

distributions to be provided to them under this Plan; and (2) the liens granted pursuant to any Cash Collateral Order shall not be released or deemed released except as provided therein.

Section 5.05 Post-Closing Date Transactions

On or after the Fifth Avenue Property Closing Date and/or Madison Avenue Property Closing Date, as the case may be, and prior to the Effective Date, the Debtors are hereby authorized to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the transfer of each Property, including the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of this Plan and having other terms for which the applicable parties agree.

Section 5.06 Post-Effective Date Transactions

Without in any way limiting Section 5.04 above, on or after the Effective Date, the Debtors are hereby authorized to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate this Plan. The Post-Effective Date Transactions may include such dissolutions, transfers or liquidations as may be determined by the Debtors, in their sole discretion, to be necessary or appropriate. The actions to effect the Post-Effective Date Transactions may include:

- a. the execution and delivery of appropriate agreements or other documents of transfer, dissolution or liquidation containing terms that are consistent with the terms of this Plan and that satisfy the applicable requirements of applicable state law and any other terms to which the applicable Entities may agree;
- b. the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of this Plan and having other terms for which the applicable parties agree;
- c. the filing of appropriate certificates of dissolution on terms consistent with the terms of this Plan pursuant to applicable state law; and
- d. all other actions that the Debtors determine are necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with a Post-Effective Date Transaction.

Section 5.07 Retention of Assets

Except as otherwise provided herein or in any agreement, instrument or other document relating thereto, on or after the Effective Date, all property of each Estate (including, without limitation, Causes of Action) and any property acquired pursuant hereto shall remain with, and be preserved and reserved in, the Estates for distribution in accordance with this Plan or abandoned in the discretion of the Debtors pursuant to the Confirmation Order with the consent of the Senior Agent and the Senior Lenders.

Section 5.08 Corporate Governance

a. Effectuating Documents and Corporate Action

Upon the Confirmation Date or Effective Date, as applicable, all actions contemplated by this Plan (including all matters that would otherwise require approval of the managers or members of the Debtors) shall be deemed to have been so authorized and approved in all respects pursuant to applicable law and without any requirement of further action by the members or managers of the Debtors, or the need for any approvals, authorizations, actions or consents, whether such actions are to occur before, on or after the Confirmation Date or Effective Date, as applicable. All matters provided for in this Plan involving the corporate structure of the Debtors and any corporate action required by the Debtors in connection with this Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the managers, members, stockholders or directors of the Debtors.

Any officer of a Debtor shall be authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan as it relates to such Debtor, without the need for any approvals, authorizations, actions or consents except for those expressly required pursuant hereto.

Section 5.09 Exemption from Certain Transfer Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to this Plan (including without limitation: (i) the conveyance of the Fifth Avenue Property to the Fifth Avenue Purchaser; (ii) the conveyance of the Madison Avenue Property to the Madison Avenue Purchaser; or (iii) if the Madison Avenue Purchase Agreement and/or the Fifth Avenue Purchase Agreement have terminated prior to their respective closing dates, at the option of the Senior Lenders, the conveyance of either or both Properties to the Senior Lender, shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States or in any state, including without limitation, any transfer tax or mortgage recording tax, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan, the sale of the Properties and the maintenance or creation of security for each of the foregoing, to the extent applicable.

Section 5.10 General Settlement of Claims and Interests

As discussed in the Disclosure Statement and as provided for herein, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases and other benefits provided under this Plan, and as a result of arm's-length negotiations among (1) the Debtors, (2) the Senior Agent, (3) the Senior Lenders, (4) the Security Agent, (5) the Subordinated Agent, and (5) the Subordinated Lenders, upon the Effective Date, the provisions of this Plan shall constitute a good-faith compromise and

settlement of all Claims, Interests, controversies and issues resolved pursuant to this Plan arising from or based on the Chapter 11 Cases.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Section 6.01 Assumption/Assignment/Rejection of Executory Contracts and Unexpired Leases

As part of the Plan Supplement, the Debtors will file a schedule of Executory Contracts and Unexpired Leases to be assumed and/or assumed and assigned in connection the conveyance of each Property or otherwise, which schedule may be amended by the Debtors so as to add or delete Executory Contracts or Unexpired Leases to or from said schedule at any time prior (i) to the Fifth Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases relating to the sale or transfer of, or otherwise relating to, the Fifth Avenue Property, (ii) to the Madison Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases relating to the sale or transfer of, or otherwise relating to, the Madison Avenue Property, or (iii) the Effective Date, for any Executory Contracts or Unexpired Leases not covered in clause (i) or (ii) above. Except for Executory Contracts and Unexpired Leases listed on the schedule of Executory Contracts or Unexpired Leases to be assumed or assumed and assigned (as such schedule may be amended), each Executory Contract or Unexpired Lease shall be deemed automatically rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease: (1) was assumed or rejected previously by the Debtors; (2) previously expired or terminated pursuant to its own terms; (3) is the subject of a motion to assume and/or assume and assign filed on or before the Confirmation Date; or (4) is otherwise treated in a manner agreed upon in writing by the Debtors, the Senior Agent and the counterparty to the Executory Contract or Unexpired Lease.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such assumptions, assumptions and assignments and rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of (a) the Fifth Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases assigned to the Fifth Avenue Purchaser in connection with the conveyance of the Fifth Avenue Property to the Fifth Avenue Purchaser, (b) the Madison Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases assigned to the Madison Avenue Purchaser in connection with the conveyance of the Madison Avenue Property to the Madison Avenue Purchaser or (c) the Effective Date, for any Executory Contracts or Unexpired Leases not covered in clause (a) or (b) above. Unless otherwise provided herein, each Executory Contract or Unexpired Lease that is assumed or is assumed and assigned shall (i) include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under this Plan and (ii) exclude any provisions which purport to prohibit, restrict or condition the assignment of any such Executory Contracts or Unexpired Leases; provided, however, that any provisions which purport to prohibit, restrict or condition the assignment of any such Executory Contracts or

