

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

135 West 13 LLC,

Case No: 17-11371 (SHL)

Debtor.

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**DISCLOSURE STATEMENT FOR
PLAN OF REORGANIZATION OF 135 WEST 13 LLC**

THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN FOR 135 WEST 13 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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New York, New York
August 18, 2017

DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT (THE “DISCLOSURE STATEMENT”) IS INCLUDED HEREIN FOR THE PURPOSES OF SOLICITING ACCEPTANCES OF THE CHAPTER 11 PLAN OF REORGANIZATION OF 135 WEST 13 LLC, DATED AUGUST 15, 2017 (AS THE SAME MAY BE AMENDED, MODIFIED, OR SUPPLEMENTED FROM TIME TO TIME, THE “PLAN”), AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN.¹ A COPY OF THE PLAN IS ANNEXED HERETO AS EXHIBIT A. NO SOLICITATION OF VOTES TO ACCEPT OR REJECT THE PLAN MAY BE MADE EXCEPT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE.

ALL HOLDERS OF CLAIMS ARE ADVISED AND ENCOURAGED TO READ THE DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. IN PARTICULAR, ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER FULLY THE RISK FACTORS SET FORTH IN SECTION VI (CERTAIN OTHER FACTORS) OF THIS DISCLOSURE STATEMENT BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THE 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 PLAN AND THIS DISCLOSURE STATEMENT. IN THE EVENT OF ANY CONFLICTS BETWEEN THE DESCRIPTIONS SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN GOVERN.

THE DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(b) AND NOT NECESSARILY IN ACCORDANCE WITH OTHER NON-BANKRUPTCY LAW.

CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING WITH RESPECT TO PROJECTED CREDITOR RECOVERIES AND OTHER FORWARD-LOOKING STATEMENTS, ARE BASED ON ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. FORWARD-LOOKING STATEMENTS ARE PROVIDED IN THIS DISCLOSURE STATEMENT PURSUANT TO THE SAFE HARBOR ESTABLISHED UNDER

¹ Unless otherwise expressly set forth herein, capitalized terms used but not otherwise herein defined have the same meanings ascribed to such terms in the Plan.

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995 AND SHOULD BE EVALUATED IN THE CONTEXT OF THE ESTIMATES, ASSUMPTIONS, UNCERTAINTIES, AND RISKS DESCRIBE HEREIN.

AS TO CONTESTED MATTERS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT WILL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT ALSO WILL NOT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTOR AND DEBTOR IN POSSESSION IN THE DEBTOR'S CHAPTER 11 CASE. THE DEBTOR URGES EACH HOLDER OF A CLAIM OR INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN ON SUCH HOLDER'S CLAIM OR INTEREST.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF.

I.

INTRODUCTION

On May 17, 2017 (the “Commencement Date”), 135 West 13 LLC. (the “Debtor”) commenced with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtor’s chapter 11 case (the “Chapter 11 Case”) is being administered under the caption In re 135 West 13 LLC, Case No. 17-11371 (SHL).

On _____, 2017, the Bankruptcy Court approved this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable a hypothetical holder of an Allowed Claim to make an informed judgment whether to accept or reject the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN.

The purpose of this Disclosure Statement is to provide holders of Claims entitled to vote to accept or reject the Plan with adequate information about (i) the Debtor’s business and certain historical events, (ii) the Chapter 11 Case, (iii) the Plan, (iv) the rights of holders of Claims and Interests under the Plan, and (v) other information necessary to enable each Holder of a Claim entitled to vote on the Plan to make an informed judgment as to whether to vote to accept or reject the Plan. Holders of Interests are not entitled to vote on the Plan (see discussion at Section V of the Disclosure statement).

Pursuant to section 1125 of the Bankruptcy Code, the Debtor submits this Disclosure Statement to all holders of Claims against the Debtor entitled to vote on the Plan to provide information in connection with the solicitation of votes to accept or reject the Plan. The Disclosure Statement is also available to all holders of Claims against and Interests in the Debtor for informational purposes, including detailing the impact the Plan will have on such holders’ Claims and Interests. The Disclosure Statement is organized as follows:

- Section I includes certain general information.
- Section II provides an overview of the Debtor’s business.
- Section III sets forth key events leading to the Chapter 11 Case.
- Section IV discusses the Chapter 11 Case.
- Section V contains a summary of the Plan.
- Section VI describes certain risk factors affecting the Debtor.

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- Section VII discusses certain U.S. federal income tax consequences of the Plan.
- Section VIII addresses confirmation of the Plan.
- Section IX concludes this Disclosure Statement and recommends that eligible creditors vote to accept the Plan.

