

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

HS 45 JOHN LLC,

Case No. 15-10368 (SHL)

Debtor.
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REVISED DISCLOSURE STATEMENT

THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR BANKRUPTCY COURT APPROVAL, BUT HAS NOT YET BEEN ACTUALLY APPROVED.

HS 45 John LLC (the "Debtor"), hereby submits this Disclosure Statement (the "Disclosure Statement") pursuant to § 1125 of Title 11, United States Code (the "Bankruptcy Code") in connection with the Chapter 11 plan of reorganization of even date (the "Plan").¹

I. INTRODUCTION

A. Overview of the Plan.

The Plan implements the global settlement agreement (defined for purposes of the Plan) as the "Settlement Agreement") reached among all of the major creditors and parties in interest in this Chapter 11 case. The Settlement Agreement was approved by Order dated November 9, 2015 (ECF #156) (the "Approval Order") and resolves the competing claims and counterclaims relating to the Debtor's contested rights to purchase the property at 45 John Street, New York, NY (defined herein as the "John Street Property"). In essence, the Debtor's claims for specific performance were settled in favor of proceeding with an auction sale of the John Street Property

¹ Creditors are referred to the Plan for a full description of the meanings of the Defined Terms to the extent that they are not described within this Disclosure Statement.

pursuant to a Stalking Horse Contract of \$73 million (the "Strike Price"), subject to any higher and better bids that may be received.

The Auction Sale is scheduled for December 2, 2015 at 11:30 a.m., with all competing bids to be received on or before November 30, 2015. The results of the Auction Sale shall be approved in connection with the confirmation of the Plan, although the actual closing of the transaction will occur on a post-confirmation basis so as to preserve entitlement to the transfer tax exemptions under Section 1146(a) of the Bankruptcy Code. Pursuant to the Settlement Agreement, the closing dated will be on or before December 30, 2015, but absolutely no later than January 20, 2016 (time of the essence).

B. The Plan.

The Plan provides for distribution of the sale proceeds to various creditors and other parties-in-interest in accordance with the waterfalls established under the Settlement Agreement. To the extent that the John Street Property is sold for more than \$73.6 million, the Plan also provide for additional recoveries primarily to the 41% Investors, the Debtor and Chung Peter Dong, with limited entitlements to the SDF Lenders (up to \$100,000), Bao Di Liu (up to \$150,000) and Riverside Abstract LLC (~~up to \$750,000~~). 15% of the sale proceeds over \$80 million. The Settlement Agreement is specifically incorporated as part of the Plan and liberally referenced and quoted throughout.

C. Voting.

In accordance with Section 1126(f) of the Bankruptcy Code, all classes of claims that are impaired under the Plan may vote to accept or reject the Plan. A class of claims is impaired if the Plan modifies, alters or changes the Claimant's legal, equitable or contractual rights against the Debtor or the John Street Property. The Class 2 Secured Claims of the SDF Lenders, the

Class 3 claims of the 41% Investors, and the Class 4 Claim of Chun Peter Dong are impaired, making them eligible to vote. The other classes of allowed claims are being paid in full and thus are deemed unimpaired and not eligible to vote.

Ballots for acceptance or rejection of the Plan will accompany the Plan, and should be completed by all voting classes of creditors. After carefully considering this Disclosure Statement and the Plan, please indicate your vote on the enclosed ballot and return same before the voting deadline to Goldberg Weprin Finkel Goldstein LLP, Attn. Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036. Facsimile: (212) 221-6532. E-mail: KNash@GWFGlaw.com.

In order to be counted, your ballot must be actually received by Goldberg Weprin Finkel Goldstein LLP, Attn. Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036, on or before December __, 2015 (the "Voting Deadline"). All forms of delivery of ballots including overnight delivery, facsimile and email are acceptable to vote on the plan. If your ballot is damaged or lost, or if you do not receive a ballot with the Disclosure Statement, please request a replacement by contacting Debtor's counsel, Goldberg Weprin Finkel Goldstein LLP, Attn. Kevin J. Nash, KNash@GWFLaw.com.

