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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

|                       |   |                         |
|-----------------------|---|-------------------------|
| -----                 | X |                         |
|                       | : |                         |
| In re:                | : |                         |
|                       | : | Chapter 11              |
| BIOMBO, INC., et al., | : |                         |
|                       | : | Case No. 16-22248 (RDD) |
| Debtors. <sup>1</sup> | : |                         |
|                       | : | (Jointly Administered)  |
| -----                 | X |                         |

**DEBORAH J. PIAZZA, AS TRUSTEE FOR THE DEBTORS' DISCLOSURE  
STATEMENT TO ACCOMPANY HER PLAN OF LIQUIDATION FOR THE  
DEBTORS DATED JUNE 14, 2017**

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<sup>1</sup> The Debtors in these cases are (i) Biombo, Inc. ("Biombo") (Case No. 16-22248), (ii) 173 Cortlandt St. LLC ("173 Cortlandt") (Case No. 16-22256), (iii) 144 Cortlandt St. LLC ("144 Cortlandt") (Case No. 16-22254), (iv) 146-148 Cortlandt Street, LLC ("146-148 Cortlandt") (Case No. 16-22255), (v) Shippy Realty Corporation ("Shippy") (Case No. 16-22249), (vi) Dari Realty Corp. ("Dari") (Case No. 16-22250), and (vii) Dashley Corp. ("Dashley") (Case No. 16-22253) (collectively, the "Debtors").

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## **DISCLOSURE STATEMENT**

On February 26, 2016 (the “Filing Date”), the Debtors each filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (“the Bankruptcy Court”).

On April 1, 2016, the Court entered an Order [Dkt. No. 20]<sup>2</sup> directing *inter alia*, the appointment of a chapter 11 trustee in the Debtors’ jointly administered chapter 11 cases (the “Chapter 11 Cases”) and on April 5, 2016, the Court entered an Order [Dkt. No. 23] confirming the appointment of Deborah J. Piazza as the trustee (the “Trustee”).

Pursuant to §1125 of the Bankruptcy Code, the Trustee submits this disclosure statement (the “Disclosure Statement”) relating to her plan of liquidation, dated June 14, 2017 (the “Plan”).

### **I**

## **INTRODUCTION**

The Trustee provides this Disclosure Statement to all of the Debtors’ known creditors, shareholders, members and other parties in interest in order to provide adequate information to enable them to make an informed decision as to whether to accept or reject the Plan. All holders of Claims and Equity Interests are hereby advised and encouraged to read this Disclosure Statement and the Plan in their entirety before voting to accept or reject the Plan.

The Plan summary and statements made in this Disclosure Statement are qualified in their entirety by reference to the Plan (a copy of which accompanies this Disclosure Statement as **Exhibit "A"**).<sup>3</sup>

By Order dated June \_\_\_, 2017, the Bankruptcy Court (i) preliminarily and conditionally approved this Disclosure Statement as containing adequate information of a kind and in

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<sup>2</sup> Unless otherwise noted, docket number citations refer to the docket in the lead case, Case No. 16-22248 (RDD).

<sup>3</sup> Capitalized terms not otherwise defined in this Disclosure Statement have the meanings assigned to them in the Plan.

sufficient detail to enable creditors of the Debtors to make an informed judgment about the Plan, and (ii) scheduled a combined hearing on the final approval of the Disclosure Statement and the confirmation of the Plan. Any objections to the adequacy of this Disclosure Statement or confirmation of the Plan may be made at the Confirmation Hearing.

The Court's preliminary approval of this Disclosure Statement does not constitute a recommendation by the Court either for or against the Plan. No statements or information concerning the Plan and the transactions contemplated thereby have been authorized, other than the statements and information set forth in this Disclosure Statement. All other statements regarding the Plan and the transactions contemplated, whether written or oral, are unauthorized.

The Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan and Final Approval of the Disclosure Statement for **July 14, 2017 at 10:00 a.m.** at the United States Bankruptcy Court located at 300 Quarropas Street, White Plains, New York. This hearing may be adjourned from time to time without further notice other than by announcement in Court on the scheduled date of such hearing. At that hearing, the Court will consider whether the Plan satisfies the various requirements of the Bankruptcy Code. The Court will then also receive and consider a ballot report prepared by the Trustee concerning the votes for acceptance or rejection of the Plan by the parties entitled to vote.

**No representations concerning the Debtors, the estimated value of the Debtors' property and/or the estimated assets to be generated from the liquidation of the Debtors' Assets are authorized by the Trustee other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance which are other than as contained in this Disclosure Statement, should not be relied upon by you in casting your vote with respect to the proposed Plan.**

**THE TRUSTEE BELIEVES THAT THE PLAN PROVIDES THE GREATEST AND EARLIEST POSSIBLE RECOVERIES TO ALL CREDITORS UNDER THE CIRCUMSTANCES. THE TRSUTEE BELIEVES THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF EACH AND EVERY CLASS OF CREDITORS AND RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN.**

This Disclosure Statement is based upon information available to the Trustee as of the date of the Disclosure Statement and does not reflect events that may occur subsequent to that date, which may have a material impact on the information contained in this Disclosure Statement. The Trustee will not make any effort to supplement or amend this Disclosure Statement to reflect changes subsequent to the date hereof.

THIS DOCUMENT WAS COMPILED FROM INFORMATION OBTAINED BY THE TRUSTEE FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF THE TRUSTEE'S KNOWLEDGE, INFORMATION AND BELIEF.

ALTHOUGH THE TRUSTEE'S PROFESSIONAL ADVISORS HAVE ASSISTED IN THE PREPARATION OF THIS DISCLOSURE STATEMENT BASED UPON THE FACTUAL INFORMATION AND ASSUMPTIONS RESPECTING THE FINANCIAL, BUSINESS AND ACCOUNTING DATA PROVIDED BY THE TRUSTEE, THE TRUSTEE'S PROFESSIONAL ADVISORS HAVE NOT INDEPENDENTLY VERIFIED THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND MAKE NO REPRESENTATIONS OR WARRANTIES AS TO SUCH INFORMATION. SUCH PROFESSIONAL ADVISORS DO NOT REPRESENT OR WARRANT THAT THIS DISCLOSURE STATEMENT IS COMPLETE OR IS FREE FROM ANY INACCURACY OR OMISSION.

HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER STATEMENT.

### **CAUTIONARY STATEMENT**

CERTAIN INFORMATION INCLUDED IN THIS DISCLOSURE STATEMENT CONTAINS FORWARD-LOOKING STATEMENTS WITHIN THE MEANING OF THE SECURITIES ACT OF 1933, AS AMENDED, THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995, AS AMENDED. SUCH FORWARD-LOOKING INFORMATION IS BASED ON INFORMATION AVAILABLE WHEN SUCH STATEMENTS ARE MADE AND IS SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE EXPRESSED IN THIS DISCLOSURE STATEMENT.

### **SUMMARY OF CLASSIFICATION AND TREATMENT**

Detailed elsewhere in this Disclosure Statement is a description of the technical aspects of the classification of Claims and Equity Interests, the relative allocations of property to holders of such Claims and Interests, the methodology as to how such property is to be distributed, the risks inherent in the proposed Plan, and the applicable bankruptcy and tax consequences of the proposed liquidation. However, the Trustee believes that a broad overview of what, in the opinion of the Trustee, creditors are likely to receive under the Plan, will be helpful for your consideration of whether you wish to accept or reject the Plan.

The following is a summary of the classification of all Claims and Equity Interests under the Plan and the proposed treatment of each such Classes under the Plan. This summary is qualified in its entirety by reference to provisions set forth in the Plan, the terms of which are

controlling.

| CLASS               | DESCRIPTION   | KIND OF PROPERTY DISTRIBUTED TO CLASS       | PROJECTED ULTIMATE DISTRIBUTION AS PERCENTAGE OF ALLOWED CLAIM  |
|---------------------|---|---|---|
| Unclassified Claims | a. Professional Fees and Expenses                                   | Cash  | 100% as allowed by Court or such lesser amount as agreed between the holder of such claim and the Trustee.  |
|                     | b. Accounts payable and other obligations which arose post-petition | Cash  | 100% on the Effective Date or such lesser amount as agreed between the holder of such claim and the Trustee.  |
|                     | c. Priority Tax Claims  | Cash  | 100% of such allowed Priority Tax Claim on the Effective Date or such lesser amount as agreed between the holder of such claim and the Trustee.         |
| Class 1             | Secured Claims  | Cash or Return of Collateral                | 100% of Allowed Claim on the Effective Date.  |
| Class 2             | Priority Claims   | Cash  | 100% of Allowed Claim on the Effective Date.  |
| Class 3             | General Unsecured Claims  | Cash  | <i>Pro Rata</i> distribution of at least \$20,000.00. The Trustee estimates that the distribution will be approximately 6.6% of Allowed Class 3 Claims. |
| Class 4             | Equity Interest Holders   | All Stock and Membership Interests Canceled | None.   |

## II

### VOTING INSTRUCTIONS AND CONFIRMATION OF PLAN

#### A. Manner of Voting on Plan

Before voting, this Disclosure Statement as well as the Plan should be read in its entirety. You should use the ballot sent to you with this Disclosure Statement to cast your vote for or against the Plan.

If you hold a Claim in Class 3, included in the package of materials forwarded to you along with this Disclosure Statement and the Plan is a ballot for your acceptance or rejection of



the Plan. You should complete, date and sign your ballot and return it to Tarter Krinsky & Drogin LLP, 1350 Broadway, 11<sup>th</sup> Floor, New York, New York 10018, Attn: Scott S. Markowitz, Esq., attorneys for Trustee. All ballots must be **received** prior to **5:00 P.M. on July 10, 2017**.

**B. Claim Holders Entitled To Vote**

Under the Bankruptcy Code, any holders of Claims in Classes that are "impaired" under the Plan are entitled to vote to accept or reject the Plan, unless such Class neither receives nor retains any property under the Plan (in which case such Class is deemed to have rejected the Plan). Bankruptcy Code §1124 provides generally that a Class is impaired if the legal, equitable or contractual rights of the Claims or interests in that Class are altered. Only Class 3 claimants (holders of allowed Unsecured Claims) are entitled to vote on the Plan.

Subject to the exceptions provided below, any holder whose Claim is impaired under the Plan is entitled to vote if either (i) its Claim has been scheduled by the Debtor and such Claim is not scheduled as disputed, contingent or unliquidated; or (ii) such Claim holder has filed a proof of Claim which is not otherwise a Disputed Claim.

A holder of a Disputed Claim is not entitled to vote on the Plan unless such Claim is temporarily allowed by the Trustee or by an order of the Bankruptcy Court in an estimated amount which it deems proper for the purpose of voting to accept or reject the Plan. In other words, only holders of Allowed Claims in impaired classes may vote to accept or reject the Plan. A Claim to which an objection has been filed or a Claim (i) which is listed on the Debtors' Schedules or Amended Schedules as disputed, unliquidated or contingent; and (ii) with respect to which a superseding proof of Claim has not been filed, is not an Allowed Claim for voting purposes, unless the Claim is settled by agreement or the Court allows the Claim (in whole or in

part) by Final Order. Upon request of a party-in-interest, the Court may temporarily allow or estimate a Disputed Claim for the purpose of voting on the Plan. Ballots cast in respect of claims other than Allowed Claims will not be counted. In addition, a vote may be disregarded if the Bankruptcy Court determines that the acceptance or rejection of the Plan by the creditor is not solicited or procured in good faith, or in accordance with the provisions of the Bankruptcy Code.

**C. Classes Impaired Under the Plan**

Claims by holders in Class 3 and Equity Interest holders in Class 4 are impaired under the Plan. Class 4 ( Equity Interests) receives no distributions under the Plan and therefore is deemed to reject the Plan. Class 3 holders are eligible, subject to the limitations set forth above, to vote to accept or reject the Plan. All other Classes of Claims are unimpaired under § 1124 of the Bankruptcy Code and therefore not entitled to vote on the Plan.

Any controversy as to whether any Claim or Class of Claims is impaired under the Plan shall, after notice of any hearing, be determined by the Bankruptcy Court.

**D. Vote Required For Class Acceptance**

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a Class of impaired Claims as acceptance by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of holders of Allowed Claims in that Class who cast ballots.

Section 1126(d) of the Bankruptcy Code defines acceptance of a plan by a class of Equity Interest holders as acceptance by holders of at least two-thirds (2/3) in amount of the allowed interests of such class who cast ballots.

### III

#### **THE DEBTORS AND THEIR OPERATIONS**

##### **A. The Debtors**

As of the Petition Date, each of the Debtors was a single asset real estate entity whose principal assets comprised the following real properties (each, a “Property” and, collectively, the “Properties”):

1. **Biombo** - 85-87 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.15, Block 1, Lot 72), consisting of two contiguous multi-residential, four story apartment buildings with 18 total units;
2. **173 Cortlandt** – 173 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.11, Block 6, Lot 17), a multi-residential building comprised of four units;
3. **144 Cortlandt** – 144 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.15, Block 2, Lot 71), a multiresidential, three story apartment building with four residential units;
4. **146-148 Cortlandt** – 146-148 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.15, Block 2, Lots 72-73), two contiguous multi-residential, three story apartment buildings with twenty units;
5. **Shippy** – 196 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.11, Block 5, Lot 1), a multi-residential, three story building with six residential units and two commercial units;
6. **Dari** – 76 Beckman Avenue, Sleepy Hollow, NY (Westchester County, Section 115.11, Block 5, Lot 9), a multi-residential, three story building with four residential units and one commercial unit; and
7. **Dashley** – 145 Cortlandt Street, Sleepy Hollow, NY (Westchester County, Section 115.15, Block 2, Lot 60), a multi-residential, three story apartment building with twelve residential units.

The Debtors' sole shareholder/member, Cirilo Rodriguez, managed the Properties until the Trustee was appointed on April 5, 2016. Subsequent to the Trustee's appointment through the closing of the sale of the Properties, the Trustee managed the Properties and collected the rents.

**B. The Debtors' Prepetition Financing**

Prior to the Petition Date, 100 Mile Fund, LLC ("100 Mile" or "Lender") loaned the Debtors the principal amount of \$9,500,000.00 (the "Loan") evidenced by: (i) Loan Agreement dated August 7, 2015 (the "Loan Agreement"); (ii) Consolidated, Amended and Restated Promissory Note dated August 7, 2015 (the "Note"); (iii) Consolidated, Amended and Restated Mortgage, Assignment of Leases and Rents and Security Agreement dated August 7, 2015 (the "Mortgage"); and (iv) Assignment of Leases and Rents dated August 7, 2015 (the "Assignment of Leases and Rents"). The Loan was guaranteed by Cirilo Rodriguez<sup>4</sup>, the Debtors' sole shareholder/member. The Loan was approved by the Bankruptcy Court as a debtor-in-possession loan in the Debtors' previously filed cases, which cases were dismissed on December 1, 2015. The Loan was secured by perfected, first-priority blanket security interests in and liens on all the Debtors' assets, including the Properties (collectively, the "Prepetition Liens").

