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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
(Central Division)**

<b>In re:</b>  <b>FRAMINGHAM 300 HOWARD, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42232-CJP</b>
<b>In re:</b>  <b>FOREST STREET BUILDING 165, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42221-CJP</b>
<b>In re:</b>  <b>EAST MAIN STREET BUILDING 57, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42224-CJP</b>

**SECOND AMENDED DISCLOSURE STATEMENT WITH RESPECT  
TO SECOND AMENDED JOINT PLAN OF REORGANIZATION  
OF FRAMINGHAM 00 HOWARD, LLC, FOREST STREET  
BUILDING 165, LLC AND EAST MAIN STREET BUILDING 57, LLC**

**Attorneys for the Debtor,**

McAULIFFE & ASSOCIATES, P.C.  
430 Lexington Street  
Newton, MA 02466  
John M. McAuliffe, Esq.  
Kathryn Pellegrino, Esq.

Telephone: (617) 558-6889  
Facsimile: (617) 559- 6882

Dated: July 11, 2016

**I. INTRODUCTION**

Pursuant to Section 1125 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), Framingham 300 Howard, LLC (“Howard Street”), Forest Street Building 165, LLC (“Forest Street”), East Main Street Building 57, LLC (“East Main”) (collectively the “Debtors”) provides this disclosure statement (the “Disclosure Statement”) to all of the Debtors’ known creditors and parties in interest. The purpose of this Disclosure Statement is to provide the information deemed necessary for creditors to make an informed decision in exercising their rights to vote on the *Second Amended Joint Plan of Reorganization of Framingham 300 Howard, LLC, Forest Street Building 165, LLC and East Main Street Building 57, LLC* (the “Plan”) dated as of the date of this Disclosure Statement, a copy of which is attached as Exhibit A. The Debtors have filed the Plan simultaneously with the filing of this Disclosure Statement. Capitalized terms not otherwise defined in this Disclosure Statement have the meanings ascribed to them in the Plan. A summary of the Plan, the estimated claims against the Debtors and the estimated dividend is set forth below.

The Debtors believe that the Plan provides the quickest recovery to creditors and will maximize the return to creditors on their Claims. **ACCORDINGLY, THE DEBTORS URGE ALL CREDITORS TO VOTE IN FAVOR OF THE PLAN.**

## **II. SUMMARY OF THE PLAN**

The Plan contemplates the sale of the Debtors' respective properties located at 1 Grant Street, Framingham, MA, 57 East Main Street, Westborough, MA and 165 Forest Street, Marlborough, MA. From the sale of these entities, the senior secured lender, Santander Bank, N.A. will receive the net proceeds of all three sales, but not less than \$3,500,000 from the sale of 165 Forest Street and not less than \$4,000,000 from the sale of 1 Grant Street. From the sale proceeds and funds provided by third parties, money will be allocated to pay all outstanding sale expenses and administrative expenses and plan funds will be established to pay allowed general unsecured claims. A plan fund in the amount of \$10,000 will be established to pay, pro-rata, the allowed general unsecured claims for the Howard Street Creditors. A plan fund in the amount of \$10,000 will be established to pay, pro-rata, the allowed general unsecured claims of the East Main Street Creditors. A plan fund in the amount of \$10,000 will be established to pay, pro-rata, the allowed general unsecured claims of the Forest Street Creditors.

The Debtor recommends that you vote to accept the Plan. Each creditor should, however, review the Plan and this Disclosure Statement carefully in order to determine whether or not to accept or reject the Plan based upon that creditor's independent judgment and evaluation. The description of the Plan in this Disclosure Statement is in summary form and is qualified by reference to the actual terms and conditions of the Plan, which should be reviewed carefully before making a decision to accept or reject the Plan.

## **III. INFORMATION ABOUT THE REORGANIZATION PROCESS**

### **3.1 Purposes of Disclosure Statement**

This Disclosure Statement includes background information about the Debtors and a description of the Plan. The Disclosure Statement describes the proposed treatment of each class of claims under the Plan. The Disclosure Statement contains information concerning the prospects for creditors in the event of confirmation or, in the alternative, if confirmation is denied or the proposed Plan does not become effective.

Upon approval by the Bankruptcy Court and in accordance with the provisions of the Bankruptcy Code, this Disclosure Statement and any exhibits will have been found to contain adequate information of a kind and in sufficient detail that would enable reasonable, hypothetical investor typical of a holder of impaired claims or interests to make an informed judgment about the Plan. Approval of this Disclosure Statement by the Bankruptcy Court, however, does not constitute a recommendation by the Bankruptcy Court either for or against the Plan.

The information contained in the Disclosure Statement has been provided by the Debtors and its agents who are assisting in the reorganization and based upon the knowledge of its records, business and affairs. Except as otherwise expressly indicated, such information has not been subject to audit or independent review. Although great effort has been made to be accurate, neither the Debtors, nor their respective professional advisors warrant the accuracy of the information contained in this Disclosure Statement.

No representation concerning the Debtors, including the value of its asset or the aggregate dollar amount of claims which may be allowed, are authorized other than as set forth in this Disclosure Statement. Any representations, warranties or agreements made to secure acceptance or rejection of the Plan that differ from those contained in this Disclosure Statement should not be relied upon in voting on the Plan.

Any description of legal principles contained in this Disclosure Statement do not constitute a legal opinion and may not be relied upon by any creditor or party in interest. All creditors and parties in interest should consult with their own legal advisors with respect to any legal principles described in this Disclosure Statement.

This Disclosure Statement has been prepared by the Debtors to provide the Debtors' creditors with adequate information so that they can make an informed judgment about the Plan. Each creditor should read this Disclosure Statement and the Plan in their entirety before voting on the Plan. No solicitation of votes on the Plan may be made except pursuant to this Disclosure Statement, and, except for the information contained in this Disclosure Statement, no person has been authorized to utilize any information concerning the Debtors' businesses or assets.

### **3.2 Voting Procedure**

All creditors entitled to vote on the Plan may cast their votes for or against the Plan by completing, dating, signing and causing the Ballot Form accompanying this Disclosure Statement to be returned to the following address:

John M. McAuliffe, Esq.  
McAuliffe & Associates, P.C.  
430 Lexington Street  
Newton, MA 02466  
F: 617-558-6882

Ballots must be received **on or before 4:30 P.M. (Eastern Daylight Savings Time)** on \_\_\_\_\_, **2016** to be counted in the voting. Ballots received after this time will not be counted in the voting unless the Bankruptcy Court so orders.

**The Debtors recommend a vote for "ACCEPTANCE" of the Plan.**

### **3.3 Ballots**

Accompanying this Disclosure Statement is a ballot for acceptance or rejection of the Plan (a "Ballot"). Each party-in-interest entitled to vote on the Plan will receive a Ballot. All Classes are entitled to vote. Each member of the Class will be asked to vote for acceptance or rejection of the Plan. A party who holds claims in more than one Class should complete a Ballot for each Class with respect to the applicable portion of its claim included in each Class.

### **3.4 The Confirmation Hearing**

The Bankruptcy Court has scheduled a hearing on confirmation of the Plan to commence on \_\_\_\_\_, 2016 at \_\_: \_\_.m., or as soon thereafter as the parties can be heard. The Confirmation Hearing will be held before the Honorable Christopher J. Panos, United States Bankruptcy Judge, United States Bankruptcy Court, Harold Donohue Federal Building, 595 Main Street, Worcester, MA 01608. At the hearing, the Bankruptcy Court will consider whether the Plan satisfies the various requirements of the Bankruptcy Code, including whether it is feasible and whether it is in the best interests of holders of Claims and Interests. The Bankruptcy Court will also receive and consider a Report of Plan Voting prepared by the Debtors summarizing the votes for acceptance or rejection of the Plan by the parties entitled to vote.

### **3.5 Acceptances Necessary to Confirm Plan**

At the Confirmation Hearing, the Bankruptcy Court must determine, among other things, whether each impaired Class has accepted the Plan. Under section 1126 of the Bankruptcy Code, an impaired Class is deemed to have accepted the Plan if at least 2/3 in dollar amount of claims and more than 1/2 in number of the Allowed claims of Class members who have voted to accept or reject the Plan have voted for acceptance of the Plan. Unless there is acceptance of the Plan by all members of an impaired Class, the Bankruptcy Court must also determine that Class members will receive under the Plan property of a value, as of the Effective Date, that is not less than the amount that such Class members would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code on the Effective Date.

### **3.6 Confirmation of the Plan Without the Necessary Acceptances**

The Plan may be confirmed notwithstanding that one or more impaired Classes have not accepted the Plan if the Bankruptcy Court finds that the Plan does not discriminate unfairly against and is fair and equitable as to such Class or Classes. This provision is set forth in Section 1129(b) of the Bankruptcy Code and requires that, among other things, the claimants must either receive the full value of their claims or, if they receive less, no Class with a junior priority may receive anything unless the junior class provides “new value” or other consideration to the Debtors. For example, if the holders of Allowed Priority Tax Claims are not paid in full, the holders of General Unsecured Claims are not permitted to receive anything on account of their claims. This is known as the “absolute priority rule.”

The Debtors may, at their option, choose to rely on Section 1129(b) to seek confirmation of the Plan if it is not accepted by all impaired Classes of Creditors.

#### IV. GENERAL INFORMATION

##### 4.1 Description of the Debtor

###### A. Background

###### **Framingham 300 Howard, LLC**

The Debtor is a Delaware limited liability company formed in 2007 to own and operate the real property located at 1 Grant Street/290 Howard Street, Framingham, Massachusetts (“1 Grant Street”). The Debtor has always been in the business of operating 1 Grant Street. Framingham Triangle, LLC is the Debtor’s sole member. Kimberly Depietri and Louise Depietri are the members of Framingham Triangle, LLC and David Depietri is the manager of both the Debtor and Framingham Triangle, LLC. 1 Grant Street is the Debtor’s primary asset. Louise Depietri is the mother of David Depietri and Robert Depietri, Jr. Kimberly Depietri is married to Robert Depietri, Jr. Robert Depietri, Sr. is married to Louise Depietri and is the father of David Depietri and Robert Depietri, Jr.

###### **East Main Street Building 57, LLC**

East Main is a Delaware limited liability company formed in 2007 to own and operate the real property located at 57 East Main Street, Westborough, Massachusetts (“57 East Main Street”). East Main has always been in the business of operating 57 East Main Street. 57 East Main Street, LLC (“57 EMS”) is the Debtor’s sole member. Kimberly Depietri and David Depietri are the members of 57 EMS, and David Depietri is the manager of both East Main and 57 EMS. 57 East Main Street is the Debtor’s primary asset.

###### **Forest Street Building 165, LLC**

Forest Street is a Delaware limited liability company formed in 2007 to own and operate the real property located at 165 Forest Street, Marlborough, Massachusetts (“165 Forest Street”). Forest Street has always been in the business of operating 165 Forest Street. Kimberly Depietri and Louise Depietri are the members of Forest Street and David Depietri is the manager of Forest Street. 165 Forest Street is the Debtor’s primary asset.

###### **Santander Bank Loans**

In November 2005, Howard Street granted a Term Note dated November 4, 2005, to Santander, in the original principal amount of \$5,800,000.00. In addition, in November 2005, Howard Street granted a Term Note dated November 4, 2005, to Santander, in the original principal amount of \$4,500,000.00.

In June 2007, East Main granted a Term Note dated June 15, 2007, to Santander, in the original principal amount of \$4,648,000.00.

In July 2007, Forest Street granted a Term Note dated July 2, 2007, to Santander, in the original principal amount of \$5,716,000.00.

In addition, to their respective Notes granted to Santander as stated above, in October 2009, the Debtors' entered into a Term Note with Santander in the principal amount of \$1,422,168.00.

In addition, in June 2007, Post Road Building 65, LLC, ("Boston Post Road") a non-debtor affiliate of the Debtors, granted to Santander a \$3,736,000.00 Term Note, dated June 15, 2007.

In addition, East Main Street, Forest Street and Boston Post Road entered into ISDA Swap Agreements with Santander under which agreements said Debtors are currently obligated to Santander in the aggregate amount of \$2,088,228.00.

The Debtors granted Santander mortgages and assignments of leases and rents on all of the properties owned by each of the Debtors and Boston Post Road. Further, in October 2009, the Debtors entered into cross-collateralization agreements with Santander in which each Debtors' debts were secured by the property of the other Debtors.

On February 17, 2016, following hearings on the use of cash collateral in each of the Debtors' Chapter 11 cases, the Court entered, in each of the Debtors' cases, *Agreed Final Orders Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* (the "Final Orders"). As set forth in the Final Orders, Santander holds claims against each of the Debtors, as of the petition date, in the total amount of \$17,075,930.09, for principal, interest, late charges and interest rate swap agreement damages under the various cross-collateralized promissory notes and interest rate swap agreements describes above, but exclusive of attorneys' fees and costs of collection. Santander's claims are or were secured by mortgages and assignments of leases and rents on each of 165 Forest Street, 57 East Main Street and 1 Grant Street (collectively, the "Properties"). Paragraph 7 of each Final Order set February 26, 2016, as a deadline for any party in interest (other than a Chapter 7 Trustee) to challenge the amount, extent, priority or validity of Santander's claims and the liens securing those claims. No such challenges were timely made.

### **Amalgamated Bank**

In June 2009 Amalgamated Bank obtained an attachment against David Depietri and Robert Depietri, Jr. in the amount of \$39,894,023.92. Amalgamated recorded this attachment on the Forest Street property in 2009 and against the East Main property in 2013, despite the fact that neither David nor Robert held an equity interest in either entity and neither Main Street nor Forest Street were a defendant in the civil case. Amalgamated refused to release the liens against the properties

### **B. The Debtors' Management**

The Debtors' are managed by RMA Management, LLC whose principal is David Depietri. Both RMA Management, LLC and David Depietri are likely insiders, and any votes

they cast will not be included in determining whether any Class of Claims has voted in favor of the Plan.

### **C. Events Precipitating the Bankruptcy Case**

The Debtors were forced to file bankruptcy because Santander Bank, N.A. the creditor holding a first mortgage lien on the Property, had scheduled foreclosure sales for the Debtors' real property.

#### **4.2 The Debtors' Assets**

##### Howard Street

Howard Street's sole asset is the commercial real property located at 1 Grant Street (290 Howard Street), Framingham, Massachusetts. This property consists of approximately 60,000 square feet. From 2000 until July 2015 the Real Property was 100% occupied by Tetra Tech. There are currently no tenants in the Real Property and no rental income from the Real Property. Debtor currently has negotiated leases with three new tenants to rent the Real Property but additional buildout needs to be completed before commencement of the Leases.

##### East Main

East Main's sole asset was the commercial real property located at 57 East Main Street, Westborough, Massachusetts. This property consists of approximately 57,000 square feet. Debtor receives approximately \$66,401 in rental income from approximately twenty-three (23) different tenants. As discussed herein, 57 East Main Street was sold during this Chapter 11 case and the net proceeds of the sale were paid to Santander.

In addition to the Santander liens stated above, Rosewood Management Associates, LLC and affiliates held a \$15,000,000 second mortgage on 57 East Main Street.

##### Forest Street

Forest Street's sole asset is the commercial real property located at 165 Forest Street, Marlborough, Massachusetts, which generates monthly rental income of approximately \$33,029.45. This property consists of approximately 50,600 square feet. The Real Property has 4 rental units. South Middlesex Opportunity Council leases 12,650 square feet, Advanced Math and Science Academy ("AMSA") leases approximately 12,650 square feet, T-Mobile leases an antenna on the roof of the building, and two (2) units are currently vacant. Prior to the Petition Date, AMSA commenced a lawsuit (the "AMSA Lawsuit") in Middlesex Superior Court against Forest Street and certain affiliates alleging various breaches of the lease between AMSA and Forest Street. The AMSA Lawsuit involves disputes between AMSA and 201 Forest Street, LLC ("201 Forest"), an affiliate of Forest Street, respecting a separate lease between AMSA and 201 Forest. In the AMSA Lawsuit, Forest Street disputed that it breached its lease with AMSA in any way, and asserted counter-claims against AMSA for its breach of the lease. As a result of the automatic stay arising from Forest Street's bankruptcy filing, the AMSA Lawsuit is currently stayed. On May 6, 2016, AMSA filed a proof of claim asserting that it is owed approximately



\$99,000, that it holds a right of setoff of approximately \$78,000, resulting in an asserted net claim of approximately \$21,000.

In addition to the Santander and Amalgamated liens discussed above, in July 2015 Egenera Corp filed a \$559,573 execution against Forest Street as Egenera obtained a judgment against Forest Street for failure to refund Egenera's security deposit.

## V. SIGNIFICANT POST-PETITION EVENTS

### 5.1 General Information

With a public auction foreclosure sale from its lender, Santander Bank, NA scheduled, on November 18, 2015, on that same day, East Main and Forest Street filed their respective voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Massachusetts. On November 19, 2015, Howard Street filed its voluntary petition. The Debtors continues to operate as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

### 5.2 Chapter 11 Activity

Shortly after filing its Chapter 11 petition, the Debtors and Santander entered into Agreed Orders for use of cash collateral, which have been renewed throughout the case. In addition, on December 22, 2015 and with the consent of Santander, the Debtors filed an *Emergency Motion for Authorization to Loan Funds and Grant Replacement Lien*, which allowed East Main and Forest Street to loan funds to Howard Street in order to make certain necessary payments as approved by Santander. This Motion was allowed by the Bankruptcy Court on December 24, 2015. The foregoing provisions are incorporated in the Final Orders. The Debtors and Santander have continued to enter into further Agreed Orders throughout the pendency of the cases on the same terms and conditions as the original Motion and which incorporate the terms of the Final Orders.