Pursuant to 11 U.S.C. §1126(a), any Claim to which an objection is pending at the time of the Confirmation Hearing is a Disputed Claim and shall not be entitled to vote on the Plan as a matter of law.

D. Confirmation.

The Bankruptcy Court has scheduled a combined hearing pursuant to Section 105(d)(2)(B)(vi) of the Bankruptcy Code to consider final approval of this Disclosure Statement and confirmation of the Plan on December __, 2015 at _____ before the Hon. Sean H.

Lane, Courtroom 701, One Bowling Green, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to final approval of the Defendants or confirmation of the Plan, shall be served upon the following attorneys: (i) Goldberg Weprin Finkel Goldstein LLP, Attn: Kevin J. Nash, 1501 Broadway, 22nd Floor, New York, New York 10036, counsel to the Debtor; (ii) Wilk Auslander LLP, Attn: Eric J. Snyder, Esq., 1515 Broadway, New York, New York 10036, counsel to the 41% Investor; (iii) Silverman Shin Byrne & Gilchrest PLLC, Attn: Peter R. Silverman, Esq., 381 Park Avenue South, 16th Floor, New York, New York 10016, counsel to Chun Peter Dong; and (iv) Office of the United States Trustee, 201 Varick Street, New York New York Attn: Paul Schwartzberg, Esq. so as to be received on or before December __, 2015.

E. Disclaimer.

[This Disclosure Statement has been conditionally approved by the Bankruptcy Court and found to contain adequate information for use in connection with the solicitation of acceptances of the Plan pursuant to section 1125 of title 11 of the United States Code (the "Bankruptcy Code"). Final approval of the Disclosure Statement will be sought in conjunction with confirmation of the Plan. Creditors may file objections to such final approval if they deem it advisable as provided below.] The Bankruptcy Court's preliminary approval of this Disclosure Statement does not constitute an endorsement of the Plan. No representations other than those explicitly set forth in this Disclosure Statement are authorized concerning the terms of the Plan and Settlement Agreement.]

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This Disclosure Statement contains summaries of certain provisions of the Plan, certain statutory provisions, certain documents related to the Plan including the Settlement Agreement, and the stalking horse contract, as well as certain events in the bankruptcy case and certain

financial information. Although the Debtor believes that the Disclosure Statement is accurate, the terms of the Plan govern, and creditors are advised to review the Plan and the Settlement Agreement in their entirety.

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II. EVENTS LEADING UP TO THE BANKRUPTCY FILING AND CRITICAL EVENTS IN THE CHAPTER 11 CASE

A. Background.

The John Street Property is a vacant, partially renovated mixed use condominium with three commercial units and 84 residential units on twelve floors. The John Street Property is owned by John Lofts which was organized in February 2014 by Chaim Miller (öMillerö), as the 68% member and initial manager, and Chun Peter Dong (öDongö) as the other 32% member. Thereafter, Miller assigned portions of his 68% membership interest in 45 John Lofts LLC to a group of Asian investors headed by Wing Fung Chau and Tu Kang Yang. The group also included Sum Tsang Cheng, Wan Bin Lu, Song Lin, Mei Hua Chen, Xiu Qin Lin, Xin Yu Huang, Bao Di Liu, Shu Ping Chan, Season Garden Realty, Inc., Li Lan Liao a/k/a Li Lan Wu and Aiyun Chen (all of whom are collectively referred to as the ö41% Investorsö).

John Lofts' acquisition of the John Street Property was financed through various mortgage loans obtained from two Madison Capital affiliates, SDF81 45 John Street 1 LLC and SDF81 45 John Street 2 LLC (collectively the öSDF Lendersö) in the aggregate principal amount of approximately \$48 million.