**C. Post-Petition Events**

**1. General**

On February 26, 2016, each of the Debtors filed a voluntary petition under the Bankruptcy Code with the Bankruptcy Court. On March 4, 2016, an order was entered authorizing the consolidation of the Chapter 11 Cases for administrative purposes [Dkt. No. 7]. The Chapter 11 Cases were assigned to the Honorable Robert D. Drain, United States Bankruptcy Judge. The Bankruptcy Court has entered several orders in the Chapter 11 Cases,

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<sup>4</sup> On March 18, 2016, Mr. Rodriguez filed a voluntary Chapter 11 petition for relief with this Court (Case No. 16-22348), which was dismissed on March 8, 2017.

each of which are available from the Clerk of the Court or may be viewed at the Bankruptcy Court's website: [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

**2. Trustee**

On March 8, 2016, 100 Mile filed a motion to dismiss the Chapter 11 Cases or in the alternative to appoint a chapter 11 trustee [Dkt. No. 8]. On April 1, 2016, the Bankruptcy Court entered an Order [Dkt. No. 20] directing the appointment of a chapter 11 trustee and on April 5, 2016, [Dkt. No. 23] confirming the appointment of Deborah J. Piazza as the Chapter 11 trustee for the Debtors.

**D. Cash Collateral**

On May 2, 2016, the Trustee filed a motion seeking authority to use cash collateral of 100 Mile [Dkt. No. 32]. On May 23, 2016, the Court entered a Stipulation and Consent Interim Order authorizing the use of cash collateral [Dkt. No. 42]. On July 12, 2016, Court entered a Final Stipulation and Consent Order authorizing the use of cash collateral and granting related relief (collectively, the "Cash Collateral Stipulations"). Pursuant to the Cash Collateral Stipulations, the Trustee has been authorized to use cash collateral to pay ordinary and customary operating expenses associated with the Properties, adequate protection payments to 100 Mile as well as a portion of their professional fees incurred.

**E. Retention of Professionals**

The Bankruptcy Court authorized the Trustee to retain certain professionals to represent and assist her in connection with the Chapter 11 Cases. Specifically, the Trustee retained, and the Bankruptcy Court has approved the retention of, Tarter Krinsky & Drogin LLP ("TKD") as Trustee's counsel, *nunc pro tunc* to April 4, 2016 [Dkt. No. 29], Thompson Law Group, P.C. as Special Litigation Counsel for the Trustee [Dkt. No. 41], CBIZ Accounting, Tax & Advisory of

New York LLC as financial advisors and accountants to the Trustee [Dkt. No. 53], and MYC & Associates (“MYC”) as real estate broker and property manager [Dkt. No. 34].

The Bankruptcy Court also authorized the Debtor to retain Alter & Brescia as bankruptcy counsel [Dkt. No. 26] *nunc pro tunc* as of February 26, 2016.

**F. The Petition And Schedules**

On February 26, 2016, the Debtors filed their voluntary Chapter 11 petitions. On March 11, 2016, each of the Debtors filed their respective schedules of assets and liabilities (the “Schedules”). The Debtors scheduled Unsecured Claims totaling approximately \$4,000.00. The Debtors scheduled Secured Claims totaling approximately \$9,500,000.00

**G. Operating Reports**

Pursuant to the requirements of the Office of the United States Trustee for the Southern District of New York, the Trustee has filed monthly operating reports with the Bankruptcy Court for the periods from April 2016 through May 2017. Copies of the monthly reports which the Trustee has filed may be obtained from the Bankruptcy Court during normal business hours, or may be obtained upon written request made to counsel for the Trustee.

**H. Bar Date And Objection To Claims**

In accordance with the requirements of § 521 of the Bankruptcy Code and Bankruptcy Rule 1007, each of the Debtors filed its Schedules of Assets and Liabilities, including schedules of all of its known creditors and the amounts and priorities of the Claims each of the Debtors believe are owed to such creditors. Pursuant to § 501 of the Bankruptcy Code any creditor or interest holder may file a Proof of Claim or Equity Interest and, unless Disputed, such filed Proof of Claim or Interest supersedes the amount and priority set forth in the Debtor’s schedules. On

May 4, 2016, the Bankruptcy Court entered an Order [Dkt No. 35] fixing June 15, 2016 as the last date for filing Proofs of Claim in the Debtors' cases (the "Bar Date").

The Plan provides that the Trustee has thirty (30) days after the Plan's Effective Date to file objections to filed Claims, unless further extended by court order. If the Trustee does not file an objection to a properly filed proof of claim on or before thirty (30) days after the Effective Date (or as extended by the Bankruptcy Court) then such Claim will be deemed Allowed and will be entitled to the Distribution under the Plan on account of its Allowed Claim.

**1. Section 363 Sale of the Debtors' Properties**

On September 30, 2016, 100 Mile executed a stalking horse credit bid purchase and sale agreement ("Purchase and Sale Agreement") for the purchase of the Debtors' Properties.

On September 30, 2016, the Trustee filed a Motion for (i) (a) approval of bid procedures in connection with the sale of the Debtors' Properties; (b) authorizing the Trustee to enter into the Purchase and Sale Agreement and approving reimbursement of expenses; (c) scheduling an auction and sale hearing to approve the sale; and (d) approving the form of Notice of the bid procedures, auction and sale hearing; and (ii) after completion of the sale hearing, (a) approving the sale to 100 Mile or another qualified bidder submitting a higher offer, (b) approving the Purchase and Sale Agreement, and (c) granting related relief [Dkt. No. 70].

On October 26, 2016, the Court entered an Order (a) approving bid procedures; (b) authorizing the Trustee to enter into the Purchase and Sale Agreement; and (c) scheduling a hearing to consider the proposed sale and approving the form of Notice thereof (the "Bid Procedures Order") [Dkt. No. 76]. The Bid Procedures Order further provided that 100 Mile was authorized to credit bid up to the amount of its secured claim.

After extensive marketing of the Properties and the Trustee receiving bids from six

parties to purchase individual properties, an auction was conducted by MYC on February 27, 2017. At the conclusion of the Auction, the Trustee determined that 100 Mile's bid was the highest and best bid for the Properties.

On March 9, 2017, a sale hearing was held to approve the sale of the Properties to 100 Mile. Promptly following the sale hearing, the Court entered an order on March 9, 2017, authorizing the sale of the Properties to 100 Mile or its designee and related relief (the "Sale Order") [Dkt. No. 100]. The purchase price for the Properties was \$9,594,056.96 (the "Credit Bid"). In addition to the Credit Bid, which satisfied 100 Mile's Secured Claim in full, 100 Mile was responsible for the payment of all outstanding pre-petition and post-petition real estate taxes and water charges (\$785,754.71), and transfer taxes (\$39,433.34), payment of MYC's commission, UST quarterly fees through the 2<sup>nd</sup> Quarter, 2017 and any unpaid post-petition operating expenses related to the Properties.

On March 30, 2017, the sale of the Properties was effectuated (the "Sale"). Through the Sale, 100 Mile took fee title of the Properties free and clear of all liens, claims and encumbrances pursuant to §363(f) of the Bankruptcy Code (other than tax related claims which were paid at closing). All proceeds received from the Sale of the Properties and cash on hand shall be used to fund the Plan.

The Trustee executed any and all documents necessary to effectuate the conveyance of the Properties to 100 Mile, including without limitation a Bargain and Sale Deed with Covenants, a Bill of Sale and all required transfer tax returns. After the Sale, the Debtors and the Debtors' Chapter 11 Cases had no further operations.

## **2. Proofs of Claim**

As set forth above, the Bankruptcy Court established June 15, 2016, as the last date to file



proofs of claims for amounts owed by the Debtors as of the Filing Date. The following claims have been filed in each of the Debtor's cases:

**Biombo**

| Claim No. | Claimant                             | Amount         | Type           |
|-----------|--------------------------------------|----------------|----------------|
| 1         | NYS Department of Taxation & Finance | \$656.00       | Unsecured      |
|           |                                      | \$1,442.96     | Priority       |
| 2         | Con Edison                           | \$30,972.81    | Unsecured      |
| 3         | Internal Revenue Service             | \$18,400.78    | Unsecured      |
|           |                                      | \$282.58       | Priority       |
| 4         | Town of Mount Pleasant               | \$27,532.73    | Priority       |
| 5         | NYS Department of Taxation & Finance | \$50.00        | Priority       |
| 6         | United States Trustee                | \$1,300.00     | Administrative |
| 7         | 100 Mile                             | \$9,819,058.96 | Secured        |
| 8         | Village of Sleepy Hollow             | \$47,671.21    | Priority       |
|           |                                      | \$24,429.73    | Administrative |
| 9         | ATS One Holdings Corp                | \$1,800,000.00 | Unsecured      |

**173 Cortlandt**

| Claim No. | Claimant               | Amount      | Type      |
|-----------|------------------------|-------------|-----------|
| 1         | Con Edison             | \$11,332.78 | Unsecured |
| 2         | Town of Mount Pleasant | \$15,796.38 | Priority  |

|   |                          |                          |                            |
|---|--------------------------|--------------------------|----------------------------|
| 3 | United States Trustee    | \$975.00                 | Administrative             |
| 4 | 100 Mile                 | \$9,819,058.96           | Secured                    |
| 5 | Village of Sleepy Hollow | \$8,937.59<br>\$8,159.59 | Priority<br>Administrative |
| 6 | ATS One Holdings Corp    | \$1,800,000.00           | Unsecured                  |

**144 Cortlandt**

| Claim No. | Claimant                             | Amount                     | Type                       |
|-----------|--------------------------------------|----------------------------|----------------------------|
| 1         | NYS Department of Taxation & Finance | \$1,504.36<br>\$1,503.07   | Priority<br>Unsecured      |
| 2         | Town of Mount Pleasant               | \$14,518.22                | Priority                   |
| 3         | Con Edison                           | \$82,737.49                | Unsecured                  |
| 4         | Internal Revenue Service             | \$16,415.09                | Unsecured                  |
| 5         | United States Trustee                | \$650.00                   | Administrative             |
| 6         | 100 Mile                             | \$9,819,058.96             | Secured                    |
| 7         | Village of Sleepy Hollow             | \$19,957.68<br>\$12,470.72 | Priority<br>Administrative |
| 8         | ATS One Holiday Corp                 | \$1,800,000.00             | Unsecured                  |

**146-148 Cortlandt**

| Claim No. | Claimant | Amount | Type |
|-----------|----------|--------|------|
|-----------|----------|--------|------|

|   |  |                |                |
|---|--|----------------|----------------|
| 1 | ConEdison  | \$82,737.49    | Unsecured      |
| 2 | Town of Mount Pleasant                           | \$38,348.76    | Priority       |
| 3 | Internal Revenue Service                         | \$18,644.44    | Unsecured      |
| 4 | Delbello Donnellan Weingarten, Wise & Wiederkehr | \$36,588.07    | Unsecured      |
| 5 | United States Trustee                            | \$1,300.00     | Administrative |
| 6 | 100 Mile   | \$9,500,000.00 | Secured        |

**Shippy**

| Claim No. | Claimant                             | Amount                     | Type                       |
|-----------|--------------------------------------|----------------------------|----------------------------|
| 1         | NYS Department of Taxation & Finance | \$50.00                    | Priority                   |
| 2         | Internal Revenue Service             | \$212.77<br>\$15,826.89    | Priority<br>Unsecured      |
| 3         | Town of Mount Pleasant               | \$23,739.22                | Priority                   |
| 4         | Con Edison                           | \$5,901.63                 | Unsecured                  |
| 5         | United States Trustee                | \$979.35                   | Administrative             |
| 6         | 100 Mile                             | \$9,819,058.96             | Secured                    |
| 7         | Village of Sleepy Hollow             | \$20,076.66<br>\$24,612.19 | Administrative<br>Priority |
| 8         | Village of Sleepy Hollow             | \$165,075.70               | Priority<br>(Judgment)     |

|    |                                      |                        |                       |
|----|--------------------------------------|------------------------|-----------------------|
| 9  | ATS One Holdings Corp                | \$1,800,000.00         | Unsecured             |
| 10 | NYS Department of Taxation & Finance | \$1,373.68<br>\$250.00 | Priority<br>Unsecured |

**Dari Realty**

| Claim No. | Claimant                             | Amount                    | Type                      |
|-----------|--------------------------------------|---------------------------|---------------------------|
| 1         | NYS Department of Taxation & Finance | \$1,373.68<br>\$250.00    | Priority<br>Unsecured     |
| 2         | NYS Department of Taxation & Finance | \$50.00                   | Priority                  |
| 3         | Internal Revenue Service             | \$82.36<br>\$13,637.46    | Priority<br>Unsecured     |
| 4         | Town of Mount Pleasant               | \$16,800.65               | Priority                  |
| 5         | Con Edison                           | \$7,878.48                | Unsecured                 |
| 6         | United States Trustee                | \$650.00                  | Administrative            |
| 7         | 100 Mile                             | \$9,819,058.96            | Secured                   |
| 8         | Village of Sleepy Hollow             | \$9,488.19<br>\$10,846.08 | Secured<br>Administrative |
| 9         | ATS One Holdings Corp                | \$1,800,000.00            | Unsecured                 |

**Dashley**

| Claim No. | Claimant | Amount | Type |
|-----------|----------|--------|------|
|-----------|----------|--------|------|

|   |                                      |                            |                            |
|---|--------------------------------------|----------------------------|----------------------------|
| 1 | NYS Department of Taxation & Finance | \$1,123.68<br>\$250.00     | Priority<br>Unsecured      |
| 2 | Con Edison                           | \$24,891.55                | Unsecured                  |
| 3 | NYS Department of Taxation & Finance | \$50.00                    | Priority                   |
| 4 | Internal Revenue Service             | \$25.89<br>\$3,340.00      | Priority<br>Unsecured      |
| 5 | Town of Mount Pleasant               | \$24,834.80                | Priority                   |
| 6 | United States Trustee                | \$650.00                   | Administrative             |
| 7 | 100 Mile                             | \$9,819,058.96             | Secured                    |
| 8 | Village of Sleepy Hollow             | \$26,472.51<br>\$16,565.55 | Priority<br>Administrative |
| 9 | ATS One Holdings Corp                | \$1,800,000.00             | Unsecured                  |

#### **New York State Department of Taxation & Finance**

New York State Department of Taxation & Finance filed separate claims in five of the seven Debtor estates. The claims total \$7,568.36 (priority) and \$2,909.07 (unsecured).

#### **Con Edison**

Con Edison filed separate claims in each of the Debtors' estates in the unsecured amount of \$173,977.12 for electric and gas charges provided to the Debtors pre-petition.