On January 25, 2016 East Main filed a *Motion (A) to Authorize Debtor to Effectuate Asset Purchase Agreement; (B) To Authorize Sale of Real Estate by Private Sale Free and Clear of Liens, Claims and Interests; (C) to Authorize the Assumption and Assignment of Unexpired Leases; and (D) For Related Relief* in order to sell its real property located at 57 East Main Street, Westborough, Massachusetts. Pursuant to that motion, on March 23, 2016, the Court approved the sale of 57 East Main Street to Astero Management ("Astero") for \$5,450,000. The sale to Astero closed on May 9, 2016 and Santander was paid the net proceeds of the sale in the amount of \$5,211,565.12 shortly thereafter.

### 5.3 Proposed Plan

Debtors' plan contemplates the sale of the Debtors' respective real properties located at 1 Grant Street and 165 Forest Street as well as payment of all or a portion of the claims of certain creditors of 57 East Main Street. The proceeds from the sale of the Properties and funds contributed by third parties will be used to fund Debtors' Plan, as further described in the Plan.

### East Main

The Net Proceeds from the sale of 57 East Main Street were paid to Santander. Because of historical losses, East Main Street does not anticipate that it will pay any capital gains taxes on the sale of 57 East Main Street.

### Howard Street

A new entity (Howard Grant), to be formed by Robert Depietri, Sr., will purchase 1 Grant Street, free and clear of liens, claims and interests, for \$4,250,000.00 (the "Framingham Sale"). Robert Depietri, Sr. will be the sole owner of the equity interests in Howard Grant. None of the current borrowers or guarantors of the Debtors' obligations to Santander, or the current owners of equity interests in the Debtors, will own an interest in Howard Grant. Howard Street does not have prospective tenants ready to lease a material amount of the vacant space at 1 Grant Street. The closing of the Framingham Sale will occur within forty (40) days after the Effective Date and Santander shall receive the greater of \$4,000,000.00 or ninety-four percent (94%) of the gross sale proceeds of 1 Grant Street immediately following the closing of such sale. By way of example, if 1 Grant Street is sold for a purchase price of \$4,250,000.00, Santander must receive not less than \$4,000,000.00 (slightly more than 94% of the gross sale price) at the closing of the sale. In the event that the purchase price is increased to \$4,500,000.00 for any reason, Santander would be entitled to \$4,230,000.00 (94% of the gross sale proceeds) at the closing of the sale. The foregoing example applies only to the sale of 1 Grant Street to Howard Grant, and not to any auction sale under the Plan. In the event that the closing of the Framingham Sale does not occur within forty (40) days of the Effective Date of the Plan, the Framingham Property will be sold, free and clear of liens claims and interests, by auction, with the Net Proceeds of such auction to be paid to Santander. For the purposes of measuring such 40-day period, the Effective Date shall be the date that is fifteen days after the Confirmation Date. During the period prior to the sale of 1 Grant Street to Howard Grant, 1 Grant Street will be managed by RMA Management Associates in exchange for its existing management fee. Howard Street estimates that the Plan Fund of \$10,000 will be the only amount available to pay the holders of non-priority unsecured claims. The holders of Priority Claims and real estate tax claims will be paid in full. Because of historical losses, Grant Street does not anticipate that it will pay any capital gains taxes on the sale of 1 Grant Street.

### Forest Street

A new entity (Forest 495), to be formed by Robert Depietri, Sr., will purchase 165 Forest Street, free and clear of liens, claims and interests, for \$3,600,000.00 (the "Forest Street Sale"). Robert Depietri, Sr. will be the sole owner of the equity interests in Forest 495. None of the current borrowers or guarantors of the Debtors' obligations to Santander, or the current owners of equity interests in the Debtors, will own an interest in Forest 495. The closing of the Forest Street Sale will occur within eighty (80) days of the Effective Date and Santander shall receive the greater of \$3,500,000.00 or ninety-four percent (97%) of the gross sale proceeds of 165 Forest Street immediately following the closing of such sale. By way of example, if 165 Forest Street is sold for a purchase price of \$3,600,000.00, Santander must receive not less than \$3,500,000.00 (slightly more than 97% of the gross sale price) at the closing of the sale. In the event that the purchase price of 165 Forest Street is increased to \$3,700,000.00 for any reason,

Santander would be entitled to \$3,589,000.00 (97% of the gross sale proceeds) at the closing of the sale. The foregoing example applies only to the sale of 165 Forest Street to 495 Forest, and not to any auction sale under the Plan. Under the Plan, Forest Street's lease with AMSA will be assumed. In the event that the closing of the Forest Street Sale does not occur within eighty (80) days of the confirmation of the Plan, the Forest Street property will be sold, free and clear of liens claims and interests, by auction, with the Net Proceeds of such auction to be paid to Santander. For the purposes of measuring such 80-day period, the Effective Date shall be the date that is fifteen days after the Confirmation Date. During the period prior to the sale of 165 Forest Street to Forest 495, 165 Forest Street will be managed by RMA Management Associates in exchange for its existing management fee. Forest Street estimates that the Plan Fund of \$10,000 will be the only amount available to pay the holders of non-priority unsecured claims. The holders of Priority Claims and real estate tax claims will be paid in full. Because of historical losses, Forest Street does not anticipate that it will pay any capital gains taxes on the sale of 165 Forest Street.

## VI. DESCRIPTION OF THE PLAN

The following is a summary of the significant provisions of the Plan and is qualified in its entirety by the provisions of the Plan, a copy of which accompanies this Disclosure Statement. In the event and to the extent that the description of the Plan contained in this Disclosure Statement is inconsistent with any provisions of the Plan, the provisions of the Plan shall control and take precedence. All creditors are urged to carefully read the Plan.

### 6.1 Unclassified Claims.<sup>1</sup>

As provided in Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims are not classified for the purposes of voting on, or receiving distributions under, the Plan. All such Claims are instead treated separately in accordance with the terms set forth in Article II of the Plan.

#### A. Administrative Expense Claims.

The Debtors are liable for all post-petition administrative claims that accrue prior to Plan confirmation. Exclusive of Professional Fees, the Debtors estimate that there will be minimal. For the period from the Petition Date through the date of this Disclosure Statement, the Debtor utilized its cash from operations to pay all administrative claims as those claims arose.

Under the Plan, Administrative Expense Claims are treated as follows:

(1) General. Except for Professional Fee Claims and except as otherwise agreed to by the Debtors and the holder of an Allowed Administrative Expense Claim, each such holder shall be paid in full in Cash on the earlier of: (i) the date such Allowed Administrative Expense Claim becomes due in accordance with its terms; and (ii) the Effective Date. If the Debtors dispute any portion of an Administrative Expense Claim, the Debtors shall pay the Allowed

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<sup>1</sup> Any description in this section of the Disclosure Statement of any claim against the Debtor does not constitute an admission that the claim is an Allowed Claim or that the Debtor agrees with the amount of the claim. The Debtor reserves all of its rights, claims and defenses with respect to any and all claims.

amount of such Administrative Expense Claim within five (5) days after the entry of a Non-Appealable Order with respect to the allowance of such disputed Administrative Expense Claim.

(2) U.S. Trustee's Fees. The outstanding fees due to the United States Trustee pursuant to 11 U.S.C. § 1930 shall be paid in full on or before the Effective Date.

(3) Professional Compensation and Expense Reimbursement Claims.

(a) Within thirty (30) days after the Effective Date, each Professional shall file a final application for the allowance of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date. Any such application granted by the Bankruptcy Court shall be paid: (1) within fifteen days of the entry of the order of the Bankruptcy Court approving such application, unless a stay of the order approving the application is obtained; or (2) upon such other terms as may be mutually agreed upon between the Professional and the Debtors or Reorganized Debtors.

(ii) All fees and expenses of Professionals for services rendered after the Effective Date shall be paid by the Reorganized Debtors upon receipt of reasonably detailed invoices in such amounts and on such terms as such Professional and the Reorganized Debtors may agree. No further order or authorization from the Bankruptcy Court shall be necessary to permit the Reorganized Debtors to pay the fees and expenses of Professionals for services rendered after the Effective Date.

#### **B. Priority Tax Claims.**

At the sole election of the Debtors, each holder of an Allowed Priority Tax Claim against each such Debtor, if any, shall be paid either: (a) upon such terms as may be agreed to between the Debtors and the holder of an Allowed Priority Tax Claim; (b) in full in Cash on the later of the Effective Date or the date that such Allowed Priority Tax Claim would have been due if the Bankruptcy Cases had not been commenced; or (c) in installment payments of Cash commencing on the Effective Date and (i) of a total value as of the Effective Date equal to the Allowed amount of such Claim, (ii) over a period ending not later than five (5) years from the Petition Date, and (iii) in a manner not less favorable than the most favored General Unsecured Claim under the Plan (other than the manner provided to the holders of Convenience Class Claims).

#### **6.2 Classification.**

The Claims against and Equity Interests in the Debtors are categorized below for all purposes under the Plan including voting, confirmation and distribution pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Equity Interest falls within the description of such other Classes. A Claim is placed in

a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date. For Classes 1, 2, 3, 4, and 5, the claims and Equity Interests with respect to each Debtor are separately classified in their own distinct sub-classes, sub-class A for Howard Street, sub-class B for Forest Street, and sub-class C for East Main. Nothing in the Plan is intended to effectuate a substantive consolidation of the Debtors or their Estates.

**6.2.1 Class 1A - 1C – Santander Secured Claims.**

- (a) Classification. Classes 1A through 1C consist of the Allowed Santander Secured Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. The Allowed Santander Secured Claim is impaired under the Plan. The holder of the Allowed Santander Secured Claim shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full and complete satisfaction, settlement, discharge and release of the Allowed Santander Secured Claim, the holder of the Allowed Santander Secured Claim shall receive:
  - (i) With respect to East Main, the 57 East Main Net Proceeds which sum, in the amount of \$5,211,565.12, has already been paid to Santander and all Sale Costs relating to such sale have been paid or reserved for; and
  - (ii) With respect to Howard Street: (1) from the sale of 1 Grant Street to Howard Grant, as provided in Section 5.2(a) of the Plan, not less than the greater of \$4,000,000.00 or ninety-four percent (94%) of the gross sale proceeds; or (2) the Net Proceeds of the auction sale of 1 Grant Street as provided in Section 5.2(a) and (e) of the Plan; or (3) relief from the automatic stay as provided in Section 5.3 of the Plan; or (4) such other treatment as may be agreed to in writing between Howard Street and the holder of the Santander Allowed Secured Claims; and
  - (iii) With respect to Forest Street: (1) from the sale of 165 Forest Street to Forest 495, as provided in Section 5.2(b) of the Plan, not less than the greater of \$3,500,000.00 or ninety-seven percent (97%) of the gross sale proceeds; or (2) the Net Proceeds of the auction sale of 165 Forest Street as provided in Section 5.2(b) and (e) of the Plan; or (3) relief from the automatic stay as provided in Section 5.3 of the Plan; or (4) such other treatment as may be agreed to in writing between Forest Street and the holder of the Santander Allowed Secured Claims.
- (d) Liens. The Liens held by the holder of the Allowed Santander Secured Claim shall be treated as follows.

- (i) Retention of Liens. The Liens held by Santander on Santander's Collateral shall be retained by the holder of the Santander Allowed Secured Claims to secure the payment of the Santander Allowed Secured Claims until the Santander Allowed Secured Claims with respect to such Collateral have been paid in full.
- (ii) Release of Liens. With respect to a sale of Santander's Collateral to Howard Grant and/or Forest 495 under the Plan, the Liens on Santander's Collateral shall only be discharged and released as follows:
  - (1) Notice of Closing. The Debtors shall provide the holder of the Santander Allowed Secured Claim with at least six (6) Business Days' notice of the scheduled closing of a sale of 1 Grant Street to Howard Grant and/or 165 Forest Street to Forest 495 under the Plan and such notice shall identify the Liens and instruments held by Santander for which a release or discharge is sought in connection with such closing. Additionally, the Debtors shall keep Santander informed of the status of the closing of such sales and shall provide Santander with a proposed settlement statement for the closing of any such sale not less than three (3) Business Days prior to the closing date of such sale. All proposed Sale Costs shall be shown on such statement and in the event of a dispute with respect to the proposed Sale Costs, the disputed amount of such Sale Costs shall be held by Debtor's counsel pending a further order of the Bankruptcy Court; provided that, the Debtors shall be permitted to pay a disputed Sale Cost that is necessary to release a Lien required to permit the closing of the property in question. Any amounts remaining in such a reserve after the payment of allowed Sale Costs shall be paid as directed by the Bankruptcy Court.
  - (2) Delivery of Discharge. At least two (2) Business Days prior to the scheduled closing of a sale of Santander's Collateral, the holder of the Santander Allowed Secured Claim shall deliver to the closing attorney for such sale a discharge and release of its Liens on the Collateral to be sold.
  - (3) Payment/Recording of Discharge. Within one (1) Business Day after the closing of a sale of Santander's Collateral, the Reorganized Debtors shall deliver to the holder of the Santander Allowed Secured Claims, in immediately available funds, the amounts required to be paid to Santander under the Plan, as provided in Section 4.1(c)(ii)

(1) or (2) of the Plan in the event of a sale of 1 Grant Street, and 4.1(c)(iii)(1) or (2) of the Plan in the event of a sale of 165 Forest Street. Upon the delivery of such amounts to the holder of the Santander Allowed Secured Claim, Santander's Lien on the Collateral sold shall be deemed discharged and released, and the closing attorney shall cause the discharge and release of the Lien on the Collateral sold to be recorded.

- (e) Santander Loan Documents and Rights Thereunder. As of the Effective Date, the Santander Loan Documents shall be deemed amended and restated, without further action, as necessary to reflect and incorporate the terms of the Plan. To the extent that there is any inconsistency between the Plan and any of the Santander Loan Documents, the terms of the Plan shall control. Except as expressly modified by the Plan, the Santander Loan Documents including, without limitation, any guarantees or other documents obligating Persons other than the Debtors shall remain in full force and effect following the Effective Date of the Plan. Without limiting the generality of the foregoing, all "Events of Default" and "Defaults," as defined in the Santander Loan Documents, shall remain in full force and effect following the Confirmation Date, except that the Debtor's obligations to make payments to Santander shall be governed by this Section 4.1 of the Plan. The Santander Allowed Claim shall remain fully due and owing and Santander shall retain all of its rights and remedies including, without limitation, its rights to foreclose upon any of its Collateral following the Confirmation Date subject to Howard Street's and Forest Street's rights to sell, during the limited time periods set forth in Sections 4.1 and 5 of the Plan, respectively, 1 Grant Street and 165 Forest Street and to apply the sale proceeds in reduction of the Santander Allowed Claim.
- (f) Post-Confirmation Date Reorganized Debtor Obligations. Following the Confirmation Date, the Reorganized Debtors, Howard Street and Forest Street shall, with respect to any period of time during which they continue to own and remain in possession of 1 Grant Street and/or 165 Forest Street, continue to deliver to Santander, on or before the fifteenth day of each month, a monthly payment and budget reconciliation with respect to the immediately preceding month upon the same terms and conditions as are provided in Section 3(b) of the Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing entered in each of said Debtors' respective Bankruptcy Cases, and Howard Street's and/or Forest Street's failure to comply with such payments and reporting shall constitute a default of the Plan entitling Santander to automatically be granted relief from the automatic stay with respect to foreclosing its mortgages on 165 Forest Street and 1 Grant Street. Prior to the Confirmation Date, Howard Street shall provide Santander with a budget for anticipated cash receipts and expenditures for

1 Grant Street for the four-month period following the Confirmation Date. Prior to the Confirmation Date, Forest Street shall provide Santander with a budget for anticipated cash receipts and expenditures for 165 Forest Street for the six-month period following the Confirmation Date. Such budgets shall be acceptable to Santander in its reasonable discretion.

**6.2.2 Class 2A - 2C – Secured Real Estate Tax Claims.**

- (a) Classification. Classes 2A through 2C consist of the Allowed Secured Real Estate Tax Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. The Allowed Secured Real Estate Tax Claims are impaired under the Plan. Each holder of an Allowed Secured Real Estate Tax Claims shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full and complete satisfaction, settlement, discharge and release of the Allowed Secured Real Estate Tax Claims, the holders of the Allowed Secured Real Estate Tax Claim shall receive, at the sole option of the respective Debtor and Acquirer, one of the following:
  - (i) Payment in cash, from the proceeds the sale of the property subject to the Allowed Secured Real Estate Tax Claim, of a total value, as of the Effective Date of the Plan, equal to the Allowed amount of the Secured Real Estate Tax Claim;
  - (ii) Installment payments in cash, paid by the Acquirer, over a period ending not later than five (5) years after the Petition Date; or
  - (iii) Installment payments in cash, paid by the Acquirer, in a manner not less favorable than the most favored non-priority unsecured claim provided for by the Plan, other than payments to the Class 4 Claims.
- (d) Liens. The Liens held by the holder of an Allowed Secured Real Estate Tax Claim shall be treated as follows.
  - (i) Retention of Liens. Any Liens held by the holder of an Allowed Secured Real Estate Tax Claim shall be retained by the holder of the Allowed Secured Real Estate Tax Claim to secure the payment of the Allowed Secured Real Estate Tax Claim pursuant to the Plan.
  - (ii) Discharge of Liens. Upon the payment in full of any Allowed Secured Real Estate Tax Claim: (1) all Liens securing such Allowed Secured Real Estate Tax Claim shall be deemed canceled, discharged and released, and (2) the holder of such Allowed Secured Real Estate Tax Claim shall, at the request of the



Reorganized Debtors, deliver to the Reorganized Debtors, within one (1) Business Day of the payment in full of such Allowed Secured Real Estate Tax Claim, all UCC terminations, mortgage discharges and any other documents necessary to effect the discharge and release of the Liens securing such Allowed Secured Real Estate Tax Claim.