On September 19, 2014, Miller and John Lofts entered into Contract to sell the John Street Property to the Debtor for a total sum of approximately \$65.9 million. The Debtor's Contract included a deposit of \$14.33 million which was paid directly to John Lofts, less certain reserves and prepayments. As events unfolded, most of the deposit (\$10.75 million) was simultaneously used by Miller to consummate a separate set of transactions to buy out his partner Bo Jin Zhu (the öZhu Buyoutö), concerning four other properties located at (i) 97 Grand Avenue, Brooklyn; (ii) 203-205 North 8th Street, Brooklyn; (iii) 32-34 Fifth Ave, Brooklyn; and (iv) 29 Ryerson Street, Brooklyn (collectively, the öBrooklyn Propertiesö).

In connection with the Debtor's Contract, 45 John Lofts, together with Miller and his associate, Sam Sprei, made a series of warranties and representations relating to the status of the mortgages encumbering the John Street Property, promising that the Mortgages were, and would remain current, and were not in default. These representations and warranties proved to be completely false and untrue. Indeed, contrary to the representation and warranties, the SDF Lenders alleged that the mortgages had been in default since as early as April, 2014, and were accruing large interest charges.

To make matters worse, Miller and Sprei became subject to a number of State Court lawsuits with, among others, Dong and the 41% Investors challenging Miller's authority to sell the John Street Property to the Debtor without their consent.

B. The Debtor's Chapter 11 Case

In light of all of the competing claims and interests, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on February 20, 2015. The goal of the Chapter 11 was to bring all of the divergent interests and claims relating to the John Street Property into one court, so the myriad of issues could be resolved in a unified fashion.

The Debtor removed various then-pending state court actions to the Bankruptcy Court and commenced its own adversary proceeding for specific performance and related relief (Adv. Pro. No. 15-1066). The parties engaged in extensive discovery and readied themselves for competing motions for summary judgment centering on the issue of Chaim Miller's authority to execute the Debtor's Contract.

While the motions were being briefed, the Debtor learned that certain of the Brooklyn Properties were about to be sold by Miller and Sprei. To preserve the status quo and prevent irreparable injury, the Debtor filed an Order to Show Cause seeking injunctive relief staying all

sales. Following an evidentiary hearing, the Court entered a preliminary injunction barring Miller and Sprei from transferring any interest they held, directly or indirectly, in the Brooklyn Properties plus all of their other properties (the "Debtor Injunction").

With all of these motions in play, the parties proceeded with a series of marathon negotiating sessions over the next several weeks, with several lasting twelve hours or more. More than once the parties thought a settlement had been reached, only to find that new disagreements arose due to the complex nature to the settlement of the John Street Property as part of a larger settlement involving Miller and Sprei, the SDF Lenders and Dong.

Perseverance, however, won out in the end, and the parties were able to finalize the Settlement Agreement predicated upon a consensual sale of the John Street Property. A key aspect to the global settlement was the agreement by the SDF Lenders to reduce their mortgage claims and accept a discounted pay-off of \$53 million, subject to a time of the essence closing no later than January 12, 2016.

The key to the Settlement Agreement was identifying a stalking horse bidder. After negotiating with several potential bidders, the Debtor was able to execute the Stalking Horse Contract with 45 John NY LLC (the "Stalking Horse Purchaser") for a sale price of at least \$73 million, accompanied with a \$7 million contract deposit.

By omnibus motion dated October 23, 2015, the Debtor sought approval of the Settlement Agreement and the Stalking Horse Contract, together with a break-up fee for the Stalking Horse Purchaser; and related relief. Pursuant to Order dated October 23, 2015, the notice period for the omnibus motion was shortened, and after a hearing held on October 29, 2015, the omnibus motion was approved by Order of the Bankruptcy Court dated November 9, 2015 (ECF #156).

As part of the approval of the omnibus motion, the Court fixed November 30, 2015 as the deadline for submission of competing bids, and scheduled the auction sale for December 2, 2015 at 11:30 a.m., with a hearing to confirm the sale results scheduled for December 2, 2015 at 3:00 p.m.

By separate Order dated November 4, 2015, the Debtor was authorized to retain Eastern Consolidated as its broker to market the John Street Property, in the hope of generating competing bids at the auction.