#### **Internal Revenue Service**

The Internal Revenue Service filed claims in six of the seven Debtor estates. The claims total \$603.60 (priority) and \$86,246.66 (unsecured).

**Town of Mount Pleasant**

The Town of Mount Pleasant filed multiple priority proofs of claim in each of the Debtors' estates. The Town of Mount Pleasant's claims were either partially paid by the Trustee during the course of the Chapter 11 Cases or paid by 100 Mile at the time of the closing of the Sale of the Properties to 100 Mile. The Trustee does not believe that there are any amounts due the Town of Mount Pleasant.

**United States Trustee**

The United States Trustee filed separate priority claims in each of the Debtors' estates in the aggregate amount of \$6,604.35. Each of the claims is based upon unpaid quarterly fees due from the respective Debtors incurred during their prior Chapter 11 cases. The Trustee does not believe that these claims are entitled to priority status.

**100 Mile**

100 Mile filed identical secured proofs of claim in each of the Debtors' estates in the amount of \$9,819,058.96. 100 Mile credit bid their secured claim and purchased the Properties on March 30, 2017 in full satisfaction thereof.

**Village of Sleepy Hollow**

The Village of Sleepy Hollow filed separate claims in each of the Debtors' estates for taxes incurred pre-petition and post-petition. In accordance with the Purchase and Sale Agreement, the Village Sleepy Hollow was paid at closing on March 30, 2017 the amount of \$297,577.93 for all outstanding water charges and \$201,658.11 for all outstanding real estate taxes through the sale date of March 30, 2017.

**ATS One Holdings Corp**

ATS One Holdings Corp. ("ATS") filed identical contingent, unliquidated proofs of

claim in each of the Debtors' estates in the amount of \$1,800,000.00. ATS asserted the Debtors might have diverted funds to the Debtors' principal, Cirilo Rodriguez, after the Debtors were served with restraining notices relating to a judgment against Mr. Rodriguez. On April 3, 2017 ATS filed with the Bankruptcy Court a Notice of Withdrawal withdrawing its proofs of claim filed in each of the Debtors' cases.

**Delbello Donnellan Weingarten, Wise & Wiederkehr ("Delbello")**

Delbello filed a proof of claim in the unsecured amount of \$36,588.07 in the 146-148 Cortlandt Chapter 11 Case. Delbello's claim represents outstanding legal fees arising from Delbello's representation of 146-148 Cortlandt prior to the Filing Date.

**3. Post-Petition Operations and Select Financial Information**

The Trustee continued to manage the Properties until March 30, 2017 at which time 100 Mile closed on the Sale of the Debtors' Properties.

Since the Trustee's appointment through March 30, 2017, the Trustee collected gross rent receipts of approximately \$1,873,784.04. Subsequent to March 30, 2017, 100 Mile took over all of the Debtors' operations, including collection of rents. The Debtors have no employees on its payroll. Set forth below is a summary of the Debtors' material assets and liabilities.

**(a) Cash on Hand**

As of June 1, 2017, the Trustee had approximately \$311,501.81 cash on hand in her trustee account to fund the Plan and provide Distributions to Creditors. The Trustee does not believe there is any additional Cash to be collected including pre-closing rent arrears.

**(b) Liabilities**

The Trustee believes the Debtors have no Secured Claims. The Trustee believes there are open Priority Claims totaling \$8,771.96. In addition, the Trustee believes the estate has

post-petition liabilities consisting of the Trustee's Chapter 11 commissions in the reduced amount of \$45,000.00<sup>5</sup> and the Professional fees of (i) TKD in the approximate amount of \$400,000 (of which \$100,000 has been paid pursuant to Court order [Dkt. No. 91])<sup>6</sup>; (ii) Thompson in the approximate amount of \$10,901.00; (iii) CBIZ in the approximate amount of \$32,548.00 (of which \$12,605.50 has been paid pursuant to Court order [Dkt. No. 91]); MYC for management and brokerage fees in the reduced amount of \$90,000.00; Alter in the approximate amount of \$0<sup>7</sup>; and United States Trustee quarterly fees.

#### IV

#### **SUMMARY OF THE PLAN**

The Trustee submits the treatment of Creditors under the Plan is more favorable than the treatment creditors would receive if the Chapter 11 Cases were converted to Chapter 7, the only reasonable alternative in the event the Plan is not confirmed. Therefore, the Trustee submits the Plan is in the best interests of the Creditors and the Debtors, and recommends acceptance of the Plan by holders of Claims in Class 3.

**THE SUMMARY OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PROVISIONS SET FORTH IN THE PLAN, THE TERMS OF WHICH CONTROL.**

#### **A. General**

##### **1. Brief Explanation of Chapter 11**

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code.

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<sup>5</sup> The Trustee has agreed to reduce her commissions from \$79,463.52 to \$45,000.00.

<sup>6</sup> The Professionals have agreed to reduce their fees as follows: TKD from approximately \$400,000 to \$228,000 [which includes interim compensation of \$100,000]; Thompson from \$10,901 to \$8,000; CBIZ from \$32,548.16 to \$22,086.80 (which includes interim compensation of \$12,086.80 and CBIZ agreement to prepare the Debtors' final tax returns without further charge to the estate) and MYC from \$120,000 to \$90,000.

<sup>7</sup> Alter has agreed to waive all fees in excess of its pre-petition retainer in the amount of \$27,981 (\$40,000 received less payment of \$12,019, representing fees for filing the Debtors' seven chapter 11 petitions).



Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of itself and its creditors and Equity Interest holders, or as in the present case, to engage in the orderly liquidation of its assets. Upon the filing of a petition for reorganization under Chapter 11 and during the pendency of the case, the Bankruptcy Code imposes an automatic stay of all attempts to collect on Claims against the Debtor and to enforce Liens against the Debtor's Property.

Confirmation and consummation of a Chapter 11 plan is the principal objective of a Chapter 11 case. In general, a plan divides the Claims against, and Equity Interests in, a debtor into separate Classes and allocates plan distributions among those Classes. If the legal, equitable and contractual rights of a Class are unaffected by the Plan, such Class is considered "unimpaired." All unimpaired Classes are deemed to have accepted the Plan and, therefore, are not entitled to vote thereon. Bankruptcy Code §1126(g), on the other hand, provides that all Classes of Claims and Equity Interests that do not receive or retain any property under the Plan on account of such Claims and Equity Interests are deemed to have rejected the Plan. All other Classes of Claims and Equity Interests are considered "impaired" and are entitled to vote on the Plan.

Under the Bankruptcy Code, acceptance of the Plan is determined by Class; therefore, it is not required that each holder of a Claim or Equity Interest in an impaired Class vote in favor of the Plan in order for the Bankruptcy Court to confirm the Plan. Generally, each impaired Class must vote to accept the Plan; however, the Bankruptcy Court may confirm the Plan in certain circumstances without the acceptance of all impaired Classes if at least one (1) impaired Class votes to accept the Plan and certain other statutory tests are satisfied. Because the only class entitled to vote on the Plan is Class 3, a "cram down" may not be possible. In the event Class 3 does not vote in favor of the Plan, it is likely that the Chapter 11 Cases will be converted

to Chapter 7 or dismissed. **THUS, IT IS IMPORTANT, IN THE TRUSTEE'S VIEW, FOR CLASS 3 CREDITORS TO VOTE TO ACCEPT THE PLAN.** A further explanation of the requirements for Confirmation if an impaired Class rejects the Plan is set forth below in this Disclosure Statement. Many of these tests are designed to protect the interests of Creditors and Equity Interest Holders who either do not vote, or vote to reject the Plan but who will nonetheless be bound by the Plan if it is confirmed by the Bankruptcy Court.

2. **Acceptance of the Plan**

As a condition to consensual Confirmation, Bankruptcy Code §1129(a) requires that: (a) each impaired Class of Claims or Equity Interests votes to accept the Plan; and (b) the Plan meets the other requirements of §1129(a). As explained above, Classes that are unimpaired are deemed to have accepted the Plan and therefore are not entitled to vote thereon, and Classes that do not receive or retain any property under the Plan are deemed to have rejected the Plan and likewise are not entitled to vote thereon. Accordingly, acceptances of the Plan are being solicited only from those parties who hold Claims or Equity Interests classified in impaired Classes that are to receive Distributions under the Plan.

An impaired Class of Claims will be deemed to have accepted the Plan if holders of at least two-thirds (2/3) in dollar amount and a majority in number of Claims in such Class who cast timely ballots vote to accept the Plan. Holders of Claims who do not timely vote on the Plan are not counted for purposes of determining acceptance or rejection of the Plan by any impaired Class of Claims or Equity Interests.

3. **Classification of Claims and Interests Generally**

Bankruptcy Code §101(5) defines a Claim as: (a) a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,

unmatured, disputed, undisputed, legal, equitable, secured or unsecured;" or (b) a "right to an equitable remedy for breach or performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured."

Bankruptcy Code §1123 provides that a plan of reorganization shall designate classes of claims against and equity interests in a debtor. Bankruptcy Code §1122 further requires that each class of claims and equity interests contain only claims or equity interests that are "substantially similar" to each other. The Trustee believes that it has classified all Claims and Equity Interests in compliance with the requirements of §§ 1122 and 1123. However, it is possible that a holder of a Claim or Equity Interest may challenge such classification and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In such event, the Trustee would, to the extent permitted by the Bankruptcy Court, modify the classifications in the Plan as required and use the acceptances received in this solicitation for the purpose of obtaining the approval of a Class or Classes of which the accepting holder is ultimately deemed to be a member. Any such reclassification could adversely affect the Class of which such holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan. Furthermore, a reclassification of Claims or Equity Interests could necessitate a resolicitation.

**B. Classification and Treatment of Claims and Interests Under the Plan**

The following describes the classification of Claims and Equity Interests under the Plan and the treatment that holders of Allowed Claims and Allowed Equity Interests are to receive if the Plan is confirmed and becomes effective. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest fits within the description of

that Class and is classified in a different Class to the extent that any remainder of the Claim or Equity Interest fits within the description of such different Class.

1. **Unclassified Claims**

The Plan does not classify Administrative Claims, statutory fees due to the United States Trustee, or Priority Tax Claims, but does provide for the following treatment of such Claims.

(a) **United States Trustee Fees**

All fees payable by the Debtor under §1930 of Title 28 of the United States Code that have not been paid prior to the Effective Date shall be paid by the Trustee on behalf of the Debtors on the Effective Date. In addition, the Reorganized Debtors, or any successor thereto by merger, consolidation or otherwise, on or after the Effective Date, shall be liable for and the Disbursing Agent shall pay such fees until the entry of a final decree in this case or until the case is converted or dismissed. The Disbursing Agent shall file post-Confirmation operating reports with the Bankruptcy Court and the United States Trustee until a final decree is entered.

(b) **Administrative Claims**

An "Administrative Claim" is a Claim for payment of an administrative expense of a kind specified in Bankruptcy Code §503(b) and referred to in Bankruptcy Code §507(a)(2), including the actual and necessary costs and expenses of preserving the estate or operating the Debtors' businesses after the commencement of the Chapter 11 Cases, loans and advances made to the Debtors after the Filing Date, compensation for legal and other services and reimbursement of expenses awarded or allowed under Bankruptcy Code § 330(a), certain retiree benefits, certain reclamation Claims, and all fees and charges against the Estates pursuant to Chapter 123 of Title 28 of the United States Code.

The Plan provides that each holder of an Allowed Administrative Claim (including,

without limitation, Trustee commissions and the Professionals' fees and expenses allowed in a Final Order of the Bankruptcy Court) shall be paid in Cash in full by the Disbursing Agent (a) upon the later of the Effective Date and the date upon which the Court enters a Final Order allowing such Administrative Expense Claim; (b) upon such other terms as may exist in accordance with the ordinary course of business of the Trustee; or (c) upon such less favorable terms as may be agreed between any holder of such Administrative Claim and the Trustee. Based upon the Trustee's cash position, all of the Trustee's Professionals will waive a portion of their fees so that Unsecured Creditors can obtain a small distribution in the Chapter 11 Cases.

The Plan further provides that holders of Administrative Claims, including Trustee's commissions and Professionals holding Claims for services rendered during the Chapter 11 Cases, must file requests for payment within forty-five (45) days after the Confirmation Date. The Trustee estimates that the aggregate amounts due to Professionals, after crediting payments made pursuant to Interim Fee Orders, shall total approximately \$496,362 and shall consist of Trustee's commissions of \$45,000 and the professional fees of Trustee's counsel, TKD, Trustee's Special Litigation Counsel, Thompson, Trustee's accountant, CBIZ and Debtor's counsel, Alter. In order to allow distributions to Unsecured Creditors to take place, the Professionals have agreed to accept the aggregate amount of \$302,828 in Cash in full and final satisfaction of all fees and expenses in the Chapter 11 Cases, on condition that the Plan is confirmed.<sup>8</sup>

Administrative Claims representing obligations incurred by the Trustee after the date and time of the entry of the Confirmation Order (including, without limitation, Claims for Professionals' fees and expenses) shall not be subject to application to the Bankruptcy Court and may be paid by the Disbursing Agent in the ordinary course of business and without Bankruptcy Court approval. After the Confirmation Date, the Disbursing Agent shall, in the ordinary course

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<sup>8</sup> Any fees and expenses claimed by Professionals are subject to approval by the Bankruptcy Court.

of business and without the necessity for any approval by the Court, pay the reasonable fees and expenses of the Professionals employed by the Trustee in connection with the implementation and consummation of the Plan, the Claims reconciliation process, and any other matters as to which such Professionals may be engaged. The Plan provides that the fees and expenses of such Professionals shall be submitted monthly to the Trustee and the U. S. Trustee by such Professionals in the form of a detailed invoice therefor, and shall be paid by the Disbursing Agent upon such submission. If the Trustee or the U.S. Trustee disputes the reasonableness of any such invoice and, if the dispute cannot be resolved by the parties, all unresolved disputes shall be submitted to the Bankruptcy Court on notice to the Trustee and the U. S. Trustee for a determination of the reasonableness of such invoice.

(c) **Priority Tax Claims**

Each holder of a Priority Tax Claim that has not been paid prior to the Effective Date shall be paid in full or such lesser amount as agreed between the holder of such Priority Tax Claim and the Debtor on the later of (i) the Effective Date; or (ii) the date on which such Priority Tax Claim becomes an allowed Priority Tax Claim, or as soon thereafter as is practicable.

The holder of an Allowed Priority Tax Claim shall not be entitled to receive any payment on account of interest, or on account of any penalty arising with respect to or in connection with the allowed Priority Tax Claim, except to the extent allowed as a part of an allowed Priority Tax Claim pursuant to §507(a)(2) of the Bankruptcy Code. The Trustee does not believe that there are any Priority Tax Claims.

