

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
RIVER WEST PLAZA-CHICAGO, LLC)	Case No. 09-46258
d/b/a JOFFCO SQUARE,)	
)	Honorable Eugene R. Wedoff
Debtor,)	
_____)	

**JOINT CHAPTER 11 PLAN OF LIQUIDATION OF BANK OF AMERICA, N.A.
AND RIVER WEST PLAZA-CHICAGO, LLC d/b/a JOFFCO SQUARE**

DATED OCTOBER 4, 2010

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TABLE OF CONTENTS

Article 1 DEFINITIONS AND CONSTRUCTION OF TERMS.....	1
1.1 Definitions	1
1.2 Exhibits and Schedules	9
1.3 Rules of Interpretation and Construction	9
Article 2 CLASSIFICATION OF CLAIMS AND INTERESTS; IMPAIRMENT.....	9
2.1 Summary of Classified Claims and Interest	10
2.2 Unclassified Claims	10
2.3 Provisions For Treatment Of Allowed Claims and Interests; Voting	11
Article 3 EXECUTORY CONTRACTS	13
3.1 Treatment of Executory Contracts and Unexpired Leases	13
3.2 Approval of Assumption and Assignment or Rejection	14
3.3 Rejection Claims	14
Article 4 MEANS FOR EXECUTION OF THE JOINT PLAN	14
4.1 The Effective Date	14
4.2 Transactions at or Before Effective Date	14
4.3 Settlement Agreement	15
4.4 Good Faith	15
4.5 Waiver of Federal Rule of Bankruptcy Procedure 3020(e)	15
Article 5 GENERAL PROVISIONS GOVERNING DISTRIBUTIONS BY DEBTOR PRIOR TO EFFECTIVE DATE.....	16
5.1 Applicability of Article 5	16
5.2 Distributions Under the Joint Plan	16
5.3 Place and Manner of Payments or Distributions	16
5.4 Undeliverable Distributions	16

5.5	Treatment of Unclaimed or Undeliverable Distributions.	16
5.6	Tax I.D. Number Required.	17
Article 6 PROVISIONS GOVERNING OBJECTIONS TO PROOFS OF CLAIM AND ADMINISTRATIVE CLAIMS		17
6.1	Right to Object.	17
6.2	Deadline for Responding to Claim Objections.	17
6.3	Estimation of Claims.	17
6.4	Disallowance of Improperly Filed Claims for Distribution Purposes.	17
6.5	No Distributions Pending Allowance.	18
6.6	Distributions After Allowance.	18
Article 7 DISCHARGE, RELEASE AND EXTINGUISHMENT OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES		18
7.1	Releases Under Settlement Agreement	18
7.2	Debtor's Releases of Bank of America and Joffe Parties	18
7.3	Retention of Rights.	19
7.4	No Discharge of Debtor.	19
Article 8 INJUNCTION AGAINST ENFORCEMENT OF PRE-CONFIRMATION DEBT		19
8.1	Term of Certain Injunctions and Automatic Stay	19
8.2	Injunction Enjoining Certain Actions	19
Article 9 CONDITIONS TO EFFECTIVE DATE		20
9.1	Conditions to Confirmation.	20
9.2	Conditions to the Effective Date.	20
9.3	Waiver of Conditions.	21
9.4	Effect of Failure of Conditions; Order Denying Confirmation.	21
Article 10 GENERAL PROVISIONS RELATING TO RESERVES for disputed claims		21

10.1	Applicability of Article 10.	21
10.2	Distributions on Allowed Claims Only.	21
10.3	Establishment of Disputed Claims Reserve.	22
Article 11 RETENTION OF JURISDICTION		22
11.1	Jurisdiction.	22
11.2	General Retention.	22
11.3	Specific Purposes.	22
11.4	Bankruptcy Court's Lack of Jurisdiction or Declination to Exercise Jurisdiction.	24
Article 12 GENERAL PROVISIONS		24
12.1	Notices.	24
12.2	Dates.	24
12.3	Officers and Directors After Effective Date.	25
12.4	Further Action; Exemptions.	25
12.5	Attachments; Entire Agreement; Severability.	25
12.6	Joint Plan Amendments.	26
12.7	Binding Effect; No Waiver; Non-Debtor Waiver of Rights.	26
12.8	Governing Law.	27
12.9	No Admissions.	27
12.10	Recordable Order.	27
12.11	Setoffs.	27
12.12	Exemption From Transfer Taxes.	27
Article 13 SUBSTANTIAL CONSUMMATION		27
13.1	Substantial Consummation.	27
13.2	Notice of Effective Date.	27
13.3	Final Decree.	28

EXHIBITS

Exhibit 1 Settlement, Restructuring, and Lock-Up Agreement

INTRODUCTION

Bank of America, N.A. and River West Plaza-Chicago, LLC d/b/a Joffco Square propose this Joint Chapter 11 plan of liquidation pursuant to the provisions of the United States Bankruptcy Code for the resolution of Debtor's outstanding Claims and Interests. Capitalized terms not defined in this Introduction shall have the meanings ascribed to them in Article 1 of the Joint Plan or as otherwise specified in the first paragraph of Section 1.1 below.

All Holders of Claims and Interests are encouraged to read the Joint Plan and any exhibits or supplements attached hereto or filed by either Bank of America or Debtor in conjunction with the Joint Plan in their entirety before voting to accept or reject the Joint Plan.

PLEASE READ THE JOINT PLAN CAREFULLY WITH RESPECT TO HOW YOUR RIGHTS MAY BE AFFECTED.

ARTICLE 1 **DEFINITIONS AND CONSTRUCTION OF TERMS**

1.1 Definitions.

All capitalized terms in the Joint Plan shall have the meanings ascribed to them herein. Any capitalized term used in the Joint Plan that is not defined herein or elsewhere in the Joint Plan shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

1.1.1 **Additional Cash Consideration** means the Cash contribution, if any, to be made by Prevailing Bidder on the Effective Date pursuant to, and as defined in, Section 4.2.2 hereof.

1.1.2 **Administrative Claim** means any Claim constituting a cost or expense of administration of the Chapter 11 Case under Bankruptcy Code section 503(b) and that is entitled to priority under Bankruptcy Code section 507(a), including, *inter alia*, any actual and necessary expenses of preserving the estate, and all fees and charges assessed against the bankruptcy estate under Chapter 123 of Title 28, United States Code.

1.1.3 **Aggregate Payment Amount** means the aggregate total Cash necessary to pay in full: (i) all Allowed Administrative Claims (excluding any Allowed Administrative Claim of Amy Joffe, Melissa Norris, or otherwise related to the Member Unsecured/Admin Loan); (ii) all Allowed Priority Tax Claims; (iii) all U.S. Trustee Fees; (iv) all Allowed Secured Claims as set forth in Section 2.3.1(a)(ii) hereof; (v) all Allowed Unsecured Claims as set forth in Section 2.3.2(a)(i) hereof; and (vi) \$600,000 in cash to Bank of America on account of the Bank Deficiency Claim as set forth in Section 2.3.2(a)(ii) hereof.

1.1.4 **Allowance Date** shall mean the date on which a Disputed Claim becomes an Allowed Claim by Final Order.

1.1.5 **Allowed** means any Claim:

(a) that has been listed by Debtor in its Schedules as liquidated in amount and not disputed or contingent and for which no contrary Proof of Claim has been filed;

(b) expressly allowed (i) by a stipulation with Debtor regarding the amount and nature of such Claim executed before the Confirmation Date and approved by the Bankruptcy Court, (ii) by a stipulation with Debtor or Bank regarding the amount and nature of such Claim executed after the Confirmation Date and, if necessary, approved by the Bankruptcy Court, or (iii) in any contract, instrument, or other agreement entered into or assumed in connection with the Joint Plan;

(c) related to a rejected executory contract or unexpired lease that is (i) not a Disputed Claim or (ii) has been allowed by a Final Order; or

(d) a Claim that is allowed pursuant to the terms of a Final Order or the Joint Plan.

An Allowed Interest or Allowed Administrative Claim shall have a correlative meaning. Unless otherwise specified in this Joint Plan, "Allowed Claim" shall not, for the purposes of computation of Distributions under the Joint Plan, include post-petition interest on the amount of such Claim.

1.1.6 **Allowed General Unsecured Claim** means a General Unsecured Claim that is an Allowed Claim.

1.1.7 **Allowed Mechanic's Lien Claims** means a Mechanic's Lien Claim that is an Allowed Claim.

