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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

**AC NW RETAIL INVESTMENT LLC and  
ARMSTRONG NEW WEST RETAIL,**

Case No.: 16-23085 (RDD) and  
16-23086 (RDD)  
(jointly administered)

Debtor.

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**JOINT DISCLOSURE STATEMENT FOR JOINT PLAN OF REORGANIZATION  
OF AC NW RETAIL INVESTMENT LLC  
AND ARMSTRONG NEW WEST RETAIL LLC**

**THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE JOINT PLAN OF REORGANIZATION OF AC NW RETAIL INVESTMENT LLC AND ARMSTRONG NEW WEST RETAIL LLC. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED TO THE BANKRUPTCY COURT FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT.**

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**A. Mitchell Greene, Esq.**

**Dated:** New York, New York  
November 7, 2016

## DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ALL CREDITORS AND HOLDERS OF EQUITY INTERESTS SHOULD READ THIS DISCLOSURE STATEMENT AND ALL EXHIBITS HERETO, INCLUDING THE PLAN, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE DISCLOSURE STATEMENT AND THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. THE TRANSMISSION OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF. AFTER THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL BE MATERIALLY ACCURATE, AND (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NONBANKRUPTCY LAW. THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTOR WITH "ADEQUATE INFORMATION" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THEY CAN MAKE AN INFORMED JUDGMENT ABOUT THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, AS A STIPULATION OR AS A WAIVER, BUT, RATHER, AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE REORGANIZATION OR THE PLAN ON HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTOR.

A glossary of terms frequently used in this disclosure statement, is set forth in Article 1 of the plan of liquidation filed with the Bankruptcy Court.

### **SUMMARY**

The Debtors, **AC NW Retail Investment LLC** (“AC) and **Armstrong New West Retail LLC** (“Armstrong and with AC, the “Debtors”), have filed their *Joint Plan of Reorganization of AC NW Retail Investment LLC and Armstrong New West Retail LLC* dated November 7, 2016 (the “Plan”), with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). This *Disclosure Statement for Joint Plan of Reorganization of AC NW Retail Investment LLC and Armstrong New West Retail LLC* (the “Disclosure Statement”) is being submitted to the Bankruptcy Court for approval for use in connection with the solicitation of acceptances of the Plan from holders of Claims against and Interests in the Debtors pursuant to section 1125 of title 11 of the United States Code (the “Bankruptcy Code”).

In the Debtors’ opinion, the treatment of claims under the Plan provides a greater recovery for Creditors than that which is likely to be achieved under other alternatives for the reorganization or liquidation of the Debtors.

**Accordingly, the Debtors believe that Confirmation of the Plan is in the best interests of Creditors.**

### **THE DEBTORS**

Armstrong owns the commercial condominium unit consisting of the ground floor and basement of 250 West 90<sup>th</sup> Street, New York, New York (the “Property”). The Property is a 20,000 square foot space that was until March 2016 occupied by the Atlantic and Pacific Tea Company (“A&P”) under its Food Emporium brand.

The Property is encumbered by a mortgage in favor of Ladder Capital Finance LLC (“Ladder”) who extended a \$21,000,000 loan to Armstrong on July 20, 2015, a day after the filing by A&P of its second bankruptcy proceeding. Ladder also extended a \$5,850,000 mezzanine loan to AC on July 20, 2015. The mezzanine loan was thereafter assigned to LMezz 250 W90 LLC (“LMezz”).

In connection with the mezzanine loan, AC pledged and granted LMezz a first priority security interest in all of AC’s right, title and interest to, amongst other things, all of its pledged company interests and all other ownership interests in Armstrong.

Pursuant to a tenant direction letter executed along with the various loan documents evidencing the Ladder and LMezz loans, A&P was directed to pay rent to a cash management account maintained by Wells Fargo Bank as servicer of the loans for the benefit of Ladder and LMezz. A&P’s rental obligations were timely paid until approximately January 2016.

During the A&P bankruptcy proceeding, A&P sought to sell certain of its leases, including the lease it occupied at the Property. AF Norwich was the successful bidder for the subject lease. It was not until January 2016, after the sale to AF Norwich failed to close in December 2015, that Armstrong was notified that A&P failed to make its January 2016 rent payment. After a series of email inquiries from the Armstrong Debtor, on or about January 12, 2016, A&P cured the delinquent January 2016 rent payment. A&P as tenant at the Property was also obligated to make real estate tax payments, including the tax payment due as of January 1, 2016. To date, A&P has failed to make the required payments.

In February, 2016 various hearings were held in the A&P bankruptcy proceeding in connection with the proposed sale of the subject lease to AF Norwich which hearings were attended by counsel to the Armstrong Debtor and by counsel to Ladder. Disputes had arisen with respect to the proposed buyer's ability to provide adequate assurance of future performance to the Armstrong Debtor, the existence of a 2015 SNDA and the A&P's statutory deadline to assume leases. While the parties, including Ladder and LMezz, attempted to resolve these issues, A&P once again failed to meet its monetary obligations pursuant to its lease for the Property with respect to the payment of February rent which was not paid until late in the month<sup>1</sup>. The sale to AF Norwich was supposed to have closed on February 29, 2016, but did not. At a bankruptcy court hearing held on February 29, 2016, in the A&P Bankruptcy proceeding, Armstrong, because of its concerns about AF Norwich's willingness to close as well as the A&P's repeated failure to comply with their obligations under section 365(d)(3) to timely pay rent, expressly required, as a condition precedent, that A&P comply with its monetary obligations before providing its consent to an extension of the statutory deadline to assume or reject leases to March 4th. Later that day, the Court entered an order requiring AF Norwich to make prompt payment of March rent as a condition to an extension of the section 365(d)(4) deadline to March 4, 2016. No rent was ever paid by AF Norwich and the sale transaction with AF Norwich did not close in February or March. As a result, in early March 2016, when it was evident that the sale to AF Norwich had failed, the subject lease was rejected by A&P.

Armstrong moved to compel A&P to surrender the premises and A&P thereafter delivered the keys to the Property along with a notice of abandonment of the Property to AC I Southwest Broadway, Armstrong's predecessor in interest, pursuant to a notice dated March 10, 2016<sup>2</sup>. On that same date, the Debtors caused a payment of \$136,000 to be paid LMezz. On or about June 3, 2016, the Debtors caused a payment of \$250,000 to be paid to LMezz. On or about July 2, 2016, the Debtors caused a payment of \$100,000 to be paid to LMezz. LMezz has acknowledged receipt of these payments.

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<sup>1</sup> A reserve balance of \$139,322.28, which Debtors submit could have been applied by the Lenders to satisfy, in full, the February debt service payments for both the Ladder and LMezz obligations, continues to be held in reserve by Ladder.

<sup>2</sup> No March rent payment was paid by A&P.

Ladder and LMezz, despite being fully aware of the A&P bankruptcy, the sale process and the issues related to the sale of the lease to AF Norwich, on March 7, 2016, issued notices of default and acceleration to AC and Armstrong with respect to the Ladder and LMezz loans and sought to foreclose on AC's pledged interests in Armstrong based upon purported defaults pursuant to the governing loan documents which the Debtors dispute.

From the time A&P rejected the lease, the Debtors sought financing opportunities to satisfy the Ladder and LMezz obligations and also sought to finalize the terms of a lease for the Property with Bed Bath & Beyond which lease was executed after the Debtors cases were commenced (the "BBB Lease", see attached Exhibit A).

While the Debtors worked to resolve these matters and kept Ladder and LMezz updated in connection with the financing and lease options, LMezz consented to several adjournments of the UCC sale. LMezz however would not agree to further adjourn the UCC sale that was scheduled for August 10, 2016. The Debtors therefore filed these cases on August 9, 2016 (the "Petition Date") in order to preserve the value of the Property, which per Ladder and LMezz's own appraisal was valued at \$37,000,000 in 2015, far more than the aggregate amounts due the lenders<sup>3</sup>.

The Armstrong Debtor is 100% owned by AC. AC is 100% owned by Benjamin Ringel. The Plan provides for the restructuring of the Ladder and LMezz obligations which will be paid by rent generated from the BBB Lease as supplemented by a DIP Loan for which a term sheet is attached hereto as Exhibit B. The Plan also provides for an Equity Contribution of \$250,000 to be made by the Debtors interest holders for other Plan payments in exchange for maintaining their interests in the Debtors. Finally, the Plan contains an alternative implementation scenario as follows: (1) In the event the BBB tenant fails to commence rent payments by June 1, 2017, a Rent Contribution must be funded to cover debt service and other operational expenses at the Property; and (2) in the event the BBB tenant fails to commence rent payments by September 1, 2017, the Debtors will sell the Property and utilize the sale proceeds to satisfy Allowed Claims in accordance with the priorities established by the Bankruptcy Code.

## **THE PLAN**

The Plan provides for a restructuring of the secured obligations due Ladder and LMezz on account of their Allowed Secured Claims, the repayment of the DIP Loan, and a distribution over time to each of the Debtors' unsecured creditors on account of their Allowed Claims to be funded by the rent generated by the BBB Lease as supplemented by the Equity Contribution to be made by Debtors' Interest holders. Alternatively, in the event BBB fails to commence rent payments by June 1, 2017, the Debtors are required to fund or procure funding of a Rent Contribution to cover debt service and other operational expense obligations at the Property until rent payments commence. Finally, in the event BBB fails to commence rent payments by

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<sup>3</sup> Debtors reserve all rights to object to the claims of Ladder and LMezz.

September 1, 2017, the Debtors will sell the Property with the sale proceeds distributed to creditors on account of their Allowed Claims in accordance with the priorities established by the Bankruptcy Code.

The table below provides a summary of the classification and treatment of Claims under the Plan. The figures set forth in the table below represent the Debtors' best estimate of the aggregate amount of Claims in the Cases. These estimates are based on an analysis of the Schedules filed by the Debtors, the Proofs of Claims filed by Creditors, and certain other documents of public record. There can be no assurance that Claims will be allowed by the Bankruptcy Court in the amounts set forth below. The aggregate amount of Allowed Claims may be significantly lowered from the amounts set forth below as the result of objections to claims which may be brought by the Debtors or through stipulations which may be negotiated with various creditors.

<b>Class and Estimated Amount<sup>4</sup></b>	<b>Type of Claim or Equity Interest</b>	<b>Summary of Treatment</b>
\$0.00	Administrative Claims (excluding Claims for professional compensation and reimbursement and Administrative Tax Claims, but including post-petition ordinary course liabilities)	<b>Non-Voting.</b> Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of (x) the Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Allowed Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the appropriate Debtor and the Holder of such Claim; <i>provided, however,</i> that any Administrative Claim incurred by either of the Debtors in the ordinary course of their business shall be paid in full or performed by the Debtors in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto.
\$ 0.00	Administrative Tax Claims	<b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between the appropriate Debtor and such Governmental Units on or before the Confirmation Date.
As of October 31, 2016, Debtors'	Administrative Claims for Professional	<b>Non-Voting.</b> Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final

<sup>4</sup> Amounts set forth in this chart are not and should not be deemed admissions by the Debtors as to validity or amount of any scheduled or filed claim. Debtors reserve all rights to object to any scheduled or filed claim in the Debtors' cases. The Debtor will review all claims and determine whether any objections should be filed.