2. **Class 1 - Secured Claims**

Class 1 consists of Secured Claims. In light of the credit bid and purchase of the Properties by 100 Mile, the Trustee does not believe there are any remaining Secured Claims

against the Debtors. To the extent that Secured Claims do exist, holders of Secured Claims will be satisfied in full such that the Trustee will pay the holder of the Secured Claim in full with Cash, plus applicable contract interest, or the return of their collateral.

Class 1 is unimpaired under the Plan.

3. **Class 2 - Priority Claims**

Class 2 consists of Priority Claims. Each holder of a Class 2 Claim shall be paid in full, to the extent Allowed, on the later of (i) the Effective Date; or (ii) the date on which such Claim becomes an Allowed Claim by Final Order of the Bankruptcy Court. The Trustee believes the total amount of Priority Claims total approximately \$8,171.96. Class 2 is unimpaired under the Plan.

4. **Class 3 - General Unsecured Claims**

Class 3 consists of all Unsecured Claims against the Debtors that are not entitled to priority under Bankruptcy Code §507(a), and that are not classified in any other Class. Class 3 includes any Unsecured Claims arising from the rejection of leases of non-residential real property and executory contracts and equipment leases. The Claims in Class 3 are impaired as that term is defined under §1124 of the Bankruptcy Code.

The Plan provides that each holder of an allowed Class 3 Claim shall receive its *Pro Rata* share of \$20,000.00. Payments to holders of Allowed Class 3 Claims shall be made as follows: on the later of (i) sixty (60) days after the Effective Date; (ii) within fifteen (15) days after the date on which such Claim becomes an allowed Unsecured Claim; or (iii) such other date as may be determined by the Disbursing Agent. Unless otherwise provided in the Plan, to the extent there is Available Cash after distribution of the aforementioned \$20,000 in the Unsecured Distribution Fund subsequent to the Effective Date, the Wind Down Officer shall direct the

Disbursing Agent on such date(s), as determined by the Wind Down Officer, to distribute all such excess Available Cash in the Unsecured Distribution Fund to the holders of allowed Class 3 Claims in amounts necessary to allow such Holders to have received aggregate distributions of Cash up to the Face Amount of their Allowed Claim.

As explained more fully above, the total Claims scheduled or filed by Class 3 creditors that will receive distributions under the Plan aggregate approximately \$300,000. Based upon the Trustee's current cash position, the Trustee estimates a distribution of 6.6% to unsecured creditors, assuming TKD and the other Professionals each agree to a fee reduction in the amounts set forth above.

5. **Class 4 - Equity Interest Holder**

Class 4 consists of the Debtors' Equity Interest holders. Class 4 is impaired and deemed to reject the Plan. On the Confirmation Date, all shareholder/membership interests of the Debtors, outstanding as of the Confirmation Date, shall be canceled and terminated, with the holders of record receiving no distribution, dividend or other payments under the Plan.

C. **Conditions to and Means for Consummation of the Plan**

1. **Conditions Precedent to Occurrence of the Effective Date**

The Effective Date shall be the date on which the Confirmation Order shall have been entered and become a Final Order.

2. **Substantive Consolidation for Plan Purposes Only**

**The Plan provides for the substantive consolidation of the Debtors with respect to the voting of all Claims and the treatment of all Claims and Equity Interests. Bankruptcy Code section 105(a) empowers a bankruptcy court to authorize substantive consolidation.**

The Plan provides that on and after the Effective Date, all assets and liabilities of the



Debtors shall be treated as though they were merged into one for all Plan purposes, including voting, Confirmation and distribution pursuant to the Plan.

Multiple facts support consolidation of the Debtors for Plan purposes. Prior to the Filing Date, the Debtors were essentially operated as one entity, with rent receipts commingled, one principal shareholder/member, and each of the operating Debtors was jointly and severally obligated under the same loan facility with 100 Mile.

Because the Debtors' affairs were integrated, interrelated and entangled from both a functional and financial perspective, the substantive consolidation of the Debtors would be equitable for all creditors as it would be extremely difficult if not impossible to unwind the Debtors' finances. Substantive consolidation would ensure that the Debtors' creditors receive the benefit of distribution in satisfaction of their claims, as available, from a single pool of assets.

Substantive consolidation will also expedite the conclusion of the Debtors' Chapter 11 Cases. Absent substantive consolidation, the Trustee would be required to attempt to disentangle the Debtors' assets and possibly liabilities. In addition, all the Debtors' assets, consist of Cash on hand of \$311,501.00 as of June 14, 2017 (representing monies received from the Sale and cash from operation of the Debtors' Properties pre-closing). Absent substantive consolidation, the Trustee would need to allocate the Cash on hand between the respective Debtors which would be extremely difficult if not impossible.

In these cases, entry of the Confirmation Order shall constitute the approval, pursuant to sections 105(a) and 1123(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors' Estates for purposes of confirming and consummating the Plan, including, but not limited to, voting, confirmation, and distribution. Accordingly, (a) no Distributions shall be made under the Plan on account of the intercompany claims, if any,

among the Debtors, (b) the assets and liabilities of the Debtors will be deemed to be the assets and liabilities of a single, consolidated entity, (c) each and every claim filed or to be filed in the Chapter 11 Cases against the Debtors shall be considered filed against the consolidated Debtors and shall be considered one claim against and obligation of the consolidated Debtors on and after the Effective Date, (d) all joint obligations of the Debtors, and all multiple claims against such entities on account of such joint obligations, are considered a single claim against the consolidated Debtors, and (e) all guaranties by any of the Debtors of the obligations of any of the Debtors arising prior to the Effective Date shall be deemed eliminated under the Plan so that any claim against any of the Debtors and any guaranty thereof executed by any other Debtor and any joint and several liability of any of the Debtors shall be deemed to be one obligation of the deemed consolidated Debtors.

Such deemed consolidation, however, shall not (other than for purposes related to funding distributions under the Plan) affect (a) the legal and organizational structure of the Debtors, (b) executory contracts or unexpired leases that were entered into during the Chapter 11 Cases or that have been or will be assumed or rejected, and (c) the Trustee's ability to subordinate or otherwise challenge claims on an entity-by-entity basis. Moreover, the Trustee reserves the right to seek confirmation of the Plan on an entity-by-entity basis.

In the event the Bankruptcy Court does not authorize the substantive consolidation of the Debtors' Estates: (a) the Plan shall be treated as a separate plan of liquidation for each Debtor and (b) the Trustee shall not be required to resolicit votes with respect to the Plan.

For the reasons set forth above, the Trustee believes the requirements for substantive consolidation of the Debtors with respect to voting and treatment of all claims and interests are satisfied.

3. **Funding of the Plan**

Aside from a credit bid of 100 Mile's secured claims, the Trustee is holding cash in the amount of \$311,501.00, which is available to distribute to creditors in the order of priority under the Bankruptcy Code. The Trustee does not believe that there are any other assets (including any rent arrears for the pre-closing period). After conducting a preliminary investigation, the Trustee does not believe that she has any causes of action worth pursuing, including, but not limited to, avoidance actions under chapter 5 of the Bankruptcy Code.

D. **Objections to Claims**

The Plan provides that all objections to Claims shall be filed by the Trustee and served on the holders of such Claims no later than thirty (30) days subsequent to the Effective Date, subject to extension for cause. If the objection to a proof of Claim that relates to a Disputed Claim has not been filed by the applicable date, the Claim to which the proof of Claim relates shall be treated as an Allowed Claim for purposes of Distributions under the Plan.

E. **Resolution of Disputed Claims**

The Plan provides that Disputed Claims shall be divided into two (2) portions: the "non-disputed portion" and the "disputed portion." The Disbursing Agent shall pay the non-disputed portion of a Disputed Claim in accordance with Plan provisions for payment of a Claim in its Class. The disputed portion will be protected by the Disputed Claims Reserve.

F. **Reserve Accounts for Disputed Claims**

The Plan provides that on and after the date on which the Disbursing Agent makes its first payment and any subsequent payment to holders of Allowed Claims pursuant to Article IV of the Plan, the Disbursing Agent shall hold in or more Disputed Claims Reserves, Cash in an aggregate amount sufficient to pay each holder of a Disputed Claim (i) the amount of Cash that

such holder would have been entitled to receive under this Plan for the disputed portion of such Claim if such disputed portion of such Claim had been an Allowed Claim on the date of such payments; (ii) such lesser amount as the Court may estimate pursuant to Section C of Article VIII of the Plan or may otherwise order. Cash withheld and reserved for payments to holders of Disputed Claims shall be held and deposited by the Disbursing Agent in one or more segregated reserve accounts to be used to satisfy such Claims if and when such Disputed Claims become Allowed Claims.

**G. Estimation**

The Plan provides that the Wind Down Officer/ Disbursing Agent may, at any time, request that the Court estimate any Disputed Claim pursuant to §502(c) of the Bankruptcy Code, regardless of whether the Trustee has previously objected to such Claim. The Court will retain jurisdiction to estimate any Claim at any time, including during litigation concerning any objection to such Claim. In the event that the Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed Amount of such Claim, the amount on which a reserve is to be calculated for purposes of the Disputed Claims Reserve, or a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on such Claim, the Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another.

**H. Allowance of Disputed Claims**

The Plan provides that if, on or after the Effective Date, any Disputed Claim becomes an Allowed Claim, the Disbursing Agent shall, within thirty (30) days after the date on which the

Claim becomes an Allowed Claim, or as soon thereafter as is practicable, pay to the holder of such Allowed Claim the amount of Cash that such holder would have been entitled to receive under the Plan if such disputed portion of such Claim had been an Allowed Claim on the Effective Date. Notwithstanding anything to the contrary contained in the Plan, the Disbursing Agent shall make a Distribution on the non-disputed portion of an Unsecured Claim in accordance with the provisions of the Plan.

**I. Release of Funds from Disputed Claims Reserve**

The Plan provides that if at any time, or from time to time, after the Effective Date, there shall be Cash in the Disputed Claims Reserve in an amount in excess of the amount which the Disbursing Agent is required at such time to reserve on account of Disputed Claims under this Plan or pursuant to any Order of the Bankruptcy Court, such excess funds shall be remitted to the Disbursing Agent for Distribution under the Plan.

**J. Limitation on Liability**

**The Plan provides that neither the Trustee (except as provided in the Plan), the Wind Down Officer and the Disbursing Agent and their respective officers, directors, shareholders, employees, trustees, members, affiliates and agents (including any professional entities employed by one or more of them), shall have any liability to any holder of an Administrative Claim, Secured Claim, Priority Claim, General Unsecured Claim or Equity Interest, or any other person, for any act taken or omission made since the Filing Date or in connection with, related to, or arising out of, the formulation, implementation, confirmation or consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release, agreement or document created in connection with**

the Plan, the pursuit of approval of the Disclosure Statement, the solicitation of votes for the Plan, the pursuit of the confirmation of the Plan, or the administration of the Debtors' Chapter 11 Cases, the Plan or the property to be distributed under the Plan, except for their respective willful misconduct, gross negligence or breach of fiduciary duty as determined by Final Order of the Bankruptcy Court and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. The limitation of liability set forth herein shall be deemed to be no greater in scope than the protections afforded under §1125(e) of the Bankruptcy Code. In addition, nothing herein shall be interpreted to permit a release in violation of §1.8(h)(1) of the New York States Rules of Professional Conduct. Nothing herein shall limit the right of the United States Government, local governments or any of their agencies, to assert any claim against the foregoing parties, including without limitation, any claim arising under the Internal Revenue Code, the environmental laws, or the criminal laws of the United States, nor shall anything in the Confirmation Order or Plan limit, impair, or in any way affect the application of any laws or regulations of the United States or local governments. Any action commenced by any person or entity against the Wind Down Officer and the Disbursing Agent shall only be pursued in the Bankruptcy Court unless permission is granted by the Bankruptcy Court to pursue the Wind Down Officer and the Disbursing Agent in another court.

**K. Certain Other Provisions of The Plan**

The Plan contains other provisions consistent with the requirements of Chapter 11 of the Bankruptcy Code, including provisions for the Distribution of Cash and the collection and disposition of assets of the Debtors' Estates.

1. **No Discharge**

Since the Plan is a liquidating plan, pursuant to §1141(d)(3) of the Bankruptcy Code, Confirmation of the Plan will not discharge the Debtors. However, the Plan is binding on all entities, whether or not such entity voted for or against the Plan, to the fullest extent permitted by §1141 of the Bankruptcy Code.

2. **Disbursing Agent**

Deborah J. Piazza shall be the Debtors' Wind Down Officer and TKD shall act as Disbursing Agent under the Plan and shall be in charge of all matters relating to the Distributions required by the Plan. The Disbursing Agent shall not be required to obtain a bond. In the event that the Disbursing Agent changes prior to the entry of an order of final decree closing the Debtors' Chapter 11 Cases, the Bankruptcy Court and the United States Trustee shall be notified in writing of the identity and address of the new Disbursing Agent.

3. **Payments by Cash**

Payments to be made by the Disbursing Agent pursuant to the Plan shall be made by check drawn on a domestic bank.

4. **Unclaimed Distributions**

The Plan provides that Distributions to holders of Allowed Claims shall be made at the address of each such holder as set forth on the proofs of Claim filed by such holders (unless no Proof of Claim has been filed, in which case then to the address set forth on the Schedules filed with the Court), unless superseded by a written notice to the Disbursing Agent providing actual knowledge to the Disbursing Agent of a change of address.

The Plan further provides that if any holder's Distribution is returned as undeliverable, no

further Distributions to such holder shall be made unless and until the Disbursing Agent is notified in writing of such holder's then current address, at which time all Distributions shall be made to such holder, without interest.

The Plan further provides that all Claims for undeliverable Distributions shall be made on or before the earlier of (i) with respect to the initial Distributions made on or after the Effective Date, one hundred and twenty (120) days after the date such undeliverable Distribution was initially made; and (ii) with respect to the Distributions made on a subsequent interim payment date, ninety (90) days after the date such undeliverable Distribution was initially made. If any Claim for an undeliverable Distribution is not timely made as provided in the foregoing sentence, such Claim shall be forever barred unless the holder of such Claim moves the Court, on notice to the Disbursing Agent, to reinstate such Claim, and such motion shall be granted, provided that Available Cash remains from which such Distributions on account of such Claim could be made.

After such date (as applicable), all unclaimed property shall be applied first to satisfy the costs of administering and fully consummating this Plan, then to Available Cash for Distribution in accordance with this Plan.

5. **Executory Contracts and Unexpired Leases**

(a) **Assumption and Rejection Generally**

Subject to approval of the Bankruptcy Court, the Bankruptcy Code empowers a debtor-in-possession to assume or reject executory contracts and unexpired leases. As a general matter, an "executory contract" is a contract under which material performance (other than the payment of money) remains due by each party thereto. If an executory contract is rejected, the non-debtor party to that contract may file a Claim for any damages incurred by reason of the rejection. In the case of rejection of leases for non-residential real property, resulting damage



Claims are subject to certain limitations imposed by the Bankruptcy Code. If an executory contract or unexpired lease is assumed, the debtor-in-possession or Trustee is bound to perform its/her obligations arising thereunder in accordance with the terms of such agreement.