1.1.8 **Allowed Priority Tax Claim** means a Priority Tax Claim that is an Allowed Claim.

1.1.9 **Allowed Professional Fee Claim** means a Professional Fee Claim that is an Allowed Administrative Claim.

1.1.10 **Allowed Secured Claim** means a Secured Claim that is an Allowed Claim, including any Allowed Mechanic's Lien Claims.

1.1.11 **Auction** means the auction of the Property to be held in accordance with the Sale Procedures and the Purchase Agreement and which shall result in the sale of the Property to the Prevailing Bidder.

1.1.12 **Available Cash** means all Cash funds held by Debtor on the Effective Date that are subject to or otherwise encumbered by validly perfected Liens of Bank of America.

1.1.13 **Bank Deficiency Claim** means the Claim of Bank of America as provided for in Section 2.3.2(a)(ii) of the Joint Plan.

1.1.14 **Bank of America** means Bank of America, N.A., successor by merger to LaSalle Bank National Association.

1.1.15 **Bank Secured Claim** means the Allowed Secured Claim of Bank of America as set forth in Section 2.3.1(a)(i) of the Joint Plan.

1.1.16 **Bankruptcy Code** means Title 11 of the United States Code, as amended from time to time and made applicable to the Chapter 11 Case.

1.1.17 **Bankruptcy Court** means the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, or in the event such court ceases to exercise jurisdiction over the Chapter 11 Case, such court as may have jurisdiction with respect to the liquidation of Debtor under Chapter 11 of the Bankruptcy Code.

1.1.18 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as amended from time to time and made applicable to the Chapter 11 Case.

1.1.19 **Broker** means the commercial real estate broker as set forth in the Sale Procedures.

1.1.20 **Cash** means lawful currency of the United States of America.

1.1.21 **Chapter 11 Case** means the chapter 11 case commenced by Debtor on the Petition Date.

1.1.22 **Claim** shall have the meaning set forth in Bankruptcy Code section 101(5).

1.1.23 **Claimant** means the holder of a Claim.

1.1.24 **Class** means a category of holders of Claims or Interests as classified in the Joint Plan.

1.1.25 **Confirmation Date** means the date upon which the Confirmation Order is entered on the docket of the Chapter 11 Case by the Clerk of the Bankruptcy Court.

1.1.26 **Confirmation Hearing** means the hearing at which the Bankruptcy Court will consider confirmation of the Joint Plan.

1.1.27 **Confirmation Order** means the order of the Bankruptcy Court confirming the Joint Plan, which shall be in a form and of a substance agreeable to Bank of America in its reasonable discretion.

1.1.28 **Contract/Lease Schedule** means the schedule of Executory Contracts defined in Section 3.1.1 of the Joint Plan.

1.1.29 **Contract Notice** means the notice of the proposed assumption and assignment of Executory Contracts as set forth in Section 3.1.1 of the Joint Plan.

1.1.30 **Counterparty(s)** means the party to an Executory Contract as defined in Section 3.1.1 of the Joint Plan.

1.1.31 **Creditor** shall have the meaning set forth in Bankruptcy Code section 101(10).

1.1.32 **Cure Costs** means all payments necessary to cure a default of an Executory Contract pursuant to Bankruptcy Code section 365(b).

1.1.33 **Debtor** means River West Plaza-Chicago, LLC d/b/a Joffco Square.

1.1.34 **Disputed Claim** means

(a) a Claim that has not been listed by Debtor in its Schedule of Assets and Liabilities or has been listed in the Schedule of Assets and Liabilities at zero, or has been listed in the Schedule of Assets and Liabilities as contingent, unliquidated or disputed and for which no Proof of Claim has been timely filed with the Bankruptcy Court;

(b) if a Proof of Claim or request for payment of an Administrative Claim has been filed: (i) a Claim for which no corresponding Claim is listed on a Debtor's books and records or in its Schedule of Assets and Liabilities or (ii) a Claim for which corresponding Claim is listed in Debtor's books and records, but the nature or amount of the Claim as asserted in the Proof of Claim varies from the nature and amount of such Claim as it is listed on in Debtor's books and record or its Schedule of Assets and Liabilities;

(c) a Claim for which Debtor has received a written notice advising Debtor that the Holder of such Claim disagrees with Debtor's books and records or its Schedule of Assets and Liabilities with respect to the Allowed amount of such Holder's Claim; or

(d) a Claim otherwise subject to a formal objection filed in the Chapter 11 Case, a request for estimation filed in the Chapter 11 Case or otherwise disputed by Debtor or any party-in-interest, including Bank of America, in accordance with applicable law and which such objection has not been withdrawn, resolved or overruled by a Final Order of the Bankruptcy Court.

1.1.35 **Disputed Claims Reserve** means that certain Cash reserve held by Debtor as set forth in Section 10.3 of the Joint Plan.

1.1.36 **Distribution(s)** means a distribution of Cash from Debtor on account of an Allowed Claim.

1.1.37 **Effective Date** means the business day designated in writing by Debtor in consultation with Bank of America on which: (a) the Closing of the transaction required and contemplated under the Sale Procedures and Purchase Agreement shall have taken place; and (b) each condition to the occurrence of the Effective Date has been satisfied or waived by the applicable party pursuant to Article 9 of the Joint Plan.

1.1.38 **Encumbrance** means any Lien, charge, mortgage, interest, security interest, claim, option, encumbrance, pledge, hypothecation, right to purchase, deed of trust, equitable interest, beneficial interest, easement, right-of-way, servitude, right of possession, lease tenancy, license, Claim, encroachment, reservation, imperfection of title, condition, interest or restriction of any kind.

1.1.39 **Entity** means an “entity” as defined in Bankruptcy Code section 101(15).

1.1.40 **Equity Interests** means interests arising from or related to a membership interest in Debtor.

1.1.41 **Estate** means the bankruptcy estate of Debtor.

1.1.42 **Estate Assets** means all legal or equitable interests as defined in Bankruptcy Code section 541 or the Joint Plan belonging to the Estate.

1.1.43 **Executory Contracts** shall mean “executory contracts” and “unexpired leases” as such terms are used within Bankruptcy Code section 365, whether or not scheduled by Debtor.

1.1.44 **Final Order** means an order or judgment of the Bankruptcy Court as entered on the docket in the Chapter 11 Case, or other court of competent jurisdiction, the operation or effect of which has not been stayed, reversed or amended, and as to which order or judgment (or any reversal, modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state court rules of civil procedure, may be filed with respect to such order, shall not cause such order not to be a Final Order.

1.1.45 **General Unsecured Claim** means an Unsecured Claim which is not entitled to priority under the Bankruptcy Code, but shall not include the Bank Deficiency Claim.

1.1.46 **Holder** means a Person or an Entity holding a Claim or Interest.

1.1.47 **Impaired** means, when used with reference to a Claim or Interest, a Claim or Interest that is Impaired within the meaning of Bankruptcy Code section 1124.

1.1.48 **Internal Revenue Code** means the Internal Revenue Code of 1986, as amended.

1.1.49 **Interest** means any equity security (as defined in Bankruptcy Code section 101(16)) of Debtor, including, *inter alia*, any rights arising from the issued and outstanding membership interest or the right to purchase membership interest in Debtor.

1.1.50 **IRS** means the Internal Revenue Service.

1.1.51 **Joffe Parties** means Leon Joffe, Amy Joffe, and Melissa Norris

1.1.52 **Joint Plan** means this Joint Chapter 11 plan of liquidation with respect to Debtor, as amended, modified, or supplemented from time to time, together with all addenda, exhibits, schedules, supplements or other attachments, including, *inter alia*, the Sale Procedures, and Purchase Agreement.

1.1.53 **Lien** means a “lien” as defined in Bankruptcy Code section 101(37), and, with respect to any asset, includes, *inter alia*, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

1.1.54 **Loan Agreement** means that certain Construction Loan Agreement dated as of July 29, 2008 by and between Debtor and Bank of America.

1.1.55 **Loan Documents** means the Loan Agreement, any promissory notes executed and delivered by Debtor thereunder, and any other instruments and documents, including without limitation any security documents and guaranties, executed and delivered by Debtor or any guarantor (including, *inter alia*, Leon Joffe) in connection therewith.

1.1.56 **Mechanic’s Lien Claims** mean any Claims that trade vendors assert to possess mechanic’s liens under Illinois law with respect to the Property.

