

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re: : Chapter 11
: :
EAST 44TH REALTY, LLC, : Case No. 05-16167 (RDD)
: :
Debtor. :
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TRUSTEE’S FIRST AMENDED CHAPTER 11 PLAN OF LIQUIDATION

The following First Amended Chapter 11 Plan of Liquidation is proposed and filed by David R. Kittay, the Chapter 11 Trustee of the above-captioned Debtor:

ARTICLE I.

DEFINITIONS

For purposes of this First Amended Chapter 11 Plan of Liquidation, the following terms shall have the respective meanings hereinafter set forth (such meanings to be equally applicable to the singular and plural forms of the terms defined), unless a different meaning is clearly required by and explained by the context of such term. Terms used in this First Amended Chapter 11 Plan of Liquidation that are defined in the Bankruptcy Code shall have the meaning assigned therein, unless herein defined.

1.01 “Administration Expense” shall mean any cost or expense of administration of the Chapter 11 Case entitled to priority in accordance with the provisions of Sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, (i) any actual, necessary costs and expenses of preserving the Debtor’s Estate (other than such Claims or portions thereof which, by their express terms, are not due or payable by the Effective Date); (ii) all allowances of compensation for legal or other professional services or reimbursement of costs and expenses under Sections 330 or 503 of the Bankruptcy Code or otherwise allowed by Final Order of the Bankruptcy Court; and (iii) all fees or charges assessed against the Debtor’s Estate under chapter 123 of Title 28, United States Code.

1.02 “Allowed Claim” shall mean a Claim, other than an Administration Expense, which (a) is set forth in a Proof of Claim timely and properly filed in the Chapter 11 Case on or before the date fixed by the Bankruptcy Court (or by applicable rule or statute) as the last day for filing such Proof of Claim, or late filed with leave of the Bankruptcy Court after notice and opportunity for hearing given to counsel for the Trustee, and as to which no objection to the allowance thereof is filed, or (b) is determined to be allowed by a Final Order.

1.03 “Allowed Priority Claim” shall mean any Allowed Claim, or portion

thereof (other than an Administration Expense), entitled to priority under Section 507(a)(4), (5), (6), or (7) of the Bankruptcy Code.

1.04 “Available Cash” shall mean all proceeds of the property of the Debtor’s Estate, including any monies recovered by the Debtor’s Estate, in the possession of the Trustee and the Debtor, net of Administration Expenses, Allowed Administration Tax Claims, Allowed Priority Claims and any post-confirmation expenses of administration, the Reserve Fund, the Repair Reserve, the Tax Reserve and the G Squared Reserve.

1.05 “Assignment Agreement” shall mean that Assignment and Assumption Agreement dated September 29, 2006, entered into by the Debtor and United Capital Associates, LLC.

1.06 “Bankruptcy Claims” shall mean all claims, rights, and causes of action in favor of the Debtor’s Estate under the Bankruptcy Code, including, but not limited to, all claims, rights and causes of action arising under Sections 542 through 553 of the Bankruptcy Code.

1.07 “Bankruptcy Code” shall mean the Bankruptcy Reform Act of 1978 as codified in title 11 of the United States Code and in effect in the Chapter 11 Case.

1.08 “Bankruptcy Court” shall mean the United States Bankruptcy Court for the Southern District of New York and any appellate or other court that is competent to exercise jurisdiction over any matter arising in or relating to the cases.

1.09 “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure.

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

1.11 “Cash” shall mean cash and cash equivalents, and other readily marketable securities or instruments, including, but not limited to, bank deposits, checks, and other similar items.

1.12 “Chapter 11” shall mean Chapter 11 of the Bankruptcy Code.

1.13 “Chapter 11 Case” shall mean the Chapter 11 case commenced by the voluntary filing by the Debtor and assigned Chapter 11 Case No. 05 B 16167 (RDD).

1.14 “Claim” shall be defined as set forth in § 101(5) of the Bankruptcy Code.

1.15 “Claimant” shall mean the holder of a Claim.

1.16 “Class” shall mean any class into which Allowed Claims and Allowed

Interests are classified pursuant to Article III. of the First Amended Chapter 11 Plan of Liquidation.

1.17 “Class 1 Claims”, “Class 2 Claims”, “Class 3 Claims” and “Class 4 Interests” shall mean the Claims and Interests described and classified in Articles II. and III. of the First Amended Chapter 11 Plan of Liquidation.

1.18 “Confirmation Date” shall mean the date the Confirmation Order is entered by the Clerk of the Bankruptcy Court in accordance with the provisions of the Bankruptcy Code.

1.19 “Confirmation Order” shall mean the order of the Bankruptcy Court confirming and approving the transactions contemplated herein in accordance with the provisions of the Bankruptcy Code.

