while acting in their capacity as such, including but not limited to, objecting to Claims, making Distributions to Creditors holding allowed Claims and approving settlement of actions, as the case may be, shall be permitted to reasonably rely on any certificates, sworn statements, instruments, reports, claim dockets, schedules, or other documents reasonably believed to be genuine and to have been prepared or presented by the Bankruptcy Court Clerk’s Office, the Debtor, and the Debtor’s professionals.

Dated: July 25, 2011

20 Bayard Views, LLC

By: /s/ Martin Ehrenfeld  
Name: Martin Ehrenfeld  
Title: Restructuring Officer

W Financial Fund, LP

By: /s/ David Heiden  
Name: David Heiden  
Title: Managing Member

**Schedule 1**

1. 20 Bayard Views, LLC, as Seller, to Fabio Lazoski Fonseca, as purchaser, for Condo Unit PHB at 20 Bayard Street, Brooklyn, New York.
2. Lease of Unit PHB dated September 21, 2010, between 20 Bayard Views, LLC, as Owner, and Mendy Chudaitov, as Tenant.
3. Management Agreement dated February 10, 2009, between 20 Bayard Views, LLC and JBM Estates, LLC.