(b) **Rejection of Executory Contracts and Unexpired Leases**

The Plan provides that, as of the date the Plan is confirmed, any Executory Contract that has not yet been (a) assumed and assigned, or (b) rejected, shall be deemed to be rejected by the Debtors as of the Confirmation Date. The Trustee is unaware of any Executory Contracts or leases that exist (other than residential leases that were assigned to 100 Mile).

6. **Professional Fees and Expenses**

The Plan provides that each of the Professionals requesting compensation in the Chapter 11 Case shall file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Case incurred through the Confirmation Date or be forever barred from obtaining such compensation and reimbursement within forty five (45) days after the Confirmation Date.

7. **Abandonment and Destruction of Books and Records**

To the extent there are any books and records, they shall be abandoned and destroyed in the discretion of the Wind Down Officer on the date the Chapter 11 Cases are closed.

8. **Retention of Jurisdiction**

The Plan provides that, from and after the Confirmation Date and until such time as all payments and Distributions required to be made by the Wind Down Officer have been made, the Bankruptcy Court shall retain jurisdiction over the Debtors' Chapter 11 Cases for all purposes permitted under the Code, including, without limitation, the following:

(a) To hear and determine any dispute relating to the Plan or any property described in the Plan and to enforce its provisions.

(b) To hear and determine all issues arising out of any motions, applications, adversary proceedings or contested or litigated matters in the Chapter 11 Cases pending at the Confirmation Date or commenced thereafter.

(c) To order recovery of any assets of the Debtors, whether title is presently held in the name of the Debtor(s) or a third party.

(d) To hear and determine motions to approve the rejection or assumption of Executory Contracts under §365 of the Bankruptcy Code.

(e) To hear and determine all issues relating to any purchases, sales or contracts made or undertaken by the Trustee during the pendency of the Chapter 11 Cases, including the Sale.

(f) To hear and determine all claims arising from the rejection of Executory Contracts or unexpired leases.

(g) To hear and determine all objections to Claims and all controversies concerning classification, allowance, valuation, liquidation, estimation, or satisfaction of Claims.

(h) To make orders allowing amendment of the Schedules for any purpose including, without limitation, to prosecute objections to Claims not previously listed as disputed, contingent or unliquidated.

(i) To hear and determine all applications for compensation of Professionals and similar fees and reimbursement of expenses arising out of or relating to the Chapter 11 Cases or any Claims.

(j) To hear and determine any and all motions to abandon property of the

Debtors' Estates.

(k) To make such other orders or give such directions as permitted by §1142 of the Bankruptcy Code.

(l) To consider and order any modifications or amendments requested to the Plan.

(m) To remedy any defect or omission or reconcile any inconsistency in the Plan or the Confirmation Order in such manner as may be necessary or desirable to carry out the purposes and intent of the Plan.

(n) To make all orders necessary or appropriate to carry out the provisions of the Plan.

(o) To enforce all orders previously entered by the Bankruptcy Court.

(p) To determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the Bankruptcy Code, including hearing any matters related to any claims asserted against the Wind Down Officer or the Disbursing Agent.

9. **Management of the Reorganized Debtors**

The Debtors shall be managed by the Wind Down Officer after the Effective Date.

V

**CONFIRMATION PROCEDURES**

In order for the Plan to be confirmed by the Bankruptcy Court, all of the applicable requirements of Bankruptcy Code §1129 must be met. These include, among others, requirements that the Plan: (i) is accepted by all impaired Classes or, if rejected by an impaired Class, "does not discriminate unfairly" and is "fair and equitable" as to each rejecting Class; (ii) is feasible; and (iii) is in the best interests of holders of Claims or Equity Interests in each

impaired Class.

**A. Solicitation of Votes; Acceptance**

The Trustee is soliciting the acceptance of the Plan from all holders of Claims in Classes that are impaired under the Plan and receiving Distributions thereunder.

Classes 1 and 2 are not impaired under the Plan. Since these Classes are unimpaired, they are deemed to have accepted the Plan and therefore are not entitled to vote thereon.

Class 3 is an impaired class with the right to vote to accept or reject the Plan. Class 3 will be deemed to have accepted the Plan, if the Plan is accepted by holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of the Claims in that Class that have cast ballots on the Plan. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such vote was not solicited or procured, or made in good faith, or in accordance with the applicable provisions of the Bankruptcy Code.

Class 4 is an impaired class and deemed to reject the Plan. All shareholder/membership interests in the Debtors existing as of the Filing Date will be canceled and terminated on the Confirmation Date. Class 4 Equity Interest Holders are not entitled to vote on the Plan.

**B. Confirmation Hearing**

Bankruptcy Code § 1128(a) requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan (the "Confirmation Hearing") after the period for submission of Ballots has expired. The Confirmation Hearing may be postponed from time to time by the Bankruptcy Court without further notice except for an announcement of the postponement made at the Confirmation Hearing. Bankruptcy Code §1128(b) provides that any party in interest may object to confirmation of the Plan. Objections to (a) final approval of the Disclosure Statement and/or (b) Confirmation of the Plan must be made in writing, specifying in detail the name and

address of the person or entity objecting, the grounds for the objection and the nature and amount of the Claim held by the objector, and must otherwise comply with the requirements of the Bankruptcy Rules and the Local Bankruptcy Rules. Objections must be filed with the Clerk of the Bankruptcy Court, with a courtesy copy delivered to the chambers of the Honorable Robert D. Drain, United States Bankruptcy Judge, and served upon the parties so designated in the Order and Notice accompanying this Disclosure Statement on or before the time and date designated in such Order and Notice. **FAILURE TO TIMELY FILE AND SERVE AN OBJECTION TO CONFIRMATION MAY BE DEEMED BY THE BANKRUPTCY COURT TO BE CONSENT TO CONFIRMATION OF THE PLAN.**

At the Confirmation Hearing, the Bankruptcy Court will determine, among other things, whether the following confirmation requirements specified in Bankruptcy Code §1129 have been satisfied:

1. The Plan complies with the applicable provisions of the Bankruptcy Code.
2. The Trustee, on behalf of the Debtors, has complied with the applicable provisions of the Bankruptcy Code.
3. The Plan has been proposed in good faith and not by any means proscribed by law.
4. Any payment made or promised by the Trustee, on behalf of the Debtors for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been approved by, or is subject to approval of, the Bankruptcy Court as reasonable.
5. The Trustee, on behalf of the Debtors, has disclosed the identity and affiliations of all individuals proposed to serve, after confirmation, as directors or officers of the Debtor(s) and

the appointment to or continuance in such positions by those individuals is consistent with the interests of creditors and Equity Interest holders and with public policy; and (b) the Trustee, on behalf of the Debtors, has disclosed the identities of any insider(s) that will be employed or retained by the Reorganized Debtors and the nature of any proposed compensation for such insider(s).

6. Each holder of a Claim in an impaired Class either has accepted the Plan or will receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such entity would receive or retain if the Debtor were liquidated on such date under Chapter 7 of the Bankruptcy Code. See "Best Interests Test" below.

7. Unless the Trustee is required to seek non-consensual confirmation of the Plan, each Class of Claims and Equity Interests has either accepted the Plan or is not impaired under the Plan.

8. Except to the extent that the holder of a Claim has agreed to different treatment, the Plan provides that: (a) allowed Administrative Claims will be paid in full on the later of the Effective Date, or the date the Claim is Allowed; (b) other Priority Claims will be paid in full on the Effective Date; and (c) Priority Tax Claims will be paid in full on the Effective Date.

9. At least one impaired Class has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such Class.

10. Confirmation of the Plan is not likely to be followed by the liquidation of, or the need for, further financial reorganization by the Debtors or the Reorganized Debtors.

**C. Best Interests Test/Liquidation Analysis**

The "best interests of creditors" test requires that the Bankruptcy Court find either that all members of each impaired Class have accepted the Plan or that each holder of an Allowed Claim

or interest of each impaired Class of Claims or interests will receive or retain under the Plan on account of such Claim or interest property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

To calculate what holders of Claims would receive if the Debtors were hypothetically liquidated under Chapter 7 of the Bankruptcy Code, the Court must first determine the dollar amount that would be realized from the liquidation (the "Chapter 7 Liquidation Fund"). The Chapter 7 Liquidation Fund would consist of the net proceeds from the disposition of the Debtors' other assets (after satisfaction of any valid liens) augmented by the Cash held by the Debtor and recoveries on actions against third parties, if any. It should be noted that the Trustee has determined that there are no existing causes of action and therefore there would be no litigations to pursue by the Chapter 7 Trustee as part of the Chapter 7 Liquidation Fund. The Chapter 7 Liquidation Fund would then be reduced by the costs of the liquidation. The costs of liquidation under Chapter 7 would include the fees and expenses of a trustee, as well as those of counsel and other professionals that might be retained by the trustee, selling expenses, any unpaid expenses incurred by the Debtors during their Chapter 11 Cases (such as fees for attorneys, financial advisors and accountants) which would be allowed in the Chapter 7 proceedings, interest expense on secured debt and claims incurred by the Trustee on behalf of the Debtors during the pendency of the cases. These claims would be paid in full out of the Chapter 7 Liquidation Fund before the balance of the Chapter 7 Liquidation Fund, if any, would be made available to holders of Unsecured Claims. In addition, other claims which would arise upon conversion to a Chapter 7 case would dilute the balance of the Chapter 7 Liquidation Fund available to holders of Claims. Moreover, additional claims against the Debtors' estates might

arise as the result of the establishment of a new bar date for the filing of claims in a Chapter 7 case for the Debtors. The present value of the distributions out of the Chapter 7 Liquidation Fund (after deducting the amounts described above) are then compared with the present value of the property offered to each of the Classes of Claims and holders of Equity Interests under the Plan to determine if the Plan is in the best interests of each holder of a Claim.

The Trustee believes that a Chapter 7 conversion would result in diminution in the value to be realized under the Plan by holders of Claims. That belief is based upon, among other factors: (a) the additional administrative expenses involved in the appointment of a trustee, attorneys, accountants, and other Chapter 7 professionals; and (b) the substantial time which would elapse before creditors would receive any distribution in respect of their Claims due to a trustee's need to become familiar with the Chapter 11 Cases and the Debtors' books and records, and the trustee's duty to conduct independent investigations. The Debtors' estimated liquidation analysis and the assumptions upon which it is based is annexed hereto as **Exhibit "B."** As indicated in the Debtors' liquidation analysis, the Trustee believes that conversion to Chapter 7 would result in no recovery to any unsecured creditors.

**D. Cram Down**

The Bankruptcy Code provides a mechanism by which a plan may be confirmed even if it has been rejected by an impaired class of claims. Under the "cram down" provisions of §1129(b) of the Bankruptcy Code, the proponent of the Plan (in this case the Debtor) may request that it be confirmed despite its rejection by an impaired class, and the court will confirm the Plan if it (i) does not discriminate unfairly against a dissenting impaired class; and (ii) is fair and equitable with respect to such class.



The Bankruptcy Code sets forth specific guidelines for determining whether a plan is fair and equitable with respect to a particular class of claims. For unsecured claims, as are those in Class 3, a plan must provide that Equity Interest holders do not receive or retain any property in account of their interest.

In the event the Bankruptcy Court refuses to impose a “cram down” on the rights of a non-consenting class, unless certain modifications are made to the terms and conditions of such non-consenting class’ treatment under the Plan, the Trustee reserves the right, without re-solicitation, to propose such modification to such non-consenting class’ treatment or otherwise modify the Plan to comply with the “cram down” requirements. Here, the Plan is essentially a waterfall plan, providing that all funds in the Debtors’ Estates shall be distributed to creditors in accordance with the statutory priorities set forth in the Bankruptcy Code. There will be no recovery for Equity Interest Holders; therefore the Trustee, on behalf of the Debtors, will seek “cram down” of that Class. Because the only Class entitled to vote on the Plan is Class 3, a cram down may not be possible, and, if Class 3 rejects the Plan, the Bankruptcy Court would likely have to convert the Chapter 11 Cases under chapter 7 or dismiss the Chapter 11 Cases, to be determined by Class 3 creditors. **THEREFORE, THE VOTE OF CLASS 3 CREDITORS IS IMPORTANT.**

## VI

### **CERTAIN FEDERAL INCOME TAX CONSIDERATIONS**

The following summary of certain U.S. Federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the particular circumstances pertaining to each holder of an Allowed Claim. Each holder of an Allowed Claim is urged to consult his own tax advisors. This summary does not cover all potential U.S. federal income tax consequences that could possible arise under the Plan and does

not address the Plan's U.S. federal income tax consequences for any holder of an Allowed Claim that is a partnership (or other pass-through entity) or otherwise subject to special tax rules.

The Trustee has not requested any ruling from the Internal Revenue Service or any other taxing authority with respect to such matters nor will the Plan Proponent, with respect to the federal income tax consequences of the Plan, obtain any opinion of counsel. Consequently, there can be no assurance that the treatment set forth in the following discussion will be accepted by the IRS. The Trustee offers no statements or opinions that are to be relied upon by the creditors as to the treatment of creditors' claims under the Plan. Matters not discussed in this Disclosure Statement may affect the tax consequences of the Plan on any particular holder of a Claim or Interest

This summary is based upon the laws in effect on the date of this Disclosure Statement and existing judicial and administrative interpretations thereof, all of which are subject to change, possibly with retroactive effect. Holders of Allowed Claims should consult their own tax advisors as to the Plan's specific federal, state, local and foreign income and other tax consequences.

The tax consequences to creditors and Interest Holders will differ and will depend on factors specific to each Creditor or Equity Interest Holder, including but not limited to: (i) whether the Claim or Equity Interest (or portion thereof) constitutes a claim for principal or interest; (ii) the origin of the Claim or Equity Interest; (iii) the type of consideration received by the creditor or Equity Interest Holder in exchange for the Claim or Interest; (iv) whether the creditor or Equity Interest Holder is a United States person or foreign person for tax purposes; (v) whether the creditor or Equity Interest Holder reports income on the accrual or cash basis

method; (vi) whether the creditor or Equity Interest Holder has taken a bad debt deduction or otherwise recognized loss with respect to a Claim or Interest.

THERE ARE MANY FACTORS WHICH WILL DETERMINE THE TAX CONSEQUENCES TO EACH CREDITOR OR EQUITY INTEREST HOLDER. FURTHERMORE, THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX, AND IN SOME CASES, UNCERTAIN. THEREFORE IT IS IMPORTANT THAT EACH CREDITOR OR EQUITY INTEREST HOLDER OBTAIN HIS, HER OR ITS OWN TAX ADVICE REGARDING THE TAX CONSEQUENCES TO SUCH CREDITOR OR EQUITY INTEREST HOLDER AS A RESULT OF THE PLAN.