1.20 “Debtor” shall mean: East 44th Realty, LLC.

1.21 “Debtor’s Estate” shall mean the estate of the Debtor pursuant to Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

1.22 “Disputed Claim” shall mean a Claim (other than an Allowed Claim): (a) as to which the Trustee has filed an objection which objection has not been ruled upon by the Bankruptcy Court; or (b) which has been allowed pursuant to a judgment or order of a court of competent jurisdiction which judgment or order has been stayed or as to which judgment or order (or any revision, modification, or amendment thereof) the Plan Administrator’s time to appeal or seek review or rehearing has not expired by reason of statute or otherwise; provided, however, that (i) with respect to any Disputed Claim for which a proof of claim has been filed with the Bankruptcy Court in an amount which is not liquidated or is estimated and which has not been fixed by the Bankruptcy Court at a sum certain by a Final Order, the amount of such Disputed Claim, shall, for purposes of the First Amended Chapter 11 Plan of Liquidation, be fixed or liquidated by the Bankruptcy Court under Section 502 of the Bankruptcy Code or may be fixed by an agreement in writing between the Trustee and the holder thereof, or such Disputed Claim shall be disallowed and discharged, and (ii) the amount of any Disputed Claim may be such lesser amount than the amount in which such Disputed Claim was filed as the Bankruptcy Court may order or the Plan Administrator and the holder of such a Disputed Claim may agree upon in writing; and, provided, further, that in no event shall any holder of a Disputed Claim, if and when such Disputed Claim becomes an Allowed Claim, be entitled to receive from the Debtor’s Estate an amount greater than the amount of such Disputed Claim so estimated or determined by the Bankruptcy Court or agreed upon by the Plan Administrator and the holder thereof.

1.23 “Distribution” shall mean any disbursement under the First Amended Chapter 11 Plan of Liquidation.

1.24 “Effective Date” shall mean a Business Day which shall be designated by the Plan Administrator, in his sole discretion, within thirty (30) days of the Confirmation Order becoming a Final Order; provided, however, that in the event of a stay of the Confirmation Order, “Effective Date” shall mean the third Business Day following the date on which an order vacating or terminating such stay shall have been entered.

1.25 “Final Order” shall mean an order of the Bankruptcy Court that is not and is no longer subject to the imposition of a stay pending appeal or any other stay, or subject to appeal, review pursuant to direction of a court of competent jurisdiction, reversal or writ of certiorari, and the time for which has expired.

1.26 “G Squared Reserve” shall mean the \$1,045,000 of the \$1,670,000 down payment paid to the Debtor’s Estate by G Squared Management LLC and G Squared Associates LLC which amount the Bankruptcy Court ordered be released to the Debtor’s Estate pursuant to its September 12, 2007 Order.

1.27 “Insider” shall be defined as in 11 U.S.C. § 101 (31). For purposes of Claim classification, the following persons and entities shall be considered Insiders: B&F Imports, Inc., Antebi Properties, Albert Antebi, Samuel Mesri, the Starwear Fund, Metin Hakli, Ezru Antebi, Klazar Benezra, Erdal Frayman, David Bildirici, Musa Bildirici, Yusuf Bildirici, YST LLC, and Gabria Group LLC.

1.28 “Interest” shall mean an equity interest in the Debtor.

1.29 “Legal Rate” shall mean the applicable interest rate as set forth in 28 U.S.C. §1961 as of the Petition Date.

1.30 “Limited Service List” shall mean all persons who have filed Notices of Appearance and any taxing authority affected by any requested relief and the United States Trustee.

1.31 “Non-Bankruptcy Claims” shall mean all claims, rights and causes of action in favor of the Debtor’s Estate other than those set forth in the Bankruptcy Code.

1.32 “Person” shall mean any individual, executor or legal representative, corporation, partnership, association, trust, governmental unit, agency or other entity.

1.33 “Petition Date” shall mean the date on which the voluntary Chapter 11 petition was filed by the Debtor, August 5, 2005.

1.34 “Plan” or “First Amended Plan” shall mean this First Amended Chapter 11 Plan of Liquidation in its present form or as it hereafter may be amended, modified or supplemented in accordance with the terms hereof or in accordance with the Bankruptcy Code and the Bankruptcy Rules.

1.35 “Plan Administrator” shall mean the Trustee or any other person duly appointed by the Bankruptcy Court.

1.36 “Pro Rata” shall mean with respect to an amount of Available Cash to be distributed to the holder of an Allowed Claim or interest of a particular Class, the same proportion that such Allowed Claim bears to the aggregate of all Claims of that particular Class. The calculation of the Pro Rata distribution of Available Cash shall be made as though all Undetermined Claims, except unliquidated or contingent claims, of the particular Class had been allowed in the full amount asserted. No distributions shall be made to the holders of Undetermined Claims except as is provided under Article X. of the Plan.