III. THE PLAN

A. Unclassified Claims.

Administrative Expenses. Administrative Expenses are not separately classified for purposes of the Plan and shall be paid from the reserve of \$1.1 million (the "Plan Expense Reserve"), which shall be established from the sale proceeds at the closing of the John Street Property. The Plan Expense Reserve shall be utilized to pay (i) allowed administration expenses and other closing costs; (ii) allowed unsecured claims, excluding the claim of Reliable Abstract Co. LLC ("Reliable"), which claim shall be expunged prior to confirmation; and (iii) a broker's commission of \$200,000 to be paid in connection with certain potential bidders (including the Stalking Horse Purchaser) carved out from the Broker's retention application. Otherwise, the Broker shall be compensated based upon a Buyer's premium not to exceed \$500,000.

The Administration Expense Claims include the legal fees and expenses of the Debtor's counsel, Goldberg Weprin Finkel Goldstein LLP ("GWFG") projected to total approximately \$450,000. These legal fees and expenses remain subject to Bankruptcy Court approval following the filing of a separate application and additional notice to creditors. The fees and expenses of the Debtor's special litigation counsel, Loeb & Loeb LLP, are being paid separately by Old

Republic National Title Insurance Company (Old Republic). Old Republic has also agreed to fund \$200,000 to help defray the legal fees and expenses of GWFG. The balance of closing costs and allowed claims are projected to be approximately \$100,000.

Bankruptcy Fees. Any unpaid U.S. Trustee Fees shall be paid from the Plan Expense Reserve, together with any unpaid interest, on the Effective Date. U.S. Trustee Fees shall continue to accrue and be paid (together with any interest) until the earlier of the entry of a final decree closing the bankruptcy case, or dismissal or conversion of the bankruptcy case.

B. Classified Claims and Interests

Class 1: Real Estate Tax Claims

Classification ó Class 1 consists of allowed real estate tax claims and related obligations owed to the City of New York with respect to the John Street Property.

Treatment ó All allowed pre-petition and post-petition real estate tax claims and related obligations shall be paid in full from the Plan Expense Reserve on the Effective Date. Pursuant to the Stalking Horse Contract, the Stalking Horse Purchaser or other Successful Purchaser shall be responsible for payment of all real estate taxes and related obligations as of December 1, 2015. The post-December 1, 2015 taxes shall be treated as an upward adjustment to the purchase price for the John Street Property. The total accrued unpaid real estate taxes for the John Street Property are projected at approximately \$575,000 after adjustments.

Voting ó Class 1 Tax Claims are designated as being unimpaired and are ineligible to vote on the Plan.

Class 2: Secured Claims of SDF Lenders

Classification ó Class 2 consists of the secured claims of the SDF Lenders fixed in the discounted amount of \$53 million pursuant to the Settlement Agreement. The SDF

Lenders are willing to accept a discounted payoff so long as the closing on the sale of the John Street Property is completed by January 20, 2016 (time of the essence). If the claims of the SDF Lenders are not paid prior to January 20, 2016, then the SDF Lenders are no longer required to accept a discounted pay-off of \$53 million and may pursue collection of the full amount of the underlying mortgage indebtedness with default interest and charges in accordance with Paragraph 11 of the Settlement Agreement.

Treatment ó The SDF Lenders shall be paid \$53 million on the Effective Date, representing all unpaid mortgage obligations owed as of September 17, 2015. Separate and apart from the payment of \$53 million on the Effective Date, Miller and Sprei are independently responsible to pay all accrued interest to the SDF Lenders as of September 17, 2015 at a rate of \$3,333 per day until December 31, 2015, and then at the contract non-default rate with respect to each of the notes and mortgages from January 1, 2016 through January 20, 2016. Notwithstanding the foregoing, the Stalking Horse Purchaser or Successful Purchaser shall be responsible to pay all accrued interest owed to the SDF Lenders as of December 1, 2015 as an upward adjustment of the Purchase Price.