Unexpired Leases shall not be enforceable for purposes of this Plan and with respect to any assignment of such Executory Contracts or Unexpired Leases under or pursuant to the terms of this Plan. In addition, modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith. Notwithstanding the foregoing, the Debtors shall have the right to terminate, amend, or modify any intercompany contracts, leases or other agreements without approval of the Bankruptcy Court.

Section 6.02 Payments Related to Assumption of Executory Contracts and Unexpired Leases

Any Cure Claims shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the amount of the agreed upon Cure Claim in Cash (i) by the Fifth Avenue Purchaser on the Fifth Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases assigned to the Fifth Avenue Purchaser in connection with the conveyance of the Fifth Avenue Property to the Fifth Avenue Purchaser, to the extent the Fifth Avenue Purchaser assumed such liability under the Fifth Avenue Purchase Agreement, (ii) by the Madison Avenue Purchaser on the Madison Avenue Property Closing Date, with respect to any Executory Contracts or Unexpired Leases assigned to the Madison Avenue Purchaser in connection with the conveyance of the Madison Avenue Property to the Madison Avenue Purchaser, to the extent the Madison Avenue Purchaser assumed such liability under the Madison Avenue Purchase Agreement, or (iii) by the Debtors on the second Business Day after the later of the Effective Date or the date of assumption or assumption and assignment, for any Executory Contracts or Unexpired Leases not covered in clause (i) or (ii) above, and otherwise in accordance with any orders entered by the Bankruptcy Court, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree in writing. In the event of a dispute regarding: (a) the amount of any Cure Claim; (b) the ability of the Debtors to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code), if applicable, under the Executory Contract or the Unexpired Lease to be assumed; or (c) the ability of any proposed assignee of any assumed Executory Contract or Unexpired Lease to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code), if applicable, under the Executory Contract or the Unexpired Lease to be assumed and assigned, or (d) any other matter pertaining to assumption and/or assumption and assignment, the Cure Claims shall be paid following the entry of a Final Order resolving the dispute and approving the assumption and/or the assumption and assignment of such Executory Contracts or Unexpired Leases; provided, however, that the Debtors may settle any dispute regarding the amount of any Cure Claim or any dispute regarding “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) without any further notice to or action, order, or approval of the Bankruptcy Court.

Section 6.03 Pre-existing Obligations to the Debtors Under Executory Contracts and Unexpired Leases

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to this Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any non-bankruptcy law to

the contrary, the Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the contracting Debtors from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

Section 6.03 Intercompany Contracts, Contracts, and Leases Entered Into After the Petition Date

Intercompany contracts, contracts and leases entered into after the Petition Date by any Debtor and any Executory Contracts and Unexpired Leases assumed by any Debtor, may be performed by the applicable Debtor in the ordinary course of business.

Section 6.04 Reservation of Rights

Notwithstanding anything to the contrary contained herein, nothing contained in this Plan or the Plan Supplement, shall constitute an admission by the Debtors that any contract or lease is in fact an Executory Contract or Unexpired Lease or that any Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

Section 6.05 Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any consensual request to extend the deadline for assuming or rejecting Executory Contracts or Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

Section 7.01 Timing and Calculation of Amounts to Be Distributed

Except to the extent an Allowed Claim has been satisfied by the Debtors prior to the Effective Date (pursuant to an order of the Court, in the ordinary course of business or otherwise), the Holder of an Allowed Claim and the Debtors agree otherwise or unless otherwise provided in this Plan, distributions and deliveries to Holders of Allowed Claims to be made pursuant to this Plan will be so made on or as soon as reasonably practicable after the Effective Date.

To the extent a Claim has not been Allowed prior to or as of the Effective Date, distributions and deliveries to such Holders shall be made on or as soon as reasonably practicable after the date on which such Claim becomes Allowed in accordance with the provisions of this Plan. No payment or distribution provided under this Plan will be made on account of a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim as set forth in Article VIII hereof.

In the event that any payment or act under this 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. Distributions made after the Effective Date shall be deemed to have been made on the Effective Date. Except as otherwise expressly provided herein, Holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for herein, regardless of whether such distributions are delivered on or at any time after the Effective Date.

Section 7.02 Disbursing Agent

All distributions under this Plan shall be made by the Debtors as Disbursing Agent (or such other Entity designated by the Debtors as Disbursing Agent) on or after the Effective Date; provided, however, that the Security Agent shall be the Disbursing Agent for the Senior Lender Claims.

The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. In the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Debtors, unless the Disbursing Agent is the Security Agent, in each case such costs and expense shall be paid from Cash Collateral.