Class and Estimated Amount <sup>4</sup>	Type of Claim or Equity Interest	Summary of Treatment
<p>counsel is owed approximately \$143,000 in fees and expenses</p> <p>Broker commission: unknown</p>	<p>Compensation and Reimbursement<sup>5</sup></p>	<p>application for approval of its Professional Fees no later than 60 days after the Effective Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim. Any broker commission due with respect to the BBB Lease and, to the extent the Property is sold, any broker commission due upon the sale of the Property shall be subject to approval by the Bankruptcy Court.</p>
<p>\$0</p>	<p>Priority Tax Claims</p>	<p><b>Non-Voting.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, and except as may be otherwise mutually agreed in writing between the appropriate Debtor and such Governmental Units, all allowed Priority Tax Claims shall be paid by the Debtors in Cash in full, together with the Applicable Rate of Interest on or prior to the Effective Date.</p>
<p>Class 1 \$493,844.92 due as of October 3, 2016<sup>6</sup></p>	<p>NYC Secured Tax Claim</p>	<p><b>Unimpaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, and in the event that payment on account of real property taxes is not paid during the pendency of the Armstrong Debtor's case from the DIP Loan, or any other funding source, in full satisfaction, release and discharge of the Allowed NYC Secured Tax Claim, NYC shall receive payment in Cash in full of all amounts due as of the Effective Date, if any, with respect to the real estate taxes due on the Property.</p>
<p>Class 2 Scheduled as a disputed claim in the amount of 24,289,158.65<sup>7</sup></p>	<p>Allowed Ladder Secured Claim</p>	<p><b>Impaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Allowed Ladder Secured Claim, which amount shall be determined by the Bankruptcy Court, Ladder shall receive the New Ladder Note in the principal amount of the Allowed Ladder Secured Claim. The New Ladder Note shall be for a 3 year term with an interest rate of 3.5% per annum, interest only, payable monthly. Ladder shall be entitled to continue to receive rent payments made to the</p>

<sup>5</sup> Any agreement with respect to the waiver and/or modification of fees will be disclosed to the Court and the Office of the United States Trustee.

<sup>6</sup> A resolution of the claims between and among the Armstrong Debtor and A&P with respect to their claims and the pending adversary proceeding is being negotiated and, subject to Bankruptcy Court approval, will result in a \$142,500 payment to the NYC Department of Tax and Finance for real estate taxes, thereby reducing this amount to approximately \$351,344.92.

<sup>7</sup> Debtors reserve all rights to object to any filed or scheduled claim, including, but not limited to any claim filed by Ladder or LMezz, including, but not limited to the dollar amount of the claim, default interest charges, late fees and professional fees.

Class and Estimated Amount <sup>4</sup>	Type of Claim or Equity Interest	Summary of Treatment
		lockbox account maintained by Wells Fargo as loan servicer. In the event BBB fails to commence rent payments on or before June 1, 2017, then the Debtors shall be required to fund, or to procure funding for the Rent Contribution, a portion of which shall be utilized to make payments to Ladder in accordance with the New Ladder Note. In the event BBB fails to commence rent payments on or before September 1, 2017, the Property shall be sold, and in full and final satisfaction, release and discharge of the Allowed Ladder Secured Claim, Ladder shall receive payment on account of the Allowed Ladder Secured Claim from the sale proceeds.
Class 3 \$3,500,000	Armstrong DIP Lender Secured Claim	<b>Unimpaired.</b> In full and final satisfaction of the DIP Loan, the DIP Lender shall receive payments in accordance with its loan documents, or as otherwise mutually agreed to in writing between Armstrong and the DIP Lender. In the event the Property is sold, in full and final satisfaction, release and discharge of the Armstrong DIP Lender Claim, the Armstrong DIP Lender shall receive payment on account of its DIP Lender Secured Claim from the sale proceeds.
Class 4 Scheduled in the aggregate amount of \$185,240	Armstrong Unsecured Claims	<b>Impaired.</b> Subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the Armstrong Unsecured Claims, the holders of Allowed Unsecured Claims shall receive Cash in the full amount of their Allowed Unsecured Claim, payable in 2 installments as follows: 50% to be paid on the Effective Date and 50% to be paid 6 months from the Effective Date. Provided however that if the Property is sold, subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the Armstrong Unsecured Claims, the holders of Allowed Unsecured Claims shall receive on the Effective Date their pro rata share of the remaining sale proceeds after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker fees and United States Trustee fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim and the DIP Lender Claim.
Class 5	Armstrong Interest	<b>Non-Voting.</b> In exchange for the Equity Contribution, AC, the equity interest holder in Armstrong shall maintain its ownership interest in the Armstrong Debtor. In the event the Property is sold, AC shall contribute the remaining sale proceeds, if any, after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker fees and United States Trustee fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim and the DIP Lender Claim, to satisfy the Allowed Claims in Classes 6 and 7. Any remaining sale

Class and Estimated Amount <sup>4</sup>	Type of Claim or Equity Interest	Summary of Treatment
		proceeds thereafter shall be distributed to AC in accordance with the treatment set forth in Class 8. Thereafter, all interests in the Armstrong Debtor shall be canceled and of no force and effect.
Class 6 Scheduled as a disputed claim in the amount of \$7,122,445.90 <sup>8</sup>	Allowed LMezz Secured Claim	<b>Impaired.</b> Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Allowed LMezz Secured Claim, which amount shall be determined by the Bankruptcy Court, LMezz shall receive the New LMezz Note in the principal amount of the Allowed LMezz Secured Claim. The New LMezz Note shall be for a 3 year term with an interest rate of 5% per annum, interest only, payable monthly. Monthly payments to LMezz on account of the New LMezz Note shall only be paid after monthly payments are made to Ladder on account of the New Ladder Note, and to the DIP Lender in accordance with its loan documents. In the event BBB fails to commence rent payments on or before June 1, 2017, then the Debtors shall be required to fund, or to procure funding for the Rent Contribution, a portion of which shall be utilized to make payments to LMezz in accordance with the New LMezz Note. In the event BBB fails to commence rent payments on or before September 1, 2017, the Property shall be sold, and in full and final satisfaction, release and discharge of the Allowed LMezz Secured Claim, after payment is made to satisfy in full Allowed Claims in Classes 1, 2, 3 and 4, LMezz shall receive payment on account of the Allowed LMezz Secured Claim from the sale proceeds.
Class 7 Scheduled in the amount of \$532,800 inclusive of insider claims of \$507,000 for which repayment shall be waived.	AC Unsecured Claims	<b>Impaired.</b> Subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the AC Unsecured Claims, the holders of Allowed Unsecured Claims shall receive Cash in the full amount of their Allowed Unsecured Claim, payable in 2 installments as follows: 50% to be paid on the Effective Date and 50% to be paid 6 months from the Effective Date. Provided however that if the Property is sold, subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the AC Unsecured Claims, the holders of Allowed Unsecured Claims shall receive on the Effective Date their pro rata share of the remaining sale proceeds after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker commission and

<sup>8</sup> Debtors reserve all rights to object to any filed or scheduled claim, including, but not limited to any claim filed by Ladder or LMezz, including, but not limited to the dollar amount of the claim, default interest charges, late fees and professional fees.

Class and Estimated Amount <sup>4</sup>	Type of Claim or Equity Interest	Summary of Treatment
		United States Trustee fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim, the DIP Lender Claim, Armstrong Unsecured Claims and the Allowed LMezz Secured Claim.
Class 8	AC Interest	<b>Non-Voting.</b> In exchange for the Equity Contribution, Benjamin Ringel, the equity interest holder in AC shall maintain his ownership interest in the AC Debtor. In the event the Property is sold, after payment is made in full, (or appropriate amounts reserved for payment in full) on account of all Allowed Claims in Classes 1, 2, 3, 4, 6 and 7, and appropriate amounts reserved for Disputed Claims as set forth in Section 7.7 of the Plan, in full satisfaction, release and discharge of and in exchange for its interest in the AC Debtor, the remaining balance of the sale proceeds, if any, shall be distributed to Benjamin Ringel the 100% owner of the AC Debtor, or his designee. After the Closing, all interests in the AC Debtor shall be canceled and of no further force and effect.

#### CONFIRMATION OF THE PLAN

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan, on \_\_\_\_\_, **2017 at 10:00 a.m.**, Eastern Standard Time, in the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601. Objections, if any, to Confirmation of the Plan shall be filed and served on or before \_\_\_\_\_, **2017**.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. The Debtors intend to seek Confirmation of the Plan at the Confirmation Hearing. In the event that any impaired Class of Claims does not accept the Plan, the Debtors may seek a “cram down” Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. **The Debtors believe that the Plan satisfies all applicable requirements of section 1129(a) and section 1129(b) of the Bankruptcy Code.** See “ACCEPTANCE AND CONFIRMATION -- Requirements for Confirmation” for a description of such requirements.

In accordance with Section 1126(c) of the Bankruptcy Code and except as provided in Section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted this Plan if this Plan is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Claims of such Class that have timely and properly voted to accept or reject this Plan.

Allowed Claims in Classes 1 and 3 are unimpaired.

Allowed Claims in Classes 2, 4, 6 and 7 are impaired and are entitled to vote to accept or reject the Plan.

Allowed Interests in Classes 5 and 8 are either unimpaired and therefore deemed to accept the Plan or are impaired and shall be deemed to reject the Plan. Therefore, either (a) under Section 1126(f) of the Bankruptcy Code, Holders of such interests are conclusively presumed to accept the Plan, or (b) under Section 1126(g) of the Bankruptcy Code, holders of such interests are deemed to reject the plan. Accordingly, votes of interest holders will not be solicited.

If all Classes have either accepted the Plan, been deemed to have accepted the Plan or are not entitled to vote, the Debtor shall request the Bankruptcy Court to confirm the Plan under Section 1129(a) of the Bankruptcy Code. If any Impaired Class fails to accept this Plan by the requisite statutory majorities, the Debtors reserve the right (i) to confirm this Plan by a “cram-down” of such non-accepting Class pursuant to Section 1129(b) of the Bankruptcy Code and (ii) to propose any modifications to this Plan and to confirm this Plan as modified, without re-solicitation, to the extent permitted by the Bankruptcy Code.

With the entry of the Confirmation Order, pursuant to section 1141(d) of the Bankruptcy Code, except as otherwise provided in the Plan, the distributions provided for in the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims against the Debtors or any of their assets or properties, including but not limited to the Property, including any Claim accruing after the Petition Date and before the Confirmation Date. As of the Effective Date, all holders of Claims shall be precluded from asserting any Claim against the Debtors, their assets or properties or other interests in the Debtor, or the Property based on any transaction or other activity of any kind that occurred before the Confirmation Date except as otherwise provided in the Plan. Confirmation makes the Plan binding upon the Debtor, all Creditors and other parties regardless of whether they have accepted the Plan.

#### **VOTING INSTRUCTIONS — SUMMARY**

The following discussion summarizes more detailed voting instructions set forth in the section of this Disclosure Statement entitled “VOTING INSTRUCTIONS.” If you have any questions regarding the timing or manner of casting your ballot, please refer to the “VOTING INSTRUCTIONS” section of this Disclosure Statement and the instructions contained on the ballot that you received with this Disclosure Statement.

**General.** The Debtors have sent to all of their known Creditors who are in Classes impaired under the Plan a ballot with voting instructions and a copy of this Disclosure Statement. Creditors may refer to the above chart to determine whether they are impaired and entitled to vote on the Plan. Creditors should read the ballot carefully and follow the voting

instructions. Creditors should only use the official ballot that accompanies this Disclosure Statement.

The Plan can be confirmed by the Bankruptcy Court and thereby made binding on you if it is accepted by (a) the Holders of two-thirds in amount and more than one-half in number of claims in each class who actually vote on the Plan and (b) the Holders of at least two-thirds in amount of the allowed interests of such class. In the event the requisite acceptances are not obtained, the Bankruptcy Court may nevertheless confirm the Plan if (i) the Bankruptcy Court finds that the Plan accords fair and equitable treatment, and does not discriminate unfairly, with respect to the class rejecting it and (ii) at least one impaired class of creditors excluding insiders has accepted the Plan. See “REQUIREMENTS FOR CONFIRMATION” and “EFFECT OF CONFIRMATION.”

**As the preceding paragraph makes evident, a successful reorganization depends upon the receipt of a sufficient number of votes in support of the Plan. YOUR VOTE IS THEREFORE EXTREMELY IMPORTANT. Creditors should exercise their right to vote to accept or reject the Plan.**

#### **NOTICE TO HOLDERS OF CLAIMS AND INTERESTS**

This Disclosure Statement is being furnished by the Debtors to the Debtors' known Creditors pursuant to section 1125(b) of the Bankruptcy Code in connection with a solicitation of acceptances of a plan of reorganization by the Debtors. The Plan is filed with the Bankruptcy Court and is incorporated herein by reference. Parties in interest may view the Plan on the Internet at <http://www.nysb.uscourts.gov>.<sup>9</sup>

The purpose of this Disclosure Statement is to enable you, as a Creditor whose Claim is in a Class impaired under the Plan, to make an informed decision in exercising your right to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO OBJECT TO CONFIRMATION OF THE PLAN PROPOSED BY THE DEBTORS. PLEASE READ THIS DOCUMENT WITH CARE.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTORS. THE STATEMENTS AND OPINIONS SET FORTH HEREIN ARE THOSE OF THE DEBTORS, AND NO OTHER PARTY HAS ANY RESPONSIBILITY WITH RESPECT THERETO.**

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<sup>9</sup> A password is necessary for access to view documents on the Internet.