1.1.57 **Member Unsecured/Administrative Loan** means the subordinated loan in an amount up to \$400,000.00 extended as unsecured credit by Amy Joffe constituting an administrative priority expense claim under Section 503(b)(1) of the Bankruptcy Code pursuant to Section 364(b) of the Bankruptcy Code, as authorized by that certain *Third Agreed Interim Order Authorizing Debtor to Use Prepetition Collateral, Including Cash Collateral, and Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361 and 363* entered by the Bankruptcy Court on January 6, 2010 [Docket No. 46]. The Debtor shall only make Distributions on account of the Member Unsecured/Administrative Loan as more fully provided for in Sections 12(b) and 12(c) of the Settlement Agreement.

1.1.58 **Objection Deadline** means the objection deadline to object to any of (a) the proposed Cure Costs set forth in the Contract/Lease Schedule, (b) the proposed assumption and assignment of any Executory Contract pursuant to Section 3.1 hereof, (c) the proposed sale of the Property by Debtor pursuant to the Sale Procedures, and (d) confirmation of this Joint Plan. The Objection Deadline shall be set forth in the Notice of Auction Sale (as defined in the Sale Procedures) and the Contract Notice.

1.1.59 **Other Secured Claim** means a Secured Claim against Debtor other than the Bank Secured Claim, including, *inter alia*, any Allowed Mechanic’s Lien Claims, as set forth in Section 2.3.1(a)(ii) of the Joint Plan.

1.1.60 **Person** means a “person” as defined in Bankruptcy Code section 101(41) and shall include, *inter alia*, any individual, corporation, general partnership, limited partnership, limited liability partnership, limited liability company, association, joint stock company, joint venture, government or political subdivision, official committee appointed by the United States Trustee, unofficial committee of creditors or equity holders, or other Entity.

1.1.61 **Petition Date** means December 7, 2009, the date of the filing of Chapter 11 Case.

1.1.62 **Prevailing Bidder** means the Qualifying Bidder who makes the Prevailing Bid.

1.1.63 **Prevailing Bid** means the highest and best offer accepted for the Property in accordance with the Joint Plan, the Sale Procedures, and the Purchase Agreement.

1.1.64 **Priority Tax Claim** means a Claim that is entitled to priority in payment under Bankruptcy Code sections 502(i) and 507(a)(8).

1.1.65 **Property** means that certain real property owned by Debtor located at 555 West Roosevelt Road, Chicago, Illinois 60607 and the related assets to be sold at the Auction as further defined in the Purchase Agreement.

1.1.66 **Pro Rata** means, with respect to any distribution on account of an Allowed Claim with respect to Debtor, (a) as to a particular Holder of an allowed Claim in such Class (not otherwise electing a cash payment, if applicable) at any date, the ratio that the amount of such Claim bears to the total amount of all Claims (not otherwise electing a cash payment, if applicable) in such Class determined as if all disputed Claims in such Class were Allowed Claims and (b) as to a particular Holder of an allowed Interest in such Class, at any date, the ratio that the number of such allowed Interest bears to the total number of all Interests in such Class at such date, determined as if all disputed Interests in such Class were allowed.

1.1.67 **Professional** means any professional employed in the Chapter 11 Case pursuant to Bankruptcy Code sections 327, 328 or 1103 or any professional or other Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to Bankruptcy Code section 503(b)(4).

1.1.68 **Professional Fee Claim** means a Claim for compensation or reimbursement of expenses under Bankruptcy Code sections 330 or 331 of a Professional retained in the Chapter 11 Case in accordance with the provisions of Bankruptcy Code section 327, 328, and 1103.

1.1.69 **Proof of Claim** means any proof of Claim filed with the Bankruptcy Court or its duly appointed claims agent with respect to Debtor pursuant to Bankruptcy Code section 501 and Bankruptcy Rules 3001, 3002, and 3003.

1.1.70 **Purchase Agreement** means the Agreement of Purchase and Sale and Joint Escrow Instructions between Debtor as seller and the Prevailing Bidder as purchaser of the Property, the form of which is attached as Exhibit B to the Settlement Agreement.

1.1.71 **Rejection Schedule** means the schedule of executory contracts and unexpired leases defined in Section 3.1.3 of the Joint Plan.

1.1.72 **Sale Closing** means the closing of the sale of the Property as defined in Section 4.2.1(k) of the Joint Plan.

1.1.73 **Sale Hearing** means the hearing for approval of sale of the Property pursuant to the Auction as set forth in Section 4.2.1(a) of the Joint Plan.

1.1.74 **Sale Procedures** means the document attached as Exhibit A to the Settlement Agreement setting forth the requirements of a Qualifying Bidder and the manner in which bidding will occur at the Auction.

1.1.75 **Sale Order** means the order defined in the Sales Procedures.

1.1.76 **Schedules** means the schedules of assets and liabilities, the lists of Holders of Interests, and the statement of financial affairs as amended from time to time and filed by Debtor in the Chapter 11 Case pursuant to Bankruptcy Code section 521 and Bankruptcy Rule 1007.

1.1.77 **Secured Claim** means: (a) any Claim that is secured by a Lien on property in which the Estate has an interest, which Liens are valid, perfected and enforceable under applicable law or by reason of a Final Order, or that is subject to setoff under Bankruptcy Code section 553, to the extent of the value of the creditor's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code section 506(a); and (b) any Claim which is Allowed under the Joint Plan as a Secured Claim.

1.1.78 **Secured Tax Claim** means a Secured Claim of a governmental unit imposed for a tax.

1.1.79 **Settlement Agreement** means the Settlement, Restructuring, and Lock-up Agreement entered into contemporaneously with the filing of the Joint Plan, by and between (a) Bank of America and (b) Debtor, Joffco Plaza LLC, and the Joffe Parties attached hereto as Exhibit 1.

1.1.80 **Stalking Horse Bid** means the bid for the Property submitted by the Stalking Horse Buyer that is a Qualifying Bid equal to \$19,400,000, plus the Additional Cash Considerations, as set forth more fully in Purchase Agreement.

1.1.81 **Stalking Horse Buyer** means Kenako Partners, LLC, an Illinois limited liability company.

1.1.82 **Unimpaired Claim** means a Claim that is not Impaired within the meaning of Bankruptcy Code section 1124.

1.1.83 **Unsecured Claim** means a Claim that is not a Secured Claim. The term specifically includes any tort Claims or contractual Claims or Claims arising from damage or harm to the environment and, pursuant to Bankruptcy Code section 506(a), any Claim of a creditor against Debtor to the extent that such Creditor's Claim is greater than the value of the Lien securing such Claim, any Claim for damages resulting from rejection of any Executory Contract pursuant to Bankruptcy Code section 365, and any Claim not otherwise classified under the Joint Plan.

1.1.84 **United States Trustee** means the Office of the U.S. Trustee for Region 11 located in the Northern District of Illinois, as provided for in 28 U.S.C. § 581, *et. seq.*

1.1.85 **U.S. Trustee Fee(s)** means fees payable to the U.S. Trustee as defined in Section 2.2.4.

1.2 **Exhibits and Schedules.**

All exhibits and schedules to the Joint Plan are incorporated into and are a part of the Joint Plan as if set forth in full herein.

1.3 **Rules of Interpretation and Construction.**

For purposes of the Joint Plan, (a) any reference in the Joint Plan to an existing document or exhibit filed or to be filed means that document or exhibit as it may have been or may be amended, modified, or supplemented; (b) unless otherwise specified, all references in the Joint Plan to sections, articles, and exhibits are references to sections, articles, or exhibits to the Joint Plan; (c) the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Joint Plan in its entirety and not to any particular portion of the Joint Plan; (d) captions and headings contained in the Joint Plan are inserted for convenience and reference only, and are not intended to be part of or to affect the interpretation of the Joint Plan; (e) wherever appropriate from the context, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neutral gender shall include the masculine, feminine, and neutral gender; and (f) the rules of construction outlined in Bankruptcy Code section 102 and in the Bankruptcy Rules shall apply to the Joint Plan. In addition, unless otherwise indicated herein, (i) all references to dollars are to United States dollars and (ii) all amounts set forth in the Joint Plan, including, *inter alia*, with respect to shares, dollar amounts and percentages, shall be subject to rounding and other immaterial changes.