Section 7.03 Delivery of distributions and Undeliverable or Unclaimed distributions

a. Delivery of Distributions in General

Except as otherwise provided herein, the Disbursing Agent shall make distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Debtors.

b. Minimum Distributions

The Disbursing Agent shall not be required to make payments of less than \$500 (whether Cash or otherwise) and shall not be required to make payments of fractions of dollars and such fractions of dollars shall be deemed to be zero.

c. Undeliverable Distributions and Unclaimed Property

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; provided, however, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the Effective Date. After such date, all unclaimed property or interests in property shall revert to the Debtors (notwithstanding any applicable federal or state escheat, abandoned or unclaimed property laws to the contrary), and the Claim of any Holder to such property or interest in such property shall be discharged and forever barred.

Checks issued by the Disbursing Agent on account of Allowed Claims shall be null and void if not negotiated within 180 days after the issuance of such check. Requests for reissuance of any check shall be made directly to the Disbursing Agent by the Holder of the relevant Allowed Claim with respect to which such check originally was issued. Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 180 days after the issuance of such check shall have its Claim for such un-negotiated check discharged and be discharged and forever barred, estopped and enjoined from asserting any such Claim against the Debtors or their property. In such cases, any Cash held for payment on account of such Claims shall be property of the Debtors, free of any Claims of such Holder with respect thereto. Nothing contained herein shall require the Debtors to attempt to locate any Holder of an Allowed Claim.

Section 7.04 Compliance with Tax Requirements/Allocations

In connection with this Plan, to the extent applicable, the Debtors shall comply with all tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in this Plan to the contrary, the Debtors and the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under this Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms they believe are reasonable and appropriate. The Debtors reserve the right to allocate all distributions made under this Plan in compliance with all applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.

Section 7.05 Setoffs

The Debtors may withhold (but not setoff except as set forth below) from the distributions called for hereunder on account of any Allowed Claim, other than an Allowed Senior Lender Claim, an amount equal to any claims, equity interests, rights and Causes of Action of any nature that the Debtors may hold against the Holder of any such Allowed Claim. In the event that any such claims, equity interests, rights and Causes of Action of any nature that the Debtors may hold against the Holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtors may set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the amount of any adjudicated or resolved claims, equity interests, rights and Causes of Action of any nature that the Debtors may hold against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any such claims, equity interests, rights and Causes of Action that the Debtors may possess against any such Holder, except as specifically provided herein.

Section 7.06 Claims Paid or Payable by Third Parties

a. Claims Paid by Third Parties

The Debtors shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under this Plan exceeds the amount of such Claim as of the date of any such distribution under this Plan.

b. Claims Payable by Third Parties

No distributions under this Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

c. Applicability of Insurance Policies

Except as otherwise provided in this Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in this Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

Section 7.07 Pooling of Assets and Liabilities for Purposes of Distributions

Subject to Section 9.03 of this Plan, solely for purposes of distributions to be made under this Plan, (i) all assets and liabilities of the Debtors will be deemed to be pooled, (ii) the obligations of each Debtor will be deemed to be the obligation of all of the Debtors, (iii) any Claims filed or to be filed in connection with any such obligations will be deemed to be Claims against all of the Debtors, and (iv) all transfers, disbursements and distributions made by any Debtor will be deemed to be made by all of the Debtors. Such pooling has the same effect for purposes of distributions from the Debtors' estates as though such estates were substantively consolidated.

ARTICLE VIII.

PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

Section 8.01 Prosecution of Objections to Claims

The Debtors shall have the exclusive authority to File, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under this Plan. From and after the Effective Date, the Debtors may settle or compromise any Disputed Claim without approval of the Bankruptcy Court. The Debtors also reserve the right to resolve any Disputed Claim outside the Bankruptcy Court under applicable governing law.

Section 8.02 No Filing of Proofs of Claim

Except as otherwise provided in this Plan, Holders of Claims and Interests shall not be required to (*and should not*) File proofs of claim with the Bankruptcy Court, the Debtors or any of the Debtors' advisors or agents. On and subsequent to the Effective Date, except as otherwise provided herein, all Claims entitled to a distribution under this Plan will be paid in the ordinary course of business in accordance with the Debtors' books and records (as set forth in the Debtors' schedules and statements filed with Bankruptcy Court or any supplements or amendments thereto), which amounts, unless disputed, shall constitute the Allowed amount of such Claims.

Section 8.03 Procedures Regarding Disputed Claims

a. Objections to Claims

The Debtors intend to make distributions required under this Plan in accordance with their books and records. Unless disputed by a Holder of a Claim, the amount set forth in the books and records of the Debtors shall constitute the amount of the Allowed Claim of such Holder. If any such Holder of a Claim disagrees with the Debtors' books and records with respect to the Allowed amount of such Holder's Claim, such Holder must so advise the Debtors in writing not later than three (3) days prior to the Confirmation Date, in which event the Claim will become a Disputed Claim. If the Debtors dispute any Claim, such dispute shall be determined, resolved or adjudicated, as the case may be, in a manner as if the Chapter 11 Cases had not been commenced. While the Debtors intend to attempt to resolve any such disputes consensually or through judicial means outside the Bankruptcy Court, the Debtors may elect, in their sole discretion, to file with the Bankruptcy Court (or any other court of competent jurisdiction) an objection to the allowance of any Claim or any other appropriate motion or adversary proceeding with respect thereto, and litigate such objections to Final Order, provided that nothing in this Article XIII hereof shall be deemed or construed as limiting any right to compromise, settle, withdraw, or resolve by any other method any objections afforded to the Debtors under Article X hereof.

b. Claims Estimation

Any Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether such Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal related to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

Section 8.04 Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in this Plan and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under this Plan as of the Effective Date, without any interest to be paid on account of such Claim.

ARTICLE IX.