**THE PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY ANY BANKRUPTCY COURT, THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE FAIRNESS OR MERITS OF THE PLAN OR UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.**

The historical information concerning the Debtors has been prepared using the Debtors' books and records and certain filings made with the Bankruptcy Court. The estimates of Claims set forth herein may vary from the final amounts of Claims allowed by the Bankruptcy Court. While every effort has been made to ensure the accuracy of all such information, except as noted in the Disclosure Statement, the information presented herein is unaudited and has not been examined, reviewed or compiled by the Debtors' independent public accountants.

The projections annexed hereto are a presentation of possible future events based on certain assumptions regarding the operations of the Debtors. The projections were not prepared with a view toward public disclosure or compliance with the guidelines established by the Securities and Exchange Commission and were not prepared with a view towards compliance in all instances with the guidelines established by the American Institute of Certified Public Accountants regarding financial forecasts. The projections have not been prepared in accordance with generally accepted accounting principles in all instances. Further, such projections have not been examined, reviewed or compiled by the Debtors' independent public accountants.

While presented with numerical specificity, the projections are based upon a variety of assumptions which, although the Debtors believe are reasonable, may not be realized, and are subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond the control of the Debtors. Consequently, the inclusion of the projections herein should not be regarded as a representation by the Debtors (or any other person) that the projections will be realized, and actual results may vary materially from those presented below. Due to the fact that such projections are subject to significant uncertainty and are based upon assumptions which may not prove to be correct, neither the Debtors nor any other person assumes any responsibility for their accuracy or completeness.

This Disclosure Statement contains a summary of certain provisions of the Plan and the transactions contemplated thereunder, and may contain descriptions of certain other related documents, if any. While the Debtors believe that these summaries are fair and accurate, such summaries are qualified to the extent that they do not set forth the entire text of such documents. Reference is made to the Plan and the documents referred to herein and therein, if any, for a complete statement of the terms and provisions thereof. In the event of any inconsistency between the terms of the Plan and this Disclosure Statement, the terms of the Plan shall be controlling. In reviewing the Plan and this Disclosure Statement, the reader should give special attention to "RISK FACTORS." No statements or information concerning the Debtors,

the Property, or their other assets, results of business operations or financial condition are authorized by the Debtors other than as set forth in this Disclosure Statement and the exhibits hereto (including the Plan).

Notwithstanding any provision of the Plan to the contrary, definitions and descriptions contained herein respecting pre-Petition Date documents, agreements, or claims are provided solely for the purpose of identification and classification thereof and do not constitute an admission by the Debtors of the existence, validity, allowance, or amount of any such claim, document or agreement. The Debtors expressly reserve the right to challenge the existence, validity, allowance, or amount of any such claim, document or agreement.

This Disclosure Statement is intended for the sole use of Holders of Claims and Interests to make an informed decision about the Plan. Each holder of a Claim and Interest should review this Disclosure Statement, the Plan and all exhibits hereto. Holders of Claims and Interest are urged to consult with their own legal and financial advisors.

No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. No person has been authorized to use or promulgate any information concerning the Debtors or their business or the Plan, other than the information contained in this Disclosure Statement and the exhibits hereto. You should not rely on any information relating to the Debtors or their business or the Plan other than that contained in this Disclosure Statement and the exhibits hereto.

#### **RECOMMENDATION**

In the Debtors' opinion, the treatment of Creditors under the Plan provides a greater recovery than is likely to be achieved under any other alternatives, including liquidation under Chapter 7. See "ALTERNATIVES TO THE PLAN." In particular, the Debtors believe that in a Chapter 7 liquidation, administrative costs will be greater, and only to the extent the Property was sold for a purchase price far in excess of the Allowed Ladder and LMezz Secured Claims, would Unsecured Creditors receive any distribution on account of their Claims. Further, the Debtors believe that the value of any distribution in a chapter 7 liquidation case will be discounted by the litigation and delays which will precede any such distribution.

**THE DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS.**

#### **EVENTS LEADING TO CHAPTER 11**

##### **Securitization of the Property:**

On or around July 20, 2015, Ladder Capital Finance LLC as Lender ("Ladder") made a mortgage loan (the "Mortgage Loan") to the Armstrong Debtor. The Mortgage Loan was made

pursuant to a Loan Agreement (the “Loan Agreement”), evidenced by the Ladder Note in the original principal amount of \$21,000,000, amongst other documents including an Assignment of Leases and Rents (collectively, the “Ladder Security Documents”). The Mortgage Loan is secured by a first priority mortgage encumbering the Property.

Simultaneous with the Mortgage Loan to the Debtor, Ladder also extended a \$5,850,000 mezzanine loan to AC (the “Mezzanine Loan”), the Debtor’s 100% interest holder, pursuant to a mezzanine loan agreement, evidenced by the LMezz Note. The Mezzanine Loan is secured by, among other things, a pledge and security agreement encumbering AC’s ownership interest in the Armstrong Debtor. The Mezzanine Loan was assigned by Ladder to LMezz.

Ladder and LMezz issued notices of default and acceleration of the Mortgage Loan and the Mezzanine Loan on March 7, 2016 after a failed attempt by A&P, the tenant pursuant to a lease for the Property, and a debtor in its own bankruptcy proceeding, to sell the lease to AF Norwich. The Armstrong and AC Debtors dispute the noted defaults for a number of reasons, including but not limited to, the reserve balance of \$139,322.28 held by Ladder which amount was sufficient to cover any debt service payment due in February 2016, coupled with the Debtors’ payment to LMezz of at least \$486,000 during the period March 2016 through July 2016. During this time period LMezz noticed several UCC foreclosure sales in connection with the purported Mortgage Loan and Mezzanine Loan defaults. The first sales were adjourned, however, LMezz would not agree to adjourn the UCC foreclosure sale scheduled for August 10, 2016, precipitating the Debtors’ bankruptcy case filings.

Post petition LMezz commenced an action in the Supreme Court of the State of New York in connection with Benjamin Ringel’s guaranty of the Mezzanine Loan.

Ladder has not to the Debtors’ knowledge commenced a foreclosure proceeding in connection with the Mortgage Loan.

On August 9, 2016, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code to stay the UCC foreclosure sale and protect their assets, including the Property, and preserve its value for their respective estates and creditors.

#### **SIGNIFICANT EVENTS IN THE CHAPTER 11 CASE**

On August 9, 2016, (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York, White Plains Division. The following discussion is intended to highlight some of the more significant events which have occurred during the pendency of the Debtors cases.

#### **LMEZZ MOTION TO DISMISS CASE OR FOR RELIEF FROM THE AUTOMATIC STAY**

On September 30, 2016, LMezz filed its motion to dismiss the chapter 11 case filed by the AC Debtor or alternatively for relief from the automatic stay or. A hearing on the motion is scheduled for November 16, 2016.

#### **RETENTION OF PROFESSIONALS**

Section 327(a) of the Bankruptcy Code provides that a debtor, with the court's approval, may employ one or more accountants or other professional persons that do not hold or represent an interest adverse to the estate and that are disinterested persons to represent or assist the debtor in carrying out its duties under the Bankruptcy Code. 11 U.S.C. § 327(a).

On October 7, 2016, the Debtors sought authority from this Court to retain the law firm of Robinson Brog Leinwand Greene Genovese & Gluck P.C., as their counsel. The application was granted pursuant to an order entered on October 20, 2016.

To the extent the Property is to be sold at public auction, the Debtors shall seek to retain a real estate broker.

#### **BAR DATE**

In accordance with the requirements of section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, the Debtor has filed its Schedules of assets and liabilities, including schedules of all of its known creditors and the amounts and priorities of the Claims the Debtors believe are owed to such creditors. On November 7, 2016, the Debtors filed certain amended schedules. Pursuant to section 501 of the Bankruptcy Code, any creditor may file a Proof of Claim and, unless disputed, such filed Proof of Claim supersedes the amount and priority set forth in the Debtors' schedules. Debtors will submit the appropriate application requesting that the Court establish a deadline for the filing of claims.

There can be no assurance that the Allowed Claims as determined by the Bankruptcy Court will be in the amounts and priorities stated in the Schedules filed by the Debtors or the Proofs of Claim filed by the Creditors.

#### **OPERATING REPORTS**

Pursuant to the requirements of the Office of the United States Trustee for the Southern District of New York, the Debtors are required to file monthly reports which they will undertake to file in a timely manner. Copies of such reports, once filed, may be obtained (i) from the Bankruptcy Court during normal business hours, (ii) upon written request made to counsel for the Debtors, or (iii) from the Bankruptcy Court's Electronic Case Filing System ("ECF")<sup>10</sup> which may be accessed at the Bankruptcy Court's Internet website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

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<sup>10</sup> Filing documents on the ECF requires a password which an attorney may obtain by contacting the Bankruptcy Court's technical assistance department, Monday through Friday, 9:00 a.m. to 4:00 p.m.

## SUMMARY OF THE PLAN

The following summary of the terms of the Plan is qualified in its entirety by reference to the provisions of the Plan, a copy of which is filed with the Clerk of the Bankruptcy Court and which is incorporated herein by reference.

### CLASSIFICATION OF CLAIMS AND INTERESTS

Classification of claims is governed, in part, by sections 1122 and 1123(a) of the Bankruptcy Code. Section 1123(a) requires that a plan designate classes of claims, requires that the plan specify the treatment of any impaired class of claims, and requires that the plan provide the same treatment for each claim of a particular class, unless the holder of a claim receiving less favorable treatment consents to such treatment. 11 U.S.C. §1123(a)(1), (3) and (4). Section 1122(a) of the Bankruptcy Code provides, subject to an exception for administrative convenience, that “a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.”

Article 3 of the Plan classifies the various Claims against and Interests in the Debtor into six (6) classes of Claims and two (2) classes of Interests:

- Class 1 – NYC Secured Tax Claim
- Class 2 – Ladder Secured Claim
- Class 3 – Armstrong DIP Lender Claim
- Class 4 – Armstrong Unsecured Claims
- Class 5 – Armstrong Interest
- Class 6 – LMezz Secured Claim
- Class 7 – AC Unsecured Claims
- Class 8 – AC Interest

As set forth in Article 2 of the Plan, pursuant to section 1123(a)(1) of the Bankruptcy Code, certain Administrative Claims against the Debtors have not been classified. See “SUMMARY OF THE PLAN -- Treatment of Non-Classified Claims.

### TREATMENT OF CLAIMS CLASSIFIED UNDER THE PLAN

Article 4 of the Plan provide for the treatment of Claims classified in Article 3 of the Plan as follows:

**Class 1 – NYC Secured Tax Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, and in the event that payment on account of real property taxes is not paid during the pendency of the Armstrong Debtor’s case from the DIP Loan, or any other funding source, in full satisfaction, release and discharge of the Allowed NYC Secured Tax

Claim, NYC shall receive payment in Cash in full of all amounts due as of the Effective Date, if any, with respect to the real estate taxes due on the Property.

**Class 2 – Ladder Secured Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Allowed Ladder Secured Claim, which amount shall be determined by the Bankruptcy Court, Ladder shall receive the New Ladder Note in the principal amount of the Allowed Ladder Secured Claim. The New Ladder Note shall be for a 3 year term with an interest rate of 3.5% per annum, interest only, payable monthly. Ladder shall be entitled to continue to receive rent payments made to the lockbox account maintained by Wells Fargo as loan servicer.