Voting ó Class 2 Claims are designated as impaired under the Plan and are eligible to vote on the Plan.

Class 3: The 41% Investors

Classification ó Class 3 consists of the allowed claims of the 41% Investors.

Treatment ó The 41% Investors shall be paid \$4 million on the Effective Date of the Plan. Additionally, the 41% Investors are eligible to receive certain additional payments and percentages from surplus proceeds in excess of \$73.6 million as provided in the Settlement Agreement.

Voting ó Class 3 Claims are designated as impaired under the Plan and are eligible to vote on the Plan.

Class 4: Claim of Chun Peter Dong

Classification ó Class 4 consists of the allowed claims of Chun Peter Dong.

Treatment ó Chun Peter Dong shall be paid \$1.5 million on the Effective Date of the Plan. Additionally, Chun Peter Dong is also eligible to receive certain additional payments and percentages from any surplus proceeds in excess of \$73.6 million as provided in the Settlement Agreement.

Voting ó The Class 4 Claim is designated as impaired under the Plan and is eligible to vote on the Plan.

Class 5: Non-Insider Unsecured Claims

Classification ó Class 5 consists of any other allowed Unsecured Claims filed with the Clerk of the Court, excluding (i) the claim of Reliable Abstract; (ii) claims of insiders; and (iii) other closing related obligations.

Treatment ó Any allowed Class 5 Claims shall be paid in full from the Plan Expense Reserve on the Effective Date.

Voting ó Class 5 Claims are designated as being unimpaired under the Plan, and are ineligible to vote on the Plan.

Class 6: Insider Claims and Equity Interests

Classification ó Class 6 consists of insider claims and the Debtor's equity interests.

Treatment ó Class 6 insider claims and equity interests shall receive a combination of (a) \$13.1 million on the Effective Date; (b) all existing cash reserves (subject to

any adjustments as provided in Paragraph 2(A) of the Settlement Agreement); and (c) the first \$300,000 received in connection with the Strike Price after (i) establishment of the Plan Expense Reserve; (ii) payment of \$53.0 million to the SDF Lenders; (iii) payment of \$4.0 million to the 41% Investors; and (iv) payment of \$1.5 million to Chun Peter Dong. Additionally, the Class 6 insider claims and equity interests are eligible to receive certain additional payments and percentages from any surplus proceeds in excess of \$73.6 million as provided in the Settlement Agreement.

Voting 6 Class 6 consists of insiders and is ineligible to vote on the Plan.

IV. MEANS FOR IMPLEMENTATION OF THE PLAN

Auction Process. The Plan shall be implemented in accordance with the Settlement Agreement based upon an Auction Sale of the John Street Property, free and clear of all claims, liens, taxes and encumbrances pursuant to 11 U.S.C. §§ 363(b) and (f), 1123, 1141(c) and 1146(a). The Auction Sale shall be conducted based on the Stalking Horse Contract and in accordance with bidding procedures outlined in the Settlement Agreement and approved by the Bankruptcy Court pursuant to Order dated November 9, 2015 (ECF #156) (*See* annexed Exhibit 6A). The Court approved Bidding Procedures are incorporated in the Plan by reference without repetition.

Post-Confirmation Closing. The closing on the sale shall be held after the Plan is confirmed so as to qualify for transfer tax exemptions under 11 U.S.C. §1146(a). the date of the closing shall be on or before December 30, 2015 subject to extension to January 20, 2016 (time of the essence) provided that the conditions set forth in paragraph 3 of the Settlement Agreement are satisfied. At the closing, the Debtor and the Stalking Horse Purchaser or other Successful

Purchaser shall execute and exchange the closing documents listed in the Stalking Horse Contract, as may be amended.