A. VOTING PROCEDURES

As set forth in more detail in Section V.D of this Disclosure Statement, certain holders of Claims are entitled to vote to accept or reject the Plan. For each holder of a Claim entitled to vote, the Debtor has enclosed, along with a copy of the Disclosure Statement, among other things, a ballot and voting instructions regarding how to properly complete the ballot and submit a vote with respect to the Plan. Holders of more than one Claim will receive an individual ballot for each Claim. The individual ballots must be used to vote each individual Claim. For detailed voting instructions, please refer to the specific voting instructions and the ballot enclosed with this Disclosure Statement.

All completed ballots must be actually received by the ballot collector at the following address no later than 5:00 p.m. (Eastern Time) on _____, 2017 (the "Voting Deadline").

Via Regular Mail, Overnight Couriers, or Hand Delivery:

135 West 13 LLC Balloting
c/o Robinson Brog Leinwand Greene Genovese & Gluck P.C.
875 Third Avenue, 9th Floor
New York, NY 10022
ATTN: Fred B. Ringel

If you are holder of a Claim that is entitled to vote on the Plan and you did not receive a ballot, received a damaged ballot or lost your ballot, or if you have any questions concerning the Disclosure Statement, the Plan, or the procedures for voting with respect to the Plan, please contact Nathanael F. Meyers at (212)-603-6363 or email (nfm@robinsonbrog.com).

**THE BALLOT COLLECTOR WILL NOT COUNT ANY BALLOTS
RECEIVED AFTER THE VOTING DEADLINE.**

B. DISCLOSURE STATEMENT EXHIBITS

The following are exhibits to this Disclosure Statement. Exhibits A, B and C are

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included in the solicitation materials distributed with the Disclosure Statement.

- **EXHIBIT A – Plan of Reorganization of 135 West 13 LLC**
- **EXHIBIT B – Sale and Bidding Procedures**
- **EXHIBIT C – Form of Real Estate Purchase Agreement**

C. THE DEBTOR’S PROFESSIONALS

The Debtor has retained the following professionals pursuant to separate orders of the Bankruptcy Court: (i) Robinson Brog Leinwand Greene Genovese & Gluck P.C. (“RBL”), as Reorganization Counsel to the Debtor, (ii) Cyruli Shanks Hart & Zizmor, LLP as Special Litigation Counsel to the Debtor, and (iii) Besen & Associates Inc. as its Real Estate Advisor. In addition Eric Goodman Realty has been retained as the Debtor’s property manager.

D. IMPORTANT DATES

Please take note of the following important dates and deadlines with respect to the Debtor’s Plan:

Deadline to file and serve any objection or response to the Plan (the “ <u>Plan Objection Deadline</u> ”)	_____, 2017 at 5:00 p.m. (prevailing Eastern Time)
Deadline for completed ballots to be received by the Ballot Collector (the “ <u>Voting Deadline</u> ”)	_____, 2017 at 5:00 p.m. (prevailing Eastern Time)
Scheduled date and time for the commencement of the hearing to consider confirmation of the Plan (the “ <u>Confirmation Hearing</u> ”)	_____, 2017 at 10:00 a.m. (prevailing Eastern Time)

E. BRIEF OVERVIEW OF THE PLAN²

The Plan described in this Disclosure Statement provides the Allowed Claims of creditors to be satisfied from the sale of the Debtor's Property, albeit, at the time of the approval of this Disclosure Statement, it is unknown who the purchaser of the property will be. In the first instance, the Debtor has entered into a contract to sell the Property to Village Realty Holdings LLC ("Village Realty"), its mortgagee, pursuant to a "stalking horse" contract pursuant to which Village Realty will credit bid its mortgage in the amount of \$13,226,429 plus cash in the amount of \$290,000. Village Realty will also acquire the Plan subject to the outstanding real estate taxes and water and sewer liens which total approximately \$483,600 plus interest that continues to accrue.

Pursuant to the Sale and Bidding Procedures annexed to this Disclosure Statement, which have been approved by the Bankruptcy Court, the Property will be marketed by Besen & Associates Inc., the Debtor's real estate advisor to attempt to solicit "higher or better" offers than the current offer by Village Realty. In the event a higher or better offer is obtained, the property will be auctioned under the Sale and Bid Procedures and sold to the person or entity making the highest or best offer for the Property at the auction and the sale proceeds distributed to creditors. In the event that a "higher or better" purchaser cannot be found, then the property will be sold to Village Realty and the \$290,000 in cash paid by it, along with any other Available Cash, will fund the Plan.