In the event BBB fails to commence rent payments on or before June 1, 2017, then the Debtors shall be required to fund, or to procure funding for the Rent Contribution, a portion of which shall be utilized to make payments to Ladder in accordance with the New Ladder Note. In the event BBB fails to commence rent payments on or before September 1, 2017, the Property shall be sold, and in full and final satisfaction, release and discharge of the Allowed Ladder Secured Claim, Ladder shall receive payment on account of the Allowed Ladder Secured Claim from the sale proceeds.

**Class 3 – Armstrong DIP Lender Secured Claim.** In full and final satisfaction of the DIP Loan, the DIP Lender shall receive payments in accordance with its loan documents, or as otherwise mutually agreed to in writing between Armstrong and the DIP Lender. In the event the Property is sold, in full and final satisfaction, release and discharge of the Armstrong DIP Lender Claim, the Armstrong DIP Lender shall receive payment on account of its DIP Lender Secured Claim from the sale proceeds.

**Class 4 – Armstrong Unsecured Claims.** Subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the Armstrong Unsecured Claims, the holders of Allowed Unsecured Claims shall receive Cash in the full amount of their Allowed Unsecured Claim, payable in two (2) installments as follows: 50% to be paid on the Effective Date and 50% to be paid 6 months from the Effective Date. Provided however that if the Property is sold, subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the Armstrong Unsecured Claims, the holders of Allowed Unsecured Claims shall receive on the Effective Date their pro rata share of the remaining sale proceeds after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker fees and United States Trustee fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim and the DIP Lender Claim.

**Class 5 – Armstrong Interest.** In exchange for the Equity Contribution, AC, the equity interest holder in Armstrong shall maintain its ownership interest in the Armstrong Debtor. In the event the Property is sold, AC shall contribute the remaining sale proceeds, if any, after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker fees and United States Trustee fees, the NYC Secured Tax

Claim, the Allowed Ladder Secured Claim and the DIP Lender Claim, to satisfy the Allowed Claims in Classes 6 and 7. Any remaining sale proceeds thereafter shall be distributed to AC in accordance with the treatment set forth in Class 8. Thereafter, all interests in the Armstrong Debtor shall be canceled and of no force and effect.

**Class 6 – LMezz Secured Claim.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of the Allowed LMezz Secured Claim, which amount shall be determined by the Bankruptcy Court, LMezz shall receive the New LMezz Note in the principal amount of the Allowed LMezz Secured Claim. The New LMezz Note shall be for a 3 year term with an interest rate of 5% per annum, interest only, payable monthly. Monthly payments to LMezz on account of the New LMezz Note shall only be paid after monthly payments are made to Ladder on account of the New Ladder Note, and to the DIP Lender in accordance with its loan documents.

In the event BBB fails to commence rent payments on or before June 1, 2017, then the Debtors shall be required to fund, or to procure funding for the Rent Contribution, a portion of which shall be utilized to make payments to LMezz in accordance with the New LMezz Note. In the event BBB fails to commence rent payments on or before September 1, 2017, the Property shall be sold, and in full and final satisfaction, release and discharge of the Allowed LMezz Secured Claim, after payment is made to satisfy in full Allowed Claims in Classes 1, 2, 3 and 4, LMezz shall receive payment on account of the Allowed LMezz Secured Claim from the sale proceeds.

**Class 7 – AC Unsecured Claims.** Subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the AC Unsecured Claims, the holders of Allowed Unsecured Claims shall receive Cash in the full amount of their Allowed Unsecured Claim, payable in two (2) installments as follows: 50% to be paid on the Effective Date and 50% to be paid 6 months from the Effective Date. Provided however that if the Property is sold, subject to the provisions of Article 7 of the Plan, with respect to Disputed Claims, in full satisfaction, release and discharge of the AC Unsecured Claims, the holders of Allowed Unsecured Claims shall receive on the Effective Date their pro rata share of the remaining sale proceeds after payment is made in full (or appropriate amounts reserved to pay in full) to administrative claims, including professional fees, broker commission and United States Trustee fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim, the DIP Lender Claim, Armstrong Unsecured Claims and the Allowed LMezz Secured Claim.

**Class 8 – AC Interest.** In exchange for the Equity Contribution, Benjamin Ringel, the equity interest holder in AC shall maintain his ownership interest in the AC Debtor. In the event the Property is sold, after payment is made in full, (or appropriate amounts reserved for payment in full) on account of all Allowed Claims in Classes 1, 2, 3, 4, 6 and 7, and appropriate amounts reserved for Disputed Claims as set forth in Section 7.7 of the Plan, in full satisfaction, release and discharge of and in exchange for its interest in the AC Debtor, the remaining balance of the sale proceeds, if any, shall be distributed to Benjamin Ringel the 100%

owner of the AC Debtor, or his designee. After the Closing, all interests in the AC Debtor shall be canceled and of no further force and effect.

#### **TREATMENT OF NON-CLASSIFIED CLAIMS**

Pursuant to section 1123(a)(1) of the Bankruptcy Code, the Plan does not classify Administrative Claims entitled to priority treatment under section 507(a)(1) of the Bankruptcy Code or Claims of Governmental Units entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code. Article 2 of the Plan provides for the manner of treatment of such non-classified Claims.

**Administrative Claims.** Administrative Claims are the costs and expenses of administration of this Case, allowable under section 503(b) of the Bankruptcy Code, other than Bankruptcy Fees. Administrative Claims include Claims for the provision of goods and services to the Debtors after the Petition Date, the liabilities incurred in the ordinary course of the Debtors' business (other than claims of governmental units for taxes or interest or penalties related to such taxes) after the Petition Date, Claims of professionals, such as attorneys, appraisers, and accountants, retained pursuant to an order of the Bankruptcy Court, for compensation and reimbursement of expenses under section 330 of the Bankruptcy Code, and tax claims for the period from the Petition Date to the Effective Date of the Plan.

Subject to the provisions of article 7 of the Plan with respect to Disputed Claims, each Administrative Claim, to the extent not previously paid, shall be paid by the Disbursing Agent in Cash in full on (i) the later of (x) the Effective Date, (y) the date payment of such Claim is due under the terms thereof or applicable law, or (z) three business days after such Claim becomes an Allowed Administrative Claim or (ii) as may be otherwise mutually agreed in writing between the appropriate Debtor and the Holder of such Claim; *provided, however*, that any Administrative Claim incurred by the Debtors in the ordinary course of their business shall be paid in full or performed by the Debtors in accordance with the terms and conditions of the particular transaction giving rise to such Administrative Claim and any agreements relating thereto.

Article 2 of the Plan sets a final date for the filing of Administrative Claims against the Debtor. The Administrative Bar Date is the first Business Day that is 30 days after the Effective Date. In the event that the Plan is confirmed, the Debtors shall deliver a notice of such bar date to all parties-in-interest.

**Professionals' Fees.** Section 330 of the Bankruptcy Code sets the standard for the determination by the Bankruptcy Court of the appropriateness of fees to be awarded to Professionals retained by a Debtor in a case under the Bankruptcy Code. In general, "bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a case under title 11 at the same rate as the attorney or other professional would be compensated

for performing comparable service other than in a case under title 11.” 124 Cong. Rec. H11091 (Daily ed. Sept. 28, 1978).

With respect to Professionals’ Fees, the Plan provides that, subject to the approval of compensation and reimbursement of expenses pursuant to sections 330 and 331 of the Bankruptcy Code, the Debtors shall pay the Administrative Claims held by Bankruptcy Professionals as follows:

Each Person seeking an award by the Bankruptcy Court of Professional Fees shall file its final application for approval of its Professional Fees no later than 60 days after the Effective Date. Each Holder of an Allowed Claim for Professional Fees shall receive from the Disbursing Agent, in full satisfaction of such Allowed Claim, Cash in the amount of such Allowed Claim within three days of the entry of a Final Order Allowing such Claim. Any broker commission due with respect to the BBB Lease and, to the extent the Property is sold, any broker commission due upon the sale of the Property shall be subject to approval by the Bankruptcy Court.

No later than three days prior to the Confirmation Date, each Professional shall provide the Debtors with an estimate of the total amount of compensation and expenses for which such Professional expects to seek final compensation pursuant to section 330 of the Bankruptcy Code. Such estimates shall include estimated sums for the preparation and prosecution of any application for final compensation. On the Effective Date, the Disbursing Agent shall segregate sufficient cash to pay all such estimated compensation and expenses in full unless otherwise agreed to by the Debtors and such Professionals; *provided, however*, that the failure of a Professional to provide such an estimate shall relieve the Debtors of their obligation to segregate funds for the payment therefore, but shall not relieve the Debtors of the obligation with respect to any allowed compensation and expense reimbursement.

All Professionals shall file final applications for approval of compensation and reimbursement of reasonable and necessary expenses pursuant to section 330 of the Bankruptcy Code no later than 60 days after the Effective Date. Any such application timely filed shall be deemed to be an Administrative Claim, subject to the entry of a Final Order by the Bankruptcy Court approving such application. Objections to any Professional’s application for compensation or reimbursement must be timely filed and served upon such Professional, and upon the Debtors in accordance with the Bankruptcy Rules or as may be agreed between the Professional and the objecting party. Any such objection not timely filed and served shall be deemed to have been waived.

**Administrative Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, all allowed Administrative Tax Claims held by Governmental Units shall be paid, in Cash, in full either (i) on or prior to the Effective Date, or (ii) upon such other terms as may be agreed to, in writing, between the appropriate Debtor and such Governmental Units on or before the Confirmation Date.

**Priority Tax Claims.** Subject to the provisions of Article 7 of the Plan with respect to Disputed Claims, in full satisfaction, release and discharge of Priority Tax Claims, and except as may be otherwise mutually agreed in writing between the appropriate Debtor and such Governmental Units, all allowed Priority Tax Claims shall be paid in Cash in full, together with the Applicable Rate of Interest on or prior to the Effective Date.

**Bankruptcy Fees.** All fees and charges assessed against the Debtors under section 1930 of title 28 of the United States Code and any applicable interest thereon shall be paid in full as required by statute and until the closing, conversion or dismissal of these Cases, whichever is earlier, the Debtors shall continue to be responsible for the payment of any such fees and charges.

#### **DISPUTED CLAIMS AND INTERESTS**

Except as otherwise explicitly provided in the Plan, nothing shall effect, diminish or impair the Debtors' rights and defenses, both legal and equitable, with respect to any Unimpaired Claims, including, but not limited to, legal and equitable defenses to setoffs or recoupment against Unimpaired Claims, or recharacterization of Unimpaired Claims.

Article 7 of the Plan contains a mechanism for resolving disputes concerning the amount of certain Claims or Interests asserted against the Debtors by any Entity.

**Time to Object.** Unless otherwise ordered by the Bankruptcy Court, objections to the allowance of any Claim may be filed no later than the later to occur of (i) 60 days after the Effective Date or (ii) 60 days after the date proof of such Claim or Interest or a request for payment of such Claim is filed. Until the earlier of (i) the filing of an objection to a Proof of Claim or (ii) the last date to file objections to Claims as established by the Plan or by Final Order, Claims shall be deemed to be Disputed in their entirety if, (i) the amount specified in a Proof of Claim exceeds the amount of any corresponding Claim listed in the Schedules; (ii) any corresponding Claim listed in the Schedules has been scheduled as disputed, contingent or unliquidated; or (iii) no corresponding Claim has been listed in the Schedules.

Repayment on account of the scheduled insider claims of AC Retail Equity Fund I, the entity that made the payments of at least \$486,000 to LMezz representing timely interest payments on account of the loans, will be waived by the Debtors' Interest Holders as part of their new value contribution to the Plan as more fully described herein.

#### **DISTRIBUTIONS UNDER THE PLAN**

Article 7 contains provisions governing the making of distributions on account of Claims. In general, any payments, distributions or other performance to be made pursuant to the Plan on account of any Allowed Claim shall be deemed to be timely made if made on or within ten days following the later of (i) the expiration of any applicable objection deadline with respect to Disputed Claims or (ii) such other times provided in the Plan. All Cash payments to be made

by the Debtors pursuant to the Plan shall be made by wire transfer or check drawn on a domestic bank.