- (e) Indubitable Equivalent. The holder of any Allowed Secured Real Estate Tax Claim shall receive such additional or other treatment as may be necessary, as determined by the Bankruptcy Court or agreed to between the Debtors and the holder of the Allowed Secured Real Estate Tax Claim, to permit the holder of the Allowed Secured Real Estate Tax Claim to realize the indubitable equivalent of its Allowed Claim.

### **6.2.3 Class 3A – 3C – General Unsecured Claims.**

- (a) Classification. Classes 3A through 3C consist of the Allowed General Unsecured Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. Class 3 is impaired under the Plan. Each holder of a General Unsecured Claim shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full and complete satisfaction, settlement, release and discharge, each holder of an Allowed General Unsecured Claim shall receive, commencing upon the later to occur of the Effective Date or the date such Claim becomes an Allowed Claim, one of the following: (a) a Pro Rata share of the Plan Fund; or (b) treatment as agreed between the Debtors or the Reorganized Debtors and the holder of the Allowed General Unsecured Claim.
- (d) Claims of Insiders. No Insiders of the Debtors shall receive any distributions on account of their Allowed Claims until the Allowed Claims of all non-Insider creditors have been paid in full.

### **6.2.4 Class 4A - 4C – Equity Interests.**

- (a) Classification. Classes 4A through 4C consist of the Allowed Equity Interests in Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. Class 4 is impaired under the Plan and shall be entitled to vote to accept or reject the Plan.
- (c) Treatment. On the Effective Date, the Equity Interests the Debtors shall be cancelled.

### **6.3 Reservation of Rights With Respect to Claims.**

The Debtor reserves the right to, among other things, (a) contest the right of the holder of any Claim to vote on the Plan, or designate the vote of the holder of any Claim (b) contest the right of the holder of any Claim to receive distributions under the Plan, and (c) seek to subordinate any Claim for inequitable conduct or otherwise.

### **6.4 Plan Implementation.**

The Plan will be funded from the sale of the Debtors' Property and from contributions from the Acquirers.

### **6.5 Sales of Property.**

(a) Sale of 1 Grant Street. Confirmation of the Plan shall constitute authority for Howard Street to sell 1 Grant Street to Howard Grant, and to assume and assign to Howard Grant its unexpired leases pursuant to Section 5.2(c) of the Plan, on the following terms: (i) the purchase price shall be \$4,250,000.00, (ii) the closing of the sale to Howard Grant shall occur on or before the Grant Sale Deadline, (iii) the sale of 1 Grant Street shall be free and clear of all Liens, Claims and interests, including, without limitation, any rights of possession arising from terminated or rejected leases, if any, (iv) all Liens, Claims and interests shall attach to the proceeds of the sale of 1 Grant Street to the same extent, priority and validity as existed on the Petition Date, (v) Howard Street shall distribute the proceeds of such sale in accordance with the terms of the Plan including, without limitation, the amount due to Santander pursuant to Section 4.1(c)(ii)(1) of the Plan, and (vi) the sale of 1 Grant Street shall be entitled to the protection of Section 12.2 of the Plan. Howard Street and Howard Grant shall use their best efforts to close the sale of 1 Grant Street. In the event that the closing of the sale of 1 Grant Street to Howard Grant does not occur on or before the Grant Sale Deadline, Howard Street shall schedule a public auction of 1 Grant Street pursuant to Section 5.2(e) of the Plan. Santander shall have no responsibility for the payment of any Sale Costs or Cure Claims. Howard Street hereby represents that it is currently not a party to any letter of intent or other oral or written agreement with any potential tenant of 1 Grant Street other than CMC Consulting Boston, Inc. and South Bay Mental Health Center, Inc.

The Debtors believe that a purchase price of approximately \$4,250,000 represents fair value for 1 Grant Street. This purchase price is \$250,000 more than the amount originally proposed to be paid for the property. Moreover, there is currently a surplus of vacant commercial office space in Framingham, with approximately 800,000 square feet of commercial office space for lease. The property located at 1 Clark's Hill Road in Framingham, which is comparable in size to 1 Grant Street, is currently scheduled for a foreclosure sale on July 7, 2016.

(b) Sale of 165 Forest Street. Confirmation of the Plan shall constitute authority for Forest Street to sell 165 Forest Street to Forest 495, and to assume and assign to Forest 495 its unexpired leases pursuant to Section 5.2(c) of the Plan, on the following terms: (i) the purchase price shall be \$3,600,000.00, (ii) the closing of the sale to Forest 495 shall occur on or before the Forest Sale Deadline, (iii) the sale of 165 Forest Street shall be free and clear of all Liens, Claims

and interests, including, without limitation, any rights of possession arising from terminated or rejected leases, if any, (iv) all Liens, Claims and interests shall attach to the proceeds of the sale of 165 Forest Street to the same extent, priority and validity as existed on the Petition Date, (v) Forest Street shall distribute the proceeds of such sale in accordance with the terms of the Plan including, without limitation, the amount due to Santander pursuant to Section 4.1(c)(iii)(1) of the Plan, and (vi) the sale of 165 Forest Street shall be entitled to the protection of Section 12.2 of the Plan. Forest Street and Forest 495 shall use their best efforts to close the sale of 165 Forest Street. In the event that the closing of the sale of 165 Forest Street to Forest 495 does not occur on or before the Forest Sale Deadline, Forest Street shall schedule a public auction of Forest Street pursuant to Section 5.2(e) of the Plan. Santander shall have no responsibility for the payment of any Sale Costs or Cure Claims.

The Debtors believe that a purchase price of approximately \$3,600,000 represents fair value for 165 Forest Street. This purchase price is \$100,000 more than the amount originally proposed to be paid for the property, and represents a value of approximately \$72 per square foot for 165 Forest Street. On May 4, 2016, the commercial office building located at 67 Forest Street, Marlborough, Massachusetts (“67 Forest Street”) sold at auction for a price of approximately \$68 per square foot. While 165 Forest Street and 67 Forest Street are comparable in size, 67 Forest Street was approximately eighty percent (80%) leased, compared to fifty percent (50%) leased for 165 Forest Street, and the tenants at 67 Forest Street are paying higher rents than those at 165 Forest Street. The property located at 67 Forest Street, accordingly, is, if anything, a more valuable property than 165 Forest Street. The Debtors therefore believe that a purchase price for 165 Forest Street of approximately \$72 per square foot represents fair value.

(c) Assumption of Unexpired Leases. Upon the Effective Date, Howard Street and Forest Street shall assume all of their respective unexpired leases and assign all such unexpired leases to Howard Grant and Forest 495, respectively, other than those unexpired leases that: (i) have been rejected by an order of the Bankruptcy Court entered prior to the Confirmation Date; and/or (ii) are the subject of a motion to reject which is pending at the time of the Confirmation Date. Any Cure Claim associated with such assumption and assignment shall be paid by Howard Grant or Forest 495, as applicable. The assumption and assignment of East Main’s executory contracts and unexpired leases shall be governed by the order of the Bankruptcy Court approving the sale of 57 East Main.

(d) Rejection of Executory Contracts. The Debtors shall, upon the Effective Date, reject all of their respective executory contracts other than those that: (1) have been assumed by an order of the Bankruptcy Court entered prior to the Confirmation Date; (2) are the subject of a motion to assume which is pending at the time of the Confirmation Date; and/or (3) have expired by their own terms on or prior to the Confirmation Date.

(e) Auction Terms. Any auction of 1 Grant Street or 165 Forest Street shall be on the following terms: (i) the auction sale shall be free and clear of all Liens, Claims and interests, (ii) all Liens, Claims and interests shall attach to the proceeds of the auction sale to the same extent, priority and validity as existed on the Petition Date, (iii) the auction sale shall be entitled to the protection of Section 12.2 of the Plan, (iv) Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any auction sale and no auction sale shall be deemed

final or complete in the absence Santander's acceptance, in its sole discretion, of the highest bid made at said auction, (v) the auction sale shall take place within forty-five (45) days after the Grant Sale Deadline and/or the Forest Sale Deadline, as applicable, (vi) the auction sale shall be conducted by Sullivan & Sullivan Auctioneers, LLC, (vi) the auction sale shall be marketed and advertised in accordance with usual commercial practices and on such terms and conditions as are acceptable to Santander, in its reasonable discretion, and (vii) Howard Street and/or Forest Street, as applicable, shall distribute the Net Proceeds of any completed auction sale in accordance with the terms of the Plan. In the event of any auction sale of 1 Grant Street or 165 Forest Street, Santander and/or its counsel shall be authorized to communicate directly with the auctioneer for the purposes of discussing all matters involving the sale including, without limitation, the extent of bidder interest and the terms and conditions of the sale. Santander shall have no responsibility for the payment of any Sale Costs or Cure Claims resulting from such sale; provided that the Sale Costs and/or Cure Claims may be paid from the gross proceeds of such sales.

(f) Relief from Stay.

(1) In the event that: (i) the closing of the sale of 1 Grant Street to Howard Grant does not occur on or before the Grant Sale Deadline or Santander does not receive the payment required under Section 4.1(c)(ii)(1) of the Plan within one Business Day after the Grant Sale Deadline, and (ii) 1 Grant Street is not sold at auction as provided for in Section 5.2(e) of the Plan within forty-five (45) days after the Grant Sale Deadline or such auction sale does not close and Santander does not receive the payment required under Section 4.1(c)(ii)(2) of the Plan within twenty (20) days after the date of such auction sale, then Santander shall be deemed to have been granted immediate and automatic relief from the automatic stay, if any, and/or from any Plan injunction and/or from any other order or stay and Santander shall be authorized to conduct and complete a foreclosure sale of 1 Grant Street and to apply the sale proceeds in full or partial satisfaction, as the case may be, of the Santander Allowed Claim. Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any foreclosure sale of 1 Grant Street.

(2) In the event that: (i) the closing of the sale of 165 Forest Street to Forest 495 does not occur on or before the Forest Sale Deadline or Santander does not receive the payment required under Section 4.1(c)(iii)(1) of the Plan within one Business Day after the Forest Sale Deadline, and (ii) 165 Forest Street is not sold at auction as provided for in Section 5.2(e) of the Plan within forty-five (45) days after the Forest Sale Deadline or such auction sale does not close and Santander does not receive the payment required under Section 4.1(c)(iii)(2) of the Plan within twenty (20) days after the date of such auction sale, then Santander shall be deemed to have been granted immediate and automatic relief from the automatic stay, if any, and/or from any Plan injunction and/or from any other order or stay and Santander shall be authorized to conduct and complete a foreclosure sale of 165 Forest Street and to apply the sale proceeds in full or partial satisfaction, as the case may be, of the Santander Allowed Claim. Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any foreclosure sale of 165 Forest Street.

(3) In the event Santander is granted the relief set forth in Section 5.3(a) or (b) of the Plan, the Debtors shall not take any action to hinder or delay the foreclosure sale(s) contemplated in such Plan Sections including, without limitation, the filing of any further proceeding under Title 11 of the United States Code.

(g) Subsequent Sale of Property.

In the event that 1 Grant Street and/or 165 Forest Street is sold or transferred within three (3) years after the acquisition of such properties under the Plan, Santander shall be paid, at the closing of such sale, the Resale Assessment with respect to the property sold or transferred. In the event that all or a portion of the membership interests in Howard Grant and/or Forest 495 are sold or transferred within three (3) years after the acquisition of 1 Grant Street or 165 Forest Street, as applicable, under the Plan, Santander shall be paid, at the closing of such sale, the Resale Assessment with respect to the membership interests sold or transferred. The obligation to pay the Resale Assessment pursuant to the Plan, shall be binding upon the heirs, successors and assigns of each of Howard Grant, Forest 495 and Robert Depietri, Sr., the initial sole member of Howard Grant and Forest 495.

(h) No Release of Guarantors.

Nothing in the Plan or in the Confirmation Order shall release or in any way affect any claims by Santander against any third party guarantors or co-obligors (other than the Debtors themselves) of the Debtors' obligations to Santander.

**6.6 Corporate Action.**

All matters provided for in the Plan involving any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan shall be deemed to have occurred, and shall be in effect, without any requirement of further action by the Reorganized Debtors, its agents, representatives, members, managers, officers, directors or Affiliates.

**6.7 Organization Documents and Good Standing.**

As of the Effective Date, the Debtors' respective Organization Documents shall be amended as necessary to effectuate the terms of the Plan and shall become the Organization Documents of the Reorganized Debtors. To the extent that there is any inconsistency between the Plan and any of the Organization Documents, the terms of the Plan shall control. To the extent any of the Debtors is not in compliance as of the Effective Date with any state or local law requirements necessary to remain as an organized legal entity in good standing and/or remain authorized as an organized legal entity to conduct business in any jurisdiction, the Debtors and/or the Reorganized Debtors, as the case may be, shall be deemed to be in compliance with any such laws if they comply with such laws within six months after the Effective Date.

**6.8 Vesting of Property.**

Except as otherwise provided in the Plan, each of the Reorganized Debtors, as of the Effective Date, shall be vested with all of the assets of each respective Debtor, subject to the Liens of Santander as provided in the Plan.

#### **6.9 Preservation of Causes of Action.**

Except as provided in, and unless expressly waived, relinquished, exculpated, released, compromised or settled in the Plan, the Confirmation Order, the *Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* entered in the Bankruptcy Case of each Debtor, any Non-Appealable Order, or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, the Reorganized Debtors will exclusively retain and may enforce, and the Debtors expressly reserve and preserve for these purposes, in accordance with sections 1123(a)(5)(A) of the Bankruptcy Code, any Claims, demands, rights and Causes of Action that the Debtors or their respective Estates may hold against any person or entity. No preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to them by virtue of or in connection with the confirmation or consummation of the Plan.

#### **6.10 Debtors' Continued Existence.**

Following the Effective Date, the Reorganized Debtors shall remain in existence for the purpose of effectuating the Plan, including: (a) selling 1 Grant Street and 165 Forest Street, (b) distributing the Net Proceeds of the sales of 1 Grant Street, 165 Forest Street and 57 East Main Street in accordance with the Plan, (c) reviewing and objecting to Claims against the Debtors, (d) distributing the Plan Fund, and (e) conducting an orderly wind down of the Reorganized Debtors' business and affairs. Upon the Effective Date, the Reorganized Debtors shall each be vested with the standing of and with all rights, powers and benefits afforded to a "trustee" under the Bankruptcy Code. Upon the completion of administration of the Plan, the Reorganized Debtors shall be dissolved.

#### **6.11 Default.**

No event of default under the Plan shall occur unless, in the event of a breach of the Debtors' or the Reorganized Debtors' obligations under the Plan, the holder of the Allowed Claim asserting the default shall provide written notice of such breach to the Reorganized Debtors and such breach is not cured: (i) in the event of a breach that can be cured by the payment of a sum of money, within ten (10) days of the Reorganized Debtors' receipt of such notice; and (ii) for any other breach, within thirty (30) days of the Reorganized Debtors' receipt of such notice, provided that, if such non-monetary breach cannot reasonably be cured within such 30-day period and the Reorganized Debtors have commenced curing such breach and continue to cure such breach, the thirty (30) day period shall be extended for such time as is reasonably necessary to cure such breach. The provisions of this Section 6.11 shall not be applicable with respect to any breach of the Debtors' or the Reorganized Debtors' obligations under the Plan to Santander or with respect to Santander's Collateral except that the Reorganized Debtors shall have ten (10) days from receipt of notice of any breach of their obligations to Santander under 4.1(f) of the Plan to cure such breach.

### **6.12 Compromises.**

After the Effective Date and except as otherwise provided in the Plan, the Reorganized Debtors are authorized, without further Bankruptcy Court order or notice to creditors and/or parties in interest, to compromise, settle and/or otherwise dispose of any disputed Claims and/or Causes of Action provided that the amount in controversy is \$25,000 or less. If the amount in controversy is greater than \$25,000, then the Reorganized Debtors must seek Bankruptcy Court approval.

### **6.13 Retention of Professionals.**

The Reorganized Debtors may retain such attorneys (including special counsel), accountants, advisors, expert witnesses, and other professionals as it considers advisable without necessity of approval of the Court. Persons who served as Professionals to the Debtors prior to the Effective Date may provide services to the Reorganized Debtors. The fees and expenses of the Reorganized Debtors and professionals retained by it shall be paid by the Debtor in the ordinary course of business without the need for the approval of the Bankruptcy Court.

### **6.13 Final Decree.**

It shall be the exclusive duty of the Reorganized Debtors to prepare and file a motion requesting that the Court enter a Final Decree in the Bankruptcy Case.