**CONDITIONS PRECEDENT TO CONFIRMATION
AND CONSUMMATION OF THE PLAN**

Section 9.01 Conditions Precedent to Confirmation

It shall be a condition to Confirmation of this Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX hereof:

1. The Debtors shall have designated the Fifth Avenue Purchaser for the purchase of the Fifth Avenue Property and/or the Madison Avenue Purchaser for the purchase of the Madison Avenue Property, or, if the Madison Avenue Purchase Agreement and/or the Fifth Avenue Purchase Agreement have terminated prior to their respective closing dates, or pursuant to Section 5.01(c), (x) the Senior Lenders shall have either determined to take a conveyance of either or both of the Properties themselves, or (y) the Debtors, with the consent of the Senior Lenders,

shall have designated an alternate “Fifth Avenue Purchaser” and/or “Madison Avenue Purchaser”, as applicable.

2. This Plan and the Plan Supplement, including any amendments, modifications or supplements thereto, shall be acceptable to the Debtors, the Security Agent, the Senior Agent and the Senior Lenders.
3. The Bankruptcy Court shall have entered the Confirmation Order in form and substance acceptable to the Debtors, the Security Agent, the Senior Agent and the Senior Lenders.
4. The Bankruptcy Court shall have entered an order approving the rejection of the ROFR Agreement, which order shall not be stayed or reversed.
5. The Bankruptcy Court shall have entered an order approving the ROFO Waiver Agreement pursuant to Bankruptcy Rule 9019.

Section 9.02 Conditions Precedent to Consummation

It shall be a condition to Consummation of this Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX hereof.

1. The Confirmation Order shall have been entered and (a) shall be in a form and in substance satisfactory to the Debtors, the Senior Agent, the Security Agent and the Senior Lenders, (b) shall not have been reversed or stayed, and (c) no request for revocation of the Confirmation Order under section 1144 of the Bankruptcy Code shall have been made or, if made, shall remain pending. In addition, the Confirmation Order shall provide that, among other things, the Debtors are authorized and directed to take all actions necessary or appropriate to consummate this Plan, including, without limitation, entering into, implementing and consummating the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with or described in this Plan.
2. All agreements, documents and instruments at any time required to be executed and delivered to implement the provisions of this Plan or the transactions contemplated under this Plan shall have: (a) been tendered for delivery; and (b) been effected or executed. All conditions precedent to the effectiveness of all such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
3. All other actions, documents, certificates and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable governmental units in accordance with applicable laws.
4. The Fifth Avenue Property Closing Date shall have occurred and title to the Fifth Avenue Property shall have been conveyed to the Fifth Avenue Purchaser in

accordance with this Plan and the Confirmation Order free of all Liens, Claims, Encumbrances or interests (other than permitted Liens or Encumbrances and the assumed liabilities specified in the Fifth Avenue Purchase Agreement).

5. The Madison Avenue Property Closing Date shall have occurred and title to the Madison Avenue Property shall have been conveyed to the Madison Avenue Purchaser in accordance with this Plan and the Confirmation Order free of all Liens, Claims, Encumbrances or interests (other than permitted Liens or Encumbrances and the assumed liabilities specified in the Madison Avenue Purchase Agreement).

Section 9.03 Waiver of Conditions; Reservation of Rights Relating to Closings and Confirmation

The conditions to Confirmation of this Plan and to Consummation of this Plan set forth in this Article IX may be waived by the Debtors with the consent of the Senior Agent (subject to the requirements of set forth in the Fifth Avenue Purchase Agreement and Madison Avenue Purchase Agreement) without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate this Plan. Furthermore, and without limiting the foregoing, the Debtors, with the consent of the English Administrators and the Senior Agent, reserve the right (i) to schedule the Fifth Avenue Closing Date and the Madison Avenue Closing Date on separate dates, with the Effective Date of this Plan being the date on which the later of the two closings occurs and the other conditions to the Effective Date set forth in Section 9.02 have been satisfied or waived and/or (ii) to seek Confirmation of the Plan at different times regarding, or solely with respect to, (i) Rock Madison Avenue (the owner of the Madison Avenue Property) and/or (ii) Rock Holdings, Rock Investments and Rock Fifth Avenue LLC (the owner of the Fifth Avenue Property); provided, however, in such event, on the Effective Date of the Plan as so confirmed, (x) only those Allowed Administrative Claims and Allowed Priority Tax Claims applicable to the Debtor(s) which is/are the subject of the Plan as so confirmed shall be paid and (y) only those other provisions of the Plan as so confirmed applicable to the Debtor(s) which is/are the subject of the Plan as so confirmed shall be given effect. Notwithstanding anything to the contrary herein, in the event there are delays to the schedule in obtaining the Confirmation Hearing and Confirmation Order because of issues affecting Confirmation of the Plan as it relates to Rock Madison Avenue and the transfer of the Madison Avenue Property to the Madison Avenue Purchaser which would prevent the Fifth Avenue Property Closing Date from occurring on or prior to December 31, 2010, then, provided the same would reasonably result in allowing the Fifth Avenue Closing Date to occur on or prior to December 31, 2010, the Debtors shall exercise their option to bifurcate the Confirmation and to proceed with the Confirmation of the Plan as it relates to Rock Holdings, Rock Investments and Rock Fifth Avenue LLC, ahead of the process for Rock Madison Avenue.

Section 9.04 Effect of Non Occurrence of Conditions to Consummation

If the Consummation of this Plan does not occur, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any Holders or any other Entity; or (3) constitute an

admission, acknowledgment, offer or undertaking by the Debtors, any Holders or any other Entity in any respect.