1.37 “Repair Fund” shall mean the \$200,000 from the proceeds of the sale of the Debtor’s ground lease and related sub-leases that was reserved for payment of repair costs pursuant to a global stipulation between the Trustee, New York Community Bank and East Forty-Fourth Street L.L.C. which stipulation was approved by Order of the Bankruptcy Court dated August 9, 2007.

1.38 “Repair Reserve” shall mean the \$99,400 remaining in the Repair Fund.

1.39 “Reserve Fund” shall mean the fund described in Article VII. of the Plan.

1.40 “Schedules” shall mean the lists of all creditors, Schedules and Statements of Financial Affairs, including any amendments thereto, filed pursuant to Bankruptcy Rule 1007.

1.41 “Secured Claim” shall mean claims which are secured by a lien or other judicially enforceable interest in property in which the Estate has an interest.

1.42 “Sharing Agreement” shall mean that letter agreement dated February 27, 2007, between Eastern Property Associates, LLC and Joseph Bildirici.

1.43 “Tax Claim” shall mean the portion of an Allowed Claim entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

1.44 “Tax Reserve Fund” shall mean the fund described in Article VIII. of the Plan.

1.45 “Trustee” shall mean David R. Kittay solely in his official capacity as Chapter 11 Trustee or any other duly appointed successor trustee for the Debtor.

1.46 “Unclaimed Property” shall mean any Cash unclaimed on the 180th day following its attempted distribution. Unclaimed Property shall include: (a) checks (and the funds represented thereby) which have been returned as undeliverable without a proper forwarding address; and (b) checks (and the funds represented thereby) which were not mailed or delivered because of the absence of a proper address to which to mail or deliver such property.

1.47 “Undetermined Claim” shall mean any Claim that: (a) is a Disputed Claim; (b) arises from the rejection of an executory contract or unexpired lease pursuant to Article XV. of the Plan; or (c) is unliquidated or contingent, until allowed by a Final Order.

1.48 “UST Reserve” shall mean the \$15,000 the Trustee shall reserve pursuant to Section 1930 of Title 28 of the United States Code for payments of Chapter 11 quarterly fees and disbursements to the Office of the United States Trustee.

ARTICLE II.

PAYMENT OF ADMINISTRATION EXPENSES, ADMINISTRATION TAX CLAIMS AND PRIORITY CLAIMS

2.01 Administration Expenses. All Administration Expenses shall be paid by the Plan Administrator in full in such amount as such liabilities are incurred in the ordinary course of business upon their due date or in such amounts as such Administration Expenses are allowed by the Bankruptcy Court: (a) on the date of entry of an order of the Bankruptcy Court allowing each such Administration Expense; (b) upon the Effective Date; or (c) such other terms as may be agreed upon between the holders of the Claims for Administration Expenses and the Plan Administrator.

2.02 Allowed Administration Tax Claims. The Plan Administrator shall, on the Effective Date, unless such claim shall be the subject of an objection within the time allowed by the Confirmation Order or order of the Bankruptcy Court, pay to each holder of an Allowed Administration Tax Claim an amount equal to one hundred percent (100%) of the amount of its respective Allowed Administration Tax Claim without interest.

2.03 Allowed Priority Claims (Class 1 Claims). The Plan Administrator shall, on the Effective Date, unless such claim shall be the subject of an objection within the time allowed by the Confirmation Order or order of the Bankruptcy Court, pay to each holder of an Allowed Priority Claim allowable under Sections 507(a)(3), (4) and (6) of the Bankruptcy Code an amount equal to one hundred percent (100%) of the amount of his, her, or its respective Allowed Priority Claim without interest.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND INTERESTS

3.01 General Classification Rule. A proof of claim or proof of interest which

asserts more than one Class is in a Class to the extent it qualifies within the description of such Class and is in a different Class to the extent it qualifies within the description of such different Class.

3.02 Classification. All Allowed Claims and all Interests shall be separated into the following Classes, which Classes shall be mutually exclusive:

- (a) The Class 1 Claims shall consist of all Allowed Priority Claims held by creditors of the Debtor.
- (b) The Class 2 Claims shall consist of all Allowed timely, as well as Allowed though late-filed general unsecured claims.
- (c) The Class 3 Claims shall consist of the single, \$50,000 general unsecured claim of Eastern Property Associates, LLC and United Capital Associates, LLC agreed to pursuant to Stipulation so-ordered by the Court on June 13, 2008.
- (d) The Class 4 Interests shall consist of all Allowed Equity Interests in the Debtor.

ARTICLE IV.