### **6.14 Assumption of Executory Contracts and Unexpired Leases.**

The Debtors shall assume or reject executory contracts and unexpired leases as set forth in Sections 5.2(c) and (d) of the Plan. The entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumption and assignment or rejection of such executory contracts and unexpired leases. Upon the Effective Date: (i) the Assumed Leases shall be deemed valid, binding and in full force and effect in accordance with their terms; (ii) the applicable Acquirer shall succeed to the entirety of the applicable Debtor's rights and obligations in the Assumed Lease first arising and attributable to the time period occurring on or after the Effective Date; (iii) all defaults (monetary and non-monetary) under the Assumed Leases through the Effective Date shall be deemed cured and satisfied through the payment of the applicable Allowed Cure Claim, if any, for such Assumed Lease; (iv) no other amounts will be owed by the Debtors, their Estates or the Acquirers with respect to amounts first arising or accruing during, or attributable or related to, the period before the Effective Date with respect to the Assumed Leases, (v) any and all persons or entities shall be forever barred and estopped from asserting a Claim against the Debtors, their Estates, and/or the Acquirers under, arising from or related to the Assumed Leases that arose or accrued, or relate to or are attributable to the period before the Effective Date; and (vi) any provision of the Assumed Leases or applicable non-bankruptcy law that purport to prohibit, restrict, or condition, or could be construed as prohibiting, restricting, or conditioning assignment of any of the Assumed Leases shall be

deemed to have been satisfied or otherwise unenforceable under Section 365 of the Bankruptcy Code.

#### **6.15 Payments Related to the Assumption of Executory Contracts and Unexpired Leases.**

**A. Payment of Claims Arising from Assumed Contracts and Leases.** Any Allowed Claims arising from the assumption of an executory contract or unexpired lease will receive, in full and complete satisfaction, settlement, release and discharge of such Claims and at the election of the Acquirers, either: (i) payment in the ordinary course of business as and when such Allowed Claims become due pursuant to such executory contract or unexpired lease, or (ii) payment as agreed between the applicable Acquirer and the counter-party to the assumed contract or lease.

**B. Disputed Claims and Bar Date.** If there is a dispute regarding (i) the amount of any claim arising from the assumption or rejection of an executory contract or unexpired lease, (ii) the ability of the applicable assignee to provide “adequate assurance of future performance,” within the meaning of Section 365 of the Bankruptcy Code, under a contract or lease to be assumed, or (iii) any other matter pertaining to the assumption or assumption and assignment of any contract or lease, the payment of any Claim related to the foregoing will be made following entry of a Non-Appealable Order resolving the dispute and approving the assumption.

#### **6.16 Rejection Damage Claims.**

If the rejection of an executory contract or unexpired lease by the Debtor results in a Claim by the other party or parties to such contract or lease, any claim for damages, if not previously evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against the Estate, the Reorganized Debtors and their respective properties, agents, successors, or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel for the Debtors on or before thirty (30) days following the later to occur of: (a) the rejection of such executory contract or unexpired lease, and (b) the Confirmation Date. Unless otherwise ordered by the Bankruptcy Court or provided in the Plan, all such Claims for which proofs of claim are timely filed will be treated as General Unsecured Claims subject to the provisions of the Plan. The Reorganized Debtors shall have the right to object to any such Claim for rejection damages in accordance with the Plan.

#### **6.17 Satisfaction of Claims.**

Except as otherwise provided in the Plan or in an agreement by the Debtors that has been approved by the Bankruptcy Court, the distributions made pursuant to and in accordance with the applicable terms and conditions of the Plan are in full and final satisfaction, settlement and release as against the Debtors and the Reorganized Debtors of any debt or obligation of the Debtors that arose before the Effective Date, and any debt of the Debtors of a kind specified in Section 502(g), 502(h), or 502(i) of the Bankruptcy Code, and all Claims against the Debtors or its Estate of any nature, including, without limitation, any interest accrued thereon from and after the Petition Date, whether or not (i) a proof of claim based on such debt, obligation or Equity Interest is filed or deemed filed under Section 501 of the Bankruptcy Code, (ii) such Claim is



Allowed under Section 502 of the Bankruptcy Code, or (iii) the holder of such Claim has accepted the Plan. This Section 6.17 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander.

#### **6.18 Injunction Relating to the Plan.**

As of the Effective Date, all Persons are hereby permanently enjoined from commencing, continuing or enforcing in any manner or in any place, any action or other proceeding, whether directly, indirectly, derivatively or otherwise against the Debtors, their Estate or the Reorganized Debtors, on account of, or respecting any Claims, debts, rights, obligations, Causes of Action or liabilities discharged pursuant to the Plan, except to the extent expressly permitted under the Plan. This Section 6.18 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander in the event that Santander is granted relief from the automatic stay under the Plan.

#### **6.19 Releases.**

Except as otherwise set forth in the Plan, as of the Effective Date, in consideration for, among other things, the obligations of the Debtors under the Plan and other contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, (a) each holder of a Claim or Interest that votes in favor of the Plan and (b) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, each Person that has held, holds or may hold a Claim or Equity Interest or any time was a creditor or equity holder of any of the Debtor and that does not vote on the Plan or votes against the Plan, in each case will be deemed to forever release, waive and discharge all claims (including any derivative claims), obligations, suits, judgments, damages, demands, rights, causes of action and liabilities (other than the right to enforce the Reorganized Debtors' obligations under the Plan and the contracts, instruments, releases, agreements and documents delivered under the Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction or other occurrence taking place on or prior to the Effective Date in any way relating to a Debtors, the Bankruptcy Cases or the Plan that such entity has, had or may have against any of the Debtors, the Estate, the Estates' Assets, the Reorganized Debtors and/or the Reorganized Debtors' Assets. This Section 6.19 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander.

#### **6.20 Cancellation of Existing Indebtedness and Liens.**

Except as may otherwise be provided in the Plan, on the Effective Date: (a) all credit agreements, promissory notes, mortgages, security agreements, invoices, contracts, agreements and any other documents or instruments evidencing Claims against the Debtors, together with any and all Liens securing same, shall be canceled, discharged and released without further act or action by any Person under any applicable agreement, law, regulation, order or rule, (b) the obligations of the Debtors thereunder shall be deemed canceled, discharged and released, and (c) all of the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests, including any rights to any collateral thereunder, will revert to the Reorganized

Debtors. To the extent deemed necessary or advisable by the Reorganized Debtors, any holder of a Claim shall promptly provide the Reorganized Debtors with an appropriate instrument of cancellation, discharge or release, as the case may be, in suitable form for recording wherever necessary to evidence such cancellation, discharge or release, including the cancellation, discharge or release of any Lien securing such Claim. This Section 6.20 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander.

### **6.21 Exculpation.**

Except as otherwise set forth in the Plan, neither the Debtors, the Reorganized Debtors nor any of their respective present or former members, managers, officers, directors, employees, general or limited partners, advisors, attorneys, agents, successors or assigns, shall have or incur any liability to any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the administration of these Chapter 11 bankruptcy proceedings, the pursuit of confirmation of the Plan, the Disclosure Statement, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan occurring prior to the Effective Date, provided that the terms of this Section 6.21 shall not apply to any liability for willful misconduct or ultra vires acts.

### **6.22 Setoffs.**

Except as otherwise provided in the Plan, nothing contained in the Plan shall constitute a waiver or release by the Debtors, the Estates and/or the Reorganized Debtors of any rights of setoff each may have against any Person.

### **6.23 Tax Consequences of the Plan.**

The following is a general summary of certain material federal income tax consequences of the Plan and the distributions provided under the Plan. This summary does not discuss all aspects of federal taxation that may be relevant to a particular creditor in light of its individual investment circumstances or to certain creditors or shareholders subject to special treatment under the federal income tax laws (for example, tax-exempt organizations, financial institutions, broker-dealers, life insurance companies, foreign corporations or individuals who are not citizens or residents of the United States). This summary does not discuss any aspects of state, local or foreign taxation. The impact on foreign holders of claims and equity interests is not discussed.

This summary is based upon the Internal Revenue Code of 1986, as amended (the "IRC"), the Treasury regulations (including temporary regulations) promulgated thereunder, judicial authorities and current administrative rulings, all as in effect on the date hereof and all of which are subject to change (possibly with retroactive effect) by legislation, administration action or judicial decision. Moreover, due to a lack of definitive judicial or administrative authority or interpretation and the complexity of the transactions contemplated in the Plan, substantial uncertainties exist with respect to various tax consequences of the Plan. The Debtors has not requested a ruling from the Internal Revenue Service (the "IRS") with respect to these matters and no opinion of counsel has been sought or obtained by the Debtors with respect

thereto. There can be no assurance that the IRS or any state or local taxing authorities will not challenge any or all of the tax consequence of the Plan, or that such a challenge, if asserted, would not be sustained. **FOR THE FOREGOING REASONS, CREDITORS ARE URGED TO CONSULT WITH THEIR OWN TAX ADVISORS AS TO THE SPECIFIC TAX CONSEQUENCES (FOREIGN, FEDERAL, STATE AND LOCAL) TO THEM OF THE PLAN. THE DEBTORS ARE NOT MAKING ANY REPRESENTATIONS REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE CONFIRMATION AND CONSUMMATION OF THE PLAN AS TO ANY CREDITOR NOR ARE THE DEBTORS RENDERING ANY FORM OF LEGAL OPINION AS TO SUCH TAX CONSEQUENCES.**

**A. Federal Income Tax Consequences to the Debtors.**

Cancellation of Indebtedness. Generally, the Debtors will realize cancellation of debt (“COD”) income to the extent, if at all, that the Debtors pays a creditor pursuant to the Plan an amount of consideration in respect of a Claim against the Debtors that is worth less than the amount of such Claim. For this purpose, the amount of consideration paid to a creditor generally will equal the amount of cash or the fair market value of property paid to such creditor. Because the Debtors will be in a bankruptcy case at the time the COD income is realized (if any is realized), the Debtors will not be required to include COD income in gross income, but rather will be required to reduce tax attributes by the amount of COD income so excluded.

**B. Tax Consequences to Creditors.**

In General. The federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, on: (a) whether such Claim constitutes a debt or a security for federal income tax purposes, (b) whether the holder of the Claim receives consideration in more than one tax year, (c) whether the holder of the Claim is a resident of the United States, (d) whether all the consideration received by the holder of the Claim is deemed to be received by the holder of the Claim as part of an integrated transaction, (e) whether the holder of the claim reports income using the accrual or cash method of accounting, and (f) whether the holder has previously taken a bad debt deduction or worthless security deduction with respect to the Claim.

Gain or Loss on Exchange. Generally, a holder of an Allowed Claim will realize a gain or loss on the exchange under the Plan of his or her allowed Claim for cash and other property in an amount equal to the difference between (i) the sum of the amount of any cash and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to accrued but unpaid interest on the Allowed Claim), and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the holder’s taxable income). Any gain recognized generally may be a capital gain (except to the extent the gain is attributable to accrued but unpaid interest or accrued market discount, as described below) if the Claim was a capital asset in the hands of an exchanging holder, and such gain would be a long-term capital gain if the holder’s holding period for the Claim surrendered exceeded one (1) year at the time of the exchange.

Any loss recognized by a holder of an Allowed Claim may be a capital loss if the Claim constitutes a “security” for federal income tax purposes or is otherwise held as a capital asset. For this purpose, a “security” is a debt instrument with interest coupons or in registered form.

**C. Information Reporting and Backup Withholding.**

Under the backup withholding rules of the Internal Revenue Code, holders of Claims may be subject to backup withholding at the rate of 31 percent with respect to payments made pursuant to the Plan unless such holder (i) is a corporation or comes within certain other exempt categories and, when required, demonstrates this fact, or (i) provides a correct taxpayer identification number and certifies under penalties of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividends and interest income. Any amount withheld under these rules will be credited against the holder’s federal income tax liability. Holders of Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

**THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE, AND FOREIGN TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN MANY AREAS, UNCERTAIN. ACCORDINGLY, EACH HOLDER OF A CLAIM OR EQUITY INTEREST IS URGED TO CONSULT WITH HIS OWN TAX ADVISOR REGARDING SUCH TAX CONSEQUENCES.**

## **VII. FEASIBILITY AND LIQUIDATION ANALYSES**

### **7.1 Feasibility of the Plan**

Based on the sale of Debtors' real property, the Plan is feasible.

### **7.2 Best Interests of Creditors and Comparison with Chapter 7 Liquidation.**

As a condition to confirmation of the Plan, Section 1129(a)(7)(A)(ii) of the Bankruptcy Code requires that each holder of a claim or an interest in an impaired Class of Claims or Equity Interests must either accept the Plan or receive or retain at least the amount or value it would receive if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code on the Effective Date of the Plan.

Upon conversion to Chapter 7, the Debtors' operations would cease and a trustee would be appointed to liquidate the Debtors' assets. The liquidation of the Debtors' assets in Chapter 7 would result in substantial additional administrative costs as the Chapter 7 trustee would need to hire new professionals to analyze the Debtors' assets and, if necessary, liquidate any assets. This would likely delay payment of creditors and add additional administrative cost, all of which would likely reduce the dividend to creditors. Accordingly, in a Chapter 7 liquidation of the Debtors' assets, Debtors believe that only Santander would receive a dividend on account of its claims.

The costs to administer the Plan will be less than the costs to administer a Chapter 7 case. Funds available for General Unsecured Creditors would be reduced by the fees and expenses of the additional professionals which would be hired by the Chapter 7 trustee. Also, the funds available for General Unsecured Creditors would be reduced by the commission to which the Chapter 7 trustee would be entitled. It is projected under the Plan that General Unsecured Creditors will receive a dividend on account of their Allowed Claims. The Debtors believe that the return to General Unsecured Creditors will be more beneficial under that Plan compared to the result if the case were converted to Chapter 7.

The Debtors, therefore, believe that the conditions in Section 1129(a)(7) of the Bankruptcy Code have been satisfied.

Respectfully submitted,  
The Debtors,  
By their Attorneys,

/s/ John M. McAuliffe  
McAULIFFE & ASSOCIATES  
John M. McAuliffe, Esq. (BBO# 555109)  
Kathryn Pellegrino, Esq. (BBO# 654743)  
430 Lexington Street  
Newton, MA 02466  
Telephone: (617) 558-6889  
Facsimile: (617) 558-6882  
john@jm-law.net.

Dated: July 11, 2016

**EXHIBIT A**

**Plan of Reorganization**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
(Central Division)**

<b>In re:</b>  <b>FRAMINGHAM 300 HOWARD, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42232-CJP</b>
<b>In re:</b>  <b>FOREST STREET BUILDING 165, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42221-CJP</b>
<b>In re:</b>  <b>EAST MAIN STREET BUILDING 57, LLC,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 15-42224-CJP</b>

**SECOND AMENDED JOINT PLAN OF REORGANIZATION OF  
FRAMINGHAM 300 HOWARD, LLC, FOREST STREET  
BUILDING 165, LLC, EAST MAIN STREET BUILDING 57, LLC**

McAULIFFE & ASSOCIATES, P.C.  
430 Lexington Street  
Newton, MA 02466  
John M. McAuliffe, Esq.  
Kathryn Pellegrino, Esq.

Telephone: (617) 558-6889  
Facsimile: (617) 559- 6882

Dated: July 11, 2016



Framingham 300 Howard, LLC, Forest Street Building 165, LLC, East Main Street Building 57, LLC, each a debtor and debtor-in-possession in the Bankruptcy Cases (as defined below), hereby propose the following amended joint plan of reorganization under Section 1121 of the United States Bankruptcy Code. The following shall constitute a separate plan of reorganization proposed by each of the Debtors (as defined below).

## ARTICLE I

### DEFINITIONS AND CONSTRUCTION OF TERMS

For purposes of the Plan, the following terms shall have the meanings specified in this Article I. A capitalized term used but not defined in the Plan that is also used in the Bankruptcy Code shall have the meaning ascribed to that term in the Bankruptcy Code. Wherever from the context it appears appropriate, each term stated shall include both the singular and the plural, and pronouns shall include the masculine, feminine and neuter, regardless of how stated. The words “in the Plan,” “the Plan,” “hereto,” “herein”, “hereunder” and other words of similar import refer to the Plan as a whole and not to any particular Section, sub-Section or clause contained in the Plan. The rules of construction contained in Section 102 of the Bankruptcy Code shall apply to the terms of the Plan. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions the Plan.

**1.1** “1 Grant Street” shall mean the real property, owned by Howard Street, located at 1 Grant Street, Framingham, Massachusetts.

**1.2** “57 East Main Net Proceeds” shall mean the Net Proceeds of the sale of 57 East Main Street, which occurred on or about May 9, 2016.

**1.3** “57 East Main Street” shall mean the real property, owned by East Main, located at 57 East Main Street, Westborough, Massachusetts.

**1.4** “165 Forest Street” shall mean the real property, owned by Forest Street, located at 165 Forest Street, Marlborough, Massachusetts.

**1.5** “Acquirer(s)” shall mean, in the singular, Howard Grant or Forest 495, and in the plural Howard Grant and Forest 495.

**1.6** “Administrative Expense Claim” shall mean a Claim that is Allowed under Section 503(b) of the Bankruptcy Code and that is entitled to priority under Section 507(a)(1) of the Bankruptcy Code, including Professional Fee Claims.

**1.7** “Affiliate” shall mean any Person that is an affiliate of the Debtors or the Reorganized Debtors under the Bankruptcy Code.