ARTICLE X.

SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

Section 10.01 Compromise and Settlement

Notwithstanding anything contained herein to the contrary, the allowance, classification and treatment of all Claims and their respective distributions, if any, and treatments hereunder, takes into account the relative priority and rights of the Claims and the Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) and (c) of the Bankruptcy Code or otherwise. Pursuant to the settlements contained in this Plan, among other things, as of the Effective Date, any and all contractual, legal and equitable subordination rights, whether arising under general principles of equitable subordination, section 510(b) and (c) of the Bankruptcy Code or otherwise, relating to the allowance, classification and treatment of all Allowed Claims and their respective distributions, if any, and treatments hereunder are settled, compromised, terminated and released pursuant hereto.

The Confirmation Order will constitute the Bankruptcy Court's finding and determination that the settlements reflected in this Plan are (1) in the best interests of the Debtors, their Estates and all Holders of Claims and Interests, (2) fair, equitable and reasonable, (3) made in good faith and (4) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019. In addition, the allowance, classification and treatment of Claims take into account any Causes of Action, whether under the Bankruptcy Code or otherwise under applicable non-bankruptcy law, that may exist between, without limitation, the Debtors and the Debtor Releasees, the Releasing Parties and the Third Party Releasees (to the extent set forth in the Third Party Release). As of the Effective Date, any and all such Causes of Action are settled, compromised and released pursuant hereto. The Confirmation Order shall approve the releases by all Entities of all such contractual, legal and equitable subordination rights or Causes of Action that are satisfied, compromised and settled pursuant hereto.

In accordance with the provisions of this Plan, including Article X hereof, and pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, without any further notice to or action, order or approval of the Bankruptcy Court, after the Effective Date: (1) the Debtors may, in their sole and absolute discretion, compromise and settle Claims against them; and (2) the Debtors may, in their respective sole and absolute discretion, compromise and settle Causes of Action against other Entities.

Section 10.02 Debtor Release

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ON THE EFFECTIVE DATE AND EFFECTIVE AS OF THE EFFECTIVE DATE, FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY EACH OF THE DEBTOR RELEASEES AND THE THIRD PARTY

RELEASEES, INCLUDING, WITHOUT LIMITATION, THE DISCHARGE OF DEBT AND ALL OTHER GOOD AND VALUABLE CONSIDERATION PAID PURSUANT HERETO, AND THE SERVICES OF THE DEBTORS' CURRENT MANAGERS, MEMBERS AND ADVISORS IN FACILITATING THE EXPEDITIOUS IMPLEMENTATION OF THE TRANSACTIONS CONTEMPLATED HEREBY, EACH OF THE DEBTORS SHALL PROVIDE A FULL DISCHARGE AND RELEASE TO EACH DEBTOR RELEASEE AND TO EACH THIRD PARTY RELEASEE (AND EACH SUCH DEBTOR RELEASEE AND THIRD PARTY RELEASEE SO RELEASED SHALL BE DEEMED FULLY RELEASED AND DISCHARGED BY THE DEBTORS) AND THEIR RESPECTIVE PROPERTIES FROM ANY AND ALL CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF THE EFFECTIVE DATE IN LAW, AT EQUITY, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, INCLUDING, WITHOUT LIMITATION, THOSE THAT ANY OF THE DEBTORS WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT IN THEIR OWN RIGHT (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR THAT ANY HOLDER OF A CLAIM OR A INTEREST OR OTHER ENTITY WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT ON BEHALF OF ANY OF THE DEBTORS OR ANY OF THEIR ESTATES, AND FURTHER INCLUDING THOSE IN ANY WAY RELATED TO THE CHAPTER 11 CASES OR THIS PLAN; PROVIDED, HOWEVER, THAT THE FOREGOING "DEBTOR RELEASE" SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CAUSES OF ACTION OF ANY DEBTOR: (1) AGAINST A THIRD PARTY RELEASEE (OTHER THAN THE SENIOR AGENT, THE SECURITY AGENT, THE SENIOR LENDERS, THE SUBORDINATED AGENT, AND THE SUBORDINATED LENDERS EACH IN THEIR CAPACITY AS SUCH) ARISING FROM ANY CONTRACTUAL OBLIGATIONS OWED TO THE DEBTORS; (2) EXPRESSLY SET FORTH IN AND PRESERVED BY THIS PLAN OR RELATED DOCUMENTS; (3) AGAINST THE TERMINATED OFFICERS OR MECHANIC'S LIEN HOLDERS; OR (4) ARISING FROM CLAIMS FOR FRAUD OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE PLAN DOES NOT RELEASE ANY CAUSES OF ACTION THAT THE DEBTORS HAVE OR MAY HAVE NOW OR IN THE FUTURE AGAINST ANY SUCH NON-RELEASED PARTIES.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE DEBTOR RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED HEREIN, AND FURTHER SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT THE DEBTOR RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY THE DEBTOR RELEASEES AND THE THIRD PARTY RELEASEES, A GOOD FAITH SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY THE DEBTOR RELEASE AND THE THIRD PARTY RELEASE; (2) IN THE BEST INTERESTS OF THE DEBTORS AND THEIR ESTATES AND ALL HOLDERS OF CLAIMS; (3) FAIR, EQUITABLE AND REASONABLE;

(4) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND (5) A BAR TO ANY OF THE DEBTORS ASSERTING ANY CLAIM RELEASED BY THE DEBTOR RELEASE AGAINST ANY OF THE DEBTOR RELEASEES OR THIRD PARTY RELEASEES.