TREATMENT OF CLAIMS AND INTERESTS

4.01 Holders of Allowed Administration Expense Claims shall be paid in full on the Effective Date.

4.02 Holders of Allowed Administration Tax Claims shall be paid in full on the Effective Date.

4.03 Class 1 Claims. Class 1 Claimants (holders of Allowed Priority Claims) shall be paid in full on the Effective Date. The Class 1 Claimants are unimpaired and are deemed to have voted to accept the Plan.

4.04 Class 2 Claims. The Class 2 Claimants (holders of Allowed timely, as well as Allowed though late-filed, general unsecured Claims) shall be paid in full, with post-petition interest at the Legal Rate or at such other rate as required to render the holders of Allowed Class 2 Claims unimpaired under 11 U.S.C. §1124 on the Effective Date. The Class 2 Claimants are unimpaired and are deemed to have voted to accept the Plan.

4.05 Class 3 Claims. The Class 3 Claimants (holders of Allowed Claims arising out of the Assignment Agreement and the Sharing Agreement) shall be paid in full, with

post-petition interest at the Legal Rate or at such other rate as required to render the holders of Allowed Class 3 Claims unimpaired under 11 U.S.C. §1124, calculated as of June 13, 2008, on the Effective Date. The Class 3 Claimants are unimpaired and are deemed to have voted to accept the Plan.

4.06 Class 4 Interests. The Class 4 Interest holders shall retain their respective Allowed Equity Interests in the Debtor. Class 4 Interest Holders are unimpaired and are deemed to have voted to accept the Plan.

ARTICLE V.

MEANS OF EXECUTION OF THE PLAN

5.01 The distribution shall be funded by the liquidation of all property of the Debtor's Estate. Distribution shall be made from the Available Cash and any other recoveries by the Trustee, Plan Administrator or the Debtor.

5.02 After the Confirmation Date, the Plan Administrator shall establish the Reserve Fund, the UST Reserve and the G Squared Reserve and maintain the Repair Reserve in accordance with Article VII. hereof. In connection therewith, the Plan Administrator shall determine a reasonable reserve in his discretion for payment of all Undetermined Claims, Administration Expenses and all other post-confirmation expenses and shall at all times attempt to retain in or add to the Reserve Fund sufficient monies for such expenses. After the Confirmation Date, the Plan Administrator shall also establish the Tax Reserve Fund in accordance with Article VIII. hereof.

5.03 On the Effective Date, or as soon as practicable thereafter, the Plan Administrator shall make a distribution from Available Cash in the order of priority set forth in Articles II., III. and IV. hereof.

ARTICLE VI.

PLAN ADMINISTRATOR AND POST-CONFIRMATION TRUSTEE

6.01 The Trustee shall serve as the Plan Administrator.

6.02 Upon Confirmation, the Plan Administrator shall have all of the powers and responsibilities of the Trustee, together with the additional powers and authority conferred herein, which powers shall be subject to review by the Bankruptcy Court.

6.03 The Plan Administrator is authorized and empowered to take or cause to be taken all actions which in his judgment are necessary to secure the effective implementation of the Plan. Subsequent to the Confirmation Date, the Plan Administrator is empowered and authorized to pursue and prosecute, elect not to pursue or prosecute, or abandon any Bankruptcy

Claims or Non-Bankruptcy Claims as he shall determine in his reasonable discretion. On the Effective Date, any and all interests in and to all property held by or entitled to be received by the Chapter 11 Trustee shall be transferred to the Plan Administrator.

6.04 After Confirmation, the Plan Administrator may retain agents and professionals and those agents and professionals may be the same as those retained by the Trustee. No additional retention shall be necessary for such persons. The fees and costs incurred by such agents and professionals shall constitute Administration Expenses and shall be paid out of Available Cash subject to Article XII. herein. The Plan Administrator shall be compensated as set forth in Article XII.

6.05 To the extent the Trustee has not already done so, the Plan Administrator shall review the proofs of claim and, if warranted in his discretion, file objections thereto.

6.06 The Plan Administrator is authorized to incur and pay from the Reserve Fund such costs and expenses as shall be reasonably related to the performance of his duties without further approval of the Bankruptcy Court.

6.07 On and after the Confirmation Date, the Plan Administrator shall, inter alia, have the authority to prosecute in his own name, in the Trustee's name and/or as attorney-in-fact for, and on behalf of, the Debtor's Estate all Bankruptcy Claims and Non-Bankruptcy Claims.

6.08 The Plan Administrator shall file monthly operating statements with the United States Trustee and pay quarterly fees to the United States Trustee.