**Disbursing Agent.** Robinson Brog Leinwand Greene Genovese & Gluck P.C. shall be the Disbursing Agent and shall make distributions under the Plan. The Disbursing Agent may employ or contract such third parties as may be necessary to assist in or perform the distribution of the property under the Plan. Pending the final distribution of all sums distributable under the terms of the Plan (including the delivery to the Debtors of unclaimed distributions pursuant to section 7.14 of the Plan), the Disbursing Agent shall have full authority to sign checks on any bank account of the Debtors to the extent necessary to make any payment or distribution contemplated by the Plan.

**Timing of Distributions Under the Plan.** Subject to sections 7.6 and 7.8 of the Plan, any payments, distributions or other performance to be made pursuant to the Plan on account of any Disputed Claim, shall be deemed to be timely made if made on or within ten days following the later of (i) the expiration of any applicable objection deadline with respect to such Disputed Claim or (ii) such other times provided in the Plan.

**Method of Payment.** Unless otherwise expressly agreed, in writing, all Cash payments to be made pursuant to the Plan shall be made by wire transfer of check drawn on a domestic bank.

**Claims Objection Deadline.** Unless otherwise ordered by the Bankruptcy Court, the Debtors may file and serve any objection to any Claim at any time, but in no event after the later to occur of (i) 60 days after the Effective Date, or (ii) 60 days after the date proof of such Claim or a request for payment of such Claim is filed.

**Prosecution of Objections.** After the Confirmation Date, only the Debtors shall have authority to file, settle, compromise, withdraw or litigate to judgment objections to Disputed Claims. The Debtors may compromise any objections to Disputed Claims without further order of the Court.

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

**Escrow of Cash Distributions.** (a) On any date that distributions are to be made under the terms of the Plan, the Debtors shall make available any and all funds required to be disbursed on that date, and the Disbursing Agent shall deposit in one or more segregated accounts, Cash or property equal to 100% of the Cash that would be distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, including, but not limited to (i) Disputed Claims that may be entitled to treatment as Administrative Claims or as Priority Non-Tax Claims pursuant to sections 503 and 507 of the Bankruptcy Code, (ii) claims of Governmental Units for any tax, (iii)

any disputed Cure Amount, and (iv) any amount due but not payable on the Effective Date on account of Administrative Claims or claims entitled to priority pursuant to section 503 and 507 of the Bankruptcy Code. The Disbursing Agent shall also segregate any interest, dividends or other proceeds of such Cash. Such Cash together with any interest, dividends or proceeds thereof, shall be held in trust for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto.

(b) The Debtors shall have the right to seek an Order of the Bankruptcy Court, after notice and hearing, estimating or limiting the amount of Cash that must be so deposited on account of any Disputed Claim. Any Creditor whose Claim is so estimated shall have no recourse to any assets theretofore distributed on account of any Allowed Claim if the Allowed Claim of that Creditor as determined by Final Order exceeds the amount so deposited. Such Creditor shall have recourse first, to the undistributed assets in the Disputed Claims Reserve (on a Pro Rata basis with other Creditors of the same Class who are similarly situated) that exceed the aggregate amount of all Disputed Claims allowed by Final Order, or not yet resolved, and second any unpaid amount shall be an obligation of the Debtors.

**Distribution After Allowance.** Within 15 days after the entry of a Final Order resolving an objection to a Disputed Claim, the Disbursing Agent shall distribute all Cash or other property, including any interest, dividends or proceeds thereof, to which a Holder is then entitled with respect to any formerly Disputed Claim that has become an Allowed Claim.

**Investment of Segregated Cash.** To the extent practicable, the Disbursing Agent may invest any Cash segregated on account of a Disputed Claim, disputed Interest, undeliverable distribution, or any proceeds thereof (i) in a manner that will yield a reasonable net return taking into account the safety of the investment or (ii) in any manner permitted by section 345 of the Bankruptcy Code; *provided, however*, that the Disbursing Agent shall be under no obligation to so invest such Cash or proceeds and shall have no liability to any party for any investment made or any omission to invest such Cash or proceeds. Segregated Cash shall be maintained in an authorized depository.

**Distribution After Disallowance.** Subject to section 7.7 of the Plan, the Cash segregated on account of Disputed Claims, including the allocable portion of the net return yielded from any investment thereof, if any, remaining after all Disputed Claims have been resolved by Final Order shall revert to the Debtors.

**Surrender of Instruments; Execution of Satisfactions and Releases.** (a) Notwithstanding any other provision of the Plan, no Creditor that holds a note or other instrument evidencing such Creditor's Claim may receive any distribution with respect to such Claim unless and until the original note or other original instrument evidencing such Claim shall have been validly surrendered to the Disbursing Agent at the sole cost and expense of such Creditor.

(b) Any Cash or property to be distributed pursuant to the Plan on account of any such Claim shall, pending surrender, be treated as an undeliverable distribution pursuant to section 7.13 of the Plan.

(c) In the event any Creditor is unable to surrender a note or other instrument evidencing a Claim against the Debtors that has been destroyed, lost or stolen, such entity may receive a distribution with respect to such Claim by presenting to the Disbursing Agent, in a form acceptable to the Disbursing Agent: (i) proof of such entity's title to such Claim; (ii) an affidavit to the effect that the same has been lost and after diligent search cannot be located; and (iii) such indemnification as may be required by the Disbursing Agent and all other entities deemed appropriate by the Disbursing Agent from any loss, action, suit or any claim whatsoever which may be made as a result of such entity's receipt of a distribution under the Plan.

(d) All questions as to the validity, form or eligibility of any note or other instrument evidencing a Claim so surrendered shall be resolved by Final Order of the Bankruptcy Court. The Disbursing Agent shall not be under any duty to give notification of defects in such tender and shall not incur liability for failure to give notification of such defects.

**Delivery of Distributions.** Except as provided in sections 7.13, 7.14 and 7.15 of the Plan, distributions to Holders of Allowed Claims shall be made: (1) at the addresses set forth on the respective Proofs of Claim filed by such Holders; (2) at the addresses set forth in any written notices of address changes delivered to the Disbursing Agent after the date of any related Proof of Claim; or (3) at the address reflected in the Schedules if no Proof of Claim is filed and the Disbursing Agent has not received a written notice of a change of address.

**Undeliverable Distributions.** (a) If the distribution to the Holder of any Claim is returned to the Disbursing Agent as undeliverable, no further distribution shall be made to such Holder unless and until the Disbursing Agent is notified in writing of such Holder's then current address. Undeliverable distributions shall remain in the possession of the Disbursing Agent until the earlier of (i) such time as a distribution becomes deliverable or (ii) such undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan.

(b) Until such time as an undeliverable distribution becomes an unclaimed distribution pursuant to section 7.14 of the Plan, within 30 days after the end of each calendar quarter following the Effective Date, the Disbursing Agent shall make distributions of all Cash and other property that has become deliverable during the preceding quarter. Each such distribution shall include the net return yielded from the investment of any undeliverable Cash, from the date such distribution would have been due had it then been deliverable to the date that such distribution becomes deliverable.

(c) Nothing contained in the Plan shall require the Debtors or Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

**Unclaimed Distributions.** Any Cash or other assets to be distributed under the Plan shall revert to the Debtors, if it is not claimed by the entity entitled thereto before the later of (i) one year after the Effective Date; (ii) one year after such scheduled payment to such entity under Article 4 of this Plan; or (iii) one year after an Order allowing the Claim of that entity becomes a Final Order, and such entity's claim shall be reduced to zero.

**Set-offs.** The Disbursing Agent may, but shall not be required to, set-off against the distributions to be made pursuant to the Plan the claims, obligations, rights, causes of action and liabilities of any nature that the Debtors may hold against the Holder of an Allowed Claim, *provided, however*, that neither the failure to effect such a set-off nor the allowance of any claim hereunder shall constitute a waiver or release by the Debtors (or the Disbursing Agent) of any such claims, obligations, rights, causes of action and liabilities that the Debtors or the Disbursing Agent has or may have against such Holder. To the extent the Disbursing Agent elects to effectuate a set-off, the Disbursing Agent shall notify the Holder of the Allowed Claim in writing at least ten (10) days prior to effectuating the set-off. To the extent the Holder of an Allowed Claim objects to the set-off, a written objection shall be provided to the Disbursing Agent no later than three (3) days prior to the set-off date or the objection shall be waived.

#### **COMPLIANCE WITH TAX REQUIREMENTS**

In connection with the Plan, the Disbursing Agent shall comply with all withholding and reporting requirements imposed by federal, state and local taxing authorities and distributions under the Plan shall be subject to such withholding and reporting requirements *provided, however*, that the transfer of any Cash, the Property, estate property or other interest under the Plan shall not be subject to any federal, state or local tax to the fullest extent provided under section 1146 of the Bankruptcy Code.

#### **EFFECTIVE DATE**

The Effective Date of the Plan shall be the first business day after the Confirmation Order becomes a Final Order.

#### **CONDITIONS TO THE EFFECTIVE DATE**

The Plan shall not become effective unless and until it has been confirmed and the following conditions have been satisfied or waived in full:

- (a) The Confirmation Order shall have been entered in this case and no stay or injunction shall be in effect precluding the consummation of the transactions contemplated by this Plan and the Confirmation Order shall not have been modified or vacated on appeal; and
- (b) the Equity Contribution has been paid in Cash to Debtor's counsel.

### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Armstrong and BBB shall act in accordance with the terms of the BBB Lease, *provided however*, that in the event BBB fails to commence rent payments by September 1, 2017, the Property shall be sold. In the event the Property is sold, Executory Contracts and Unexpired Leases shall be treated in accordance with the terms of the governing asset purchase agreement.

**Rejection Claims.** Allowed Claims arising from the rejection of any Executory Contract or Unexpired Lease shall be treated as Unsecured Claims.

A Proof of Claim with respect to any Unsecured Claim for damages arising from the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan shall not be timely filed unless it is filed with the Bankruptcy Court and served so that it is received by the Disbursing Agent not later than 30 days after the later of (i) the date of entry of a Final Order approving such rejection (unless such Final Order expressly provides a Bar Date with respect to such Claim, in which event no Proof of Claim with respect to such Claim shall be deemed timely unless it is filed with the Bankruptcy Court and served in the manner provided in such Final Order), or (ii) the Effective Date. Any such Proof of Claim not timely filed and served shall be forever barred from assertion and may not be enforced against the Debtors, their successors or their respective properties.

### **IMPLEMENTATION OF THE PLAN**

**Implementation.** Funding for the Plan payments due on the Effective Date and thereafter to fund Property operations shall be from the DIP Loan, rent payments required under the BBB Lease as supplemented by the Equity Contribution, and if necessary, the Rent Contribution. Alternatively, funding for Plan payments shall be made from the sale proceeds. The Confirmation Order shall contain appropriate provisions, consistent with section 1142 of the Bankruptcy Code, directing the Debtors and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of equity of the Debtors, the Property, or other property of the Debtors as required by the Plan and to perform any act, including the satisfaction of any lien, that is necessary for the consummation of the Plan.

**Plan Funding.** Funding for the Plan shall be from the DIP Loan, rent payments required under the BBB Lease, the Equity Contribution, and if necessary, the Rent Contribution, or alternatively, the sale proceeds.

**Vesting of Assets.** Except as otherwise provided in the Plan, upon the Confirmation Date the Property, and all of the Armstrong Debtor's assets, shall revert in the Armstrong Debtor, free and clear of all Liens, Claims and encumbrances, except for the Ladder Security Documents and existing tenancies/Leases. Except as otherwise provided in the Plan, upon the Confirmation Date, all of the AC Debtor's assets shall revert in the AC Debtor, free and clear of all Liens, Claims and encumbrances, except for the LMezz Security Documents. In the

event the Property is sold, upon the closing date, the Property shall vest in the successful purchaser at which time, any and all Liens, Claims and encumbrances that have not been expressly preserved under the Plan shall be deemed extinguished as of such date. Following the Effective Date, the Debtors may operate, buy, use, acquire, and dispose of the property of their respective Estates and may settle and compromise any claims, interests and causes of action in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules.

**Execution of Documents.** (a) Upon entry of the Confirmation Order, the Debtors, and any necessary party thereto, shall execute, release and deliver all documents reasonably necessary to consummate the transactions contemplated by the terms and conditions of the Plan.