Section 10.03 Third Party Release

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON THE EFFECTIVE DATE AND EFFECTIVE AS OF THE EFFECTIVE DATE, THE RELEASING PARTIES (REGARDLESS OF WHETHER A RELEASING PARTY IS A THIRD PARTY RELEASEE) SHALL PROVIDE A FULL DISCHARGE AND RELEASE (AND EACH ENTITY SO RELEASED SHALL BE DEEMED RELEASED BY THE RELEASING PARTIES) TO THE DEBTORS, THIRD PARTY RELEASEES AND THE DEBTOR RELEASEES AND THEIR RESPECTIVE PROPERTY FROM ANY AND ALL CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF THE EFFECTIVE DATE IN LAW, AT EQUITY, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, INCLUDING, WITHOUT LIMITATION, THOSE IN ANY WAY RELATED TO THE CHAPTER 11 CASES OR THIS PLAN; PROVIDED, HOWEVER, THAT THE FOREGOING "THIRD PARTY RELEASE" SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CAUSES OF ACTION: (1) OF ANY RELEASING PARTY AGAINST A THIRD PARTY RELEASEE (OTHER THAN THE SENIOR AGENT, THE SECURITY AGENT, THE SENIOR LENDERS, THE SUBORDINATED AGENT, THE SUBORDINATED LENDERS AND ALL OF THE CURRENT AND FORMER MANAGERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, PARTNERS, ATTORNEYS, FINANCIAL ADVISORS, ACCOUNTANTS, MANAGED FUNDS, INVESTMENT BANKERS, INVESTMENT ADVISORS, ACTUARIES, PROFESSIONALS, AGENTS, AFFILIATES, FIDUCIARIES AND REPRESENTATIVES OF EACH OF THE FOREGOING ENTITIES, EACH IN THEIR RESPECTIVE CAPACITIES AS SUCH) ARISING FROM ANY CONTRACTUAL OBLIGATIONS OWED TO THE RELEASING PARTY, UNLESS EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN OR RELATED DOCUMENTS; (2) OF ANY RELEASING PARTY AGAINST THE TERMINATED OFFICERS OR MECHANIC'S LIEN HOLDERS; (3) EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN OR RELATED DOCUMENTS; OR (4) OF ANY RELEASING PARTY ARISING FROM CLAIMS FOR FRAUD OR WILLFUL MISCONDUCT. EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, THE PLAN DOES NOT RELEASE ANY CAUSES OF ACTION THAT THE DEBTORS HAVE OR MAY HAVE NOW OR IN THE FUTURE AGAINST THE NON-RELEASED PARTIES.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE THIRD PARTY RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED HEREIN, AND

FURTHER, SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT THE THIRD PARTY RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY THE DEBTORS, THE THIRD PARTY RELEASEES AND THE DEBTOR RELEASEES, A GOOD FAITH SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY THE THIRD PARTY RELEASE; (2) IN THE BEST INTERESTS OF THE DEBTORS AND THEIR ESTATES AND ALL HOLDERS OF CLAIMS; (3) FAIR, EQUITABLE AND REASONABLE; (4) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND (5) A BAR TO ANY OF THE RELEASING PARTIES ASSERTING ANY CLAIM RELEASED BY THE THIRD PARTY RELEASE AGAINST ANY OF THE DEBTORS, THIRD PARTY RELEASEES OR THE DEBTOR RELEASEES.

Section 10.04 Senior Lender Release; Subordinated Lender Release

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON THE EFFECTIVE DATE AND EFFECTIVE AS OF THE EFFECTIVE DATE, EACH HOLDER OF A CLAIM OR INTEREST SHALL PROVIDE A FULL DISCHARGE AND RELEASE (AND EACH ENTITY SO RELEASED SHALL BE DEEMED RELEASED) TO THE SENIOR AGENT, THE SECURITY AGENT, THE SENIOR LENDERS, THE SUBORDINATED AGENT, AND THE SUBORDINATED LENDERS, THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, MANAGERS, MEMBERS, ATTORNEYS, FINANCIAL ADVISORS, ACCOUNTANTS, INVESTMENT BANKERS, INVESTMENT ADVISORS, ACTUARIES, PROFESSIONALS, AGENTS AND REPRESENTATIVES, EACH IN THEIR RESPECTIVE CAPACITIES AS SUCH, AND THEIR RESPECTIVE PROPERTY FROM ANY AND ALL CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF THE EFFECTIVE DATE IN LAW, AT EQUITY, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, INCLUDING, WITHOUT LIMITATION, THOSE IN ANY WAY RELATED TO THE CHAPTER 11 CASES OR THE PLAN, PROVIDED, HOWEVER, THAT THE RELEASES SET FORTH IN THIS SECTION 10.04 SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CAUSES OF ACTION: (1) ARISING FROM ANY CONTRACTUAL OBLIGATIONS OWED TO SUCH HOLDER OF A CLAIM OR INTEREST; (2) EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN OR RELATED DOCUMENTS; OR (3) ARISING FROM CLAIMS FOR FRAUD OR WILLFUL MISCONDUCT.

Section 10.05 Exculpation

The Exculpated Parties shall neither have, nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Consummation of this Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with this Plan or

any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors; provided, however, that the foregoing “Exculpation” shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Consummation of this Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with this Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors.