ARTICLE 2

CLASSIFICATION OF CLAIMS AND INTERESTS; IMPAIRMENT

Article 2 designates the Classes of Claims and Interests and their respective treatment under the Joint Plan. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims, Professional Fee Claims, Priority Tax Claims, and U.S. Trustee Fees have not been classified and the treatment of those Claims is set forth in Article 5. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class, and is classified in another Class or Classes to the extent that any remainder of the Claim or Interest qualifies within the description of such other Class or Classes. A Claim or Interest is also placed in a particular Class for the purpose of receiving distributions pursuant to the Joint Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date. Notwithstanding anything to the contrary contained in the Joint Plan, no distribution shall be made on account of any Claim or Interest that is not Allowed.

2.1 Summary of Classified Claims and Interest.

Class	Status	Voting Rights
Class 1 (Secured Claims)	Unimpaired.	Not entitled to vote.
Class 2 (Unsecured Claims)	Holders of General Unsecured Claims are Unimpaired under the Joint Plan; Bank of America, which has consented to its treatment with respect to the Bank Deficiency Claim, is deemed Unimpaired pursuant to 11 U.S.C. §§ 1123(a)(4) and 1124.	Unimpaired Holders will not be entitled to vote; Bank of America is consenting to the treatment of its otherwise Impaired Bank Deficiency Claim and will not be entitled to vote.
Class 3 (Interests)	Impaired.	Not entitled to vote.

2.2 Unclassified Claims.

2.2.1 **Administrative Claims Bar Date.** All requests for payment of Administrative Claims and applications for payment of Professional Fee Claims shall be filed with the Bankruptcy Court and served upon Debtor, Bank of America, and all other parties in interest no later than fourteen (14) days after the Effective Date or by such later deadline as may apply to such Administrative Claim pursuant to an order of the Bankruptcy Court. Except as provided herein, any Administrative Claim or Professional Fee Claim for which an application or request for payment is not filed within such time period shall be discharged and forever barred.

2.2.2 **Objections to Administrative Claims.** All objections to Administrative Claims, including Professional Fee Claims, shall be filed in accordance with Article 6.

2.2.3 **Treatment of Administrative Claims, Including Professional Fee Claims.** Allowed Administrative Claims and Professional Fee Claims incurred through the Effective Date shall be completely and fully satisfied by payment in Cash from Debtor as set forth in Articles 5 and 6 of the Joint Plan, except: (a) that any Allowed Administrative Claims of Amy Joffe shall be governed by the terms of Section 1.1.54 of the Joint Plan and Sections 12(b) and 12(c) of the Settlement Agreement; and (b) to the extent that any Claimant holding an Allowed Administrative Claim or Allowed Professional Fee Claim agrees to treatment different than that proposed under the Joint Plan.

2.2.4 **Treatment of Priority Tax Claims.** Allowed Priority Tax Claims shall be completely and fully satisfied by payment of Cash from Debtor after the Effective Date, with any such payment to be made on the later of the Effective Date or the Allowance Date.

2.2.5 **U. S. Trustee Fees.** Notwithstanding any other provisions of the Joint Plan to the contrary, the United States Trustee shall be paid the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the entry of the Order confirming this Joint Plan ("U.S. Trustee Fees"), for pre-confirmation periods in Cash from Debtor after the Effective Date. In addition, the U.S. Trustee Fees for post-confirmation periods up and including the period in

which the Effective Date occurs shall be paid in Cash from Debtor after the Effective Date. Lastly, Debtor shall timely pay the U.S. Trustee Fees for all subsequent post-confirmation periods based upon all post-confirmation disbursements made by Debtor, until the earlier of the closing of this Chapter 11 Case by the issuance of a Final Decree by the Bankruptcy Court, or upon the entry of an order by the Bankruptcy Court dismissing this Case or converting this Case to another chapter under the Bankruptcy Code, and Debtor shall provide to the United States Trustee upon the payment of each post-confirmation payment an appropriate affidavit indicating all the cash disbursements for the relevant period.

2.3 **Provisions For Treatment Of Allowed Claims and Interests; Voting.**

The timing and procedures for all Distributions specified in this section are governed by Articles 5 and 6 of the Joint Plan to the extent not specified herein. The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, confirmation and distribution, pursuant hereto and pursuant to Bankruptcy Code sections 1122 and 1123(a)(1).

2.3.1 **Class 1 - Allowed Secured Claims.**

(a) **Treatment.** Allowed Secured Claims in Class 1 shall receive the following treatment:

(i) *Bank Secured Claim.* Bank of America shall be deemed to have an Allowed Secured Claim in the amount of either: (x) \$21,698,546.35 (which is equal to \$22.1 million appraised value for the Property less \$401,453.65 in post-petition payments received by Bank of America from Debtor during the Chapter 11 Case); or (y) any other amount established at the Auction as determined by the amount of the Prevailing Bid, excluding the Additional Cash Considerations. Debtor shall make a Distribution to Bank of America consisting of the cash proceeds of the sale of the Property pursuant to the Sale Procedures, excluding the Additional Cash Consideration and net of closing costs (other than Professional Fees of Debtor related to the sale of the Property), prorations, fee and expenses to be paid to Broker, and as otherwise provided in the Purchase Agreement, in full satisfaction of the Bank Secured Claim as set forth in Section 5.2 of the Joint Plan.

(ii) *Other Secured Claims.* Allowed Other Secured Claims, including any Allowed Mechanic's Lien Claims, shall receive in full satisfaction, settlement, release and discharge of and in exchange for its Claim, Cash in the Allowed amount of such Secured Claim in accordance with applicable state law Lien priorities as set forth in Articles 5 and 6 of the Joint Plan.

(b) **Voting.** Claims in Class 1 are Unimpaired under the Joint Plan. Pursuant to Bankruptcy Code section 1126(f), Claimants within Class 1 are conclusively presumed to have accepted the Joint Plan, and therefore are not entitled to vote to accept or reject the Joint Plan. To the extent the proceeds of the sale of the Property are insufficient to satisfy the Bank Secured Claim in full, Bank of America consents to such treatment.

2.3.2 Class 2- Allowed Unsecured Claims.

(a) Treatment. Allowed Unsecured Claims in Class 2 shall receive the following treatment:

(i) *General Unsecured Claims.* Each Allowed General Unsecured Claim in Class 2 shall receive, in full satisfaction, settlement, release and discharge of and in exchange for its Claim, Cash in the Allowed amount of such Claim (without interest) as set forth in Articles 5 and 6 of the Joint Plan.

(ii) *Bank Deficiency Claim.* Bank of America shall be deemed to have an Allowed Unsecured Claim in an amount equal to either: (a) \$4,058,002; or (b) such other amount as established at the Auction as determined by the amount of the Prevailing Bid in accordance with Bankruptcy Code section 506. The Bank Deficiency Claim shall not be subject to objection, disallowance, or subordination. Bank of America shall receive the sum of \$600,000 in full satisfaction of the Bank Deficiency Claim, as set forth in Section 5.2 of the Joint Plan, except that Bank of America shall be entitled to receive additional Distributions that may be available pursuant to Section 5.5 of the Joint Plan and Section 12(a)(iii) of the Sale Procedures.

(b) Voting.

(i) *Allowed General Unsecured Claims.* Pursuant to Bankruptcy Code section 1126(f), Holders of Allowed General Unsecured Claims within Class 2 are Unimpaired, conclusively presumed to have accepted the Joint Plan, and therefore are not entitled to vote to accept or reject the Joint Plan.

(ii) *Bank Deficiency Claim.* The Bank Deficiency Claim is Impaired under the Joint Plan. Bank of America hereby consents to the treatment proposed for the Bank Deficiency Claim, is deemed Unimpaired pursuant to Bankruptcy Code sections 1123(a)(4) and 1124, and is therefore not entitled to vote to accept or reject the Joint Plan.

2.3.3 Class 3 - Interests in Debtor.

(a) Treatment. Allowed Class 3 Interests shall receive no distribution under the Joint Plan, shall retain no property whatsoever under the Joint Plan, and shall be deemed to be extinguished on the Effective Date.

(b) Voting. Class 3 is deemed to have rejected the Joint Plan by virtue of Bankruptcy Code section 1126(g) and is not entitled to vote to accept or reject the Joint Plan.

ARTICLE 3
EXECUTORY CONTRACTS

Executory Contracts entered into by Debtor prior to the Petition Date, shall be treated as follows:

3.1 Treatment of Executory Contracts and Unexpired Leases.

3.1.1 **Notice.** Not later than fourteen (14) days prior to the Sale Hearing, Debtor shall file with the Bankruptcy Court a schedule (the “Contract/Lease Schedule”) of its Executory Contracts, setting forth the proposed Cure Costs, if any, under the Executory Contracts. Contemporaneously with the filing of the Contract/Lease Schedule, Debtor shall provide notice (the “Contract Notice”) to all counterparties to the Executory Contracts (a “Counterparty” or the “Counterparties”) of: (i) Debtor’s proposed assumption of some or all of the Executory Contracts and assignment of same to the Prevailing Bidder; (ii) the proposed Cure Costs, if any, under the Executory Contracts; and (iii) the Objection Deadline. The Contract Notice shall provide that any Counterparty that objects to the Cure Costs or to Debtor’s assumption and assignment of such Executory Contracts must file and serve a written objection to such assumption and assignment.