**1.8** “Allowed” shall mean, with reference to any Claim or Equity Interest:

- (a) a Claim or Equity Interest that has been listed by the Debtors in their Schedules and (i) is not listed as disputed, contingent or unliquidated, and (ii) is not a Claim or Equity Interest as to which a proof of claim or interest has been filed;
- (b) a Claim or Equity Interest as to which a timely proof of claim or interest has been filed by the Bar Date and either (i) no objection thereto, or application to estimate, equitably subordinate or otherwise limit recovery, has been made on or before any applicable deadline, or (ii) if an objection thereto, or application to estimate, equitably subordinate or otherwise limit recovery has been interposed, the extent to which such Claim has been allowed (whether in whole or in part) by a Non-Appealable Order;
- (c) a Claim arising from the recovery of property under Section 550 or 553 of the Bankruptcy Code and allowed in accordance with Section 502(h) of the Bankruptcy Code; or
- (d) any Claim or Equity Interest expressly allowed under the Plan or pursuant to the Confirmation Order.

**1.9** “Asset(s)” shall mean any real or personal property of any Debtor, whether tangible or intangible and wherever situated, together with the proceeds thereof.

**1.10** “Assumed Lease(s)” shall mean, in the singular, any executory contract or unexpired lease that is assumed pursuant to Section 5.2(d) or (e) of the Plan, and in the plural shall mean all such contracts and leases.

**1.11** “Bankruptcy Cases” shall mean, collectively, the Chapter 11 bankruptcy proceedings pending in the Bankruptcy Court under docket numbers 15-42221-CJP, 15-42224-CJP and 15-42232-CJP.

**1.12** “Bankruptcy Code” shall mean Title 11 of the United States Code, as amended from time to time.

**1.13** “Bankruptcy Court” shall mean the United States Bankruptcy Court for the District of Massachusetts in which the Bankruptcy Cases are pending and, to the extent of any reference under 28 U.S.C. §157, the unit of such District Court specified pursuant to 28 U.S.C. §151.

**1.14** “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure as promulgated under 28 U.S.C. § 2075, and any local rules of the Bankruptcy Court.

**1.15** “Bar Date” shall mean May 17, 2016, for governmental units, and April 29, 2016, for all other creditors, the dates fixed by orders of the Bankruptcy Court as the last dates by which Persons asserting certain Claims against the Debtors must file a proof of claim or interest

or be forever barred from asserting a Claim against the Debtors or their property, from voting on the Plan and/or sharing in distributions under the Plan.

**1.16** “Business Day” shall mean any day other than a Saturday, Sunday or legal holiday recognized in the Commonwealth of Massachusetts.

**1.17** “Cash” shall mean lawful currency of the United States of America (including wire transfers, cashier’s checks drawn on a bank insured by the Federal Deposit Insurance Corporation, certified checks and money orders).

**1.18** “Cash Equivalents” shall mean equivalents of Cash in the form of readily marketable securities or instruments issued by a Person other than the Debtors or an Affiliate, including, without limitation, readily marketable direct obligations of, or obligations guaranteed by, the United States of America, commercial paper of domestic corporations carrying a Moody’s Rating of “A” or better, or equivalent rating of any other nationally recognized rating service, interest-bearing certificates of deposit, or other similar obligations of domestic banks or other financial institutions having a shareholders’ equity or equivalent capital of not less than Two Hundred Million Dollars (\$200,000,000).

**1.19** “Causes of Action” shall mean, without limitation, any and all actions, causes of action, choses in action, defenses, liabilities, obligations, rights, suits, debts, sums of money, damages, judgments, Claims or proceedings to recover money or property and demands of any nature whatsoever, whether known or unknown, in law, equity or otherwise including, without limitation, Avoidance Actions.

**1.20** “Claim” shall mean a claim against a Person or its property as defined in Section 101(5) of the Bankruptcy Code, including, without limitation, (a) any right to payment, whether or not such right is reduced to judgment, and whether or not such right is liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance, if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, or is fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

**1.21** “Class” shall mean those classes designated in Article III of the Plan.

**1.22** “Collateral” shall mean any property or interest in property of the Estates subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable law.

**1.23** “Confirmation Date” shall mean the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket in these Bankruptcy Cases.

**1.24** “Confirmation Hearing” shall mean the hearing before the Bankruptcy Court on confirmation of the Plan.

**1.25** “Confirmation Order” shall mean the order of the Bankruptcy Court confirming the Plan pursuant to the provisions of the Bankruptcy Code, and any supplementary orders of the Bankruptcy Court issued in furtherance of the Plan.

**1.26** “Contingent or Unliquidated Claim” shall mean any Claim for which a proof of claim has been filed with the Bankruptcy Court but which was not filed in a sum certain, or for which the event that would give rise to such a liability or debt has not occurred and is dependent upon a future event that has not occurred or may never occur, and which has not been Allowed.

**1.27** “Cure Claim” shall mean the amount necessary to cure any defaults in an executory contract or unexpired lease so that such contract or lease may be assumed pursuant to Section 365(b)(1) of the Bankruptcy Code.

**1.28** “Debtors” shall mean, collectively, East Main, Forest Street and Howard Street.

**1.29** “Disclosure Statement” shall mean the disclosure statement relating to the Plan, including, without limitation, all exhibits and schedules thereto, in the form approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.

**1.30** “Disputed Claim” shall mean:

- (a) if no proof of claim relating to a Claim has been filed, a claim that is listed in the Schedules as unliquidated, disputed or contingent; or
- (b) if a proof of claim relating to a Claim has been filed, a Claim as to which a timely objection or request for estimation, or request to equitably subordinate or otherwise limit recovery in accordance with the Bankruptcy Code and the Bankruptcy Rules, has been made, or which is otherwise disputed by one or more of the Debtors in accordance with applicable law, which objection, request for estimation, action to limit recovery or dispute has not been withdrawn or determined by Non-Appealable Order; or
- (c) a Claim that is a Contingent or Unliquidated Claim.

**1.31** “Disputed Claim Amount” shall mean the amount set forth in the proof of claim relating to a Disputed Claim or an amount estimated pursuant to an order of the Bankruptcy Court in respect of a Disputed Claim in accordance with Section 502(c) of the Bankruptcy Code.

**1.32** “Disputed Claims Reserve” shall have the meaning set forth in Section 6.5 of the Plan.

**1.33** “Distribution Record Date” shall mean fifteen (15) days prior to the first scheduled hearing on the approval of the Disclosure Statement or such other date established by the Bankruptcy Court.

**1.34** “East Main” shall mean East Main Street 57, LLC, one of the Debtors and a debtor-in-possession.

**1.35** “Effective Date” shall mean the first Business Day after the later to occur of (a) the fifteenth day following the Confirmation Date, provided that no stay pending appeal of the Confirmation Order has been granted, or (b) the date that all conditions precedent to the effectiveness of the Plan have been satisfied or waived by the Debtors. Notwithstanding the foregoing, for the purposes of calculating the Forest Sale Deadline and/or the Grant Sale Deadline, the Effective Date shall mean the first Business Day after the fifteenth day following the Confirmation Date.

**1.36** “Equity Interest” shall mean the interest of any holder of any general or limited partnership interest in or voting or non-voting shares of any of the Debtors, and all options and/or rights, contractual or otherwise, to acquire at any time any general or limited partnership interest in or voting or non-voting shares of any of the Debtors, as such interests exist immediately prior to the Effective Date.

**1.37** “Estate(s)” shall mean in the singular, with reference to a specific debtor, the estate created in such debtor’s Bankruptcy Case pursuant to Section 541 of the Bankruptcy Code, and in the plural all of the Debtor’s bankruptcy estates created pursuant to Section 541 of the Bankruptcy Code.

**1.38** “Forest 495” shall mean Forest 495, LLC, the acquirer of 165 Forest Street.

**1.39** “Forest Sale Deadline” shall mean 12:00 midnight on the eightieth (80<sup>th</sup>) day after the Effective Date.

**1.40** “Forest Street” shall mean Forest Street Building 165, LLC, one of the Debtors and a debtor-in-possession.

**1.41** “General Unsecured Claim” shall mean a Claim that is: (a) not a Secured Claim, (b) not entitled to priority of payment under Section 507 of the Bankruptcy Code, and (c) not a Claim for an Equity Interest.

**1.42** “Grant Sale Deadline” shall mean 12:00 midnight on the fortieth (40<sup>th</sup>) day after the Effective Date.

**1.43** “Howard Grant” shall mean Howard Grant, LLC, the acquirer of 1 Grant Street.

**1.44** “Howard Street” shall mean Framingham 300 Howard, LLC, one of the Debtors and a debtor-in-possession.

**1.45** “Internal Revenue Code” shall mean Title 26 of the United States Code, as amended from time to time.

**1.46** “Insider” shall have the meaning set forth in Section 101(31) of the Bankruptcy Code, provided that it shall not include any Debtor.

**1.47** “Lien” shall have the meaning set forth in Section 101(37) of the Bankruptcy Code; except that (a) a lien that has been avoided in accordance with Sections 544, 545, 546, 547, 548, 549 or 553 of the Bankruptcy Code shall not constitute a Lien, and (b) no lien shall be

valid unless approved by a Non-Appealable order of the Bankruptcy Court or by agreement of the Debtor against whom the lien is asserted. The Liens held by Santander on the Santander Collateral are valid.

**1.48** “Net Proceeds” shall mean the proceeds of the respective sales of any of 57 East Main Street, 165 Forest Street and 1 Grant Street less, with respect to each such sale, the Sale Costs for such property. Sale Costs shall be paid from the proceeds of any sale only upon their approval by Santander or pursuant to an order of the Bankruptcy Court.

**1.49** “Non-Appealable Order” shall mean an order or judgment which has not been reversed, stayed, modified or amended and, as to which (a) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for certiorari, review or rehearing is pending, or (b) if appeal, review, re-argument or certiorari of the order has been sought, the order has been affirmed or the request for review, re-argument or certiorari has been denied and the time to seek a further appeal, review, re-argument or certiorari has expired, and as a result of which such order shall have become final and non-appealable in accordance with applicable law; 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, may be filed with respect to such order shall not cause such order not to be a Non-Appealable Order.

**1.50** “Organization Documents” shall mean, as applicable, the Debtors’ respective operating agreements, trust agreements, articles of incorporation, bylaws, corporate minute books and such other documents evidencing the Debtors’ formation and/or operation in such jurisdictions in which the Debtors are authorized to conduct business.

**1.51** “Person” shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated association or organization, governmental agency or political subdivision.

**1.52** “Personalty” shall mean, collectively, any and all personal property and fixtures owned by the Debtors and at any time attached to, located in or on, or used in connection with, the ownership or operation of the Debtors’ Property, including, without limitation, all mechanical, electrical, lighting and plumbing systems, fixtures and equipment, all ventilating, air conditioning and heating systems, fixtures and equipment, all water and power systems, engines, boilers, generators, furnaces, motors, landscaping and sprinkler systems and equipment, all furniture, furnishings, appliances, supplies and other personal property (tangible or intangible) of every nature and description, all maintenance equipment, tools and supplies, and all master keys, office keys and other keys used in connection with the Property.

**1.53** “Petition Date” shall mean: (a) November 19, 2015, with respect to Howard Street; or (b) November 18, 2015, with respect to Forest Street and East Main.

**1.54** “Plan” shall mean this *Amended Joint Plan of Reorganization of Framingham 300 Howard, LLC, Forest Street Building 165, LLC, East Main Street Building 57, LLC*, including, without limitation, all exhibits, supplements, appendices and schedules to the Plan, either in their present form or as the same may be altered, amended or modified from time to time.

**1.55** “Plan Fund” shall mean the following amounts, to be contributed to the Plan by Forest 495 and/or Howard Grant: (a) with respect to Howard Street: \$10,000.00; (b) with respect to Forest Street: \$10,000.00; and (c) with respect to East Main: \$10,000.00.

**1.56** “Priority Claims” shall mean all Claims, if any, entitled to priority under Section 507(a) of the Bankruptcy Code other than Priority Tax Claims and Administrative Expense Claims.

**1.57** “Priority Tax Claims” shall mean any Claim of a governmental unit entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

**1.58** “Professionals” shall mean those Persons (a) employed pursuant to an order of the Bankruptcy Court in accordance with Sections 327 or 1103 of the Bankruptcy Code and to be compensated for services pursuant to Sections 327, 328, 329, 330 and 331 of the Bankruptcy Code, or (b) for which compensation and reimbursement is allowed by the Bankruptcy Court pursuant to Section 503(b)(4) of the Bankruptcy Code.

**1.59** “Professional Fee Claims” shall mean the fees and expenses of Professionals under Sections 330, 331, or 503 of the Bankruptcy Code approved by an Order of the Bankruptcy Court.

**1.60** “Property” shall mean collectively and with reference to a specific Debtor, the real property, improvements, Rights and Personalty owned by such Debtor. All references to the “Property” shall be deemed to mean all or any portion of such Property.

**1.61** “Pro Rata” shall mean when used with reference to a distribution of property under the Plan, proportionately so that with respect to a particular Allowed Claim, the ratio of (a)(i) the amount of property distributed on account of such Claim to (ii) the amount of such Claim, is the same as the ratio of (b)(i) the amount of property distributed on account of all Allowed Claims of the Class in which such Claim is included to (ii) the amount of all Allowed Claims in that Class.

**1.62** “Reorganized Debtors” shall mean the Debtors, from and after the Effective Date, as recapitalized, reconstituted and reorganized pursuant to the Plan and any associated documents.

**1.63** “Resale Assessment” shall mean: (a) with respect to a sale of 1 Grant Street or 165 Forest Street, fifty percent (50%) of the amount by which the price paid at such sale exceeds the prices paid by Howard Grant or Forest 495, as applicable, for such properties under the Plan; (b) with respect to a transfer of all of the membership interests in Howard Grant and/or Forest 495, fifty percent (50%) of the amount by which the amount paid for such membership interests exceeds the prices paid by Howard Grant or Forest 495, respectively, for 1 Grant Street or 165 Forest Street under the Plan; and (c) with respect to a transfer of a portion of the membership interests in Howard Grant and/or Forest 495, an amount equal to: (i) the percentage of the membership interests transferred, multiplied by (ii) fifty percent (50%) of the amount by which the total value of the membership interests exceeds the prices paid by Howard Grant or Forest 495, respectively, for 1 Grant Street or 165 Forest Street under the Plan.

**1.64** “Sale Costs” shall mean, with respect to each of 57 East Main Street, 1 Grant Street and 165 Forest Street, the usual and customary costs necessary to close the respective sales of any of such Properties including, without limitation, (a) the seller’s reasonable professional fees and expenses related to the disposition of such property, (b) adjustments for past due real estate taxes, except if the respective Debtor and Acquirer elect to pay such taxes over time, (c) amounts secured by municipal Liens, (d) deed stamps, subject to Section 12.2 of the Plan, (e) seller’s recording charges, (f) utility, rent and/or security deposit adjustments, if any, and (g) such other amounts that may be agreed to between the respective Debtor/seller and Santander with respect to the specific Property to be sold.

**1.65** “Santander” shall mean Santander Bank, NA, and its successors and assigns

**1.66** “Santander Loan Documents” shall mean, with respect to each Debtor, the Pre-petition Loan Documents as defined in the *Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* entered in the Bankruptcy Case of each Debtor.

**1.67** “Santander Allowed Claim” shall mean, with respect to each Debtor, Santander’s claim against such Debtor, in the amount of the Pre-petition Obligations as defined in the *Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* entered in the Bankruptcy Case of each Debtor. The Santander Allowed Claim against each Debtor shall be in the amount of \$17,075,930.09, as of the Petition Date.

**1.68** “Schedules” shall mean the schedules of assets and liabilities, the list of holders of interests and the statements of financial affairs filed by the Debtors under Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as such schedules, lists and statements have been or may be supplemented or amended from time to time.

**1.69** “Secured Claim” shall mean any Claim that is secured by a Lien on Collateral to the extent of the value of such Collateral, as determined in accordance with Section 506(a) of the Bankruptcy Code, or, in the event that such Claim is a claim of setoff under Section 553 of the Bankruptcy Code, to the extent of such setoff.

**1.70** “Senior” shall mean (a) with respect to an Allowed Claim, any other Allowed Claim that is entitled to a priority of distribution under the Bankruptcy Code over the subject Allowed Claim, and (b) with respect to a Lien, any other Lien on the same Collateral that is entitled to precedence over the subject Lien with respect to such Collateral.



## ARTICLE II

### TREATMENT OF ALLOWED UNCLASSIFIED CLAIMS

#### 2.1 Non-Classification.

As provided in Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims against each Debtor are not classified for the purposes of voting on, or receiving distributions under, the Plan. All such Claims are instead treated separately in accordance with the terms set forth in this Article II.

#### 2.2 Administrative Expense Claims.

(a) General. Except for Professional Fee Claims and except as otherwise agreed to by the Debtors and the holder of an Allowed Administrative Expense Claim, each such holder shall be paid in full in Cash on the earlier of: (i) the date such Allowed Administrative Expense Claim becomes due in accordance with its terms; and (ii) the Effective Date. If the Debtors dispute any portion of an Administrative Expense Claim, the Debtors shall pay the Allowed amount of such Administrative Expense Claim within five (5) days after the entry of a Non-Appealable Order with respect to the allowance of such disputed Administrative Expense Claim.