Section 10.06 Preservation of Causes of Action

Effective as of the Effective Date, unless expressly provided herein or in the Confirmation Order to the contrary, the Debtors hereby irrevocably waive any Avoidance Actions; provided, however, that such waiver shall not waive, affect or otherwise impair the Debtors’ rights or ability to use and assert such claims against the Terminated Officers or for purposes of section 502(d) of the Bankruptcy Code.

Unless expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), any Causes of Action (including, but not limited to, in connection with the Wildes and Pudalov Lawsuit, and excluding all Avoidance Actions except those against the Terminated Officers) that a Debtor may hold against any Entity (including, but not limited to, the Terminated Officers, Mechanic’s Lien Holders, the LPC or Anlar, LLC) shall **not** be waived by the Debtors. The Debtors reserve and shall retain the foregoing Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to this Plan. On and after the Effective Date, all Avoidance Actions which the Debtors have against the Terminated Officers shall be preserved for the benefit of the Senior Lenders and all Liens which the Senior Lenders had as of the Effective Date on such Avoidance Actions or the proceeds thereof shall also be preserved.

Section 10.07 Injunction

EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, ALL ENTITIES WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS, INTERESTS, CAUSES OF ACTION OR LIABILITIES THAT: (A) HAVE BEEN RELEASED PURSUANT TO ARTICLE V HEREOF; (B) HAVE BEEN RELEASED PURSUANT TO ARTICLE VI HEREOF; (C) HAVE BEEN DISCHARGED PURSUANT TO ARTICLE X HEREOF; OR (E) ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE X HEREOF ARE PERMANENTLY ENJOINED AND PRECLUDED, FROM AND AFTER THE EFFECTIVE DATE, FROM:

- (1) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND AGAINST ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED (INCLUDING THE**

DEBTORS) (OR THE PROPERTY OR ESTATE OF ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, DISCHARGED OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION OR LIABILITIES;

- (2) ENFORCING, ATTACHING, COLLECTING OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE OR ORDER AGAINST ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED (INCLUDING THE DEBTORS) (OR THE PROPERTY OR ESTATE OF ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, DISCHARGED OR EXCULPATED CLAIMS, EQUITY INTERESTS, CAUSES OF ACTION OR LIABILITIES;**
- (3) CREATING, PERFECTING OR ENFORCING ANY LIEN, CLAIM OR ENCUMBRANCE OF ANY KIND AGAINST ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED (INCLUDING THE DEBTORS) (OR THE PROPERTY OR ESTATE OF ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, DISCHARGED OR EXCULPATED CLAIMS, EQUITY INTERESTS, CAUSES OF ACTION OR LIABILITIES;**
- (4) ASSERTING ANY RIGHT OF SETOFF, SUBROGATION, OR RECOUPMENT OF ANY KIND AGAINST ANY OBLIGATION DUE FROM ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED (INCLUDING THE DEBTORS) (OR THE PROPERTY OR ESTATE OF ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, DISCHARGED OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION OR LIABILITIES UNLESS SUCH HOLDER HAS FILED A MOTION REQUESTING THE RIGHT TO PERFORM SUCH SETOFF ON OR BEFORE THE CONFIRMATION DATE, AND NOTWITHSTANDING AN INDICATION IN A CLAIM OR INTEREST OR OTHERWISE THAT SUCH HOLDER ASSERTS, HAS OR INTENDS TO PRESERVE ANY RIGHT OF SETOFF PURSUANT TO SECTION 553 OF THE BANKRUPTCY CODE OR OTHERWISE; AND**
- (5) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND AGAINST ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED (INCLUDING THE DEBTORS) (OR THE PROPERTY OR ESTATE OF ANY ENTITY SO RELEASED, DISCHARGED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, DISCHARGED OR EXCULPATED CLAIMS, INTERESTS,**

**CAUSES OF ACTION OR LIABILITIES RELEASED OR SETTLED
PURSUANT TO THIS PLAN.**

ARTICLE XI.

BINDING NATURE OF PLAN

**THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS
IN THE DEBTORS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

ARTICLE XII.

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors and this Plan as legally permissible, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of any Claim;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Confirmation Date;
3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom;
4. resolve any issues related to any matters adjudicated in the Chapter 11 Cases;
5. resolve any issues related to conveyance of title to the Properties;
6. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of this Plan;
7. hear, decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action, including, but not limited to, the Terminated Officer Lawsuit or in connection with the Landmark Designation Process, the rejection of the ROFR Agreement or the assumption of the ROFO Waiver Agreement, that are pending as of the Effective Date or that may be commenced in the future, and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Debtors after the

Effective Date; provided that the Debtors shall reserve the right to commence actions in all appropriate forums and jurisdictions;

8. enter such orders as may be necessary or appropriate to implement or consummate the provisions of this Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with this Plan or the Disclosure Statement, including, but not limited to, in connection with the dissolution and wind-up of the Debtors;
9. resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan, provided, however, that any dispute arising under or in connection with the Senior Loan Documents or the Subordinated Loan Documents shall be dealt with in accordance with the provisions of the applicable documents;
10. issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of this Plan, except as otherwise provided in this Plan;
11. enforce any part of Article X hereof;
12. resolve any cases, controversies, suits or disputes with respect to the Debtor Release, the Third Party Release, the Exculpations, the Indemnification Provisions, the Senior Lender Release, the Subordinated Lender Release and other provisions contained in Article X hereof and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
13. enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
14. resolve any other matters that may arise in connection with or related to this Plan, the Disclosure Statement, the Confirmation Order, the Senior Loan Documents, the Subordinated Loan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; provided, however, that any dispute arising under or in connection with the Senior Loan Documents or the Subordinated Loan Documents shall be dealt with in accordance with the provisions of the applicable documents; and
15. enter an order concluding the Chapter 11 Cases.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

Section 13.01 Payment of Statutory Fees

All fees payable pursuant to section 1930 of title 28 of the United States Code after the Effective Date shall be paid prior to the closing of the Chapter 11 Cases when due or as soon thereafter as practicable.