6.09 To the extent permitted by law, the Trustee and Plan Administrator shall be indemnified and held harmless by the Debtor's Estate against any and all loss, expenses and liability arising out of, or in connection with, the Reserve Fund, the Repair Reserve, the G Squared Reserve and/or the Tax Reserve or his rights, powers and duties as the Trustee or Plan Administrator, whether such loss, expenses or liability relates to the pre- or post-confirmation period. In no circumstances shall the Trustee/Plan Administrator or his professionals or agents be liable to any person except on grounds of gross negligence or intentional misconduct. The Trustee/Plan Administrator shall not be obligated to give any bond, surety, or other security for the performance of any of his duties unless otherwise ordered by the Bankruptcy Court; and if so ordered, all costs and expenses of procuring any such bond, surety or other security shall be paid from the Debtor's Estate's assets. The Trustee/Plan Administrator shall have the right, at any time, to seek approval of the Bankruptcy Court with respect to any action which he proposes to take in furtherance of his rights, powers and duties under the Plan.

6.10 The Plan Administrator may upon thirty (30) days prior notice resign, at any time, by: (a) filing with the Bankruptcy Court an application for the appointment of a successor Plan Administrator; and (b) serving such application upon the United States Trustee.

6.11 In the event of the death, resignation or incapacity of the Plan Administrator, the United States Trustee shall appoint a successor or replacement Plan Administrator. Before his or her appointment shall become effective, every successor or replacement Plan Administrator shall execute and deliver to the Bankruptcy Court, the United States Trustee, and the retiring Plan Administrator, an instrument: (a) accepting such appointment; (b) agreeing to be bound by the provisions of the Plan; and (c) containing such additional provisions as the Bankruptcy Court may direct.

6.12 Upon making the final distribution under the Plan, or as soon as practically possible thereafter, the Plan Administrator shall: (a) file with the Bankruptcy Court a final report as required by the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules for the Bankruptcy Court, and serve such report upon the United States Trustee. Upon payment of all compensation and reimbursement of expenses, and any other costs and expenses related to the administration of the Chapter 11 Case, and in accordance with the provisions of such orders as the Bankruptcy Court may enter: (a) the Chapter 11 Case shall be closed; and (b) the Plan Administrator and Trustee shall be relieved of all of his rights, obligations, powers and duties under the Plan and shall be discharged.

ARTICLE VII.

RESERVE FUND, REPAIR RESERVE, G SQUARED RESERVE AND UST RESERVE

7.01 On the Confirmation Date or as soon as practicable thereafter, the Plan Administrator shall retain and set aside in the Reserve Fund an amount of Cash such that, in his judgment, the aggregate balance of the Reserve Fund shall be sufficient to make all Distributions which may subsequently be required to pay Undetermined Claims, Administration Expenses, and reserves for future anticipated expenses of administering and implementing this Plan or prosecuting or defending litigation, including the fees and expenses of the Trustee and Plan Administrator and his retained professionals and other employees and assistants subsequent to the Confirmation Date. Similarly, on the Confirmation Date, or as soon thereafter as practicable, the Plan Administrator shall retain and set aside the G Squared Reserve. However, because of the absence of a stay of the Bankruptcy Court's September 12, 2007 Order ordering the release of the entire \$1,670,000 down payment paid to the Debtor's Estate by G Squared Management LLC and G Squared Associates LLC to the Debtor's Estate, the Trustee may determine to release any or all of the G Squared Reserve without further Order of the Bankruptcy Court or any other court.

7.02 On the Confirmation Date or as soon as practicable thereafter, the Plan Administrator shall retain and set aside in the UST Reserve an amount of Cash in the amount of \$15,000 to satisfy the Estate's obligations to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930.

7.03 On the Confirmation Date or as soon as practicable thereafter, the Plan Administrator shall retain and set aside the monies previously allotted to the Repair Reserve.

Such funds shall only be released by the Plan Administrator to satisfy those repair obligations set forth in the global stipulation between and among the Trustee, New York Community Bank and East Forty-Fourth Street L.L.C. which stipulation was approved by Order of the Court dated August 9, 2007.

ARTICLE VIII.

TAX RESERVE

8.01 On the Confirmation Date or as soon as practicable thereafter, the Plan Administrator shall retain and set aside in the Tax Reserve an amount the Plan Administrator reasonably deems to be appropriate for payment of potential tax liabilities of the Debtor's Estate. Amounts may be released from the Tax Reserve Fund in the Plan Administrator's sole discretion when the tax exposure of the Debtor's Estate permits, subject to review by the Bankruptcy Court upon motion of any party in interest. Cash held in the Tax Reserve Fund shall be invested in such investments as are described in Section 345 of the Bankruptcy Code.

ARTICLE IX.