Transfer Tax Exemption. The deed to be delivered at the closing constitutes an instrument of transfer in connection with or in furtherance of the Plan. Thus, the delivery and filing of a deed shall not be subject to any transfer tax, document recording tax, mortgage recording tax, stamp tax or similar government assessment, and the appropriate city and state official or agencies shall forego the collection of any such transfer and recording tax and instead accept for filing and recording the deed and all other transfer documents without the payment of any such transfer or recording tax, including, without limitation, payment of the New York City Real Property Transfer Tax (RPT) and New York State Transfer Tax.

Distribution of Strike Price of \$73 million pursuant to the Settlement Agreement.

The Strike Price shall be distributed as follows:

(a) The sum of \$1.1 million (the Reserved Plan Expenses) to be funded at closing and used for payment of (i) closing costs related to the sale of the John Street Property, including applicable brokerage fees, real estate taxes, lien and other closing obligations; (ii) all allowed claims against the Debtor, as that term is defined under §§ 101 and 502 of the Bankruptcy Code except for the claim filed by Reliable Abstract, which is disputed and shall be expunged prior to confirmation; and (iii) the professional fees and expenses of GWFG (items (i), (ii) and (iii) are collectively, the Total Plan Expenses). The Total Plan Expenses will be augmented by an additional payment of \$200,000 from Old Republic to defray the legal fees and expenses of GWFG, plus \$50,000 of the net proceeds, after the payment of the existing mortgages, liens and closing costs, from the sale of the property at 32-34 Fifth Avenue, Brooklyn, NY (the Net Fifth Avenue Proceeds). To the extent the Total Plan Expenses as

finally approved are less than the Reserved Plan Expenses, as augmented, such funds shall be held in escrow, pending further order of the Bankruptcy Court. To the extent that the Total Plan Expenses exceed the Reserved Plan Expenses, as augmented, then any shortfall shall be satisfied from the Class 6 distribution and not from any distributions proposed to be paid to either the 41% Investors or Chun Peter Dong pursuant to the Settlement Agreement;

(b) Subject to and limited by Paragraph 10 of the Settlement Agreement, the SDF Lenders shall receive a discounted pay-off equal to \$53 million based on the Strike Price of \$73.0 million, plus per diem interest to be paid by either Miller and Sprei or the Successful Purchaser at a rate of \$3,333 per day beginning as of September 17, 2015 until December 31, 2015 and then at the contract non default rate with respect to each of the mortgage notes from January 1, 2016 through January 20, 2016;

(c) The 41% Investors to receive \$4 million;

(d) Chun Peter Dong to receive \$1.5 million; and

(e) Class 6 Insider claims and interests will receive \$13.1 million plus retain all existing cash reserves (the "Debtor Distribution"), as may be adjusted, with Class 6 insider claims and interests to receive the first additional proceeds up to \$300,000 from the \$73 million strike price.

Distributions above the \$73.0 million Strike Price. All proceeds in excess of \$73 million shall be disbursed as follows: (a) between \$73 million to \$73.6 million, the \$600,000 shall be used to pay the break-up fee, if any, up to \$400,000 as applicable (subject to adjustment depending on the scope of the bidding and identity of the ultimate Successful Purchaser), \$100,000 to the Debtor and \$100,000 to the SDF Lender; (b) between \$73.6 million to \$73.8 million, 50% to the 41% Investors and 50% to Dong; (c) between \$73.8 million and \$74

million: (i) 50% to the 41% Investors, (ii) 30% to the Debtor, and (iii) 20% to Dong; (d) between \$74.0 million to \$75.0 million (i) 45% to the 41% Investors, (ii) 25% to the Debtor, (iii) 15% to Dong; and (iv) 15% to Bao Di Liu, in consideration for his release of any interest in the property known as 3 Mitchell Place, New York, New York; 3 Mitchell Place Loft LLC; and Kings Park Holdings LLC, including discontinuance with prejudice of the action captioned, *Bao Di Liu v. Sam Sprei, et al.*, Supreme Court, State of New York, New York County, Index No. 156325/2015ö (the *Bao Di Liu Discontinuance*); (e) between \$75.0 million to \$80 million: (i) 50% to the 41% Investors, (ii) 30% to the Debtor, and (iii) 20% to Dong, and (f) \$80 million and greater, (i) 45% to the 41% Investors, (ii) 25% to the Debtor; (iii) 15% to Dong and 15% to Riverside Abstract. If a Break-Up Fee is credited to the Stalking Horse Purchaser, then the distributions set forth above shall be adjusted in kind.