(b) U.S. Trustee's Fees. The outstanding fees due to the United States Trustee pursuant to 11 U.S.C. § 1930 shall be paid in full on or before the Effective Date.

#### (c) Professional Compensation and Expense Reimbursement Claims.

- (i) Within thirty (30) days after the Effective Date, each Professional shall file a final application for the allowance of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date. Any such application granted by the Bankruptcy Court shall be paid: (1) within fifteen days of the entry of the order of the Bankruptcy Court approving such application, unless a stay of the order approving the application is obtained; or (2) upon such other terms as may be mutually agreed upon between the Professional and the Debtors or Reorganized Debtors.
- (ii) All fees and expenses of Professionals for services rendered after the Effective Date shall be paid by the Reorganized Debtors upon receipt of reasonably detailed invoices in such amounts and on such terms as such Professional and the Reorganized Debtors may agree. No further order or authorization from the Bankruptcy Court shall be necessary to permit the Reorganized Debtors to pay the fees and expenses of Professionals for services rendered after the Effective Date.

**2.3 Priority Tax Claims.**

At the sole election of the Debtors, each holder of an Allowed Priority Tax Claim against each such Debtor, if any, shall be paid either: (a) upon such terms as may be agreed to between the Debtors and the holder of an Allowed Priority Tax Claim; (b) in full in Cash on the later of the Effective Date or the date that such Allowed Priority Tax Claim would have been due if the Bankruptcy Cases had not been commenced; or (c) in installment payments of Cash commencing on the Effective Date and (i) of a total value as of the Effective Date equal to the Allowed amount of such Claim, (ii) over a period ending not later than five (5) years from the Petition Date, and (iii) in a manner not less favorable than the most favored General Unsecured Claim under the Plan.

**ARTICLE III**

**CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

The Claims against and Equity Interests in the Debtors are categorized below for all purposes under the Plan including voting, confirmation and distribution pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Equity Interest falls within the description of such other Classes. A Claim is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date. For Classes 1, 3, 4, 5 and 6, the claims and Equity Interests with respect to each Debtor are separately classified in their own distinct sub-classes, sub-class A for Howard Street, sub-class B for Forest Street, and sub-class C for East Main. Nothing in the Plan is intended to effectuate a substantive consolidation of the Debtors or their Estates.

**3.1 Claim and Equity Interest Categories.**

Claims against and Equity Interests in the Debtors have been classified as follows:

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
1 A - C	Santander Secured Claims	Impaired	Yes
2 A - C	Secured Real Estate Tax Claims	Impaired	Yes
3 A - C	General Unsecured Claims	Impaired	Yes
4 A - C	Equity Interests	Impaired	Yes

## ARTICLE IV

### TREATMENT OF CLAIMS AND EQUITY INTERESTS

#### 4.1 Class 1A - 1C – Santander Secured Claims.

- (a) Classification. Classes 1A through 1C consist of the Santander Allowed Secured Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. The Santander Allowed Secured Claims are impaired under the Plan. The holder of the Santander Allowed Secured Claims shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full satisfaction and discharge of the Santander Allowed Secured Claims, the holder of the Santander Allowed Secured Claims shall receive:
  - (i) With respect to East Main, the 57 East Main Net Proceeds which sum, in the amount of \$5,211,565.12, has already been paid to Santander and all Sale Costs relating to such sale have been paid or reserved for; plus
  - (ii) With respect to Howard Street: (1) from the sale of 1 Grant Street to Howard Grant, as provided in Section 5.2(a) of the Plan, the greater of \$4,000,000.00 or ninety-four percent (94%) of the gross sale proceeds of 1 Grant Street; or (2) the Net Proceeds of the auction sale of 1 Grant Street as provided in Section 5.2(a) and (e) of the Plan; or (3) relief from the automatic stay as provided in Section 5.3 of the Plan; or (4) such other treatment as may be agreed to in writing between Howard Street and the holder of the Santander Allowed Secured Claims; plus
  - (iii) With respect to Forest Street: (1) from the sale of 165 Forest Street to Forest 495, as provided in Section 5.2(b) of the Plan, the greater of \$3,500,000.00 or ninety-seven percent (97%) of the gross sale proceeds of 165 Forest Street; or (2) the Net Proceeds of the auction sale of 165 Forest Street as provided in Section 5.2(b) and (e) of the Plan; or (3) relief from the automatic stay as provided in Section 5.3 of the Plan; or (4) such other treatment as may be agreed to in writing between Forest Street and the holder of the Santander Allowed Secured Claims.
- (d) Liens. The Liens held by the holder of the Santander Allowed Secured Claims shall be treated as follows.
  - (i) Retention of Liens. The Liens held by Santander on Santander's Collateral shall be retained by the holder of the Santander Allowed

Secured Claims to secure the payment of the Santander Allowed Secured Claims until the Santander Allowed Secured Claims with respect to such Collateral have been paid in full.

- (ii) Release of Liens. With respect to a sale of Santander's Collateral to Howard Grant and/or Forest 495 under the Plan, the Liens on Santander's Collateral shall only be discharged and released as follows:
- (1) Notice of Closing. The Debtors shall provide the holder of the Santander Allowed Secured Claim with at least six (6) Business Days' notice of the scheduled closing of a sale of 1 Grant Street to Howard Grant and/or 165 Forest Street to Forest 495 under the Plan and such notice shall identify the Liens and instruments held by Santander for which a release or discharge is sought in connection with such closing. Additionally, the Debtors shall keep Santander informed of the status of the closing of such sales and shall provide Santander with a proposed settlement statement for the closing of any such sale not less than three (3) Business Days prior to the closing date of such sale. All proposed Sale Costs shall be shown on such statement and in the event of a dispute with respect to the proposed Sale Costs, the disputed amount of such Sale Costs shall be held by Debtor's counsel pending a further order of the Bankruptcy Court; provided that, the Debtors shall be permitted to pay a disputed Sale Cost that is necessary to release a Lien required to permit the closing of the property in question. Any amounts remaining in such a reserve after the payment of allowed Sale Costs shall be paid as directed by the Bankruptcy Court.
  - (2) Delivery of Discharge. At least two (2) Business Days prior to the scheduled closing of a sale of Santander's Collateral, the holder of the Santander Allowed Secured Claim shall deliver to the closing attorney for such sale a discharge and release of its Liens on the Collateral to be sold. Santander may require such discharge and release to be held in escrow pending the closing of such sale.
  - (3) Payment/Recording of Discharge. Within one (1) Business Day after the closing of a sale of Santander's Collateral, the Reorganized Debtors shall deliver to the holder of the Santander Allowed Secured Claims, in immediately available funds, the amounts required to be paid to Santander under the Plan, as provided in Section 4.1(c)(ii) (1) or (2) of the Plan in the event of a sale of 1 Grant Street,

and 4.1(c)(iii) (1) or (2) of the Plan in the event of a sale of 165 Forest Street. Upon the delivery of such amounts to the holder of the Santander Allowed Secured Claim, Santander's Lien on the Collateral sold shall be deemed discharged and released, and the closing attorney shall cause the discharge and release of the Lien on the Collateral sold to be recorded.

- (e) Discharge of Liens. Upon payment in full of the Santander Allowed Secured Claim against each Debtor all Liens securing the Santander Allowed Secured Claim against such Debtor shall be deemed discharged and released.
- (f) Santander Loan Documents and Rights Thereunder. As of the Effective Date, the Santander Loan Documents shall be deemed amended and restated, without further action, as necessary to reflect and incorporate the terms of the Plan. To the extent that there is any inconsistency between the Plan and any of the Santander Loan Documents, the terms of the Plan shall control. Except as expressly modified by the Plan, the Santander Loan Documents including, without limitation, any guarantees or other documents obligating Persons other than the Debtors shall remain in full force and effect following the Effective Date of the Plan. Without limiting the generality of the foregoing, all "Events of Default" and "Defaults," as defined in the Santander Loan Documents, shall remain in full force and effect following the Confirmation Date, except that the Debtor's obligations to make payments to Santander shall be governed by this Section 4.1 of the Plan. The Santander Allowed Claim shall remain fully due and owing and Santander shall retain all of its rights and remedies including, without limitation, its rights to foreclose upon any of its Collateral following the Confirmation Date subject to Howard Street's and Forest Street's rights to sell, during the limited time periods set forth in Sections 4.1 and 5 of the Plan, respectively, 1 Grant Street and 165 Forest Street and to apply the sale proceeds in reduction of the Santander Allowed Claim.
- (h) Post-Confirmation Date Reorganized Debtor Obligations. Following the Confirmation Date, the Reorganized Debtors, Howard Street and Forest Street shall, with respect to any period of time during which they continue to own and remain in possession of 1 Grant Street and/or 165 Forest Street, continue to deliver to Santander, on or before the fifteenth day of each month, a monthly payment and budget reconciliation with respect to the immediately preceding month upon the same terms and conditions as are provided in Section 3(b) of the *Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* entered in each of said Debtors' respective Bankruptcy Cases, and Howard Street's and/or Forest Street's failure to comply with such payments and reporting shall constitute a default of the Plan causing

the termination of any Plan injunction and relief from any stay against Santander and entitling Santander to enforce its Allowed Secured Claims including, without limitation, foreclosing its mortgages on 165 Forest Street and/or 1 Grant Street. The Reorganized Debtors, Forest Street and Howard Street, shall each have ten (10) days from its receipt of written notice from Santander of any default under this Section 4(h) of the Plan to cure such default, as provided in Section 5.11 of the Plan. Prior to the Confirmation Date, Howard Street shall provide Santander with a budget for anticipated cash receipts and expenditures for 1 Grant Street for the four-month period following the Confirmation Date. Prior to the Confirmation Date, Forest Street shall provide Santander with a budget for anticipated cash receipts and expenditures for 165 Forest Street for the six-month period following the Confirmation Date. Such budgets shall be acceptable to Santander in its reasonable discretion.

#### **4.2 Class 2A - 2C – Secured Real Estate Tax Claims.**

- (a) Classification. Classes 2A through 2C consist of the Allowed Secured Real Estate Tax Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. The Allowed Secured Real Estate Tax Claims are impaired under the Plan. Each holder of an Allowed Secured Real Estate Tax Claims shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full and complete satisfaction, settlement, discharge and release of the Allowed Secured Real Estate Tax Claims, the holders of the Allowed Secured Real Estate Tax Claim shall receive, at the sole option of the respective Debtor and Acquirer, one of the following:
  - (i) Payment in cash, from the proceeds the sale of the property subject to the Allowed Secured Real Estate Tax Claim, of a total value, as of the Effective Date of the Plan, equal to the Allowed amount of the Secured Real Estate Tax Claim;
  - (ii) Installment payments in cash, paid by the Acquirer, over a period ending not later than five (5) years after the Petition Date; or
  - (iii) Installment payments in cash, paid by the Acquirer, in a manner not less favorable than the most favored non-priority unsecured claim provided for by the Plan, other than payments to the Class 3 Claims.
- (d) Liens. The Liens held by the holder of an Allowed Secured Real Estate Tax Claim shall be treated as follows.
  - (i) Retention of Liens. Any Liens held by the holder of an Allowed Secured Real Estate Tax Claim shall be retained by the holder of

the Allowed Secured Real Estate Tax Claim to secure the payment of the Allowed Secured Real Estate Tax Claim pursuant to the Plan.

- (ii) Discharge of Liens. Upon the payment in full of any Allowed Secured Real Estate Tax Claim: (1) all Liens securing such Allowed Secured Real Estate Tax Claim shall be deemed canceled, discharged and released, and (2) the holder of such Allowed Secured Real Estate Tax Claim shall, at the request of the Reorganized Debtors, deliver to the Reorganized Debtors, within one (1) Business Day of the payment in full of such Allowed Secured Real Estate Tax Claim, all UCC terminations, mortgage discharges and any other documents necessary to effect the discharge and release of the Liens securing such Allowed Secured Real Estate Tax Claim.
- (e) Indubitable Equivalent. The holder of any Allowed Secured Real Estate Tax Claim shall receive such additional or other treatment as may be necessary, as determined by the Bankruptcy Court or agreed to between the Debtors and the holder of the Allowed Secured Real Estate Tax Claim, to permit the holder of the Allowed Secured Real Estate Tax Claim to realize the indubitable equivalent of its Allowed Claim.

#### **4.3 Class 3A – 3C – General Unsecured Claims.**

- (a) Classification. Classes 3A through 3C consist of the Allowed General Unsecured Claims against Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. Class 3 is impaired under the Plan. Each holder of a General Unsecured Claim shall be entitled to vote to accept or reject the Plan.
- (c) Claim Treatment. In full and complete satisfaction, settlement, release and discharge, each holder of an Allowed General Unsecured Claim shall receive, commencing upon the later to occur of the Effective Date or the date such Claim becomes an Allowed Claim, one of the following: (i) a Pro Rata share of the Plan Fund; or (ii) treatment as agreed between the Debtors or the Reorganized Debtors and the holder of the Allowed General Unsecured Claim.
- (d) Claims of Insiders. No Insiders of the Debtors shall receive any distributions on account of their Allowed Claims until the Allowed Claims of all non-Insider creditors have been paid in full.
- (e) Unsecured Claim of Santander. Santander shall be deemed to hold an Allowed General Unsecured Claim in the amount of \$4,364,364.97 against each of the Debtors; provided that, prior to making a distribution on account of Santander's Allowed General Unsecured Claim, the Debtors

and Santander shall adjust this amount, if necessary, to reflect the outcome of the sale of 1 Grant Street and/or 165 Forest Street.

**4.5 Class 4A - 4C – Equity Interests.**

- (a) Classification. Classes 4A through 4C consist of the Allowed Equity Interests in Howard Street, Forest Street and East Main.
- (b) Impairment and Voting. Class 4 is impaired under the Plan and shall be entitled to vote to accept or reject the Plan.
- (c) Treatment. On the Effective Date, the Equity Interests the Debtors shall be cancelled.

**4.6 Reservation of Rights.**

The Debtors reserve the right to, among other things, (a) contest the right of the holder of any Claim to vote on the Plan, or designate the vote of the holder of any Claim (b) contest the right of the holder of any Claim to receive distributions under the Plan, and (c) seek to subordinate any Claim for inequitable conduct or otherwise.

**ARTICLE V**

**MEANS FOR IMPLEMENTATION OF THE PLAN**

**5.1 Plan Implementation.**

The Plan will be funded from the sale of the Debtors' Property and from contributions from the Acquirers.

**5.2 Sales of Property.**

(a) Sale of 1 Grant Street. Confirmation of the Plan shall constitute authority for Howard Street to sell 1 Grant Street to Howard Grant, and to assume and assign to Howard Grant its unexpired leases pursuant to Section 5.2(c) of the Plan, on the following terms: (i) the purchase price shall be \$4,250,000.00, (ii) the closing of the sale to Howard Grant shall occur on or before the Grant Sale Deadline, (iii) the sale of 1 Grant Street shall be free and clear of all Liens, Claims and interests, including, without limitation, any rights of possession arising from terminated or rejected leases, if any, (iv) all Liens, Claims and interests shall attach to the proceeds of the sale of 1 Grant Street to the same extent, priority and validity as existed on the Petition Date, (v) Howard Street shall distribute the proceeds of such sale in accordance with the terms of the Plan including, without limitation, the amount due to Santander pursuant to Section 4.1(c)(ii)(1) of the Plan, and (vi) the sale of 1 Grant Street shall be entitled to the protection of Section 12.2 of the Plan. Howard Street and Howard Grant shall use their best efforts to close the sale of 1 Grant Street. In the event that the closing of the sale of 1 Grant Street to Howard Grant does not occur on or before the Grant Sale Deadline, Howard Street shall schedule a public auction of 1 Grant Street pursuant to Section 5.2(e) of the Plan. Santander shall have no



responsibility for the payment of any Sale Costs or Cure Claims. Howard Street hereby represents that it is currently not a party to any letter of intent or other oral or written agreement with any potential tenant of 1 Grant Street other than CMC Consulting Boston, Inc. and South Bay Mental Health Center, Inc. Any sale of 1 Grant Street to Howard Grant under this Section 5.2(a) of the Plan that does not result in payment to Santander of the amounts required to be paid under Section 4.1(c)(ii)(1) of the Plan, shall be null and void.

(b) Sale of 165 Forest Street. Confirmation of the Plan shall constitute authority for Forest Street to sell 165 Forest Street to Forest 495, and to assume and assign to Forest 495 its unexpired leases pursuant to Section 5.2(c) of the Plan, on the following terms: (i) the purchase price shall be \$3,600,000.00, (ii) the closing of the sale to Forest 495 shall occur on or before the Forest Sale Deadline, (iii) the sale of 165 Forest Street shall be free and clear of all Liens, Claims and interests, including, without limitation, any rights of possession arising from terminated or rejected leases, if any, (iv) all Liens, Claims and interests shall attach to the proceeds of the sale of 165 Forest Street to the same extent, priority and validity as existed on the Petition Date, (v) Forest Street shall distribute the proceeds of such sale in accordance with the terms of the Plan including, without limitation, the amount due to Santander pursuant to Section 4.1(c)(iii)(1) of the Plan, and (vi) the sale of 165 Forest Street shall be entitled to the protection of Section 12.2 of the Plan. Forest Street and Forest 495 shall use their best efforts to close the sale of 165 Forest Street. In the event that the closing of the sale of 165 Forest Street to Forest 495 does not occur on or before the Forest Sale Deadline, Forest Street shall schedule a public auction of Forest Street pursuant to Section 5.2(e) of the Plan. Santander shall have no responsibility for the payment of any Sale Costs or Cure Claims. Any sale of 165 Forest Street to Forest 495 under this Section 5.2(b) of the Plan that does not result in payment to Santander of the amounts required to be paid under Section 4.1(c)(iii)(1) of the Plan, shall be null and void.