Section 13.02 Allowance and Payment of Professional Fees

a. Fee Applications

All requests for payment of Fee Claims shall be Filed no later than forty-five (45) days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Fee Claims shall be determined by the Bankruptcy Court. Allowed Fee Claims shall be paid in Cash when such Claims are Allowed by a Bankruptcy Court order.

b. Payment of Costs of Administration

Allowed Administrative Claims, other than Fee Claims which shall be given the treatment set forth in Section 13.01(a), shall be paid in accordance with Section 2.01.

c. Post-Effective Date Fees and Expenses

Except as otherwise specifically provided in this Plan, from and after the Effective Date, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, the reasonable legal, professional, or other fees and expenses related to implementation and Consummation of this Plan incurred by the Debtors shall be paid by the Senior Lenders subject to the limitation provided in Section 5.02 hereof. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

Section 13.03 Modification of Plan

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (1) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order; and (2) after the entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court and with the consent of the Senior Agent and the Senior Lenders, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

Section 13.04 Revocation of Plan

The Debtors reserve the right to revoke or withdraw this Plan prior to the Confirmation Date and to File subsequent chapter 11 plans. If the Debtors revoke or withdraw this Plan, or if Confirmation or Consummation does not occur, then: (1) this Plan shall be null and void in all respects; (2) any settlement or compromise embodied in this Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (3) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors or any other Entity.

Section 13.05 Successors and Assigns

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

Section 13.06 Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the Holders of Claims or Interests or other Entity; or (2) any Holder of a Claim or a Interest or other Entity prior to the Effective Date.

Section 13.07 Further Assurances

The Debtors, all Holders of Claims and Interests receiving distributions hereunder and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order.

Section 13.08 Severability

If any term or provision of this Plan is held by the Bankruptcy Court 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 then will be applicable as altered or interpreted, provided that any such alteration or interpretation must be in form and substance reasonably acceptable to the Debtors and the Senior Agent; provided, however, that the Debtors and Senior Agent (as applicable) may seek an expedited hearing before the Bankruptcy Court to address any objection to any such alteration or interpretation of the foregoing. Notwithstanding any such order by the Bankruptcy Court, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in

full force and effect. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

Section 13.09 Service of Documents

Any pleading, notice or other document required by this Plan to be served on or delivered to the Debtors shall be sent by overnight mail to:

Bayard, P.A.
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
Attn: Neil B. Glassman, Esq.
 Jamie L. Edmonson, Esq.

with copies to:

Hogan Lovells US LLP
875 Third Avenue
New York, NY 10022
Attn: Robin E. Keller, Esq.
 Scott A. Golden, Esq.

-and-

Kaye Scholer LLP
3 First National Plaza
70 West Madison Street
Suite 4100
Chicago, IL 60602
Attn: D. Tyler Nurnberg, Esq.

-and-

Kaye Scholer LP
425 Park Avenue
New York, NY 10022
Attn: Nicholas Cremona, Esq.

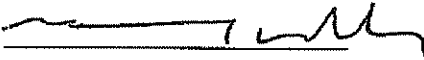
Section 13.10 Filing of Additional Documents

On or before the Effective Date, the Debtors may File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

Dated: September 15, 2010

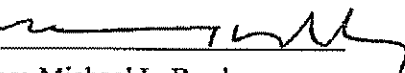
Respectfully submitted,

Rock US Holdings, Inc.,
a Delaware corporation

By: 
Name: Michael L. Brody
Title: Director and Senior Vice President

Date: September 15, 2010

Rock New York (100-1004 Fifth Avenue) LLC,
a Delaware limited liability corporation

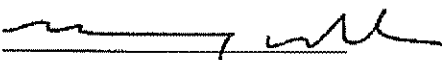
By: 
Name: Michael L. Brody
Title: Senior Vice President

Date: September 15, 2010

Bayard, P.A.
Neil B. Glassman, Esq.
Jamie L. Edmonson, Esq.
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
Tel: 302-429-4224
Fax: 302-658-6395

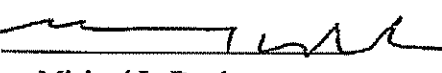
*Proposed Counsel for the Debtors and
Debtors in Possession*

Rock US Investments LLC,
a Delaware limited liability corporation

By: 
Name: Michael L. Brody
Title: Senior Vice President

Date: September 15, 2010

Rock New York (183 Madison Avenue) LLC,
a Delaware limited liability corporation

By: 
Name: Michael L. Brody
Title: Senior Vice President

Date: September 15, 2010

Hogan Lovells (US) LLP
Robin E. Keller, Esq.
Scott A. Golden, Esq.
Christopher R. Bryant, Esq.
875 Third Avenue
New York, NY 10022
Tel: 212-918-3000
Fax: 212-918-3100

*Proposed Special Corporate and Litigation
Counsel for the Debtors and Debtors in
Possession*