V. EXECUTORY CONTRACTS

Disposition of Executory Contracts. The Debtor is a contract vendee of the John Street Property. The Settlement Agreement already provides for the assumption of the Debtor Contract, as amended, modified and superseded by the Stalking Horse Contract. The Debtor is not aware of any other executory contracts and none shall be deemed assumed.

VI. CLAIMS AND DISTRIBUTIONS

Timing of Distributions under the Plan. Unless the context otherwise requires, the distributions shall be made by the Disbursing Agent on the Effective Date or promptly after the closing of the sale of the John Street Property.

Objection Deadline. The Debtor or Reorganized Debtor (i.e., the Debtor after confirmation) shall have the authority to object to the allowance of any claim filed with the Bankruptcy Court, in whole or in part, by serving and filing an objection to such claim no later

than the start of the Confirmation Hearing. The objection to the claim of Reliable Abstract has already been filed and said claim shall be expunged in its entirety on or prior to entry of a Confirmation Order.

Prosecution of Objections. After Confirmation, the Reorganized Debtor shall have the sole authority to file, settle, compromise, withdraw or litigate to judgment objections to Disputed Claims.

No Distribution Pending Allowance. Notwithstanding any other provision of the Plan, no distribution shall be made with respect to any portion of a Disputed Claim unless and until all objections to such Claim are resolved by Final Order.

Distribution after Allowance. The Disbursing Agent shall make an appropriate distribution to the holder of a Disputed Claim when and if the claim becomes allowed, except for the claim of Reliable Abstract which must be expunged.

Unclaimed Distributions. In the event that any distribution under the Plan remains unclaimed for a period of ninety (90) days after such distribution has been made (or after such delivery has been attempted) in accordance with the Plan to a holder entitled thereto, such unclaimed distribution shall be deemed forfeited by such holder, whereupon all right, title and interest in and to such unclaimed distribution shall revert to the Debtor or the Reorganized Debtor, as the case may be.

VII. RELEASES AND DISMISSAL OF ACTIONS AND OTHER CLAIMS

Upon the Effective Date and timely and complete compliance with the terms of the Settlement Agreement, the mutual releases referenced in the Settlement Agreement shall be released from escrow and delivered by the Disbursing Agent to the appropriate settling parties as provided in the Settlement Agreement.

Upon the Effective Date, all pending adversary proceedings and removed actions not previously discontinued shall be dismissed with prejudice.

Following the Effective Date, the Debtor shall retain all residual claims and causes of action relating to the Debtor Contract, the disposition of the deposit thereunder, and the John Street Property, not otherwise released pursuant to the Settlement Agreement.

VIII. CONDITIONS PRECEDENT TO THE EFFECTIVENESS OF THE PLAN

Conditions Precedent to the Effectiveness of the Plan. The following are conditions precedent to the Plan that must be satisfied before the Plan becomes effective:

(a) Confirmation shall have occurred on or before December 11, 2015 and the Confirmation Order shall have been entered by the Bankruptcy Court providing for the sale of the John Street Property to the Successful Purchaser consistent with the terms of the Plan and designating the Successful Purchaser as a good faith purchaser under Section 363(m) of the Bankruptcy Code;

(b) The closing on the sale of the John Street Property shall have occurred and title to the John Street Property shall have been conveyed to the Successful Purchaser in accordance with this Plan;

(c) The claim of Reliable Abstract shall be expunged in its entirety without reserves or estimation.