(c) Assumption of Unexpired Leases. Upon the Effective Date, Howard Street and Forest Street shall assume all of their respective unexpired leases and assign all such unexpired leases to Howard Grant and Forest 495, respectively, other than those unexpired leases that: (i) have been rejected by an order of the Bankruptcy Court entered prior to the Confirmation Date; and/or (ii) are the subject of a motion to reject which is pending at the time of the Confirmation Date. Any Cure Claim associated with such assumption and assignment shall be paid by Howard Grant or Forest 495, as applicable. The assumption and assignment of East Main's executory contracts and unexpired leases shall be governed by the order of the Bankruptcy Court approving the sale of 57 East Main.

(d) Rejection of Executory Contracts. The Debtors shall, upon the Effective Date, reject all of their respective executory contracts other than those that: (1) have been assumed by an order of the Bankruptcy Court entered prior to the Confirmation Date; (2) are the subject of a motion to assume which is pending at the time of the Confirmation Date; and/or (3) have expired by their own terms on or prior to the Confirmation Date.

(e) Auction Terms. Any auction of 1 Grant Street or 165 Forest Street shall be on the following terms: (i) the auction sale shall be free and clear of all Liens, Claims and interests, (ii) all Liens, Claims and interests shall attach to the proceeds of the auction sale to the same extent, priority and validity as existed on the Petition Date, (iii) the auction sale shall be entitled to the

protection of Section 12.2 of the Plan, (iv) Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any auction sale and no auction sale shall be deemed final or complete in the absence Santander's acceptance, in its sole discretion, of the highest bid made at said auction, (v) the auction sale shall take place within forty-five (45) days after the Grant Sale Deadline and/or the Forest Sale Deadline, as applicable, (vi) the auction sale shall be conducted by Sullivan & Sullivan Auctioneers, LLC, (vi) the auction sale shall be marketed and advertised in accordance with usual commercial practices and on such terms and conditions as are acceptable to Santander, in its reasonable discretion, and (vii) Howard Street and/or Forest Street, as applicable, shall distribute the Net Proceeds of any completed auction sale in accordance with the terms of the Plan. In the event of any auction sale of 1 Grant Street or 165 Forest Street, Santander and/or its counsel shall be authorized to communicate directly with the auctioneer for the purposes of discussing all matters involving the sale including, without limitation, the extent of bidder interest and the terms and conditions of the sale. Santander shall have no responsibility for the payment of any Sale Costs or Cure Claims resulting from such sale; provided that the Sale Costs and/or Cure Claims may be paid from the gross proceeds of such sales.

### **5.3 Relief From Stay.**

(a) In the event that: (i) the closing of the sale of 1 Grant Street to Howard Grant does not occur on or before the Grant Sale Deadline or Santander does not receive the payment required under Section 4.1(c)(ii)(1) of the Plan on or before one Business day after the Grant Sale Deadline, and (ii) 1 Grant Street is not sold at auction as provided for in Section 5.2(e) of the Plan within forty-five (45) days after the Grant Sale Deadline or such auction sale does not close and Santander does not receive the payment required under Section 4.1(c)(ii)(2) of the Plan within twenty (20) days after the date of such auction sale, then Santander shall be deemed to have been granted immediate and automatic relief from the automatic stay, if any, and/or from any Plan injunction and/or from any other order or stay and Santander shall be authorized to conduct and complete a foreclosure sale of 1 Grant Street and to apply the sale proceeds in full or partial satisfaction, as the case may be, of the Santander Allowed Claim. Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any foreclosure sale of 1 Grant Street.

(b) In the event that: (i) the closing of the sale of 165 Forest Street to Forest 495 does not occur on or before the Forest Sale Deadline or Santander does not receive the payment required under Section 4.1(c)(iii)(1) of the Plan on or before one Business day after the Forest Sale Deadline, and (ii) 165 Forest Street is not sold at auction as provided for in Section 5.2(e) of the Plan within forty-five (45) days after the Forest Sale Deadline or such auction sale does not close and Santander does not receive the payment required under Section 4.1(c)(iii)(2) of the Plan within twenty (20) days after the date of such auction sale, then Santander shall be deemed to have been granted immediate and automatic relief from the automatic stay, if any, and/or from any Plan injunction and/or from any other order or stay and Santander shall be authorized to conduct and complete a foreclosure sale of 165 Forest Street and to apply the sale proceeds in full or partial satisfaction, as the case may be, of the Santander Allowed Claim. Santander shall have the right to credit bid all or any portion of the Santander Allowed Claim at any foreclosure sale of 165 Forest Street.

(c) In the event Santander is granted the relief set forth in Section 5.3(a) or (b), the Debtors shall not take any action to hinder or delay the foreclosure sale(s) contemplated in such Plan Sections including, without limitation, the filing of any further proceeding under Title 11 of the United States Code.

#### **5.4 Subsequent Sale of Property or Membership Interests.**

In the event that 1 Grant Street and/or 165 Forest Street is sold or transferred within three (3) years after the acquisition of such properties under the Plan, Santander shall be paid, at the closing of such sale, the Resale Assessment with respect to the property sold or transferred. In the event that all or a portion of the membership interests in Howard Grant and/or Forest 495 are sold or transferred within three (3) years after the acquisition of 1 Grant Street or 165 Forest Street, as applicable, under the Plan, Santander shall be paid, at the closing of such sale, the Resale Assessment with respect to the membership interests sold or transferred. The obligation to pay the Resale Assessment pursuant to the Plan, shall be binding upon the heirs, successors and assigns of Howard Grant, Forest 495 and Robert Depietri, Sr., the initial sole member of Howard Grant and Forest 495. Howard Grant, Forest 495 and/or Robert Depietri, Sr., their heirs, successors and assigns, as the case may be, shall provide Santander not less than fourteen (14) days prior written notice of the closing date any sale described in this Section 5.4.

#### **5.5 No Release of Guarantors.**

Nothing in the Plan or in the Confirmation Order shall release or in any way affect, impair or prejudice any claims by Santander against any third party guarantors or co-obligors (other than the Debtors themselves) of the Debtors' obligations to Santander.

#### **5.6 Execution of Necessary Documents.**

(a) Confirmation of the Plan shall constitute authorization by the Bankruptcy Court for the Debtors and/or the Reorganized Debtors to enter into all documents, instruments and agreements necessary to effectuate the terms of the Plan, including without limitation any of the foregoing that may be necessary to sell 1 Grant Street and/or 165 Forest Street. The form and/or content of the documents, instruments and agreements necessary to effectuate the terms of the Plan shall be subject to the approval of the Debtors and/or the Reorganized Debtors, in their sole discretion.

(b) All matters provided for in the Plan involving any corporate action required by the Debtors or Reorganized Debtors in connection with the Plan shall be deemed to have occurred, and shall be in effect, without any requirement of further action by the Reorganized Debtors, their agents, representatives, members, managers, officers, directors or Affiliates.

#### **5.7 Organization Documents and Good Standing.**

As of the Effective Date, the Debtors' respective Organization Documents shall be amended as necessary to effectuate the terms of the Plan and shall become the Organization Documents of the Reorganized Debtors. To the extent that there is any inconsistency between the Plan and any of the Organization Documents, the terms of the Plan shall control. To the extent any of the Debtors is not in compliance as of the Effective Date with any state or local law

requirements necessary to remain as an organized legal entity in good standing and/or remain authorized as an organized legal entity to conduct business in any jurisdiction, the Debtors and/or the Reorganized Debtors, as the case may be, shall be deemed to be in compliance with any such laws if they comply with such laws within six months after the Effective Date.

### **5.8 Revesting of Property.**

Except as otherwise provided in the Plan, each of the Reorganized Debtors, as of the Effective Date, shall be vested with all of the assets of each respective Debtor, subject to the Liens of Santander as provided in the Plan.

### **5.9 Preservation of Causes of Action.**

Except as provided in, and unless expressly waived, relinquished, exculpated, released, compromised or settled in the Plan, the Confirmation Order, the *Agreed Final Order Providing Adequate Protection and Authorizing Use of Cash Collateral and Post-Petition Financing* entered in the Bankruptcy Case of each Debtor, any Non-Appealable Order, or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, the Reorganized Debtors will exclusively retain and may enforce, and the Debtors expressly reserve and preserve for these purposes, in accordance with sections 1123(a)(5)(A) of the Bankruptcy Code, any Claims, demands, rights and Causes of Action that the Debtors or their respective Estates may hold against any person or entity. No preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to them by virtue of or in connection with the confirmation or consummation of the Plan.

### **5.10 Debtors' Continued Existence.**

Following the Effective Date, the Reorganized Debtors shall remain in existence for the purpose of effectuating the Plan, including: (a) selling 1 Grant Street and 165 Forest Street, (b) distributing the Net Proceeds of the sales of 1 Grant Street, 165 Forest Street and 57 East Main Street in accordance with the Plan, (c) reviewing and objecting to Claims against the Debtors, (d) distributing the Plan Fund, and (e) conducting an orderly wind down of the Reorganized Debtors' business and affairs. Upon the Effective Date, the Reorganized Debtors shall each be vested with the standing of and with all rights, powers and benefits afforded to a "trustee" under the Bankruptcy Code. Upon the completion of administration of the Plan, the Reorganized Debtors shall be dissolved.

### **5.11 Default.**

No event of default under the Plan shall occur unless, in the event of a breach of the Debtors' or the Reorganized Debtors' obligations under the Plan, the holder of the Allowed Claim asserting the default shall provide written notice of such breach to the Reorganized Debtors and such breach is not cured: (i) in the event of a breach that can be cured by the payment of a sum of money, within ten (10) days of the Reorganized Debtors' receipt of such notice; and (ii) for any other breach, within thirty (30) days of the Reorganized Debtors' receipt of such notice, provided that, if such non-monetary breach cannot reasonably be cured within

such 30-day period and the Reorganized Debtors have commenced curing such breach and continue to cure such breach, the thirty (30) day period shall be extended for such time as is reasonably necessary to cure such breach. The provisions of this Section 5.11 shall not be applicable with respect to any breach of the Debtors' or the Reorganized Debtors' obligations under the Plan to Santander or with respect to Santander's Collateral. Notwithstanding the foregoing, each of the Reorganized Debtors, Forest Street and Howard Street, shall have ten (10) days from its receipt of written notice from Santander of any breach of said Reorganized Debtor's obligations to Santander under 4.1(f) of the Plan to cure such breach.

## ARTICLE VI

### DISTRIBUTIONS ON CLAIMS AND RESOLUTION OF DISPUTED CLAIMS

#### 6.1 Method of Distributions Under the Plan.

(a) In General. Subject to Bankruptcy Rule 9010, and except as otherwise provided in the Plan, all distributions under the Plan to be made by, or on behalf of, the Reorganized Debtors to the holder of each Allowed Claim shall be mailed by first class mail, postage prepaid, to the address of such holder as listed on the Schedules unless the Reorganized Debtors have been notified in writing of a change of address as of the Distribution Record Date, including, without limitation, by the filing of a proof of claim or notice of transfer of claim filed by such holder that provides an address for such holder different from the address reflected on the Schedules. The Reorganized Debtors shall have no obligation to locate such holders whose distributions or notices are properly mailed but nevertheless returned.

(b) Form of Distributions. Except as otherwise provided in the Plan, any payment of Cash made by, or on behalf of, the Reorganized Debtors pursuant to the Plan shall be made by check or, upon agreement of the parties, by wire transfer.

(c) Distributions to be on Business Days. Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day.

(d) Fractional Dollars. Whenever any payment of a fraction of a dollar would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole dollar (rounding down in the case of \$0.50 or less, and rounding up in the case of more than \$0.50).

(e) Distributions to Holders as of the Distribution Record Date. As of the close of business on the Distribution Record Date, the claims register shall be closed. The Reorganized Debtors shall have no obligation to recognize any transfer of any Claims occurring after the close of business on the Distribution Record Date, and shall instead be entitled to recognize and deal for all purposes under the Plan with only those holders of record as of the close of business on the Distribution Record Date.

## **6.2 Objections to Disputed Claims.**

Prior to the Effective Date, any objections to Claims against the Debtors shall be prosecuted by the Debtors. On and after the Effective Date, any objections to Claims against the Debtors shall be prosecuted by the Reorganized Debtors.

## **6.3 Deadline for Objecting to Disputed Claims.**

Except as otherwise provided by order of the Bankruptcy Court, the Debtors, or the Reorganized Debtors as the case may be, may file an objection to a Claim against the Debtors until the later of: (a) the date that such Claim becomes due and payable in accordance with its terms, or (b) sixty (60) days after the Effective Date.

## **6.4 Estimation of Claims.**

The Debtors or the Reorganized Debtors may, at any time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtors or the Reorganized Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall have jurisdiction to estimate a Disputed Claim at any time, including, without limitation, during litigation concerning such Claim or an objection to such Claim. In the event the Bankruptcy Court estimates any Disputed Claim, the estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the Bankruptcy Court determines the maximum limitation of a Disputed Claim, such determination shall not preclude the Debtors from pursuing any supplemental proceedings to object to any payment of such Claim. All of the aforementioned Claims objections, estimation and resolution procedures are cumulative and not exclusive remedies. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

## **6.5 Disputed Claims Reserve.**

(a) Establishment. The Reorganized Debtors shall maintain a reserve (the “Disputed Claims Reserve”) equal to 100% of the distributions to which holders of Disputed Claims would be entitled under the Plan if such Disputed Claims were Allowed Claims or such lesser amount as required by a Non-Appealable Order.

(b) Investment of Cash. Cash in the Disputed Claims Reserve may be invested by the Reorganized Debtors only in Cash Equivalents having maturities sufficient to enable the Reorganized Debtors to make all necessary payments to holders of Disputed Claims if, and when, such Disputed Claims become Allowed Claims. Any interest, income, distributions or accretions on account of such investment in Cash Equivalents shall be for the sole benefit and account of the Reorganized Debtors, and the Reorganized Debtors shall be solely responsible for the payment of any income or other taxes arising therefrom.

(c) Distributions Upon Allowance of Disputed Claims. The holder of a Disputed Claim that becomes an Allowed Claim after the Effective Date shall receive distributions of Cash from the Disputed Claims Reserve as soon as practicable following the date on which such

Disputed Claim becomes an Allowed Claim pursuant to a Non-Appealable Order. Such distributions shall be made in accordance with the Plan based upon the distributions that would have been made to the holder of such a Claim under the Plan if the Disputed Claim had been an Allowed Claim on or prior to the Effective Date. No holder of a Disputed Claim shall have any claim against the Disputed Claims Reserve or a Reorganized Debtor with respect to such Claim until the Disputed Claim shall become an Allowed Claim.

#### **6.6 Reversion of Unclaimed Checks and Disputed Claims Reserve.**

The following amounts shall revert and be vested in the Reorganized Debtors free and clear of any claim or interest of any holder of a Claim under the Plan: (a) the amount of any checks issued for distributions under the Plan that remain uncashed for a period of 180 days after the date of such distribution; (b) to the extent that a Disputed Claim is not Allowed or becomes an Allowed Claim in an amount less than the Disputed Claim Amount, the excess of the amount of Cash or Cash Equivalents in the Disputed Claims Reserve attributable to such Disputed Claim over the amount of Cash actually distributed on account of such Disputed Claim; and (c) any Allowed Claim that is disallowed and expunged pursuant to Section 6.7 of the Plan.

#### **6.7 Obligation to Provide Tax Documents.**

No Person entitled to a payment or distribution under the Plan shall receive such distribution or payment until the Person provides the Reorganized Debtors with: (a) a W-9 or similar federal or state tax form, and (b) such other tax forms as are reasonably requested by the Reorganized Debtors (collectively the "Tax Forms"). If any Person holding an Allowed Claim fails to provide a Tax Form to the Reorganized Debtors after two written requests for a Tax Form, such Person's Allowed Claim shall be disallowed and expunged without further order of the Bankruptcy Court.

### **ARTICLE VII**

#### **VOTING ON THE PLAN AND CRAMDOWN**

##### **7.1 Voting of Claims.**

Each holder of an Allowed Claim in an impaired Class that retains or receives property under the Plan shall be entitled to vote separately to accept or reject the Plan. Each holder of the foregoing Allowed Claims electing to vote shall do so on a duly executed and delivered ballot and in accordance with procedures set forth in the applicable order of the Bankruptcy Court establishing Plan voting procedures.

##### **7.2 Acceptance by Impaired Classes.**

An impaired class of Claims or Equity Interests shall have accepted the Plan if (a) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims or Allowed Equity Interests actually voting in such Class have voted to accept the Plan and (b) the holders (other than any holder designated

under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims or Allowed Equity Interests actually voting in such Class have voted to accept the Plan.

### **7.3 Nonconsensual Confirmation.**

If any impaired Class entitled to vote does not accept the Plan by the requisite majorities provided in Sections 1126(c) or 1126(d) of the Bankruptcy Code, as applicable, or if any impaired class is deemed to have rejected the Plan, the Debtors reserve the right (a) to seek confirmation of the Plan under Section 1129(b) of the Bankruptcy Code; and/or (b) to amend the Plan in accordance with Section 12.3 of the Plan.