RESOLUTION OF UNDETERMINED CLAIMS

9.01 Payment of Undetermined Claims Which Subsequently Become Allowed Claims. In the event that, subsequent to the Confirmation Date, an Undetermined Claim shall, in whole or in part, become an Allowed Claim, the Plan Administrator shall, as soon as practicable, following the entry of a Final Order with respect to that Claim, pay to the holder thereof, in Cash his, her or its distribution under the Plan, without interest from the Reserve Fund, but no more than the Pro Rata share paid to date to other creditors in its class.

9.02 Withdrawals from the Reserve Fund for Undetermined Claims Which Subsequently Become Disallowed Claims. In the event that, subsequent to the Confirmation Date, an Undetermined Claim shall, in whole or in part, become a disallowed Claim, all Cash held in the Reserve Fund in respect of such disallowed Claim, together with interest earned thereon, shall be withdrawn from the Reserve Fund and shall be available for distribution to the holders of other Claims in the order of priority set forth herein whenever, in the Plan Administrator's judgment, sufficient funds are available for a meaningful distribution, subject to review by the Bankruptcy Court upon motion of any party in interest.

ARTICLE X.

UNCLAIMED PROPERTY

10.01 Unclaimed Distributions. The Plan Administrator shall deposit all

Unclaimed Property (and all interest earned thereon) in the Reserve Fund for the holders of Allowed Claims entitled thereto or which subsequently become entitled thereto under the terms of the Plan. For a period of thirty (30) days following the date such property becomes Unclaimed Property, Unclaimed Property shall be held in the Reserve Fund for the holders of Allowed Claims which have failed to claim such property. During such period, Unclaimed Property due the holder of an Allowed Claim shall be released by the Plan Administrator from the Reserve Fund and delivered to such holder upon presentation of proper proof by such holder of his, her or its entitlement thereto. The Plan Administrator shall, upon presentation of such proof, as soon as practicable, pay to the holder of such Allowed Claim, from the Reserve Fund, an amount, in Cash, equal to the aggregate of the Cash which would, under the Plan, have previously been distributed to such holder by the Plan Administrator as an Allowed Claim eligible for Distribution on the Effective Date, without the interest earned thereon from the date of deposit into the Reserve Fund through the date preceding the day of payment. After such period, the holders of Allowed Claims theretofore entitled to Unclaimed Property shall cease to be entitled thereto, and the Unclaimed Property shall then be distributed Pro Rata to the holders of other Claims in accordance with the terms of the Plan.

ARTICLE XI.

AVOIDANCE AND OTHER ACTIONS BELONGING TO THE ESTATES

11.01 The Plan Administrator shall have the power and authority to bring, prosecute, review and settle all Bankruptcy Claims and Non-Bankruptcy Claims. Such Claims may be compromised and settled on notice to the Office of the United States Trustee and the Limited Service List, subject to review by the Bankruptcy Court upon motion of any party in interest.

ARTICLE XII.

POST-CONFIRMATION EXPENSES AND COMPENSATION

12.01 To the extent that professionals of the Trustee seek compensation for post-confirmation services based upon standard hourly rates then in effect and reimbursement for post-confirmation expenses, they must serve such request on 10 days' notice to the Plan Administrator, the United States Trustee and the Limited Service List in accordance with Bankruptcy Rule 2002. If there is no objection to the requested fees and expenses, the Plan Administrator may, twenty Business Days after submission of the professionals' monthly invoices, accompanied by contemporaneous time records and notice to the aforementioned parties, make such payment. In the event that the United States Trustee or any party on the Limited Service List has any objection to payment, and no settlement is reached, a hearing shall be scheduled before the Bankruptcy Court which shall make a determination of the reasonable and proper amount to be paid for the services rendered and expenses incurred, upon which,

payment shall be made following entry of a Final Order.

12.02 The Plan Administrator shall seek compensation under 11 U.S.C. § 326. To the extent the Plan Administrator seeks compensation for services rendered to the Debtor's Estate or the post-confirmation Debtor, such compensation request shall be made on notice to all parties in accordance with Bankruptcy Rule 2002. The Plan Administrator shall be entitled to be compensated for Distributions made pursuant to this Plan calculated as if such Disbursements were Trustee's commission, upon approval of the Bankruptcy Court after notice pursuant to Bankruptcy Rule 2002.

ARTICLE XIII.

LIMITATIONS ON DISTRIBUTIONS

13.01 No holder of a Claim shall be entitled to any Distribution from Debtor's Estate except as is provided in the Plan.

ARTICLE XIV.

RESERVATION OF RIGHTS

14.01 The Trustee reserves the right to modify or to revoke and withdraw the Plan before the Confirmation Date to the full extent permitted by law. In the event that the Plan is not confirmed, neither the Plan nor related documents nor any statement contained in the Plan or in such related documents may be used or relied upon in any manner in any action, proceeding or controversy within or outside of the Chapter 11 Case and, in such event: (i) the Plan shall be deemed null and void; and (ii) nothing contained in the Plan or in related documents shall be deemed to constitute a waiver or release of any Claim against any person or to prejudice in any manner the rights of any entity.