(d) There shall not be in effect any (i) Order entered by a U.S. Court, or (ii) order, opinion, ruling or other decision entered by any other court or governmental entity staying, restraining, enjoining or otherwise prohibiting the consummation of the sale of the John Street Property as contemplated by the Plan; and

(e) All other actions and documents necessary to implement and effectuate the sale and transfer of the John Street Property shall have been effected or executed in form and substance reasonably satisfactory to the Debtor and its counsel.

IX. RETENTION OF BANKRUPTCY COURT JURISDICTION

The Plan provides that the Bankruptcy Court shall retain jurisdiction following confirmation of the Plan: (a) To enforce, implement, interpret or modify the Plan under applicable provisions of the Bankruptcy Code; (b) To ensure that the Plan and Settlement Agreement are fully consummated, and to enter any Order pursuant to Section 1142(b) of the Bankruptcy Code to effectuate the Plan, the Settlement Agreement and the sale of the John Street Property; (c) To allow, disallow, determine, liquidate or classify, any secured or unsecured Claims, including, without limitation, the resolution of any request for payment of any Administrative Expenses, the resolution of any and all objections to the allowance any Claims, and the resolution of any adversary proceeding; (d) to grant or deny any and all applications for allowance of compensation and reimbursement of expenses by the professionals retained during the bankruptcy case; (e) To resolve any motions or applications pending on the Effective Date of the Plan; and (f) To enter a final decree closing the bankruptcy case based upon substantial consummation of the Plan.

X. BASIC REQUIREMENTS FOR CONFIRMATION OF THE PLAN

While § 1129(a) of the Bankruptcy Code lists a number of findings that need to be made prior to Confirmation, certain requirements are worth highlighting for purposes of the Disclosure Statement:

A. Acceptance of the Plan. Bankruptcy Code § 1129(a)(7) requires the Plan to be accepted by all impaired classes of creditors, in this case, Classes 2, 3 and 4. A Class accepts a Plan when at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims of those who actually vote, cast ballots accepting the Plan. Since the SDF Lenders, the 41% Investors and Chun Peter Dong have executed the Settlement Agreement with the Debtor and agreed to support the Plan, the Debtor expects that all impaired Classes 2, 3 and 4 will vote in favor of the Plan and confirmation can proceed on a fully consensual basis, which eliminates potential issues concerning the absolute priority rule.

B. Best Interests Test. The Plan is in the best interests of creditors under 11 U.S.C. §1129 (a) (7) as may be applicable. The Plan provides a recovery to all classes of creditors junior in rank to the first mortgage holders (the SDF Lenders), which is greater than the distribution that those creditors would realistically receive if the John Street Property was to be liquidated in foreclosure or under Chapter 7 of the Bankruptcy Code. Considering the complexities of the litigation and the multitude of claims which have been asserted, it is a safe bet that the John Street Property would be lost to mounting interest accruals owed to the SDF Lender and all equity forfeited. In view of this undeniable reality there is no doubt that the agreed distributions provide a far greater return than any creditor could reasonably expect to receive outside of Chapter 11.

C. Feasibility of the Plan. As a prerequisite to confirmation, Bankruptcy Code §1129(a)(11) requires that the Debtor establish that confirmation of the Plan is not likely to be followed by the need for further financial reorganization or restructuring. Here, the Plan specifically calls for the auction sale of the John Street Property with a strike price of \$73.0 million set by the Stalking Horse Purchaser which is already sufficient to fund the core set of waterfalls under the Plan. Because the Effective Date is tied to an actual closing, and the Stalking Horse Purchaser has deposited \$7.0 million in escrow, there is a strong belief that the sale will close and the Settlement Agreement will be fully consummated.

CONCLUSION

The Debtor believes the Plan should be confirmed and the Settlement Agreement effectuated.

Dated: New York, New York
November ~~10~~11, 2015

HS 45 John LLC

Goldberg Weprin Finkel Goldstein LLP
Attorneys for Debtor
1501 Broadway, 21st Floor
New York, NY 10036

By: /s/ Kevin J. Nash
Name: Kevin J. Nash
Title: Authorized Signatory

By: /s/ Kevin J. Nash
Kevin J. Nash, Esq.