3.1.2 **Cure of Defaults of Assumed Executory Contracts and Unexpired Leases.** All written objections by Counterparties to the Contract Notice must be filed with the Bankruptcy Court by the Objection Deadline, and must set forth in reasonable detail the basis of the objection and identify any defaults under such Executory Contract (including any monetary defaults). If a Counterparty fails to file an objection on or before the Objection Deadline, such Counterparty will be forever barred from asserting any claim or demand arising out of or relating to such defaults. If no objection timely is made, or if an objection is made but is not sustained, Debtor may request the Bankruptcy Court to authorize the assumption and assignment of the Executory Contracts to the Prevailing Bidder at the Sale Hearing, with such assumption and assignment to be effective upon the date of the Sale Closing, and subject to payment of the applicable Cure Costs, if any, consistent with the terms and conditions of the Purchase Agreement. Any monetary cure amounts by which each Executory Contract to be assumed pursuant to the Joint Plan is in default shall be satisfied, pursuant to Bankruptcy Code section 365(b)(1), by payment of the cure amount in Cash on the later of (a) the Effective Date (or as soon as practicable thereafter), (b) as due in the ordinary course of business or (c) on such other terms as Debtor and Bank of America, or the Prevailing Bidder and the Counterparties to such Executory Contracts may otherwise agree. In the event of a timely filed objection by a Counterparty regarding: (x) the amount of any cure payments, (y) the ability of the Prevailing Bidder to provide “adequate assurance of future performance” (within the meaning of Bankruptcy Code section 365) under the Executory Contract to be assumed or assigned, or (z) any other matter pertaining to assumption, the cure payments required by Bankruptcy Code section 365(b)(1) shall be made following the entry of a Final Order resolving the dispute and approving the assumption.

3.1.3 **Rejection of Executory Contracts and Unexpired Leases.** No later than three (3) days prior to the Sale Hearing, the Prevailing Bidder shall provide Debtor with a schedule

(“Rejection Schedule”) identifying any Executory Contracts to be rejected as of the Sale Closing and Debtor shall file same with the Bankruptcy Court.

3.1.4 **Assumption and Cure of Executory Contracts and Unexpired Leases.** On the date of the Sale Closing, all Executory Contracts of Debtor identified in the Contract/Lease Schedule and not specifically rejected by the Prevailing Bidder in the Rejection Schedule are hereby deemed assumed by Debtor and assigned to the Prevailing Bidder or its designee in accordance with the provisions and requirements of Bankruptcy Code sections 365 and 1123. Each Executory Contract assumed and/or assigned pursuant to this Section 3.1 (or pursuant to other Bankruptcy Court order) shall remain in full force and effect and be fully enforceable in accordance with its terms, except as modified by the provisions of the Joint Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption or applicable law.

3.2 **Approval of Assumption and Assignment or Rejection.**

Entry of the Sale Order shall constitute the approval, pursuant to Bankruptcy Code sections 363(b), (f) and (m) and 365(a) and (f), of the assumption and assignment or rejection of all Executory Contracts.

3.3 **Rejection Claims.**

Except as the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules establish an earlier deadline with regard to the rejection of particular Executory Contracts, any Claims arising out of the rejection of Executory Contracts pursuant to Section 3.1.3 must be filed with the Bankruptcy Court and served upon Debtor and Bank of America no later than twenty-eight (28) days after entry of the Confirmation Order. Any Claims not filed within the time set forth as provided above, are, or will be, forever barred and will not receive any distributions under the Joint Plan. All Claims arising from the rejection of an Executory Contract shall be treated as Class 2 General Unsecured Claims.

ARTICLE 4
MEANS FOR EXECUTION OF THE JOINT PLAN

4.1 **The Effective Date.**

The Effective Date shall be the business day designated in writing by Debtor and Bank of America on which: (a) the closing of the transactions required and contemplated under Sections 4.2, 9.1, and 9.2 of the Joint Plan shall have taken place; and (b) each condition to the occurrence of the Effective Date has been satisfied or waived by the applicable party pursuant to Section 9.3 of the Joint Plan.

4.2 **Transactions at or Before Effective Date.**

4.2.1 The Auction shall occur as set forth in the Sale Procedures and the Purchase Agreement approved by the Bankruptcy Court pursuant to the Sale Procedures Order. The Sale Hearing will be held on the date set by the Bankruptcy Court, at which time Bank of America and Debtor will seek affirmation by the Bankruptcy Court of the Auction results, approval of the

sale of Property, assumption and assignment of Executory Agreements to the Prevailing Bidder, and confirmation of the Joint Plan.

4.2.2 In conjunction with a sale of the Property as provided in the Purchase Agreement and the Sale Procedures, Prevailing Bidder shall contribute to the Estate an amount equal to the Aggregate Payment Amount less (i) the Available Cash and (ii) any amounts paid by Debtor to the Holder of an Allowed Claim after the Petition Date and before the Effective Date that satisfied, in whole or in part, such Allowed Claim. The amount contributed by Prevailing Bidder to the Estate pursuant to this Section 4.2.2 shall be referred to as the “**Additional Cash Consideration.**”

(a) Prevailing Bidder shall deliver the Additional Cash Consideration to the Estate on the Effective Date in conjunction with the sale of the Property as provided in the Purchase Agreement and the Sale Procedures.

(b) To the extent excess funds remain from the Additional Cash Consideration after payment of all Allowed Claims (other than any Allowed Administrative Claim of Amy Joffe, Melissa Norris, or otherwise related to the Member Unsecured/Admin Loan), Debtor shall transfer all remaining proceeds of the Additional Cash Consideration to Prevailing Bidder.

(c) Notwithstanding the foregoing, to the extent the Available Cash is equal to or greater than the Aggregate Payment amount, then Prevailing Bidder shall have no obligation to pay any Additional Cash Consideration pursuant to the Joint Plan, the Purchase Agreement, or the Sale Procedures.

4.3 **Settlement Agreement.**

The Joint Plan incorporates and is subject to the terms of the Settlement Agreement as approved by order of the Bankruptcy Court. Pursuant to the terms of the Settlement Agreement, Debtor, Bank of America and the other parties to the Settlement Agreement submit themselves to the jurisdiction of the Bankruptcy Court to the full extent of its subject matter jurisdiction.

4.4 **Good Faith.**

Confirmation of the Joint Plan shall constitute a finding that: (a) the Joint Plan has been proposed in good faith and in compliance with applicable provisions of the Bankruptcy Code, and (b) all solicitations of acceptances or rejections of the Joint Plan have been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

4.5 **Waiver of Federal Rule of Bankruptcy Procedure 3020(e).**

The Confirmation Order shall include (a) a finding that Fed. R. Bankr. P. 3020(e) shall not apply to the Confirmation Order and (b) authorization for the consummation of the Joint Plan and the transactions contemplated by the Joint Plan immediately after entry of the Confirmation Order.

ARTICLE 5
GENERAL PROVISIONS GOVERNING
DISTRIBUTIONS BY DEBTOR PRIOR TO EFFECTIVE DATE

5.1 Applicability of Article 5.

Article 5 shall apply to Distributions to Claimants made by Debtor.

5.2 Distributions Under the Joint Plan.

Not later than seven (7) days after the Effective Date, Debtor shall establish deposit and reserve accounts from which to make Distributions to Claimants holding Allowed Claims. Debtor shall make Distributions to Claimants with Allowed Claims on the later of: (a) thirty-five (35) days after the Effective Date; (b) fourteen (14) days after the date in which a Claim becomes an Allowed Claim, or (c) the date that such Claim would be paid in accordance with any terms and conditions of any agreements or understandings relating thereto between Debtor and the Holder of such Claim, provided however, that Debtor shall make the Distributions to Bank of America on account of the Bank Secured Claim and the Bank Deficiency Claim within seven (7) days of the Effective Date, except as provided in Section 5.5.