(b) Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, the Debtors shall be authorized to execute, in the name of any necessary party any estoppel certificate, or any notice of satisfaction, release or discharge of any Lien, Claim or encumbrance (including, any Lien, Claim or encumbrance that is to be released and satisfied upon the Debtors' compliance with the provisions of article 4 of the Plan) not expressly preserved in the Plan and deliver such notices to any and all federal, state and local governmental agencies or departments for filing and recordation, and the Confirmation Order shall expressly so provide.

**Filing of Documents.** Pursuant to sections 105, 1141(c) and 1142(b) of the Bankruptcy Code, each and every federal, state and local governmental agency or department, shall be directed to accept and record any and all documents and instruments necessary, useful or appropriate to effectuate, implement and consummate the transactions contemplated by the Plan, and any and all notices of satisfaction, release or discharge or assignment of any Lien, Claim or encumbrance not expressly preserved by the Plan.

**Distributions.** Except as set forth elsewhere in the Plan, all payments required to be made under the Plan shall be made by the Disbursing Agent for disbursement in accordance with the terms of the Plan.

**Preservation of Rights of Action.** Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement entered into in connection with the Plan, the Debtors shall retain, and in accordance with its determination of the best interest of their estates, may enforce any claims, rights and causes of action (i) arising under sections 510 and 544 through 550 of the Bankruptcy Code or (ii) belonging to the Debtors as of the Petition Date, or the Debtors' Estates, and arising under any provision of state or federal law, or any theory of statutory or common law or equity.

Debtors believe that the Plan will result in a substantial distribution, and potentially a 100% distribution to Allowed Claims. As such, the Debtors do not presently anticipate pursuing any claims, rights and causes of action (i) arising under sections 510 and 544 through 550 of the Bankruptcy Code or (ii) belonging to the Debtors as of the Petition Date, or

the Debtors' Estates, and arising under any provision of state or federal law, or any theory of statutory or common law or equity<sup>11</sup>.

Notwithstanding any provision of the Plan to the contrary, definitions and descriptions contained herein respecting pre-Petition Date documents, agreements or claims are provided solely for the purpose of identification and classification thereof and do not constitute an admission by the Debtors of the existence, validity, allowance, or amount of any such claim, document or agreement. The Debtors expressly reserve the right to challenge the existence, validity, allowance, or amount of any such claim, document or agreement.

**Transfer Taxes.** In furtherance of the Plan and pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security and the making or delivery of any instrument of transfer in connection with or in furtherance of the Plan, (including any instrument executed in furtherance of the transactions contemplated by the Plan), shall be exempt and shall not be subject to tax under any law imposing a stamp tax, real estate Transfer Tax, mortgage recording tax or similar tax, in connection with or in furtherance of the Plan and the funding requirements contained herein, and to the extent provided by Section 1146(a), shall not be subject to any state, local or federal law imposing such tax.

**Reorganized Debtor/Post Effective Date Debtor.** If the Property is not sold, the Debtors will continue in existence post-confirmation as the Reorganized Debtors. Upon the Effective Date, in exchange for the Equity Contribution, Armstrong shall continue to be 100% owned by AC and AC shall continue to be 100% owned by Benjamin Ringel.

In the event the Property is sold, the Debtors shall continue in existence as the Post Effective Date Debtors whose activities shall be limited to matters related to the implementation of the Plan and matters reasonably incidental thereto. The Post Effective Date Debtors will have all of the rights, powers and duties necessary to carry out their responsibilities under the Plan. As soon as practicable after the closing, the Post Effective Date Debtors shall take all necessary steps to effectuate their dissolution in accordance with applicable law.

After entry of the Confirmation Order, all references in the Plan and Disclosure Statement to the "Debtor" or "Debtors" shall be either to the Reorganized Debtors or the Post Effective Date Debtors, as applicable.

## MISCELLANEOUS PROVISIONS

### MODIFICATION AND REVOCATION OF THE PLAN

The Plan may be altered, amended or modified by the Debtors, at any time before the substantial consummation of the Plan, as provided in sections 1101(a) and 1127 of the

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<sup>11</sup> While reserving rights to pursue all such causes of action, Debtors have made a determination not to pursue such causes of action at this juncture based upon inability to collect on any potential recovery.

Bankruptcy Code and Bankruptcy Rule 3019. Section 1127 of the Bankruptcy Code authorizes the proponent of a plan of reorganization to modify such plan at any time prior to confirmation of the plan so long as the plan, as modified, continues to meet certain technical requirements of sections 1122 and 1123 of the Bankruptcy Code with respect to the classification of Claims and Interests and the contents of a plan. Prior to Confirmation, if a proponent files modifications to a plan, pursuant to section 1127(a) “the plan as modified becomes the plan.” No order of the Court is required to modify the Plan under the terms of section 1127(a); however, the proponent of a modification to a plan must comply with section 1125 of the Bankruptcy Code with respect to the plan as modified. In other words, if a modification materially alters the treatment of any Creditor who has accepted the Plan, the Debtors will be required to make additional disclosures to those Creditors whose treatment has been materially and adversely altered and give such Creditors an opportunity to change their votes.

The Debtors may revoke or withdraw the Plan at any time prior to entry of the Confirmation Order. If the Debtors revoke or withdraw the Plan, or if no Confirmation Order is entered, the Plan shall be null and void, and nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against or any interest in, the Debtors; or (ii) prejudice in any manner the rights of the Debtors in any further proceedings involving the Debtors or any other party, or their Estates.

#### **RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, until the Case is closed, the Bankruptcy Court shall retain and have original, but not exclusive, jurisdiction to:

i) Insure that the Plan is consummated, and to enter any Order pursuant to section 1142(b) of the Bankruptcy Code, to compel the Debtors, their Interest Holders and any other necessary party, to take such action and execute such documents to effectuate the Plan;

ii) Consider any modification of the Plan proposed pursuant to section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019;

iii) Allow, disallow, determine, liquidate, classify or establish the priority, secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Expense, the resolution of any and all objections to the allowance or priority of Claims, and the resolution of any adversary proceeding;

iv) Grant or deny any and all applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for any period ending on or before the Effective Date;

v) Resolve any motions pending on the Effective Date to assume, assume and assign or reject any Executory Contract or Unexpired Lease to which the Debtors are a party or with respect to which the Debtors may be liable and to hear, determine and if necessary, liquidate, any and all Claims arising therefrom;

vi) Ensure that distributions to Holders of Allowed Claims are accomplished in accordance with the provisions of this Plan;

vii) Decide or otherwise resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters or grant or deny any applications involving the Debtors that may be pending on the Effective Date;

viii) Enter such Orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan or Disclosure Statement or to enforce all orders, judgments, injunctions, and rulings entered in connection with these Cases, including, but not limited to any Order necessary to enforce the provisions of article 7 of the Plan;

ix) Resolve any and all controversies, suits or issues that may arise in connection with the consummation, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

x) Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code, or to modify the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement;

xi) Remedy any defect or omission or reconcile any inconsistency in any Order, the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created in connection with the Plan, to the extent authorized herein or in the Bankruptcy Code;

xii) Issue any injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation or enforcement of the Plan;

xiii) Enter and implement such Orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

xiv) Determine any dispute arising under or related to the Plan, including, without limitation, any dispute concerning the scope or effect of any release or discharge provided for by the Plan or the Confirmation Order.

xv) Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan or Disclosure Statement;

xvi) Enter an Order of Final Decree concluding the Case; and

xvii) To the extent the Cases are closed prior to September 1, 2017, enter an Order reopening the Cases or the Armstrong case, as appropriate, and thereafter entertain appropriate applications for entry of orders authorizing the retention of a broker, approving bidding procedures and authorizing the sale of the Property in the event BBB fails to commence rent payments by September 1, 2017.

### **RISK FACTORS**

Although the Debtors believe that they will be able to meet all of the obligations that they are undertaking pursuant to the Plan there can be no assurance that future events will not cause the Debtors to default on one or more of their obligations under the Plan.

### **PROJECTIONS AND ASSUMPTIONS**

The Disclosure Statement contains certain projections, estimates and assumptions, attached hereto as Exhibit C, with respect to the amount of monies which will be necessary and available for distribution to Ladder, the DIP Lender and LMezz under the terms of the Plan and with respect to the nature and amount of claims that may be allowed against the Debtors. The projections were prepared by Armstrong Management, an affiliate of the Debtors' Interest Holders. Armstrong Management has managed numerous other real estate projects and is familiar with the Debtors, the Property and with the real estate industry generally. The Debtors believe the projections are accurate and were prepared properly. Moreover, a review of the BBB Lease reflects that once rent payments commence, the annual fixed rent amount of \$2,300,000 during the term of the New Ladder Note, the DIP Loan, and the New LMezz Note is more than sufficient to make the required Plan payments on account of the New Ladder Note, the DIP Loan, and the New LMezz Note.

The Projections are based on assumptions that the Debtors believe are reasonable. They have not been reviewed for accuracy or reasonableness by the Debtors' counsel or accountants. Projections are, by nature, based on future events which cannot be predicted with accuracy and there is no assurance that the necessary funds can or will be obtained. Each Creditor and Interest Holder and their respective advisers must carefully read and consider the assumptions which are part of the Projections in determining whether to vote for the Plan.

### **CONFIRMATION OF THE PLAN**

All distributions to Creditors are contingent on the Plan being confirmed by this Court. Otherwise, the Debtors are not obligated, in any way, to make the payments required hereunder.

#### **RISK OF SUBSEQUENT REORGANIZATION OR LIQUIDATION**

Although the Debtors believe that the confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtors, there can be no assurance that such liquidation will not occur or that the need for such financial reorganization will not arise.

#### **VOTING INSTRUCTIONS**

A Creditor who is entitled to vote may accept or reject the Plan by executing and returning to the Balloting Agent (as defined below) the ballot (a "Ballot") that was sent out with this Disclosure Statement. See "VOTING INSTRUCTIONS -- Who May Vote." The following instructions govern the time and manner for filing Ballots accepting or rejecting the Plan, withdrawing or revoking a previously filed acceptance or rejection, who may file a Ballot, and procedures for determining the validity or invalidity of any Ballot received by the Balloting Agent.

#### **DEADLINE FOR RECEIPT OF BALLOTS**

The solicitation period for votes accepting or rejecting the Plan will expire at 5:00 p.m., Eastern Standard Time, \_\_\_\_\_, 2017 (the "Voting Deadline"). A Ballot accepting or rejecting the Plan must be received no later than that date and time or it will not be counted in connection with the Confirmation of the Plan or any modification thereof.

#### **BALLOTING AGENT**

All votes to accept or reject the Plan must be cast by using the Ballot. Executed Ballots should be returned by \_\_\_\_\_, 2017 at 5:00 p.m. to:

Robinson Brog Leinwand Greene Genovese & Gluck P.C.  
875 Third Avenue  
9th Floor  
New York, New York 10022  
Attn: Lori A. Schwartz, Esq.

(the "Balloting Agent"). A Creditor entitled to vote who has not received a Ballot, or whose Ballot has been lost, stolen or destroyed, may contact the Balloting Agent at the address indicated above, or call Lori A. Schwartz at (212) 603-6334 to receive a replacement Ballot.

#### **WHO MAY VOTE - IN GENERAL**

Claims in Classes 2, 4, 6 and 7 are impaired under the Plan. Holders of Claims in Classes 2, 4, 6 and 7 are being solicited and are entitled to vote to accept or reject the Plan. Interests in Classes 5 and 8 are either unimpaired and therefore deemed to accept the Plan or are impaired and shall be deemed to reject the Plan. Therefore, either (a) under Section 1126(f) of the Bankruptcy Code, Holders of such interests are conclusively presumed to accept the Plan, or (b) under Section 1126(g) of the Bankruptcy Code, holders of such interests are deemed to reject the plan. Accordingly, votes of interest holders will not be solicited.

**Ballots Executed in a Representative or Fiduciary Capacity.** Ballots executed by executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, must indicate the capacity in which such person executed the Ballot and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of their authority to so act.