THE DISCUSSION HEREIN IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY CREDITOR OR EQUITY INTEREST HOLDER FOR THE PURPOSE OF AVOIDING TAX PENALTIES THAT MAY BE IMPOSED ON A TAX PAYER. THE DISCUSSION HEREIN WAS WRITTEN TO SUPPORT THE TRANSACTIONS DESCRIBED IN THIS DISCLOSURE STATEMENT. EACH CREDITOR OR INTEREST HOLDER SHOULD SEEK ADVICE BASED UPON THE CREDITOR'S OR INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

## VII

### VOTING INSTRUCTIONS

Creditors entitled to vote should complete and sign the enclosed ballot and return it to Tarter Krinsky & Drogin LLP, 1350 Broadway, 11<sup>th</sup> Floor, New York, New York 10018, Attention: Scott S. Markowitz, Esq. A ballot is enclosed with each copy of this Disclosure Statement being sent to all holders of impaired Claims that filed proofs of Claim or were

Scheduled by the Debtors. Ballots must be received on or before **5:00 p.m. (Eastern Daylight Time) on July 10, 2017.**

If a ballot is damaged or lost, or if you have any questions concerning any voting procedures, you may contact Tarter Krinsky & Drogin LLP, 1350 Broadway, 11<sup>th</sup> Floor, New York, New York 10018, attorneys for the Debtor, Attention: Scott S. Markowitz, Esq., or Arthur Goldstein, Esq., (212) 216- 8000.

## VIII

### CONCLUSION AND RECOMMENDATION

The Trustee believes that confirmation and implementation of the Plan is preferable to any other alternative. The only other alternative is a conversion to Chapter 7 or a dismissal of the Chapter 11 cases. Accordingly, the Trustee urges holders of Claims to vote to accept the Plan by so indicating on their ballots and returning them as specified in the Order and Notice accompanying this Disclosure Statement.

Dated: New York, New York  
June 14, 2017

**TARTER KRINSKY & DROGIN LLP**  
*Attorneys for Deborah J. Piazza,*  
*As Chapter 11 Trustee*

By: s/ Arthur Goldstein  
Scott S. Markowitz, Esq.  
Arthur Goldstein, Esq.  
1350 Broadway, 11<sup>th</sup> Floor  
New York, New York 10018  
(212) 216-8000

**EXHIBIT A**

**TARTER KRINSKY & DROGIN LLP**

*Attorneys for Deborah J. Piazza,*

*as Chapter 11 Trustee*

1350 Broadway,

11<sup>th</sup> Floor

New York, New York 10018

(212) 216-8000

Scott S. Markowitz, Esq.

Arthur Goldstein, Esq.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

|                       |   |                         |
|-----------------------|---|-------------------------|
| -----                 | X |                         |
|                       | : |                         |
| In re:                | : |                         |
|                       | : | Chapter 11              |
| BIOMBO, INC., et al., | : |                         |
|                       | : | Case No. 16-22248 (RDD) |
| Debtors. <sup>1</sup> | : |                         |
|                       | : | (Jointly Administered)  |
| -----                 | X |                         |

**DEBORAH J. PIAZZA, AS TRUSTEE FOR THE DEBTORS' PLAN OF LIQUIDATION**  
**DATED JUNE 14, 2017**

<sup>1</sup> The Debtors in these cases, along with the last four digits of their federal tax identification numbers are (i) Biombo, Inc. (5738) (Case No. 16-22248), (ii) 173 Cortlandt St. LLC (8894) (Case No. 16-22256), (iii) 144 Cortlandt St. LLC (7987) (Case No. 16-22254), (iv) 146-148 Cortlandt Street, LLC (4638) (Case No. 16-22255), (v) Shippy Realty Corporation (0736) (Case No. 16-22249), (vi) Dari Realty Corp. (8717) (Case No. 16-22250), and (vii) Dashley Corp. (2076) (Case No. 16-22253) (collectively, the "Debtors").

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## **ARTICLE I**

### **INTRODUCTION**

Deborah J. Piazza, as Chapter 11 trustee (the "Trustee") for Biombo Inc., 173 Cortlandt St. LLC., 140 Cortlandt St. LLC., 146-148 Cortlandt Street, LLC., Shippy Realty Corporation, Dari Realty Corp., and Dashley Corp., (collectively the "Debtors") hereby proposes the following plan of liquidation dated June 14, 2017 (the "Plan"), for the resolution of the Debtors' outstanding creditor Claims (as hereinafter defined) and Equity Interests (as hereinafter defined). Reference is made to the Trustee's disclosure statement, dated June 14, 2017 (the "Disclosure Statement"), for a discussion of the Debtors' history, business and results of operations and a summary and analysis of the Plan and certain related matters.

All holders of Claims and Equity Interests entitled to vote to accept or reject the Plan are encouraged to review the Disclosure Statement and the Plan before voting to accept or reject the Plan. To the extent that the Plan is inconsistent with the Disclosure Statement, the Plan will govern. No materials other than the Disclosure Statement, exhibits and schedules attached thereto or referenced therein have been approved by the United States Bankruptcy Court for the Southern District of New York for use in soliciting acceptances or rejections of this Plan.

## **ARTICLE II**

### **DEFINITIONS. INTERPRETATION AND RULES OF CONSTRUCTION**

#### **A. Definitions**

In addition to those capitalized terms that are defined in other Articles of the Plan, the following terms (which appear in the Plan as capitalized terms) have the following meanings as used in the Plan.

**"100 Mile"** means 100 Mile Fund, LLC.

**"Administrative Claim"** means any cost or expense of administration of the Chapter 11 Case allowed under §503(b) of the Bankruptcy Code that is entitled to priority under §507(a)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary costs and expenses of preserving the estates of the Debtors, operating the businesses of the Debtors, and all compensation and reimbursement of expenses of Professionals allowed by the Bankruptcy Court under §§ 330, 331 and 503 of the Bankruptcy Code.

**"Allowed Amount"** shall mean the dollar amount of an Allowed Claim.

**"Allowed Claim"** means a Claim against the Debtors to the extent that the Claim is allowed pursuant to the Plan, or (a) a proof of such Claim was (i) timely filed, or (ii) deemed timely filed under applicable law or by reason of an order of the Bankruptcy Court; and (b)(i) after the applicable deadline for filing an objection to the Claim in accordance with the Plan has passed, the Debtors have not filed an objection or any such objection is withdrawn following the expiration of such applicable deadline, (ii) the Claim is allowed (but only to the extent allowed) by a Final Order, or (iii) the Claim is a Class 1, 2, 3, or 4 Claim that was Scheduled by the Debtors in accordance with Rule 1007 of the Bankruptcy Rules and not listed as disputed, contingent or unliquidated. Prior to the time that an objection has been or may be timely filed, for the purposes of this Plan, a Claim shall be considered an Allowed Claim if (a) the Claim has been Scheduled; (b) the amount of the Claim specified in any filed proof of claim equals or is less than the amount of the Claim Scheduled by the Debtors as other than disputed, contingent or unliquidated; (c) the priority of the Claim specified in any filed proof of claim is of an equal or more junior priority than the priority of the Claim Scheduled by the Debtors; and (d) the Claim

has not been Scheduled as disputed, contingent or unliquidated. Terms such as "Allowed Priority Tax Claim" or "Allowed Secured Claim" mean, by way of example, an Allowed Claim that is also a Priority Tax Claim or Secured Claim, respectively.

**"Available Cash"** means all Cash of the Estates available for distribution to the holders of Allowed Claims in accordance with this Plan, less: (i) the amount of Cash estimated to pay Professionals fees and expenses incurred by Professionals through the Confirmation Date; (ii) the amount of Cash as determined from time to time by the Trustee or court order to be necessary to adequately fund the administration of this Plan and the Chapter 11 Cases on and after the Effective Date; and (iii) the amount of Cash deposited into the Disputed Claims Reserve.

**"Bankruptcy Code"** means Title 11 of the United States Code, as the same was in effect on the Petition Date, as amended from time to time, as applicable.

**"Bankruptcy Court"** means the United States Bankruptcy Court for the Southern District of New York or such other Court as may hereafter be granted jurisdiction over the Chapter 11 Case.

**"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Southern District of New York, as the same may from time to time be in effect and applicable to the Chapter 11 Cases and proceedings therein.

**"Bar Date"** means June 15, 2016, which is the deadline to file proofs of Claim in the Chapter 11 Cases as provided by order of the Bankruptcy Court [Dkt. No. 35], subsequent to which date a Proof of Claim may not be timely filed absent a Court order.

**"Business Day"** means any day other than a Saturday, Sunday, or a "legal holiday" as such term is defined in Bankruptcy Rule 9006(a).

**"Buyer"** means 100 Mile Fund, LLC.

**"Cash"** means lawful currency of the United States and cash equivalents.

**"Chapter 11 Cases"** means the cases under Chapter 11 of the Bankruptcy Code commenced by the Debtors, which are being jointly administered under the lead case, *In re Biombo, Inc.* Case No. 16-22248 (RDD), currently now pending in the Bankruptcy Court.

**"Claim"** means a claim against the Debtors or their property as defined in §101(5), and construed in §102(2), of the Bankruptcy Code.

**"Class"** means a group of Claims or Equity Interests consisting of claims or interests which are substantially similar to each other as classified pursuant to this Plan.

**"Confirmation"** means entry, within the meaning of Bankruptcy Rules 5003 and 9021, of the Confirmation Order.

**"Confirmation Date"** means the date upon which the Confirmation Order is entered in the Bankruptcy Court.

**"Confirmation Hearing"** means the hearing to be held by the Bankruptcy Court to consider Confirmation of this Plan.

**"Confirmation Order"** means the order of the Bankruptcy Court confirming this Plan pursuant to §1129 of the Bankruptcy Code.

**"Debtors"** means Biombo Inc., 173 Cortland St. LLC., 144 Cortland St. LLC., 146-148 Cortland Street LLC., Shippy Realty Corporation, Dari Realty Corp., and Dashley Corp.

**"Debtors-in-Possession"** means the Debtors, as debtors-in-possession in the Chapter 11 Cases.

**"Disbursing Agent"** means Tarter Krinsky & Drogin LLP, which shall act as disbursing agent for the Reorganized Debtors for the purpose of making all Distributions required under the Plan.

**"Disclosure Statement"** means the Trustee's Disclosure Statement to accompany her Plan of Liquidation, dated June 14, 2017 (and all annexes attached thereto or referenced therein), which relates to the Plan and that is approved by the Bankruptcy Court pursuant to §1125 of the Bankruptcy Code.

**"Disputed Claim"** means a Claim or a request for payment of an Administrative Claim, as the case may be, as to which: (a) a proof of Claim or a request for payment of an administrative expense, as the case may be, has been filed with the Court or deemed filed under applicable law or order of the Court; (b) an objection has been timely filed; and (c) such objection has not been (i) withdrawn, (ii) overruled or denied in whole or part by a Final Order, or (iii) granted in whole or in part by a Final Order. Prior to the time that an objection has been or may be timely filed, for purposes of this Plan, a Claim shall be considered a Disputed Claim: (i) to the extent and only to the extent the amount of the Claim specified in the proof of Claim exceeds the amount of any corresponding Claim listed by the Debtors in their Schedules, (ii) any corresponding Claim listed by the Debtors in their Schedules as disputed, contingent or unliquidated, irrespective of the amount scheduled, or (iii) if no corresponding Claim has been listed by the Debtors in their Schedules.

**"Disputed Claims Reserve"** means any depository account established pursuant to Article VII of this Plan.

**"Distribution Dates"** means any Business Day on or after the Effective Date on or by which Distributions of Cash are made pursuant to the Plan.

**"Distributions"** means the payments to creditors and others (e.g., Professional Persons) of Cash pursuant to and required by the Plan.

**"Effective Date"** means the date on which the Confirmation Order becomes a Final Order.

**"Equity Interest"** means any "equity security" in the Debtors, as that term is defined in §101(16) of the Bankruptcy Code.

**"Equity Interest Holder"** means the holder of an Equity Interest.

**"Estates"** means the estates created in the Chapter 11 Cases under §541 of the Bankruptcy Code.

**"Excluded Assets"** means any assets that were not sold by the Debtors to the Buyer and defined as "Excluded Assets" in the Purchase and Sale Agreement.

**"Executory Contracts"** means all contracts or unexpired leases to which the Debtors are a party and which are executory within the meaning of §365 of the Bankruptcy Code.

**"Face Amount"** means, with respect to any Claim: (a) if the holder of such Claim has not timely filed proof thereof with the Bankruptcy Court, the amount, if any, of such Claim not listed in the Schedules as disputed, contingent or unliquidated; (b) if the holder of such Claim has timely filed proof thereof with the Bankruptcy Court, and the Debtor has not filed an

objection, the amount stated in such proof; or (c) if a Claim has become an Allowed Claim pursuant to a Final Order, the amount of such creditor's Allowed Claim.

**"Filing Date"** means February 26, 2016, the date the Debtors filed their voluntary Chapter 11 petitions with the Bankruptcy Court.

**"Final Order"** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court which, not having been reversed, modified, amended, or stayed and the time for seeking review of which by way of appeal, petition for certiorari, motion for reargument and rehearing or other review having expired, and as to which no appeal, petition for certiorari, motion for reargument and rehearing or other review is pending, has become conclusive of all matters adjudicated thereby and is in full force and effect.

**"Governmental Unit"** shall have the meaning set forth at §101(27) of the Bankruptcy Code.

**"Insiders"** shall have the meaning contained in §101(31) of the Bankruptcy Code.

**"Lien"** means any charge against, or interest in, property to secure payment of a debt or performance of an obligation and includes, without limitation, any judicial lien, security interest, mortgage, deed of trust or statutory lien.

**"Person"** shall have the meaning ascribed to such term in §101(41) of the Bankruptcy Code.

**"Plan"** means this Plan of Liquidation, as altered, amended, or modified from time to time, and all attachments and exhibits thereto.

**"Priority Claim"** means any Allowed Claim entitled to priority pursuant to §507(a) of the Bankruptcy Code, other than (a) an Administrative Claim; and (b) a Priority Tax Claim.

**"Priority Tax Claim"** means a Claim by a Governmental Unit entitled to priority pursuant to any provision of §507(a)(8) of the Bankruptcy Code.

**"Pro Rata"** means with respect to the holder of an Allowed Unsecured Claim or Equity Interest of a particular Class, the same proportion that the amount of such Allowed Claim or Equity Interest bears to the aggregate amount of all Allowed Claims or Equity Interests of such Class.

**"Professional"** means all attorneys, accountants, consultants or other Persons retained under an order of the Court on behalf of the Debtor in accordance with §327 of the Bankruptcy Code and to be compensated for services rendered pursuant to §§ 327, 328, 330, and 331 of the Bankruptcy Code.