5.3 Place and Manner of Payments or Distributions.

Debtor shall deliver Distributions to the holders of Allowed Claims via: (a) mail, including U.S. Mail and overnight delivery services, to the Claimant at the address of such Claimant as listed in the Schedules, or listed on any Proof of Claim filed by the Claimant; or (b) wire transfer to the destination that such Claimant shall have specified for payment purposes in a written notice to Debtor or as filed with the Bankruptcy Court.

5.4 Undeliverable Distributions.

If a Distribution to any Claimant is returned as undeliverable, Debtor shall use reasonable efforts to determine such Claimant's current address and no further Distributions shall be made to such Claimant until a current address is obtained by Debtor.

5.5 Treatment of Unclaimed or Undeliverable Distributions.

If Debtor cannot locate a Claimant's current address, then such Claimant's Distributions held in an interest-bearing account or fund maintained by Debtor for purposes of holding such Distributions for a period of one-hundred and eighty (180) days from the date such Distribution was sent to Claimant, during such time Debtor shall use reasonable efforts to determine such Claimant's current address. Any Distribution that is unclaimed after expiration of the one-hundred and eighty (180) days shall revert to Debtor, shall be deemed to be part of the Estate Assets, and shall be distributed to Bank of America on account of the Bank Deficiency Claim in addition to the Distribution(s) required pursuant to Section 2.3.2(ii).

5.6 **Tax I.D. Number Required.**

Each Claimant shall have an affirmative duty to provide Debtor with its Federal Tax Identification Number. In lieu of backup withholding, Debtor may suspend Distribution to any Claimant that has not provided its Federal Tax Identification Number or Social Security Number, as the case may be.

ARTICLE 6
PROVISIONS GOVERNING OBJECTIONS TO PROOFS OF
CLAIM AND ADMINISTRATIVE CLAIMS

6.1 **Right to Object.**

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, Debtor, Bank of America and any other party in interest shall have the right to make and file objections to Proofs of Claim or other applications or motions for allowance and payment of Claims, including Administrative Claims and Professional Fee Applications, at any time on or before twenty-eight (28) calendar days after the later of: (a) the Effective Date; or (b) the date on which such Claim, motion or application seeking payment was filed with the Bankruptcy Court; *provided, however*, that: (i) the deadline may be extended by the Bankruptcy Court on motion by Debtor, Bank of America, or any other party in interest, and (ii) none of Debtor, Bank of America or any other party in interest may file an objection to any Claim Allowed by the Joint Plan.

6.2 **Deadline for Responding to Claim Objections.**

A Claimant whose Claim has been objected to in accordance with Section 6.1, must file with the Court and serve upon Debtor and Bank of America a response to such claim objection within fourteen (14) days after service of any objection to its Claim. Failure to file such a response within the 14-day time period shall be cause for the Bankruptcy Court to enter a default judgment against the non-responding Claimant and to thereby grant the relief requested in the Claim objection.

6.3 **Estimation of Claims.**

After the Effective Date, Debtor or Bank of America may request the Bankruptcy Court to estimate any Claim for purposes of Allowance pursuant to Bankruptcy Code section 502(c).

6.4 **Disallowance of Improperly Filed Claims for Distribution Purposes.**

Subject to Bankruptcy Code section 502(j) and Bankruptcy Rules 3008 and 9006, any Claim for which the filing of a Proof of Claim, application or motion with the Bankruptcy Court is required under the terms of the Bankruptcy Code, the Bankruptcy Rules, any order of the Bankruptcy Court (including one providing for a Bar Date) or the Joint Plan will be disallowed for distribution purposes if and to the extent that such Proof of Claim (or other filing) is not timely and properly made.

6.5 No Distributions Pending Allowance.

Notwithstanding any other provision hereof, if a Claim or any portion of a Claim is a Disputed Claim, no payment or distribution shall be made on account of such Disputed Claim, unless and until such Disputed Claim becomes an Allowed Claim.

6.6 Distributions After Allowance.

Payments and distributions to each holder of a Claim that is Disputed, or that is not Allowed, to the extent that such Claim ultimately becomes Allowed, shall be made in accordance with the provisions hereof governing the Class of Claims in which such Claim is classified. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, Debtor shall distribute to the holder of such Claim any payment or property that would have been distributed to such holder if the Claim had been Allowed as of the Effective Date (or such other date on which such distribution would have been made).

ARTICLE 7
DISCHARGE, RELEASE AND EXTINGUISHMENT
OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES

7.1 Releases Under Settlement Agreement

The Releases contained in Section 11 of the Settlement Agreement are incorporated herein by reference.

7.2 Debtor's Releases of Bank of America and Joffe Parties

Except as otherwise provided in this Joint Plan or the Settlement Agreement, on and after the Effective Date, pursuant to 28 U.S.C. §1651 and Bankruptcy Code sections 105, 1123(b)(3) and 1123(b)(6), and except as otherwise provided in this Joint Plan or the Confirmation Order, the Released Parties (as defined below) are deemed released and discharged by Debtor and its Estate from any and all Claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that Debtor or its Estate would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf the Holder of any Claim or Interest or other Entity, based on, relating to, or in any manner arising from, in whole or in part, (a) the Chapter 11 Case, or (b) the negotiation, formulation or preparation of the Joint Plan, or related agreements, instruments, or other documents, other than Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes a failure to perform the duty to act in good faith (to the extent such duty is imposed by applicable non-bankruptcy law) and where such failure to perform constitutes willful misconduct, gross negligence, or fraud. The release and discharge set forth herein is granted for good and valuable consideration, including the service of the Released Parties to facilitate the formulation and the implementation of the Joint Plan and Auction. The "Released Parties" shall include (i) Bank of America and each direct or indirect subsidiary thereof, and each partner or member (or other

equity holder), director, officer, employee, agent, representative, affiliate, attorney, and accountant, in each case whether current or former, thereof, including any employee, agent, representative, assign, successor, predecessor, or initial or immediate or mediate transferee of any of the foregoing (ii) Joffe Parties and Joffe Released Parties (as defined in Section 11(h)(v) of the Settlement Agreement), and each direct or indirect subsidiary and affiliate thereof, and each partner or member (or other equity holder), director, officer, employee, agent, heir, trustee, beneficiary, executor, representative, affiliate, attorney, and accountant, in each case whether current or former, thereof, including any employee, agent, representative, assign, successor, predecessor, or initial or immediate or mediate transferee of any of the foregoing.

7.3 Retention of Rights.

Notwithstanding anything to contrary herein, the post-Confirmation Debtor and its Estate shall retain any rights, defenses or counterclaims with respect to Disputed Claims which Debtor had as of the Effective Date.

7.4 No Discharge of Debtor.

As a Chapter 11 plan of liquidation, Debtor shall not be discharged under Bankruptcy Code section 1141.

ARTICLE 8
INJUNCTION AGAINST ENFORCEMENT OF PRE-CONFIRMATION DEBT

8.1 Term of Certain Injunctions and Automatic Stay.

All of the injunctions and/or automatic stays provided for in or in connection with the Chapter 11 Case, whether pursuant to Bankruptcy Code sections 105(a), 362(a), or any other provision of the Bankruptcy Code or other applicable law, in existence immediately prior to Confirmation shall remain in full force and effect until the injunctions set forth in Section 7.2 become effective, and thereafter if so provided by the Joint Plan, the Confirmation Order, or by their own terms. In addition, on and after Confirmation, Bank of America, or Debtor may seek such further orders as they may deem necessary to preserve the status quo during the time between Confirmation and the Effective Date.

8.2 Injunction Enjoining Certain Actions

Except as expressly provided herein, at all times on and after the Effective Date, Debtor and all Persons who have been, are, or may be holders of Claims against or Interests in Debtor arising prior to the Effective Date, shall be enjoined from taking any of the following actions against or affecting Debtor, its Estate, or the Property:

8.2.1 commencing, conducting or continuing in any manner, directly or indirectly any suit, action, or other proceeding of any kind arising before the Confirmation Date against Debtor, its Estate, or the Property, including any suit, action or other proceeding which might affect the use or enjoyment of any Asset or the Property (including, *inter alia*, all suits, actions, and proceedings that are pending as of the Effective Date, shall be deemed to be withdrawn or dismissed with prejudice);

8.2.2 enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means whether directly or indirectly any judgment, award, decree, or order against Debtor, its Estates, or the Property, relating to any obligation which arose prior to the Effective Date;

8.2.3 creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien or Encumbrance against Debtor, its Estates, or the Property;

8.2.4 asserting any right of subrogation, or recoupment of any kind, directly or indirectly against any obligation due Debtor, its Estates, or the Property; and

8.2.5 proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of the Joint Plan or the Settlement Agreement.