ARTICLE XV.

EXECUTORY CONTRACTS

15.01 Pursuant to Section 1123(b)(2) and Section 365(a) of the Bankruptcy Code, effective as of the Confirmation Date, any and all executory contracts or unexpired leases entered into by the Debtor before the Petition Date which have not been assumed shall be deemed rejected pursuant to Sections 365 and 1123(b)(2) of the Bankruptcy Code. However, to the extent that the Trustee or Plan Administrator learns of an executory contract or unexpired lease that he was not made aware of prior to the Confirmation Date, the Trustee or Plan Administrator may move for assumption of that executory contract or unexpired lease

notwithstanding the deemed rejection.

15.02 Each Person who is a party to any executory contract rejected pursuant to Section 15.01 of this Article XV. or to any motion to reject such executory contract and only such Person, shall be entitled to file with the Bankruptcy Court, not later than thirty (30) days following the Confirmation Date, a proof of claim for damages, if any, alleged to arise from the rejection of any such executory contract to which such Person is a party. Simultaneously with the filing of any such proof of claim with the Bankruptcy Court, such Person shall serve upon counsel for the Plan Administrator a copy of such proof of claim. The failure of any such Person to file such proof of claim with the Bankruptcy Court or serve such proof of claim upon counsel for the Plan Administrator within the time period prescribed herein shall forever bar such Person from asserting any Claim for damages alleged to arise from the rejection of any executory contract or unexpired lease to which such Person is a party. The filing of any such proof of claim shall be without prejudice to any and all rights which the Plan Administrator may have to object to the allowance thereof.

ARTICLE XVI.

TRANSFERS EXEMPT FROM TAXATION

16.01 Any transfers of real property undertaken under or pursuant to the Plan shall be exempt from stamp taxes or similar taxes pursuant to Section 1146(c) of the Bankruptcy Code.

ARTICLE XVII.

ABANDONMENT OF INTEREST IN PERSONAL AND REAL PROPERTY

17.01 To the extent the Trustee has any right, title or interest in any real or personal property of the Debtor remaining as of the Confirmation Date, the Trustee shall be deemed to have abandoned his right, title and interest in any such property. This Article specifically does not apply to any causes of action constituting property of the Debtor's estate. To the extent that the Trustee or Plan Administrator learns of an interest in real or personal property that he was not made aware of prior to the Confirmation Date, the Plan Administrator shall prepare a notice of abandonment and serve such notice on the United States Trustee, the Bankruptcy Court and the Limited Service List. If no written objections to the abandonment are served upon the Plan Administrator within fifteen days of the Plan Administrator's service of such notice, the property shall be deemed abandoned.

ARTICLE XVIII.

DEFAULT

18.01 Failure to distribute the payments due the various Classes of Claims shall constitute an event of default under the Plan.

18.02 (a) Upon written receipt from any person of notice of default, the Plan Administrator shall have thirty (30) Business Days from receipt of such notice, to cure such default. If such default is cured by the Plan Administrator within said thirty (30) Business Day period, then the Plan shall continue in full force and effect. Notices of any alleged breach, default, or need to cure shall be sent certified mail, return receipt requested to: Kittay & Gershfeld, P.C., Att'n: Judy Siegel, counsel to the Trustee and Plan Administrator, 100 White Plains Road, Tarrytown, New York 10591, (914) 332-8000 and to the Limited Service List.

(b) In the event any default is not cured, Claimant(s) shall be entitled to enforce all legal remedies they may have, but in no event shall the Trustee or Plan Administrator have any personal liability therefor.

ARTICLE XIX.

INJUNCTIONS

19.01 **Upon entry of an order confirming this Plan, any member or members of the Debtor, or any person, firm or entity acting for, through, on behalf of, or as assignee of or successor to any such member or members of the Debtor shall be forever barred, enjoined and estopped from asserting any claims against the Landlord, its Manager, Members, employees, agents, officers, directors, affiliates, successors, assigns, beneficiaries, legal or personal representatives acting in such capacity or the New York Community Bank, its employees, agents, officers, directors, affiliates, successors, assigns, beneficiaries, legal or personal representatives acting in such capacity. Such injunction is limited to claims that any member or members of the Debtor, or any person, firm or entity acting for, through, on behalf of, or as assignee of or successor to any such member or members of the Debtor would assert derivatively, or through or as if standing in the shoes of, the Debtor. Thus, claims that these parties would seek to assert directly or independently, on their own behalf, and not on account of the Debtor's estate, are not barred by the injunction.**

ARTICLE XX.