**"Purchase and Sale Agreement"** means that agreement dated as of September 30, 2016 by and between the Trustee on behalf of the Debtors and 100 Mile.

**"Real Property"** means the Debtors' fee interests in the following real properties located in Sleepy Hollow, New York: (i) 85-87 Cortland Street [Section 115.15, Block 1, Lot 72]; (ii) 173 Cortland Street [Section 115.11, Block 6, Lot 17]; (iii) 144 Cortland Street [Section 115.15, Block 2, Lot 71]; (iv) 146-148 Cortland Street, [Section 115.15, Block 2, Lots 72-73]; (v) 196 Cortland Street [Section 115.11, Block 5, Lot 1]; (vi) 76 Beekman Avenue [Section 115.11, Block 5, Lot 9]; and (vii) 145 Cortland Street [Section 115.15, Block 2, Lot 60].

**"Reorganized Debtors"** shall mean the Debtors on or after the Effective Date.



**"Sale"** means the sale of the Debtors' Real Property to Buyer under the Purchase and Sale Agreement, as approved by the Sale Order.

**"Sale Order"** means the Bankruptcy Court's Order dated March 9, 2017 approving the Sale of the Debtors' Real Property to Buyer.

**"Scheduled"** means as set forth in the Schedules of Assets and Liabilities.

**"Schedules of Assets and Liabilities"** means the Schedules of Assets and Liabilities and the Statement of Financial Affairs filed by the Debtors as required by §521 of the Bankruptcy Code and the Official Bankruptcy Forms of the Bankruptcy Rules, as the same have been or may be amended from time to time prior to the Effective Date.

**"Secured Claim"** means a Claim that is either (a) secured by a valid perfected and enforceable Lien on the property of the Debtor that is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, but only to the extent of the value, as set forth in an Allowed Claim or as determined by Final Order in accordance with §§ 506(a) or 1111(b) of the Bankruptcy Code, of the interest of the claimant in the Debtors' property securing such Claim; or (b) for which the holder asserts a valid setoff under §553 of the Bankruptcy Code. To the extent that the amount claimed by the holder of a Secured Claim exceeds the value of the property securing such Claim, the holder of such Secured Claim shall have an Unsecured Claim equal to the amount of the excess.

**"Unimpaired Claim"** means a Class that is not impaired for purposes of § 1124 of the Bankruptcy Code.

**"Unsecured Claim"** means a Claim against the Debtors that is not an Administrative Claim, Priority Tax Claim, Priority Claim, or Secured Claim.

**"Unsecured Creditor"** means the holder of an Unsecured Claim.

**"Unsecured Distribution Fund"** means available Cash after distribution of all senior Claims.

**"Wind Down Officer"** means Deborah J. Piazza.

**B. Interpretation, Rules of Construction,  
Computation of Time and Choice of Law**

In the event of a conflict between the Plan and the Disclosure Statement, the contents of the Plan shall control over the contents of the Disclosure Statement. The provisions of the Confirmation Order shall control over the contents of the Plan.

Any term used in the Plan that is not otherwise defined in the Plan either in Article II.A (Definitions) or elsewhere, but that is used in the Bankruptcy Code or the Bankruptcy Rules has the meaning assigned to that term in (and shall be construed in accordance with the rules of construction under) the Bankruptcy Code or the Bankruptcy Rules. Without limiting the foregoing, the rules of construction set forth in §102 of the Bankruptcy Code shall apply. The definitions and rules of construction contained herein shall also apply to the Disclosure Statement and to the exhibits to the Plan except to the extent expressly so stated in the Disclosure Statement or in each particular exhibit to the Plan.

The words "herein," "hereof," "hereto," "hereunder," and others of similar import refer to the Plan as a whole and not to any particular Article, Section, Subsection, or Clause contained in the Plan. The word "including" shall mean "including, without limitation."

Any reference in the Plan to an existing document or exhibit means such document or exhibit, as it may have been amended, restated, modified, or supplemented as of the Effective Date.

Captions and headings to Articles, Sections, Subsections, and Clauses in the Plan are inserted for convenience of reference only and shall neither constitute a part of the Plan nor in any way affect the interpretation of the provisions hereof.

Whenever from the context it is appropriate, each term stated in either the singular or the plural shall include both the singular and the plural.

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

All exhibits to the Plan are incorporated into the Plan, and shall be deemed to be included in the Plan, regardless of when they are filed.

Subject to the provisions of any contract, certificate, bylaws, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with federal law, including the Bankruptcy Code and Bankruptcy Rules.

### **ARTICLE III**

#### **DESIGNATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS**

The following is a designation of the Classes of Claims and Equity Interests under the Plan. Administrative Claims, Priority Tax Claims, and fees due to the United States Trustee pursuant to 28 U.S.C. §1930 have not been classified and are excluded from the following Classes in accordance with §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 a different Class to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such different Class.

**A. Class 1 – Secured Claims**

Class 1 consists of the Allowed Secured Claims against the Debtors.

**B. Class 2 – Priority Claims**

Class 2 consists of Allowed Priority Claims against the Debtors.

**C. Class 3 – General Unsecured Claims**

Class 3 consists of all Allowed Unsecured Claims against the Debtors.

**D. Class 4 – Equity Interest Holders**

Class 4 consists of all Allowed Equity Interests in the Debtors.

**ARTICLE IV**

**TREATMENT OF CLASSES OF CLAIMS, INTERESTS,  
AND UNCLASSIFIED CLAIMS OR INTERESTS**

**A. Unclassified Claims**

**1. United States Trustee Fees**

All fees payable by the Debtors under §1930 of Title 28 of the United States Code that have not been paid prior to the Effective Date shall be paid by the Trustee on behalf of the Debtors on the Effective Date. In addition, the Reorganized Debtors, or any successor thereto by merger, consolidation or otherwise, on or after the Effective Date, shall be liable for and the Disbursing Agent on behalf of the Debtors shall pay such fees until the entry of a final decree in this case or until the case is converted or dismissed. The Disbursing Agent shall file post-Confirmation operating reports with the Bankruptcy Court and the United States Trustee until a final decree is entered.

**2. Administrative Claims**

**(a) Generally**

Except as provided otherwise in this Article IV of the Plan, each holder of an Allowed Administrative Claim (including, without limitation, the Trustee's commissions and Professionals' fees and expenses allowed in a Final Order of the Bankruptcy Court) shall be paid in full, in Cash, by the Disbursing Agent (i) on the later to occur of the Effective Date and the date the order allowing such Administrative Claim becomes a Final Order; (ii) upon such other terms as may exist in the ordinary course of business of the Trustee on behalf of the Debtors; or (iii) upon such less favorable terms as may be agreed between any holder of such Administrative Claim and the Trustee.

**(b) Administrative Claims Incurred After Confirmation Date**

Administrative Claims representing obligations incurred by the Wind Down Officer on behalf of the Reorganized Debtors after the Confirmation Date shall not be subject to application to the Bankruptcy Court and may be paid by the Wind Down Officer or Disbursing Agent in the ordinary course of business and without further Bankruptcy Court approval. As more fully set forth herein, after the Confirmation Date, the Wind Down Officer/Disbursing Agent shall in the ordinary course of business and without the necessity for any approval by the Court, pay the reasonable fees and expenses of Professionals employed by the Wind Down Officer, in connection with the implementation and consummation of this Plan, the Claims reconciliation process and any other matters as to which such Professionals may be engaged. The fees and expenses of such Professionals shall be submitted monthly to the Wind Down Officer, the Reorganized Debtors and the Office of the United States Trustee by such

Professionals in the form of a detailed invoice therefor, and shall be paid by the Disbursing Agent within ten (10) Business Days after such submission. If the Reorganized Debtors dispute the reasonableness of any such invoice within ten (10) days of receipt of such proposed fees, the Disbursing Agent shall timely pay the undisputed portion of such invoice, and the Reorganized Debtors or the affected Professional may, after attempting to resolve the dispute, submit such dispute to the Bankruptcy Court for a determination of the reasonableness of such invoice.

**3. Priority Tax Claims**

Each holder of an allowed Priority Tax Claim that has not been paid prior to the Effective Date shall be paid in full or such lesser amount as agreed between the holder of such Priority Tax Claim and the Trustee on behalf of the Debtors in Cash on the later of (i) the Effective Date; and (ii) the date on which such Priority Tax Claim becomes an allowed Priority Tax Claim, or as soon thereafter as is practicable.

The holder of an allowed Priority Tax Claim shall not be entitled to receive any payment on account of interest, or on account of any penalty arising with respect to or in connection with the allowed Priority Tax Claim, except to the extent allowed as a part of an allowed Priority Tax Claim pursuant to §507(a)(2) of the Bankruptcy Code.

**B. Classified Claims**

**1. Treatment of Class 1 Secured Claims**

Holders of Secured Claims in Class 1 are Unimpaired under the Plan. The holders of Class 1 Claims therefore are not entitled to vote to accept or reject the Plan.

To the extent there are any Allowed Secured Claims, the Wind Down Officer shall pay to such holder Cash equal to the Allowed Amount of their Secured Claim or return of collateral on

the Effective Date or as soon thereafter as is practical in full satisfaction and release of such Secured Claim.

**2. Treatment of Class 2 Priority Claims**

Holders of Class 2 Claims are Unimpaired under the Plan and therefore are not entitled to vote to accept or reject the Plan. The holders of Class 2 Claims, to the extent any exist, shall be paid the Allowed Amount of their Class 2 Claims in full in Cash on the Effective Date or as soon thereafter as is practicable, in full satisfaction of such Claims.

**3. Treatment of Class 3 General Unsecured Claims**

Class 3 is impaired under the Plan. Holders of Claims in Class 3 therefore are entitled to vote to accept or reject the Plan.

Each Holder of a Class 3 Claim shall receive its *Pro Rata* share of \$20,000. Payments to Holders of Allowed Class 3 Claims shall be made as follows: on the later of (i) sixty (60) days after the Effective Date; (ii) within fifteen (15) days after the date on which such Claim becomes an Allowed Unsecured Claim; or (iii) such other date as may be determined by the Disbursing Agent, in full satisfaction of such Claims. Any remaining Cash in the Unsecured Distribution Fund in excess of the aforementioned \$20,000 shall be distributed pro rata to each holder of a Class 3 Claim by the Disbursing Agent as soon thereafter as is practicable.

**4. Treatment of Class 4 Equity Interests and Rights Related Thereto**

On the Confirmation Date, all Equity Interests in the Debtors, common or otherwise, outstanding as of the Confirmation Date, shall be canceled and terminated, with the holders of record receiving no distribution, dividend or other payments under the Plan. Class 4 therefore is deemed to reject the Plan and not entitled to vote to accept or reject the Plan.

**C. Controversy with Respect to Impairment**

In the event of a controversy as to whether a Class of Claims or Equity Interests is Unimpaired, the Court shall determine such controversy at the Confirmation Hearing.

**ARTICLE V**

**TREATMENT OF EXECUTORY CONTRACTS**

In the event there are any Executory Contracts that have not been either (a) assumed and assigned or (b) rejected under § 365 of the Bankruptcy Code, all Executory Contracts that exist as of the Confirmation Date between the Debtors and any Person shall be deemed rejected under §§ 365 and 1123 of the Bankruptcy Code as of the Confirmation Date.

**ARTICLE VI**

**MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN**

**A. Substantive Consolidation for Plan Purposes Only**

Entry of the Confirmation Order shall constitute the approval, pursuant to sections 105(a) and 1123(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors' Estates for purposes of confirming and consummating the Plan, including, but not limited to, voting, Confirmation and Distribution. Accordingly, (a) no Distributions shall be made under the Plan on account of the intercompany Claims, if any, among the Debtors, (b) the assets and liabilities of the Debtors will be deemed to be the assets and liabilities of a single, consolidated entity, (c) each and every Claim filed or to be filed in the Chapter 11 cases against any Debtor shall be considered filed against the consolidated Debtors and shall be considered one Claim against, and obligation of, the consolidated Debtors on and after the Effective Date, (d) all joint obligations of both Debtors, and all multiple Claims against



such entities on account of such joint obligations, will be considered a single Claim against the consolidated Debtors, and (e) all guaranties by any of the Debtors of the obligations of any Debtor arising prior to the Effective Date shall be deemed eliminated under the Plan so that any Claim against any Debtor and any guaranty thereof executed by any other Debtor and any joint and several liability of any of the Debtors shall be deemed to be one obligation of the deemed consolidated Debtors.

Such deemed consolidation, however, shall not (other than for purposes related to funding Distributions under the Plan) affect (a) the legal and organizational structure of the Debtors, (b) Executory Contracts that were entered into during the Chapter 11 Cases or that have been or will be assumed or rejected, (c) the Trustee's ability to subordinate or otherwise challenge Claims on an entity-by-entity basis. Moreover, the Trustee reserves the right to seek Confirmation of the Plan on an entity-by-entity basis.

## **ARTICLE VII**

### **MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN**

#### **A. Source of Payments**

This Plan contemplates the liquidation of all of the Debtors' assets. The funds necessary to make the payments required under the Plan shall be derived from (i) Cash on hand received from the Sale of the Debtors' Real Property to Buyer on March 31, 2017, and (ii) Cash on hand generated from the Debtors' Properties prior to the closing of the Sale. All such funds are or will be held in Trustee's trust account.

**B. Management of Reorganized Debtors**

Until such time as the Plan has been substantially consummated, Deborah J. Piazza shall be the Debtors' Wind Down Officer and Tarter Krinsky & Drogin LLP shall be the Disbursing Agent under the Plan. The Wind Down Officer is authorized to take whatever actions are necessary to effect the liquidation of the Debtors' remaining assets, if any. The Wind Down Officer shall have sole control of the Reorganized Debtors and their assets until the Plan is fully performed and the Chapter 11 Cases are closed. In the event the Wind Down Officer resigns, is terminated, or is otherwise unable to serve, the Wind Down Officer, or her designated agent (or, in the event of the Wind Down Officer's incapacity, the Disbursing Agent, subject to notice and a hearing), shall have the sole right to select the Wind Down Officer's successor, who shall serve as the successor Wind Down Officer until such time as the Plan has been substantially consummated.

**C. Abandonment and Destruction of Books and Records**

All records and under the control of the Trustee relating to the Real Property were transferred to the Buyer in connection with the Sale. To the extent any books and records (including any digital records and computer hardware) were not transferred by the Sale, they shall be abandoned and destroyed in the discretion of the Wind Down Officer on the date the Chapter 11 Cases are closed.

## ARTICLE VIII

### **PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS**

#### **A. Resolution of Disputed Claims**

Objections to Disputed Claims shall be filed with the Bankruptcy Court by the Wind Down Officer/Disbursing Agent and served upon the holder of such Disputed Claim to which objection is made not later than thirty (30) days subsequent to the Effective Date, unless extended by Court order within such thirty (30) day period for cause. Disputed Claims shall be divided into two (2) portions: the "non-disputed portion" and the "disputed portion." The Disbursing Agent shall pay the non-disputed portion of a Disputed Claim in accordance with the Plan's provisions for payment of Allowed Claims in its Class.