This injunction shall become effective on the Effective Date and shall continue in effect at all times thereafter. Notwithstanding anything to the contrary contained in the Joint Plan, all actions in the nature of those to be enjoined by this injunction shall be enjoined during the period between the Confirmation Date and the Effective Date.

ARTICLE 9

CONDITIONS TO EFFECTIVE DATE

9.1 Conditions to Confirmation.

Confirmation of the Joint Plan shall not occur unless the Bankruptcy Court shall have made specific findings and/or conclusions of law, each of which shall be expressly set forth in the Confirmation Order, in a form acceptable to Bank of America, including findings and/or conclusions of law to the effect that the Joint Plan satisfies each of the requirements for Confirmation contained in Bankruptcy Code section 1129, is the result of good faith and arm's length negotiations, and is otherwise fair, equitable, and in accordance with the Bankruptcy Code, the Bankruptcy Rules, and other federal or state law to the extent applicable.

9.2 Conditions to the Effective Date.

Notwithstanding any other provision of the Joint Plan, the Joint Plan exhibits and/or the Confirmation Order, the Effective Date of the Joint Plan shall not occur unless and until each of the following conditions has been satisfied or waived in accordance with Section 9.3 below:

9.2.1 The Confirmation Order shall have been entered on or before December 31, 2010 and is not stayed.

9.2.2 The Joint Plan exhibits necessary or appropriate to implement the Joint Plan shall be acceptable to Bank of America and shall have been executed, delivered and, where applicable, filed with the appropriate governmental authorities; all conditions precedent to the effectiveness of each of such Joint Plan exhibits shall have been satisfied or waived by the respective parties thereto; and the Joint Plan exhibits shall be in full force and effect.

9.2.3 All deliveries or payments required to be made pursuant to the Joint Plan by the Effective Date shall have been made or waived by the party for whose benefit such delivery is

intended. All authorizations, consent and regulatory approvals required, if any, in connection with the consummation of the Joint Plan shall have been obtained, and all actions, documents, and agreements necessary to implement the Joint Plan shall have been effected or executed.

9.2.4 Debtor shall have sufficient Cash to pay all amounts required by the Joint Plan to be paid on the Effective Date.

9.3 **Waiver of Conditions.**

Each of the conditions set forth in Article 9 above may be waived in whole or in part by Bank of America. The failure of Bank of America to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

9.4 **Effect of Failure of Conditions; Order Denying Confirmation.**

9.4.1 In the event that the Effective Date does not occur within six months following entry of the Confirmation Order, upon notification submitted by Debtor or Bank of America to the Bankruptcy Court: (a) the Confirmation Order shall be vacated, (b) no Distributions under the Joint Plan shall be made, (c) Debtor and all Holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, and (d) Debtor's obligations with respect to the Claims and Interests shall remain unchanged (except to the extent of any payments made after entry of the Confirmation Order but prior to the Effective Date) and nothing contained in the Joint Plan shall constitute or be deemed a waiver or release of any Claims or Interests by or against Debtor or any other Person or to prejudice in any manner the rights of Debtor or any Person in any further proceedings involving Debtor.

9.4.2 If an order denying confirmation of the Joint Plan is entered by the Bankruptcy Court, then the Joint Plan shall be null and void in all respects, and nothing contained in the Joint Plan shall (a) constitute a waiver or release of any Claims against or Interests in Debtor, (b) prejudice in any manner the rights of the Holder of any Claim against, or Interest in, Debtor, (c) prejudice in any manner any right, remedy or Claim of Debtor, or (d) be deemed an admission against interest by Bank of America.

ARTICLE 10
GENERAL PROVISIONS RELATING TO RESERVES FOR DISPUTED CLAIMS

10.1 **Applicability of Article 10.**

Article 10 shall apply to Distributions to Claimants made by Debtor.

10.2 **Distributions on Allowed Claims Only.**

Distributions made by Debtor under the Joint Plan shall be made only to the Holders of Allowed Claims. Until a Disputed Claim becomes an Allowed Claim, the Holder of that Disputed Claim shall not receive the consideration otherwise provided to such Claimant under the Joint Plan.

10.3 **Establishment of Disputed Claims Reserve.**

Debtor shall deposit the Distributions reserved for the Holders of Disputed Claims in a reserve fund called the “Disputed Claims Reserve.” Debtor shall hold the Disputed Claims Reserve in trust for the benefit of the Holders of Allowed Claims whose Distributions are unclaimed and the Holders of Disputed Claims pending determination of their entitlement thereto under the terms of the Joint Plan. If a Disputed Claim becomes an Allowed Claim, Debtor shall release and deliver the Distributions reserved for such Allowed Claims from the Disputed Claims Reserve, together with any earned interest attributable to such Distribution.

ARTICLE 11
RETENTION OF JURISDICTION

11.1 **Jurisdiction.**

Until the Chapter 11 Case is closed pursuant to Bankruptcy Code section 350, the Bankruptcy Court shall retain the fullest and most extensive jurisdiction permissible, including that necessary to ensure that the purposes and intent of the Joint Plan are carried out. Except as otherwise provided in the Joint Plan, the Joint Plan exhibits and/or the Confirmation Order, the Bankruptcy Court shall retain jurisdiction to hear and determine all Claims against and Interests in Debtor, and to adjudicate and enforce all other causes of action which may exist on behalf of Debtor.

11.2 **General Retention.**

Following Confirmation, the administration of the Chapter 11 Case will continue until entry of a decree pursuant to Bankruptcy Code section 350 closing this Chapter 11 Case. The Bankruptcy Court shall also retain jurisdiction for the purpose of classification of any Claim and the re-examination of Claims that have been Allowed for purposes of voting only, if any, and the determination of such objections as may be filed with the Bankruptcy Court with respect to any such Claim. The failure by Debtor to object to or examine, any Claim for the purposes of voting, if any, shall not be deemed a waiver of the right of Bank of America, or any other interested party, as the case may be, to object to or re-examine such Claim in whole or in part.

11.3 **Specific Purposes.**

In addition to the foregoing, the Bankruptcy Court, even after the this Chapter 11 Case has been closed, shall have jurisdiction to the fullest extent of the law over all matters arising under, arising in, or relating to Debtor’s this Chapter 11 Case, including proceedings to:

11.3.1 ensure that the Joint Plan is carried out;

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

11.3.3 consider any modification of the Joint Plan under Bankruptcy Code section 1127;

11.3.4 hear and determine all Claims, controversies, suits and disputes against Debtor to the extent permitted under 28 U.S.C. § 1334;

11.3.5 allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim, including the resolution of any and all objections to the allowance or priority of Claims;

11.3.6 hear, determine, and adjudicate any litigation involving claims or causes of action constituting Estate Assets;

11.3.7 decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving Debtor that may be pending on or commenced after the Effective Date;

11.3.8 resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of the Joint Plan, or any Entity's obligations incurred in connection with the Joint Plan, or any other agreements governing, instruments evidencing, or documents relating to any of the foregoing, including the interpretation or enforcement of any rights, remedies, or obligations under any of the foregoing;

11.3.9 hear and determine all controversies, suits, and disputes that may arise out of or in connection with the enforcement of any and all subordination and similar agreements among various creditors pursuant to Bankruptcy Code section 510;

11.3.10 hear and determine all requests for compensation and/or reimbursement of expenses that may be made for fees and expenses incurred before the Effective Date;

11.3.11 enforce any Final Order, the Confirmation Order, the final decree, and all injunctions contained in those orders;

11.3.12 hear, determine, and adjudicate any litigation or disputes involving the Settlement Agreement;

11.3.13 enter an order concluding and terminating this Chapter 11 Case;

11.3.14 correct any defect, cure any omission, or reconcile any inconsistency in the Joint Plan or the Confirmation Order;

11.3.15 determine all questions and disputes regarding title to the Property and any other assets of Debtor;

11.3.16 classify the Claims of any Claim holders and the treatment of these Claims under the Joint Plan, to re-examine Claims that may have been allowed for purposes of voting, and to determine objections that may be filed to any Claims;

11.3.17 take any action described in the Joint Plan involving the post-confirmation Debtor;

11.3.18 enter a final decree in the Chapter 11 Case as contemplated by Bankruptcy Rule 3022;

11.3.19 enforce, by injunction or otherwise, the provisions set forth in the Joint Plan, the Confirmation Order, any final decree, and any Final Order that provides for the adjudication of any issue by the Bankruptcy Court; and

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

11.4 Bankruptcy Court's Lack of Jurisdiction or Declination to Exercise Jurisdiction.

If the Bankruptcy Court concludes that it lacks subject matter jurisdiction or abstains or exercises discretion not to hear any matter within the scope of its jurisdiction, Debtor, Bank of America, Creditors or any other party in interest (including any Buyer under any Purchase Agreement) shall bring all actions regarding the Joint Plan, the Auction or Debtor's Chapter 11 Case only to a federal or state tribunal of competent jurisdiction situated in Cook County, Illinois.