RETENTION OF JURISDICTION

20.01 The Bankruptcy Court shall retain jurisdiction of the Chapter 11 Case pursuant to and for the purposes set forth in Section 1127(b) of the Bankruptcy Code and, inter

alia, for the following purposes:

- (a) To enforce the provisions of the Confirmation Order;
- (b) To determine any and all objections to the allowance of Claims or Interests;
- (c) If necessary, to determine any and all applications for compensation and reimbursement of expenses for professional fees and any other fees and expenses authorized to be paid or reimbursed under the Bankruptcy Code or pursuant to this Plan;
- (d) To amend or modify the Plan prior to substantial consummation or to remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order as may be necessary or advisable to carry out the purpose and intent of the Plan to the extent authorized by the Bankruptcy Code or the Bankruptcy Rules;
- (e) To determine any and all controversies and disputes arising under or related to the Plan;
- (f) To construe and enforce any and all provisions of the Plan;
- (g) To rule upon any actions brought by the Plan Administrator to recover property of the Debtor's Estate;
- (h) To determine any and all applications, motions, adversary proceedings and contested or litigated matters pending before the Bankruptcy Court on or after the Confirmation Date;
- (i) To determine the validity, priority and extent of liens, claims, and encumbrances upon property of the Debtor's Estate and to determine any questions and issues regarding title to and interests in any property of the Debtor's Estate and to enter any order, including injunctions, relating thereto;
- (j) To determine any and all controversies and disputes arising under or related to any settlement of an adversary proceeding or contested matter approved by the Bankruptcy Court, either before or after the Confirmation Date;
- (k) To hear and determine all proceedings pending or hereafter commenced related to or in connection with any Bankruptcy Claims and Non-Bankruptcy Claims;
- (l) To hear and determine any and all actions commenced by the Trustee/Plan Administrator whether filed prior to or subsequent to confirmation;

- (m) To remove the Plan Administrator and appoint a successor;
 - (n) To enter such orders as may be necessary or appropriate to implement or effectuate the terms, provisions and purposes of the Plan;
 - (o) To enter a Final Order or decree in the Debtor's Chapter 11 Case;
- and
- (p) To determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the provisions of the Bankruptcy Code or the Bankruptcy Rules.

ARTICLE XXI.

GENERAL PROVISIONS

21.01 Payment Dates. Whenever any payment or Distribution to be made under the Plan shall be due on a day other than a Business Day, such payment or Distribution shall instead be made, without interest, on the next Business Day.

21.02 Headings. The headings in this Plan are inserted for the convenience of reference only and neither constitute a portion of the Plan nor in any manner, limit or otherwise affect the provisions or interpretations thereof.

21.03 Notices. Unless otherwise provided herein, all notices, requests, or demands described in, required or permitted to be made in accordance with this Plan shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by telecopy and mailed by certified United States mail, return receipt requested or overnight mail or delivery service, with postage prepaid and duly addressed as follows:

- (a) If to the Trustee or Plan Administrator:
c/o Counsel: Kittay & Gershfeld, P.C.
Att'n: Judy Siegel
100 White Plains Road
Tarrytown, New York 10591
Telephone No.: (914) 332-8000
Facsimile No.: (914) 332-8001.

- (b) If to the holder of an Allowed Claim at the address set forth in its Proof of Claim or proof of interest filed with and allowed by the Bankruptcy Court, or, if none, at its address set forth in the Chapter 11 Petition or Schedules.

21.04 Change of Address. Any party may change the address at which he, she or it is to receive notices under this Plan by sending written notice pursuant to this Article XXI.

to the Person to be charged with the knowledge of such change.

21.05 Section and Article References. Unless otherwise specified, all references in the Plan to Sections and Articles are to Sections and Articles of the Plan.

21.06 Modification of the Plan. After the Confirmation Date, to the extent permitted under the Bankruptcy Code, the Trustee may, upon order of the Bankruptcy Court, in accordance with Section 1127(b) of the Bankruptcy Code, remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purposes and intent of this Plan.

21.07 Severability. 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.

21.08 Successors and Assigns. The rights and obligations of any Entity named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Entity including, with respect to the Trustee, the Debtor's Estate, the Plan Administrator or other fiduciary of or for the Debtor's Estate hereafter elected, appointed or designated pursuant to Chapter 7 or Chapter 11 of the Bankruptcy Code.

21.09 Governing Law. Except to the extent superseded by the Bankruptcy Code or other Federal Law, the rights, duties 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 regard to the choice of law rules thereof.

Dated: Tarrytown, New York
July 21, 2008

DAVID R. KITTAY, TRUSTEE

/s/ David R. Kittay
100 White Plains Road
Tarrytown, New York 10591
Tel.: (914) 332-8000