#### **B. Reserve Accounts for Disputed Claims**

On and after the date on which the Disbursing Agent makes its first payment and any subsequent payment to holders of Allowed Claims pursuant to Article IV of this Plan, the Disbursing Agent shall hold, in one or more Disputed Claims Reserves, Cash in an aggregate amount sufficient to pay each holder of a Disputed Claim (i) the amount of Cash that such holder would have been entitled to receive under this Plan for the disputed portion of such Claim if such disputed portion of such Claim had been an Allowed Claim on the date of such payment, or (ii) such lesser amount as the Court may estimate pursuant to Section C of this Article VIII of this Plan or may otherwise order. Cash withheld and reserved for payments to holders of Disputed Claims shall be held and deposited by the Disbursing Agent in one or more segregated reserve accounts to be used to satisfy such Claims under the Plan, if and when such Disputed Claims become Allowed Claims.

**C. Estimation**

The Wind Down Officer/Disbursing Agent may, at any time, request that the Court estimate any Disputed Claim pursuant to §502(c) of the Bankruptcy Code regardless of whether the Trustee has previously objected to such Claim. The Court will retain jurisdiction to estimate any Claim at any time, including during litigation, concerning any objection to such Claim. In the event that the Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed Amount of such Claim, the amount on which a reserve is to be calculated for purposes of the Disputed Claims Reserve, or a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on such Claim, the Wind Down Officer/Disbursing Agent may elect to pursue any supplemental proceedings to object to the ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another.

**D. Allowance of Disputed Claims**

If, on or after the Effective Date, any Disputed Claim becomes an Allowed Claim, the Disbursing Agent shall, within thirty (30) days after the date on which the Claim becomes an Allowed Claim, or as soon thereafter as is practicable, distribute from the Disputed Claims Reserve to the holder of such Allowed Claim (i) the amount of Cash that such holder would have been entitled to receive under this Plan if such disputed portion of such Claim had been an Allowed Claim on the Effective Date, which shall not exceed the amount of Cash reserved on account of such Claim. Notwithstanding anything to the contrary contained in this Plan, the

Disbursing Agent shall make a distribution on the non-disputed portion of an Unsecured Claim in accordance with the provisions of the Plan.

**E. Payment of Funds from Disputed Claims Reserve**

If at any time, or from time to time after the Effective Date, there shall be Cash in the Disputed Claims Reserve in an amount in excess of the amount which the Wind Down Officer is required at such time to reserve on account of Disputed Claims under this Plan or pursuant to any Order of the Bankruptcy Court, such excess funds shall be remitted to the Disbursing Agent for Distribution under the Plan.

**ARTICLE IX**

**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Disbursing Agent**

Tarter Krinsky & Drogin LLP shall act as Disbursing Agent on behalf of the Reorganized Debtors for purposes of making all Distributions under the Plan. The Disbursing Agent shall not be liable for any act or omission taken or omitted to be taken in its capacity as a Disbursing Agent other than acts or omissions resulting from its willful misconduct, gross negligence, fraud or breach of fiduciary duty. The Disbursing Agent shall not be required to obtain a bond.

**B. Minimum Distributions**

If a Distribution to be made to a holder of an Allowed Claim on or after the Effective Date would be \$25 or less, notwithstanding any contrary provision of this Plan, no such Distribution will be made to such holder unless a request therefor is made in writing to the Disbursing Agent.

**C. Unclaimed Distributions**

Distributions to holders of Allowed Claims shall be made at the address of each such holder as set forth on the proofs of Claim filed by such holders unless no proof of Claim has been filed, in which case then to the address set forth on the Schedules, unless superseded by a written notice to the Disbursing Agent providing actual knowledge to the Disbursing Agent of a change of address.

If any Distribution is returned as undeliverable, no further Distributions to such holder shall be made unless and until the Disbursing Agent is notified in writing of such holder's then current address, at which time, subject to the next paragraph, all Distributions shall be made to such holder, without interest.

All Claims for undeliverable Distributions shall be made on or before the earlier of (i) with respect to the initial Distributions made on or after the Effective Date, one hundred and twenty (120) days after the date such undeliverable Distribution was initially made; and (ii) with respect to the Distributions made on a subsequent interim payment date, ninety (90) days after the date such undeliverable Distribution was initially made. If any Claim for an undeliverable Distribution is not timely made as provided in the foregoing sentence, such Claim shall be forever barred unless the holder of such Claim moves the Court, on notice to the Disbursing Agent, to reinstate such Claim, and such motion is granted, provided that Available Cash remains from which such Distributions on account of such Claim could be made. After such date (as applicable), all unclaimed Distributions shall be applied first to satisfy the costs of administering and fully consummating this Plan, then to Available Cash for distribution in accordance with this Plan.

**D. Professional Fees and Expenses**

Within forty-five (45) days after the Confirmation Date each of the Professionals requesting compensation in the Chapter 11 Cases shall file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Cases incurred through the Confirmation Date or be forever barred from obtaining such compensation and reimbursement.

**E. Rounding**

Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect the rounding of such fraction to the nearest whole cent with the one-half cent being rounded up to the nearest whole cent.

**ARTICLE X**

**RETENTION OF JURISDICTION**

Following Confirmation, except as provided below, the Bankruptcy Court shall retain such jurisdiction as is legally permissible after Confirmation, including, without limitation, for the following purposes:

1. To hear and determine any dispute relating to the Plan or any property described in the Plan and to enforce its provisions.
2. To hear and determine all issues arising out of any motions, applications, adversary proceedings or contested or litigated matters in the Chapter 11 Cases pending at the Confirmation Date or commenced thereafter.
3. To order recovery of any assets of the Debtors, whether title is presently held in the name of the Debtor(s) or a third party.

4. To hear and determine motions to approve the rejection, assumption or assumption and assignment of Executory Contracts under §365 of the Bankruptcy Code.

5. To hear and determine all issues relating to any purchases, sales or contracts made or undertaken by the Trustee during the pendency of the Chapter 11 Cases, including the Sale.

6. To hear and determine all Claims arising from the rejection of executory contracts or unexpired leases.

7. To hear and determine all objections to Claims and all controversies concerning classification, allowance, valuation, liquidation, estimation, or satisfaction of Claims.

8. To make orders allowing amendment of the Schedules for any purpose, including, without limitation, to pursue objections to Claims not previously listed as disputed, contingent or unliquidated.

9. To hear and determine all applications for compensation of Professionals' fees and reimbursement of expenses arising out of or relating to the Chapter 11 Cases or any Claims.

10. To hear and determine any and all motions to abandon property of the Debtors' Estates.

11. To make such other orders or give such directions as permitted by §1142 of the Bankruptcy Code.

12. To consider and order any modifications or amendments requested to the Plan.

13. To remedy any defect or omission, or reconcile any inconsistency in the Plan or the Confirmation Order in such manner as may be necessary or desirable to carry out the purposes and intent of the Plan.



14. To make all orders necessary or appropriate to carry out the provisions of the Plan.

15. To enforce all orders previously entered by the Bankruptcy Court.

16. To determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the Bankruptcy Code, including hearing any matters related to claims asserted against the Wind Down Officer or the Disbursing Agent.

## **ARTICLE XI**

### **NOTICES**

Except as otherwise herein provided, all notices required to be made in or under the Plan shall be in writing and shall be mailed by registered or certified mail, return receipt requested:

|                    |  |
|--------------------|--|
| If to the Trustee: | Deborah J. Piazza, Esq.<br>Tarter Krinsky & Drogin LLP<br>1350 Broadway, 11 <sup>th</sup> Floor<br>New York, NY 10018  |
| With a copy to:    | Tarter Krinsky & Drogin LLP<br>1350 Broadway, 11 <sup>th</sup> Floor<br>New York, New York 10018<br>Attn: Scott S. Markowitz, Esq.<br>Arthur Goldstein, Esq. |
| If to the Debtors: | Biombo Inc., et al<br>c/o Bruce R. Alter, Esq.<br>Alter & Brescia, LLP<br>550 Mamaroneck Avenue<br>Harrison, New York 10528                                  |

Any person may change the address at which he is to receive notices for purposes of this Plan by sending written notice pursuant to this provision to the Trustee or the Disbursing Agent. Furthermore, notice shall be given to the above and their successors.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

#### A. Applicable Law

Except to the extent that the Bankruptcy Code or other federal law is applicable, the rights and obligations arising under this Plan are governed under New York Law.

#### B. Unenforceability of Particular Provisions

Should any provision in this Plan be determined to be unenforceable in whole or in part, such determination shall in no way limit or affect the enforceability and operative effect of the remainder of this Plan, including any of its provisions to the extent not determined to be unenforceable.

#### C. Revocation and Withdrawal Prior to Confirmation

The Trustee reserves the right to revoke and withdraw this Plan prior to the Confirmation Date. If the Trustee revokes or withdraws this Plan, or if the Confirmation Date, or the Effective Date does not occur, this Plan shall be deemed null and void, and in such event nothing contained herein shall be deemed to constitute a waiver or release of any claim by or against the Debtor or any other entity, or to prejudice in any manner the rights of the Debtors or any entity in any further proceedings involving the Debtors.

#### D. Amendment and Modification

The Trustee may propose amendments to, or modification of, this Plan at any time at or before Confirmation. After Confirmation of the Plan, the Trustee may, with the approval of the Bankruptcy Court and so long as it does not materially adversely affect the treatment of any Claim or Equity Interest, amend the Plan to remedy any defect or omission or reconsider any

inconsistencies in the Plan or in the Confirmation Order as necessary or desirable to carry out the purpose and effect of the Plan.

**E. Limitation of Liability**

The Trustee (except as provided in the Plan), the Wind Down Officer appointed herein, and the Disbursing Agent appointed herein, their respective officers, directors, shareholders, employees, trustees, members, affiliates and agents (including any Professionals employed by one or more of them), shall have no liability to any holder of a Secured Claim, an Administrative Claim, Priority Claim, Unsecured Claim, Equity Interest, or any other person under any theory of liability for any act taken or omission made with respect to the Debtors since the Filing Date or in connection with, related to, or arising out of, the formulation, implementation, confirmation, or consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release, agreement or document created in connection with the Plan, the pursuit of approval of the Disclosure Statement or the solicitation of votes for or confirmation of the Plan, or the administration of the Chapter 11 Cases, the Plan or the property to be distributed under the Plan, except for their respective willful misconduct, gross negligence or breach of fiduciary duty as determined by Final Order of the Bankruptcy Court and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. The limitation of liability set forth herein shall be deemed to be no greater in scope than the protections afforded under §1125(e) of the Bankruptcy Code. In addition, nothing herein shall be interpreted to permit a release in violation of §1.8(h)(1) of the New York States Rules of Professional Conduct. Nothing herein shall limit the right of the United

States Government, local governments or any of their agencies to assert any claim against the foregoing parties, including without limitation, any claim arising under the Internal Revenue Code, the environmental laws, or the criminal laws of the United States, nor shall anything in the Confirmation Order or Plan limit, impair, or in any way affect the application of any laws or regulations of the United States or local governments. Any action commenced by any person or entity against the Wind Down Officer and the Disbursing Agent shall only be pursued in the Bankruptcy Court unless permission is granted by the Bankruptcy Court to pursue the Wind Down Officer and the Disbursing Agent in another court.

**F. Post-Confirmation Professional Fees**

Subsequent to the Confirmation Date, the Wind Down Officer shall be authorized and directed to pay reasonable professional fees and expenses relating to the post-Confirmation administration of the Estates and this Plan incurred by Professionals in accordance with the procedures set forth herein.

**G. Successors and Assigns**

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

**H. No Discharge and Binding Effect of Plan**

Pursuant to § 1141(d)(3) of the Bankruptcy Code, Confirmation of the Plan will not discharge the Debtors. However, upon the Confirmation Date, all of the provisions of the Plan shall be binding on the Debtors, on all Creditors, on the Equity Interest Holders, and on all other

entities who are affected (or whose interests are affected) in any manner by this Plan, to the fullest extent permitted by § 1141 of the Bankruptcy Code.

**I. Substantial Consummation**

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101(a) and 1127(b) of the Bankruptcy Code.

Dated: New York, New York  
June 14, 2017

**TARTER KRINSKY & DROGIN LLP**  
*Deborah J. Piazza, the Chapter 11*  
*Trustee for the Debtors*

By: /s/ Deborah J. Piazza  
Deborah J. Piazza, Esq.  
1350 Broadway, 11<sup>th</sup> Floor  
New York, New York 10022  
(212) 216-8000

**EXHIBIT B**

**EXHIBIT "B"**

Biombo, Inc. et al  
Estimated Realizable Value Upon Liquidation  
July, 2017

|  | <u>Book Value</u>        | <u>Estimated<br/>Liquidation Value</u> |
|--|--------------------------|--|
| <b><u>CURRENT ASSETS</u></b>                     |                          |  |
| Cash in Bank (estimated at time of confirmation) | \$ 311,501               | \$ 311,501                             |
| Accounts Receivable                              | \$ 0                     | \$ 0                                   |
| <b>Total Current Assets</b>                      | <b>\$ 311,501</b>        | <b>\$ 311,501</b>                      |
| <b><u>TOTAL ASSETS</u></b>                       | <b><u>\$ 311,501</u></b> | <b><u>\$ 311,501</u></b>               |

**LIABILITIES**

Post-Petition Liabilities:

|   |                         |
|---|-------------------------|
| Professional Fees   | \$ 451,362 <sup>1</sup> |
| Trustee and other Chapter 7 Administrative costs                      | \$ 53,172 <sup>2</sup>  |
| <b>Total Claims to be Paid Before Payments to Unsecured Creditors</b> | <b>\$ 504,534</b>       |
| <b>Total Proceeds Available to Pay Unsecured Claims</b>               | <b>\$ 0</b>             |
| <b>TOTAL UNSECURED CLAIMS</b>   | <b>\$ 300,000</b>       |

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<sup>1</sup> These consist of the professional fees of Tarter Krinsky & Drogin LLP as Trustee's general bankruptcy counsel. Thompson Law Group, P.C. as Trustee's Special Litigation Counsel, CBIZ Accounting, Tax & Advisory of New York, LLC as accountants to the Trustee, MYC & Associates, Trustee's real estate broker and property manager and Alter & Brescia as Debtor's bankruptcy counsel (collectively, the "Professionals"). As set forth in the Disclosure Statement, on condition that the Plan is confirmed, the Professionals will reduce their aggregate professional fees to \$302,828 so that funds will be available to make a distribution to Class 3 unsecured creditors.

<sup>2</sup> The Trustee has agreed to reduce her estimated Chapter 11 commissions from \$79,463.52 to \$45,000.00.