**Voting Multiple Claims.** A single form of ballot is provided for each Class of Claims. Any Person who holds Claims in more than one Class is required to vote separately with respect to each Class in which such Person holds Claims. However, any Person who holds more than one Claim in one particular Class will be deemed to hold only a single Claim in such Class in the aggregate amount of all Allowed Claims in such Class held by such Person. Thus each Person need complete only one ballot for each Class.

#### **DEFECTS OR IRREGULARITIES**

**ANY EXECUTED AND TIMELY FILED BALLOT WHICH DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN SHALL BE DEEMED TO BE AN ACCEPTANCE OF THE PLAN.**

Where more than one timely and properly completed Ballot is received, the Ballot which bears the latest date will be counted.

The Debtors reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured prior to the deadline for filing timely Ballots. Neither the Debtors, the Balloting Agent, nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liability for failure to provide such notification. All questions as to the validity, form, eligibility (including the time of receipt), acceptance and revocation or withdrawal of Ballots will be determined by the Bankruptcy Court, upon motion and upon such notice and hearing as is appropriate under the circumstances. Unless otherwise directed by the Bankruptcy Court, delivery of Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots as to which any irregularities have not been cured or waived will not be counted toward the acceptance or rejection of the Plan.

## **REVOCATION OF PREVIOUSLY FILED ACCEPTANCES OR REJECTIONS**

Any Creditor who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Balloting Agent at any time prior to the Voting Deadline.

A notice of withdrawal, to be valid, must (i) describe the Claim, as the case may be, if appropriate, represented by such Claim, (ii) be signed by the Creditor in the same manner as the Ballot was signed and (iii) be received by the Balloting Agent on or before the Voting Deadline. The Debtors reserve the absolute right to contest the validity of any such withdrawals of Ballots.

## **ACCEPTANCE AND CONFIRMATION**

### **CONFIRMATION**

#### **CONFIRMATION HEARING**

The Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing to consider confirmation of the Plan. The Confirmation Hearing is scheduled to commence on \_\_\_\_\_, **2017 at 10:00 a.m.** in the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, New York. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing.

Any party in interest may object to Confirmation of the Plan by filing a written objection, setting forth their identity and standing and the facts and authorities upon which any objection is based, in the Office of the Clerk of the Bankruptcy Court, no later than \_\_\_\_\_, 2017 and by delivering a courtesy copy to the Chambers of the presiding judge. Copies of all objections must also be served upon (i) Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: A. Mitchell Greene, and (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, New York 10014 so that they are received no later than \_\_\_\_\_, 2017. Any objection that is not timely filed and served as required will not be considered by this Court at the Confirmation Hearing.

#### **REQUIREMENTS FOR CONFIRMATION**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. These requirements include determinations by the Bankruptcy Court that: (i) the Plan has classified Claims and Interests in a permissible manner, (ii) the contents of the Plan comply with various technical requirements of

the Bankruptcy Code, (iii) the Debtors have proposed the Plan in good faith, (iv) the Debtors have made disclosures concerning the Plan that are adequate and include information concerning all payments made or promised in connection with the Plan and the Case, (v) the Plan is in the “best interest” of all Creditors, (vi) the Plan is feasible, and (vii) the Plan has been accepted by the requisite number and amount of Creditors in each Class entitled to vote on the Plan, or that the Plan may be confirmed without such acceptances. The Debtors believe that all of these conditions have been or will be met prior to the Confirmation Hearing.

**Best Interest Test.** The so-called “best interest” test requires that each impaired Creditor and impaired Interest Holder either (a) accepts the Plan or (b) receives or retains under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the value such entity would receive or retain if the Debtors were to be liquidated under chapter 7 of the Bankruptcy Code.

To determine what the holders in each Impaired Class of Claims or Interests would receive if the Debtors were liquidated under chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors’ assets and properties in a chapter 7 liquidation case. The amount that would be available for satisfaction of Allowed Claims against the Debtors would consist of the proceeds resulting from the disposition of the Property. Such amount would be reduced by the amount of any Claim or Claims secured by the Debtors’ assets, the costs and expenses of the liquidation, and such additional Administrative Claims and Priority Claims that may have accrued. Such value is then juxtaposed against the amount creditors are receiving under the Plan to determine if the value each impaired creditor is receiving is the same or more than such creditor would receive from a chapter 7 liquidation on the Confirmation Date.

The costs of liquidation under chapter 7 would become Administrative Claims with the highest priority against the proceeds of liquidation. Such costs would include the fees payable to a chapter 7 Trustee, as well as those which might be payable to attorneys, appraisers, accountants, brokers and other professionals that such a Trustee may engage to assist in the liquidation. In addition, chapter 7 costs would include any liabilities incurred or assumed pursuant to the transactions necessary to effectuate the liquidation. Moreover, claims entitled to administrative priority may arise by reason of any breach or rejection of any executory contracts entered into by the Debtors during the pendency of the Cases in chapter 11.

After satisfying Administrative Claims arising in the course of the chapter 7 liquidation, the proceeds of the liquidation would then be payable to satisfy any unpaid expenses incurred during the time the Case was pending under chapter 11, including compensation for attorneys, financial advisors, appraisers, accountants and other professionals retained by the Debtors or any official committee appointed pursuant to section 1102 of the Bankruptcy Code.

After consideration of the effects that a chapter 7 liquidation would have on the proceeds available for distribution including (i) the increased costs and expenses of a chapter 7 liquidation arising from fees payable to a Trustee in bankruptcy and professional advisors to such

Trustee, (ii) the erosion in value of the Property in a chapter 7 case in the context of the expeditious liquidation required under chapter 7 and the “forced sale” atmosphere that would prevail, and (iii) the potential tax consequences that would arise from a sale of the Property in a chapter 7, the Debtors believe that LMezz would not receive payment in full on account of its Allowed LMezz Secured Claim and holders of Unsecured Claims would receive no distribution on account of their claims, as opposed to the 100% distribution over time, or the pro rata distribution of the sale proceeds in the context of a sale in the chapter 11, as provided for in the Plan.

**Liquidation Analysis.** The Debtors have concluded that the Plan provides to each Creditor recovery with a present value at least equal to the present value of the distribution which such person would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. The Plan provides for a restructuring of the secured obligations due Ladder and LMezz on account of their Allowed Secured Claims, the repayment of the DIP Loan, and a distribution over time to each of the Debtors’ unsecured creditors on account of their Allowed Claims to be funded by the rent generated by the BBB Lease as supplemented by the Equity Contribution to be made by Debtors’ Interest holders. Alternatively, in the event BBB fails to commence rent payments by June 1, 2017, the Debtors are required to fund or procure funding of a Rent Contribution to cover debt service and other operational expense obligations at the Property until rent payments commence. Finally, in the event BBB fails to commence rent payments by September 1, 2017, the Debtors will sell the Property with the sale proceeds distributed to creditors on account of their Allowed Claims in accordance with the priorities established by the Bankruptcy Code, which Debtors believe will provide for at least a pro rata distribution to unsecured creditors as opposed to the 0 distribution in a chapter 7 liquidation.

The Debtors believes that in the event their assets were sold in chapter 7 liquidation, all of the proceeds would go to pay chapter 7 administrative claims, bankruptcy fees, the NYC Secured Tax Claim, the Allowed Ladder Secured Claim and the DIP Lender Claim. In such event, limited funds would remain for distribution to LMezz and no funds would be remaining for distribution to Unsecured Creditors. As such, the Debtors believe that no Creditors or interest holders would receive a distribution in a Chapter 7 case which is greater than the one they may be entitled to under the Plan.

The Debtors further believe that the net effect of a conversion of these cases to chapter 7 would be to (i) increase the administrative expenses of the estate and (ii) decrease the funds available for non-administrative creditors.

The liquidation values stated herein assume that the Property would be liquidated in the context of a chapter 7 case and assumes the present values of such liquidation values as of January 1, 2017. The assumptions utilized in the analysis considered the estimated liquidation value of the Property and estimated amount of Claims that would be allowed, together with an estimate of certain administrative costs and other expenses which would likely result during the liquidation process. While the Debtors believe the assumptions underlying the Liquidation Analysis are reasonable, the validity of such assumptions may be affected by the occurrence of

events, and the existence of conditions not now contemplated or by other factors, many of which will be beyond the control of the Bankruptcy Court, the Debtor and any trustee appointed for the Debtors. The actual liquidation value of the Property may vary from that considered herein and the variations may be material.

The Debtors have assumed that the Property would be sold within six months in a Chapter 7 liquidation. It is assumed that cash proceeds of liquidating the Property would total approximately \$31,450,000, which equates to approximately 85% of the 2015 appraised value of the Property of \$37,000,000<sup>12</sup>. This valuation discount is utilized to take into account the negative impact on values attributed to the Chapter 7 process.

The Debtors believe that the total cash which would be administered in a hypothetical Chapter 7 case would aggregate approximately \$31,450,000 in proceeds from the liquidation sale of the Property, not inclusive of any amounts held in escrow or suspense by Ladder or LMezz with respect to the Mortgage Loan and Mezzanine Loan, which amounts would be applied as against their respective claims. Upon consultation with its advisors, the Debtors assume for the purposes of this analysis that the cash would be distributed as follows:

<b>Available for distribution</b>	<b>\$31,450,000</b>
<b>To the payment of:</b>	
Chapter 7 Administrative Claims:	
Chapter 7 trustee commissions and expenses (approximately 3% of \$31,450,000)	\$943,500
Chapter 7 trustee broker commissions and expenses (approximately 3% of \$31,450,000)	\$943,500
Chapter 7 trustee's professionals (attorneys, appraisers, auctioneers accountants, etc.)	\$250,000
New York City Secured Tax Claim	\$870,811.36 <sup>13</sup>
Ladder Secured Claim	\$24,289,158.65
DIP Loan	<u>\$3,500,000</u>
<b>Remaining Available Cash<sup>14</sup></b>	<b>\$653,029.99</b>

<sup>12</sup> Appraised value taken from the appraisal prepared at the request of Ladder in August 2015.

<sup>13</sup> NYC Secured Tax Claim includes anticipated amounts due 1/1/2017, assuming any chapter 7 liquidation would occur after the January 2017 taxes are due.

<sup>14</sup> Analysis does not take into account tax arising from sale under a chapter 7 which will further diminish the

LMezz Secured Claim	\$7,122,455.90
Chapter 11 Administrative Claims	\$250,000
General Unsecured Claims	\$718,040

**In a liquidation, there would be insufficient funds to satisfy the LMezz Secured Claim in full, and no funds available to pay Chapter 11 Administrative Claims and claims of Allowed Unsecured Creditors.**

The Plan contemplates payment to all classes of creditors whether by a restructuring of the secured obligations and payment over time to unsecured creditors or alternatively the chapter 11 sale of the Property, by public auction, with the sale proceeds to be distributed to satisfy claims in accordance with Bankruptcy Code priorities. In a chapter 7 liquidation, there would be insufficient funds to satisfy the LMezz Secured Claim in full, and no funds available to pay Chapter 11 Administrative Claims, and Allowed Unsecured Claims. Accordingly, the Debtors believe that the Plan provides Creditors with at least as much as they would be entitled to receive in a chapter 7 liquidation.

**Feasibility.** For the Plan to be confirmed, it must be demonstrated that consummation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors unless such liquidation is set forth in the Plan. The Plan calls for the rental payments pursuant to the BBB Lease supplemented by the funding of the Equity Distribution to make Plan payments and for payments on account of the New Ladder Note, the DIP Loan and the New LMezz Note. The Plan also provides for the Rent Contribution to be funded in the event BBB fails to commence rent payments by May 1, 2017 and, in the event BBB fails to commence rent payments by September 1, 2017, for the Property to be sold and the plan payments to be made from the sale proceeds.

Projections are attached hereto which reflect that sufficient funds will be generated from the rents to make monthly payments to Ladder, LMezz and the DIP Lender and that the Equity Contribution of \$250,000 will sufficiently supplement the required Cash needed to make other Plan payments to professionals, the United States Trustee and the unsecured creditor distribution. In a chapter 11 sale, the proceeds will be available for distribution upon closing, subject to the provisions of Article 7 of the plan with respect to disputed claims.