ARTICLE 12
GENERAL PROVISIONS

12.1 Notices.

All notices, requests and demands required or permitted hereunder, to be effective, shall solely be set forth in writing unless otherwise expressly provided in the Joint Plan, and shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

Bank of America

Seyfarth Shaw LLP
Gus A. Paloian, Esq.
Jason J. DeJonker, Esq.
James B. Sowka, Esq.
131 S. Dearborn St., Suite 2400
Chicago, Illinois 60603
Tel: (312) 460-5000
Fax: (312) 460-7000

Debtor

Meltzer, Purtil & Stelle LLC
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12.2 Dates.

The provisions of Bankruptcy Rule 9006 shall govern the calculation of any dates or deadlines referenced in the Joint Plan, except as otherwise provided. If any payment or act under this Joint Plan is required to be made or performed on a date that is not a business day, then the making of such payment 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.

12.3 Officers and Directors After Effective Date.

After the Effective Date, any remaining managers or officers of Debtor shall be authorized to take all actions reasonable and necessary to ensure that Debtor is dissolved pursuant to the provisions of 805 ILCS 5/12 *et seq.*

12.4 Further Action; Exemptions.

12.4.1 Nothing contained in the Joint Plan shall prevent Debtor and Bank of America from taking such actions as may be necessary to consummate the Joint Plan, even though such actions may not specifically be provided for within the Joint Plan. Debtor and Bank of America, if and to the extent necessary, may seek such orders, judgments, injunctions, and rulings that it deems necessary to further carry out the intentions and purposes of, and give full effect to the provisions of, the Joint Plan.

12.4.2 Pursuant to Bankruptcy Code section 1146(c), the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by, this Joint Plan or the re-vesting, transfer or sale of any real or Personal property of Debtor pursuant to, in implementation of, or as contemplated by, this Joint Plan, or the transfer of the Property to Prevailing Bidder pursuant to this Joint Plan, shall not and may not be taxed under any state or local law imposing a stamp tax, transfer tax, sales tax or similar tax or fee.

12.4.3 Confirmation of the Joint Plan shall constitute a determination, in accordance with Bankruptcy Code section 1145, that except with respect to an Entity that is an underwriter as defined in Bankruptcy Code section 1145(b), Section 5 of the Securities Act of 1933, as amended, and any state or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, broker or dealer in, a security does not apply to the offer or sale under the Joint Plan of the Property .

12.5 Attachments; Entire Agreement; Severability.

12.5.1 All attachments to the Joint Plan are incorporated herein by reference and are intended to be an integral part of this document as though fully set forth in the Joint Plan. All exhibits to the Joint Plan shall be filed with the Bankruptcy Court no later than ten (10) days before the Confirmation Date or such other date as is agreed to by Debtor and Bank of America.

12.5.2 The Joint Plan and all exhibits thereto set forth the entire agreement and undertakings relating to the subject matter thereof and supersede all prior discussions and documents. No Entity shall be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein or as may hereafter be agreed to by the parties in writing. To the extent there is any inconsistency or ambiguity between any term or provision contained in the Joint Plan, on the one hand, and the Disclosure Statement, on the other, the terms and provisions of the Joint Plan shall control.

12.5.3 If any term or provision of this Joint Plan is held by the Bankruptcy Court, prior to or at the time of Confirmation, to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable

to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. In the event of any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Joint Plan may, at the option of Bank of America, remain in full force and effect and not be deemed affected. However, Bank of America reserves the right not to proceed to Confirmation or consummation of this Joint Plan if any such ruling occurs. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Joint Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

12.6 Joint Plan Amendments.

Before the Confirmation Date, Bank of America and Debtor may jointly modify, amend or withdraw the Joint Plan, without approval of the Bankruptcy Court. After the Confirmation Date and subject to approval of the Bankruptcy Court, the Bank of America and Debtor may jointly amend or modify the Joint Plan to remedy any defect or omission or reconcile any inconsistencies in the Joint Plan or in the Confirmation Order, in such manner that may be necessary to carry out the purposes and intent of the Joint Plan and so long as it does not materially or adversely affect the rights set forth in the Joint Plan of creditors and other parties in interest.

12.7 Binding Effect; No Waiver; Non-Debtor Waiver of Rights.

12.7.1 Upon occurrence of the Effective Date, the Joint Plan shall be binding on, and inure to the benefit of, Debtor, Bank of America, and all holders of Claims and Interests, and their respective successors and assigns, regardless of whether those parties voted to accept the Joint Plan.

12.7.2 Neither the failure of Debtor to list a Claim in its Schedules, the failure of Debtor or Bank of America to object to any Claim or Interest for purposes of voting, the failure of Debtor or Bank of America to object to a Claim, Administrative Claim or Interest prior to the Confirmation Date or the Effective Date, the failure of Debtor to assert a Cause of Action prior to the Confirmation Date or the Effective Date, the absence of a Proof of Claim having been filed with respect to a Claim, Administrative Claim, Interest or Cause of Action other than a legally effective express waiver or release shall be deemed a waiver or release of the right of a Debtor or Bank of America, before or after solicitation of votes on the Joint Plan or before or after, the Confirmation Date or the Effective Date to (a) object to or examine such Claim, Administrative Claim or Interest, in whole or in part or (b) retain and either assign or exclusively assert, pursue, prosecute, utilize, otherwise act or otherwise enforce any Cause of Action.

12.7.3 Non-Debtor parties shall have the right to voluntarily waive any rights, benefits or protections that are afforded to them under the provisions of the Joint Plan or any order issued in furtherance of the Joint Plan, and such waiver shall supersede such rights, benefits or protections. Any such waiver shall only be effective if such party expressly and specifically waives in writing one or more of such rights, benefits or protections.

12.8 **Governing Law.**

Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under the Joint Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Illinois, without giving effect to any conflicts of law principles.

12.9 **No Admissions.**

Notwithstanding anything here and to the contrary, nothing contained in the Joint Plan shall be deemed as an admission by any Person with respect to any matter set forth herein.

12.10 **Recordable Order.**

Upon Confirmation of the Joint Plan, the Confirmation Order shall be deemed to be in recordable form, and shall be accepted by any recording officer for filing and recording purposes without further or additional orders, certifications, or other supporting documents.

12.11 **Setoffs.**

Subject to the limitations provided in Bankruptcy Code section 553, Debtor or Bank of America may, but will not be required to, setoff against any Claim and the payments or other distributions to be made pursuant to the Joint Plan in respect of such Claim, claims of any nature whatsoever Debtor may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim under the Joint Plan will constitute a waiver or release by Debtor of any such claim that Debtor may have against such holder.

12.12 **Exemption From Transfer Taxes.**

Pursuant to Bankruptcy Code section 1146(c), the sale and transfer of the Property under, in furtherance of, or in connection with the Auction and the Joint Plan, including, *inter alia*, the Sale Order, the Purchase Agreement and any deeds, bills of sale or assignments executed in connection therewith contemplated under the Joint Plan, shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax.

ARTICLE 13
SUBSTANTIAL CONSUMMATION

13.1 **Substantial Consummation.**

The Joint Plan shall be deemed substantially consummated immediately on the funding of the payment to all Holders of Allowed Claims.

13.2 **Notice of Effective Date.**

Promptly after occurrence of the Effective Date, Debtor and Bank of America shall jointly file with the clerk of the Bankruptcy Court a notice that the Joint Plan has become

effective; *provided, however*, that the failure to file such notice shall not affect the effectiveness of the Joint Plan or the rights or substantive obligations of any Entity hereunder.

13.3 **Final Decree.**

On substantial consummation, Debtor or Bank of America may move for a final decree closing the Chapter 11 Case and requesting such other orders as may be necessary and appropriate.

Dated: October 4, 2010
Chicago, Illinois

Respectfully Submitted:

BANK OF AMERICA, N.A., successor by merger
to LaSalle Bank National Association

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