## **ARTICLE VIII**

### **EXECUTORY CONTRACTS, UNEXPIRED LEASES, POST-PETITION CONTRACTS AND RETIREE AND COMPENSATION BENEFITS**

#### **8.1 Assumption of Executory Contracts and Unexpired Leases.**

The Debtors shall assume or reject executory contracts and unexpired leases as set forth in Sections 5.2(c) and (d) of the Plan. The entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumption and assignment or rejection of such executory contracts and unexpired leases. Upon the Effective Date: (i) the Assumed Leases shall be deemed valid, binding and in full force and effect in accordance with their terms; (ii) the applicable Acquirer shall succeed to the entirety of the applicable Debtor's rights and obligations in the Assumed Lease first arising and attributable to the time period occurring on or after the Effective Date; (iii) all defaults (monetary and non-monetary) under the Assumed Leases through the Effective Date shall be deemed cured and satisfied through the payment of the applicable Allowed Cure Claim, if any, for such Assumed Lease; (iv) no other amounts will be owed by the Debtors, their Estates or the Acquirers with respect to amounts first arising or accruing during, or attributable or related to, the period before the Effective Date with respect to the Assumed Leases; (v) any and all persons or entities shall be forever barred and estopped from asserting a Claim against the Debtors, their Estates, and/or the Acquirers under, arising from or related to the Assumed Leases that arose or accrued, or relate to or are attributable to the period before the Effective Date; and (vi) any provision of the Assumed Leases or applicable non-bankruptcy law that purport to prohibit, restrict, or condition, or could be construed as prohibiting, restricting, or conditioning assignment of any of the Assumed Leases shall be deemed to have been satisfied or otherwise unenforceable under Section 365 of the Bankruptcy Code.

#### **8.2 Payments Related to The Assumption of Executory Contracts And Unexpired Leases.**

(a) Payment of Claims Arising From Assumed Contracts And Leases. Any Allowed Claims arising from the assumption of an executory contract or unexpired lease will receive, in full and complete satisfaction, settlement, release and discharge of such Claims and at the election of the Acquirers, either: (i) payment in the ordinary course of business as and when such Allowed Claims become due pursuant to such executory contract or unexpired lease, or (ii)



payment as agreed between the applicable Acquirer and the counter-party to the assumed contract or lease.

(b) Disputed Claims and Bar Date. If there is a dispute regarding (i) the amount of any claim arising from the assumption or rejection of an executory contract or unexpired lease, (ii) the ability of the applicable Debtor or any assignee to provide “adequate assurance of further performance,” within the meaning of Section 365 of the Bankruptcy Code, under a contract or lease to be assumed, or (iii) any other matter pertaining to the assumption or assumption and assignment of any contract or lease, the payment of any Claim related to the foregoing will be made following entry of a Non-Appealable Order resolving the dispute and approving the assumption.

### **8.3 Rejection Damage Claims.**

If the rejection of an executory contract or unexpired lease by the Debtors results in a Claim by the other party or parties to such contract or lease, any claim for damages, if not previously evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against the Estates, the Reorganized Debtors and their respective properties, agents, successors, or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel for the Debtors on or before thirty (30) days following the later to occur of: (a) the rejection of such executory contract or unexpired lease, and (b) the Confirmation Date. Unless otherwise ordered by the Bankruptcy Court or provided in the Plan, all such Claims for which proofs of claim are timely filed will be treated as General Unsecured Claims subject to the provisions of the Plan. The Debtors or the Reorganized Debtors, as the case may be, shall have the right to object to any such Claim for rejection damages in accordance with the Plan.

## **ARTICLE IX**

### **RELEASE AND DISCHARGE OF CLAIMS**

#### **9.1 Discharge.**

Except as otherwise expressly provided in Section 1141 of the Bankruptcy Code or the Plan, the distributions made pursuant to and in accordance with the applicable terms and conditions of the Plan are in full and final discharge as against the Debtors and the Reorganized Debtors of any debt or obligation of the Debtors that arose before the Effective Date, and any debt of the Debtors of a kind specified in Section 502(g), 502(h), or 502(i) of the Bankruptcy Code, and all Claims against the Debtors or their Estates of any nature, including, without limitation, any setoff claims and/or any interest accrued on any Claim from and after the Petition Date, whether or not: (a) a proof of claim based on such debt, obligation or Equity Interest is filed or deemed filed under Section 501 of the Bankruptcy Code, (b) such Claim is Allowed under Section 502 of the Bankruptcy Code, or (c) the holder of such Claim has accepted the Plan. This Section 9.1 shall have no application to the Santander Allowed Claim.

#### **9.2 Injunction Relating to the Plan.**

As of the Effective Date, and except as otherwise provided in the Plan with respect to Santander, all Persons are hereby permanently enjoined from commencing, continuing or

enforcing in any manner or in any place, any action or other proceeding, whether directly, indirectly, derivatively or otherwise against the Debtors, their Estates or the Reorganized Debtors, on account of, or respecting any Claims, debts, rights, obligations, Causes of Action or liabilities discharged pursuant to the Plan, except to the extent expressly permitted under the Plan.

### **9.3 Releases.**

Except as otherwise set forth in the Plan, as of the Effective Date, in consideration for, among other things, the obligations of the Debtors under the Plan and other contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, (a) each holder of a Claim or Interest that votes in favor of the Plan and (b) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, each Person that has held, holds or may hold a Claim or Equity Interest or at any time was a creditor or equity holder of any of the Debtors and that does not vote on the Plan or votes against the Plan, in each case will be deemed to forever release, waive and discharge all claims (including any derivative claims), obligations, suits, judgments, damages, demands, rights, causes of action and liabilities (other than the right to enforce the Reorganized Debtors' obligations under the Plan and the contracts, instruments, releases, agreements and documents delivered under the Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction or other occurrence taking place on or prior to the Effective Date in any way relating to a Debtor, the Bankruptcy Cases or the Plan that such entity has, had or may have against any Debtor, the Estates, the Estate's Assets, the Reorganized Debtors and/or the Reorganized Debtors' Assets. This Section 9.3 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander except as otherwise expressly provided in Section 4.1 of the Plan.

### **9.4 Cancellation of Existing Indebtedness and Liens.**

Except as is otherwise provided in the Plan, on the Effective Date: (a) all credit agreements, promissory notes, mortgages, security agreements, invoices, contracts, agreements and any other documents or instruments evidencing Claims against the Debtors, together with any and all Liens securing same, including without limitation any rights of setoff, shall be canceled, discharged and released without further act or action by any Person under any applicable agreement, law, regulation, order or rule, (b) the obligations of the Debtors thereunder shall be deemed cancelled, discharged and released, and (c) all of the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests, including any rights to any collateral thereunder, will revert to the Reorganized Debtors. To the extent deemed necessary or advisable by the Reorganized Debtors, any holder of a Claim shall promptly provide the Reorganized Debtors with an appropriate instrument of cancellation, discharge or release, as the case may be, in suitable form for recording wherever necessary to evidence such cancellation, discharge or release, including the cancellation, discharge or release of any Lien securing such Claim. This Section 9.4 shall have no application to the Santander Allowed Claim, the Santander Loan Documents or the Liens held by Santander except as otherwise expressly provided in Section 4.1 of the Plan.

### **9.5 Exculpation.**

Except as otherwise set forth in the Plan, neither the Debtors, the Reorganized Debtors, the Committee nor any of their respective present or former members, managers, officers, directors, employees, general or limited partners, advisors, attorneys, agents, successors or assigns, shall have or incur any liability to any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the administration of these Bankruptcy Cases, the pursuit of confirmation of the Plan, the Disclosure Statement, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan occurring prior to the Effective Date, provided that the terms of this Section 9.5 shall not apply to any liability for willful misconduct or ultra vires acts.

### **9.6 Setoffs.**

Except as otherwise provided in the Plan, nothing contained in the Plan shall constitute a waiver or release by the Debtors, the Estates and/or the Reorganized Debtors of any rights of setoff each may have against any Person.

## **ARTICLE X**

### **CONDITIONS PRECEDENT TO THE EFFECTIVE DATE OF THE PLAN**

#### **10.1 Conditions Precedent to Effectiveness.**

Subject to Section 10.2 of the Plan, the following are conditions precedent to the occurrence of the Effective Date:

- (a) The Confirmation Order, in form and substance reasonably acceptable to the Debtors shall have been entered by the Bankruptcy Court and shall not be subject to any stay;
- (b) The Confirmation Order shall have become a Non-Appealable Order;
- (c) All actions, other documents and agreements necessary to implement the Plan shall have been executed, delivered and, if necessary, properly recorded, and shall have become effective.
- (d) Notwithstanding the foregoing, for the purposes of calculating the Forest Sale Deadline and/or the Grant Sale Deadline, the Effective Date shall mean the first Business Day after the fifteenth day following the Confirmation Date.

#### **10.2 Waiver of Conditions.**

Except for the condition set forth in Sections 10.1(a) of the Plan, the Debtors may, in their sole discretion, waive one or more of the conditions precedent to the effectiveness of the Plan set forth in Section 10.1, without notice to any creditors or parties in interest and without Bankruptcy Court approval. The failure to satisfy or waive any condition precedent to the

occurrence of the Effective Date may be asserted by the Debtors regardless of the circumstances giving rise to the failure of such condition to be satisfied.

### **10.3 Effect of Non-occurrence of Conditions to the Effective Date.**

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors, or (b) prejudice in any manner the rights of the Debtors or any other Person or constitute an admission, acknowledgement, offer or undertaking by the Debtors or any other Person.

## **ARTICLE XI**

### **RETENTION OF JURISDICTION**

**11.1** From and after the occurrence of the Effective Date, the Bankruptcy Court shall have jurisdiction over the matters arising out of, and related to, the Bankruptcy Cases and the Plan, as legally permissible, pursuant to, and for the purposes of, Sections 105(a) and 1142 of the Bankruptcy Code including, without limitation:

- (a) To hear and determine any and all objections to the allowance, disallowance, determination, liquidation, classification or estimation of any Claims or Equity Interests or any controversies as to the priority and classification of any Claims (or any security with respect thereto) or Equity Interests or to estimate any Disputed Claim;
- (b) To hear and determine any and all applications by Professionals for compensation and reimbursement of expenses, authorized pursuant to the Plan or the Bankruptcy Code;
- (c) To hear and determine any and all applications (whether or not pending at or on the Confirmation Date) related to the rejection, assumption or assumption and assignment of executory contracts and unexpired leases to which any Debtor is a party, and to hear, determine and allow any Claims resulting therefrom;
- (d) To enforce and adjudicate the provisions of the Plan subject to the terms of the Plan;
- (e) To correct any defect, cure any omission, or reconcile any inconsistency in the Plan or in the Confirmation Order as may be necessary to carry out the purpose and the intent of the Plan;
- (f) To determine any Claim or liability to a governmental unit which may be asserted as a result of the transactions contemplated in the Plan;
- (g) To hear and determine matters concerning state, local, and federal taxes in accordance with Sections 346, 505 and 1146 of the Bankruptcy Code;
- (h) To determine such other matters as may be necessary if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(i) To resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation, enforcement or vacatur of the Plan or any Person's obligations incurred in connection with the Plan;

(j) To issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation or enforcement of the Plan, except as otherwise provided herein;

(k) To determine any other matters that may arise in connection with the Plan, the Disclosure Statement, the Confirmation Order or any other contract, instrument, release, indenture or other agreement or document created in connection with the foregoing;

(l) To resolve any cases, controversies, suits or disputes with respect to releases, injunctions and other provisions contained in Article IX hereof and enter such orders as may be necessary or appropriate to implement such releases, injunctions or other provisions;

(m) To hear and determine any Claims, rights, demands and Causes of Action arising prior to the Effective Date preserved pursuant to the Plan; and

(n) To enter an order and/or final decree concluding the Bankruptcy Cases.

## ARTICLE XII

### MISCELLANEOUS

#### **12.1 Continuation of Injunctions or Stays Until Effective Date.**

All injunctions or stays provided for in the Bankruptcy Cases under Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### **12.2 Exemption from Transfer Taxes.**

In accordance with Section 1146(c) of the Bankruptcy Code: (a) the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by the Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan, or the re-vesting, transfer or sale of any real or personal property of the Debtors pursuant to, in implementation of, or as contemplated by the Plan, (b) the making, delivery, creation, assignment, amendment or recording of any note or other obligation for the payment of money or any mortgage, deed of trust or other security interest under, in furtherance of, or in connection with the Plan, and the issuance, renewal, modification or securing of indebtedness by such means, and (c) the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, with respect to 165 Forest Street and 1 Grant Street, shall not be subject to any document recording tax, stamp tax, conveyance fee or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax or other similar

tax or governmental assessment. Each recorder of deeds or similar official for any county, city or governmental unit in which any instrument under the Plan is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, transfer tax, intangible tax or similar tax.

### **12.3 Amendment or Modification of the Plan.**

Alterations, amendments or modifications of the Plan may be proposed in writing by the Debtors jointly at any time prior to the Confirmation Date, provided that the Plan, as altered, amended or modified, satisfies the conditions of Sections 1122 and 1123 of the Bankruptcy Code, and the Debtors shall have complied with Section 1125 of the Bankruptcy Code. The Plan may be altered, amended or modified at any time before or after the Confirmation Date and before substantial consummation, provided that the Plan, as altered, amended or modified, satisfies the requirements of Sections 1122 and 1123 of the Bankruptcy Code and the Bankruptcy Court, after notice and a hearing, confirms the Plan, as altered, amended or modified, under Section 1129 of the Bankruptcy Code. A holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder. The Debtors or the Reorganized Debtors may, without notice to holders of Claims insofar as it does not materially and adversely affect the interests of any such holders, correct any defect or omission in the Plan and any exhibit to the Plan or in any Plan Document.

### **12.4 Severability.**

If, prior to the Confirmation Date, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court may, upon the request of the Debtors, 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 altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable according to its terms. The Court may confirm the Plan with respect to any or all of the Debtors.

### **12.5 Revocation or Withdrawal of the Plan.**

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan prior to the Confirmation Date, then the Plan shall be deemed null and void.

### **12.6 Binding Effect.**

The rights, duties and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Person.

## **12.7 Notices.**

All notices, requests and demands to or upon the Debtors or the Reorganized Debtors shall only be effective if in writing and, unless otherwise expressly provided in the Plan, 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 confirmed, addressed as follows:

Framingham 300 Howard Street, LLC  
Forest Street 165, LLC, and/or  
East Main Street Building 57, LLC  
c/o Rosewood Management Associates  
40 Mechanic Street  
Suite 300  
Marlborough, MA 01752  
Attention: David Depietri

With a copy to:

McAULIFFE & ASSOCIATES, Professional Corporation  
430 Lexington Street  
Newton, MA 02466  
John M. McAuliffe, Esq.  
Kathryn Pellegrino, Esq.  
Telephone: (617) 558-6889  
E-mail: john@jm-law.net

## **12.8 Governing Law.**

Except to the extent the Bankruptcy Code, Bankruptcy Rules or other federal law is applicable, or to the extent the Plan provides otherwise, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts, without giving effect to the principles of conflicts of law of such jurisdiction.

## **12.9 Withholding and Reporting Requirements.**

In connection with the consummation of the Plan, the Reorganized Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements.

### **12.10 Post-Confirmation Fees, Final Decree.**

Each Reorganized Debtor will be responsible for timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6). After confirmation, each Reorganized Debtor will serve the United States Trustee with a quarterly financial report for each quarter (or portion thereof) the case remain open. The quarterly financial report shall include the following:

- (a) A statement of all disbursements made during the course of the quarter, whether or not pursuant to the plan;
- (b) A summary, by class, of amounts distributed or property transferred to each recipient under the plan, and an explanation of the failure to make any distributions or transfers of property under the plan;
- (c) The Reorganized Debtor's projections as to its continuing ability to comply with the terms of the plan;
- (d) A description of any other factors which may materially affect the Reorganized Debtor's ability to consummate the plan; and
- (e) An estimated date when an application for final decree will be filed with the court (in the case of the final monthly report, the date the decree was filed).

### **12.11 Headings.**

Headings are used in the Plan for convenience and reference only, and shall not constitute a part of the Plan for any other purpose.

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**12.12 Inconsistency.**

In the event of any inconsistency between the Plan and the Disclosure Statement or any other instrument or document created or executed pursuant to the Plan, the terms of the Plan shall govern.

FRAMINGHAM 300 HOWARD, LLC,

FOREST STREET BUILDING 165, LLC,

/s/ David P. Depietri

By: David P. Depietri

Its: Manager

/s/ David P. Depietri

By: David P. Depietri

Its: Manager

EAST MAIN STREET BUILDING 57,  
LLC,

Counsel for the Debtors,

/s/ David P. Depietri

By: David P. Depietri

Its: Manager

/s/ John M. McAuliffe

McAULIFFE & ASSOCIATES,

Professional Corporation

430 Lexington Street

Newton, MA 02466

John M. McAuliffe, Esq. (BBO #555109)

Kathryn Pellegrino, Esq. (BBO #654743)

Telephone: (617) 558-6889

E-mail: john@jm-law.net

Dated: July 11, 2016