Based on the Summary of the Plan, regardless of the implementation, the Plan meets the feasibility requirements of the Bankruptcy Code.

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distribution to Ladder and therefore the distribution to all creditors junior in priority to Ladder in a chapter 7 liquidation scenario.

Debtors will offer testimony at confirmation to demonstrate that the Projections are reasonably calculated to forecast Debtors' ability to meet the obligations under the Plan.

**Confirmation With the Acceptance of Each Impaired Class.** The Plan may be Confirmed if each impaired Class of Claims accepts the Plan. Classes of Claims which are not impaired are deemed to have accepted the Plan. A Class is impaired if the legal, equitable or contractual rights attaching to the Claims of that Class are modified other than by curing defaults and reinstating maturities or by payment in full in cash.

Holders of Claims impaired by the Plan are entitled to file Ballots accepting or rejecting the Plan. Holders of Claims not impaired by the Plan, are deemed to accept the Plan, and may not vote to accept or reject the Plan. Holders of Claims that will neither receive nor retain any property under the Plan are deemed to reject the Plan.

The Bankruptcy Code defines acceptance of a plan by a Class of Claims as acceptance by the holders of two-thirds in dollar amount and a majority in number of Claims of that Class who actually voted. Only those Claims, the holders of which actually vote to accept or reject the Plan, are counted for the purpose of determining whether the requisite number and amount of acceptances have been received.

**Confirmation Without the Acceptance of Each Impaired Class.** In the event that any impaired Class of Claims does not accept the Plan, the Bankruptcy Court may nevertheless confirm the Plan at the Debtors' request if (i) all other requirements of section 1129(a) of the Bankruptcy Code are satisfied, (ii) at least one impaired Class of Claims votes to accept the Plan without regard to any vote cast on account of a Claim held by "insiders" (as defined in the Bankruptcy Code) and (iii) as to each impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such non-accepting Class. The Debtors believe that the Plan is in the best interest of all Creditors and strongly recommends that all parties entitled to vote cast their ballots in favor of accepting the Plan. Nevertheless, out of an excess of caution, pursuant to the Plan, the Debtors have requested that the Court confirm the Plan over the rejection of any non-accepting class in the event all other elements of section 1129(a) are satisfied.

A plan "does not discriminate unfairly" if the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are intertwined with those of the non-accepting class, and no class receives payments in excess of that which it is legally entitled to receive for its Claims. The Debtors believe that under the Plan all classes of Impaired Claims are treated in a manner that is consistent with the treatment of other classes of Claims with which their legal rights are intertwined, if any, and no class of Claims will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims in such class. Accordingly, the Debtors believe the Plan does not discriminate unfairly as to any impaired class of Claims.

Whether the Plan is fair and equitable depends upon the application of the so-called “absolute priority rule.” Subject to certain exceptions, this rule, codified in section 1129(b)(2) of the Bankruptcy Code, generally requires that an impaired Class of Claims that has not accepted the Plan must be paid in full if a more junior class receives any distribution under the Plan.

With respect to Secured Claims, the absolute priority rule allows the confirmation of a Plan over the rejection of a class of Secured Claims if the holders of such Claims retain their liens and each holder of a Claim of such class receives on account of such Claim deferred cash payments, totaling at least the allowed amount of such Claim, of a value, as of the Effective Date of the plan, of at least the value of such holder’s interest in the property securing its Claim. The Debtors’ impaired Secured Creditors, Ladder and LMezz, and their respective security interests as set forth in their security documents will remain in place such that their liens remain on the respective Debtor’s properties and the Property. Pursuant to the Plan, the New Ladder Note and the New LMezz Note provide for continued monthly payments to Ladder and LMezz respectively. Alternatively, Ladder and LMezz will be paid from the sale proceeds at least the value of their interests in the property securing their claims.

With respect to Unsecured Claims, the absolute priority rule allows the confirmation of a Plan over the rejection of a class of Unsecured Claims if the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the Plan on account of such junior claim or interest any property. There is, however, a “new value” exception to the absolute priority rule, which the Debtors submit applies in these cases.

In this case, in exchange for: (1) waiving repayment of the \$486,000 paid to LMezz between March 2016 and July 2016, after the A&P lease was rejected, and (2) funding the Equity Contribution, the equity interest holders in Armstrong and AC shall maintain their respective interests in the Reorganized Debtors. In a chapter 11 sale scenario, all interests in the Debtors shall be canceled.

The Debtors believe that the new value being contributed by Interest Holders of is necessary and substantial. As the Allowed Interests are retaining their interests post-confirmation on account of their going forward contributions, and not on account of their prior equity position, the Debtors submit that the “new value” exception to the absolute priority rule applies.

With respect to the Allowed Interests, Section 1129(b)(2)(C) requires that the holder of such interest receive any fixed liquidation preference, fixed redemption price or value of such interest, or that no junior interest will receive or retain any property on account of such junior interest. To the best of Debtors’ knowledge, Interest Holders are not entitled to any fixed liquidation preference or redemption price and no junior interests are receiving or retaining any property under the Plan. Accordingly, the Plan complies with section 29(b)(2)(C) of the Bankruptcy Code.

If the Plan is rejected by only one class of impaired creditors, the Debtors request that the Plan be confirmed under section 1129(b).

## EFFECT OF CONFIRMATION

### INJUNCTION

**Except (i) as otherwise provided under Final Order entered by the Bankruptcy Court or (ii) with respect to the Debtors' obligations under the Plan, the entry of the Confirmation Order shall forever stay, restrain and permanently enjoin with respect to any Claim held against either of the Debtors as of the date of entry of the Confirmation Order (i) the commencement or continuation of any action, the employment of process, or any act to collect, enforce, attach, recover or offset from the Debtors, from the Property, or from property of the Estates that has been or is to be distributed under the Plan, and (ii) the creation, perfection or enforcement of any lien or encumbrance against the Property and any property of the Estates that has been or is to be, distributed under the Plan. Except as otherwise provided in the Confirmation Order, the entry of the Confirmation Order shall constitute an injunction against the commencement or continuation of any action, the employment of process, or any act to collect, recover or offset from the Debtors, from the Property, or from property of the Estates, any claim, any obligation or debt that was held against the Debtors by any person or entity as of the Confirmation Date except pursuant to the terms of the Plan. The entry of the Confirmation Order shall permanently enjoin all Creditors, their successors and assigns, from enforcing or seeking to enforce any such Claims.**

### RELEASE

**Except as otherwise provided in the Plan, upon the Effective Date, in consideration of the Cash and other property to be distributed to or on behalf of the holders of Claims and Interests under the Plan, the Plan shall be deemed to resolve all disputes and constitute a settlement and release, between and among the Debtors, on the one hand, and each Creditor and Interest Holder, on the other, from any claim or liability, whether legal, equitable, contractual, secured, unsecured, liquidated, unliquidated, disputed, undisputed, matured, unmatured, fixed or contingent, known or unknown, that the Debtors, their Creditors or Interest Holders ever had or now have through the Effective Date in connection with their Claim or Interest (including, without limitation, any claims the Debtors may assert on their own behalf or on behalf of Creditors or Interest Holders pursuant to sections 510 and 542 through 553 of the Bankruptcy Code, any claims Creditors or Interest Holders may have asserted derivatively on behalf of the Debtors absent bankruptcy, any claims based on the conduct of the Debtors' business affairs prior or subsequent to the commencement of the Cases or any claims based on the negotiation, submission and confirmation of the Plan), provided however that nothing in the Plan or the Confirmation Order shall effect a release of any claim for any debt owed to the United States Government arising under the Internal Revenue Code; any state, city or**

**municipality arising under any state, city or municipal tax code; any environmental laws or any criminal laws of the United States or any state, city or municipality. Nothing in the Confirmation Order or the Plan shall enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Released Parties for any claim, suit or action arising under the Internal Revenue Code, any state, city or municipal tax code, the environmental laws or any criminal laws of the United States or any state, city or municipality. Nothing in the Confirmation Order or the Plan shall exculpate any party from any liability to the United States Government or any of its agencies or any state, city or municipality arising under the Internal Revenue Code, any state, city or municipal tax code, the environmental laws or any criminal laws of the United States or any state. Notwithstanding anything to the contrary in this release provision or any confirmation order, Ladder and LMezz's claims against any non-debtor obligor on the Ladder Note, LMezz Note, the Ladder Security Documents or LMezz Security Documents, including any guarantors, are not released or waived, and are preserved.**

#### **LIMITATION OF LIABILITY**

**To the extent provided in 11 U.S.C. § 1125(e), neither the Debtors, the Interest Holders nor any of their respective officers, directors, members, general partner, managers or employees (acting in such capacity), nor any professional person employed by any of them (the "Released Parties") shall have or incur any liability to any entity for any action taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, Confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into, or any other action taken or omitted to be taken in connection with this case or the Plan except in the case of fraud, gross negligence, willful misconduct, malpractice, breach of fiduciary duty, criminal conduct, unauthorized use of confidential information that causes damages, or ultra vires acts. Nothing contained herein shall limit the liability of the Debtors' professionals pursuant to Rule 1.8(h)(1) of the New York State Rules of Professional Conduct. From and after the Effective Date, a copy of the Confirmation Order and the Plan shall constitute, and may be submitted as, a complete defense to any claim or liability released pursuant to Article 8 of the Plan.**

#### **ALTERNATIVES TO THE PLAN**

If the Plan is not confirmed by the Bankruptcy Court, the alternatives may include (a) liquidation of the Debtors under chapter 7 of the Bankruptcy Code; (b) the formulation, promulgation and confirmation of an alternative plan of reorganization premised upon exit financing, or a sale of the Property; or (c) dismissal of the Debtors' cases. In the case of dismissal, Ladder would in all likelihood proceed with a foreclosure sale and seek to take ownership of the Property and/or LMezz would seek to re-notice its UCC Foreclosure Sale.

The Debtors believe that the Plan provides a recovery to all Creditors equal to or greater than would be obtainable in a chapter 7 liquidation.

The Debtors believe that the Plan enables Creditors to realize the most value under the circumstances.

#### **CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

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 possibly 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 Debtors have not requested any ruling from the Internal Revenue Service or any other taxing authority with respect to such matters nor will the Debtors, 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 Debtors offer 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 Equity 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 Creditor and Interest Holders will differ and will depend on factors specific to each Creditor and Interest Holder, including but not limited to: (i) whether the Claim or Interest (or portion thereof) constitutes a claim for principal or interest; (ii) the origin of the Claim or Interest; (iii) the type of consideration received by the Creditor and Interest Holder in exchange for the Claim; (iv) whether the Creditor and Interest Holder is a United States person or foreign person for tax purposes; (v) whether the Creditor and Interest Holder reports income on the accrual or cash basis method; (vi) whether the Creditor and Interest Holder has taken a bad debt deduction or otherwise recognized loss with respect to a Claim.

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

**ADVICE REGARDING THE TAX CONSEQUENCES TO SUCH CREDITOR AND 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 AND 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 AND INTEREST HOLDER SHOULD SEEK ADVICE BASED UPON THE CREDITOR AND INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

**ADDITIONAL INFORMATION**

Requests for information and additional copies of this Disclosure Statement, the Ballots and the other materials delivered together herewith and all deliveries, correspondence and questions, as the case may be, relating to the Plan should be directed to (i) the Debtors' counsel, Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9<sup>th</sup> Fl., New York, New York 10022, Attn.: A. Mitchell Greene (212) 603-6399.

Copies of all pleadings, orders, lists, schedules, proofs of claims or other documents submitted in these cases are on file in the Office of the Clerk of the United States Bankruptcy Court at 300 Quarropas Street, White Plains, New York, and are available for public inspection Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m. and are also available for viewing on the Internet at <http://www.nysb.uscourts.gov>.

**CONCLUSION**

The Debtors believe the Plan is in the best interests of all Creditors and should be confirmed.

**Dated:** New York, New York  
November 7, 2016

**AC NW Retail Investment LLC**

**By: /s/ Benjamin Ringel**  
**Benjamin Ringel, Sole Equity Member**

**Armstrong New West Retail LLC**  
**By: AC NW Retail Investment LLC**  
**By: /s/ Benjamin Ringel**

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