The Village Realty Stalking Horse Contract provides for Village Realty to be the "stalking horse" bidder for the Property at an amount of \$13,516,429.20³ in accordance with section 363(k) of the Bankruptcy Code, subject to higher or better bids achieved in accordance with bids submitted at or prior to the Bid Deadline after marketing of the Property by Besen & Associates, the Real Estate Advisor retained by the Debtor. A form of Real Property Purchase Agreement is attached to this Disclosure Statement as Exhibit C. All bidders must use the Village Realty form of Purchase Agreement, marked as appropriate, in connection with the Sale Transaction.

² This summary is qualified in its entirety by reference to the Plan. Statements as to the rationale underlying the treatment of Claims and Equity Interests under the Plan are not intended to, and will not, waive, compromise or limit any rights, claims, defenses, or causes of action in the event that the Plan is not confirmed. You should read the Plan in its entirety before voting to accept or reject the Plan.

³ The amount consists of its first mortgage totaling \$13,226,429.20 plus \$290,000 in cash consideration. Village Realty is also assuming liability for the outstanding real property taxes and water and sewer liens against the property. As a result of the assumption of this debt of approximately \$483,600, the Debtor values the Village Realty Contract at \$14,000,029.

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The Debtors will entertain competing offers with an initial bid of \$13,854,000 in cash plus the assumption of the same indebtedness provided for in the Stalking Horse Contract. Subsequent bid must be in the amount of \$50,000 subject to the terms and conditions set forth in the bidding procedures approved by the Bankruptcy Court. If there are multiple offers for the Property, the Debtor will conduct an auction in accordance with the Bidding Procedures. At the conclusion of the auction, a successful bidder will be selected by the Debtor and the Debtor will seek Bankruptcy Court approval to close the Sale Transaction with the highest and/or best bid for the Property, with the second highest and/or best bid serving as the back-up bid. Upon the closing of the proposed Sale Transaction, the Plan provides that the proceeds will be distributed to holders of Allowed Claims in accordance with the terms of the Plan.

F. SUMMARY OF DISTRIBUTIONS AND VOTING ELIGIBILITY

The following summary table briefly outlines the classification and treatment of Claims against and Interests in the Debtor under the Plan, and the voting eligibility of the holders of such Claims and Interests. As set forth in the Plan, the classification of Claims and Interests set forth herein will apply. The following summary table is qualified in its entirety by reference to the full text of the Plan.

Class	Designation	Treatment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (presumed to accept)
2	Real Property Tax Claims	Impaired	Yes
3	Village Realty Secured Claim	Impaired	Yes
4	Other Secured Claims	Unimpaired	No (presumed to accept)
5	General Unsecured Claims	Impaired	Yes
6	Existing Equity Interests	Impaired	Yes

Section V.D of this Disclosure Statement provides a more detailed description of the treatment of Claims and Interests under the Plan.

Pursuant to the provisions of the Bankruptcy Code, only those holders of Claims or Interests in Classes that are impaired under a plan of reorganization and that are not deemed to have rejected the plan are entitled to vote to accept or reject such proposed plan. Classes of Claims or Interests in which the holders of Claims are unimpaired under a proposed plan are deemed to have accepted such proposed plan and are not entitled to vote to accept or reject the Plan. Classes of Claims or Interests in which the holders of Claims receive no distribution under a proposed plan are deemed to have rejected such proposed plan and are not entitled to vote to accept or reject the Plan.

G. CONFIRMATION UNDER SECTION 1129(B)

If a Class of Claims entitled to vote on the Plan rejects the Plan, the Debtor reserves the right to amend the Plan or request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code or both. In addition, with respect to the Classes that are deemed to have rejected the Plan, the Debtor intends to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code.

Section 1129(b) permits the confirmation of a chapter 11 plan notwithstanding the rejection of such plan by one or more impaired classes of claims or interests. Under section 1129(b), a plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and reasonable” with respect to each rejecting class.

H. CONFIRMATION HEARING

Pursuant to section 1128 of the Bankruptcy Code, the Confirmation Hearing will be held on _____, 2017 at __:00 __.m. (Eastern Time) before the Honorable Sean H. Lane at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Customs House, One Bowling Green, New York 10004. Objections and responses to confirmation of the Plan, if any, must be served and filed as to be received on or before the Plan Objection Deadline _____, 2017 at 5:00 p.m. (prevailing Eastern Time), in the manner described in the order approving this Disclosure Statement (the “Disclosure Statement Order”) and Section VIII.B of this Disclosure Statement. The Confirmation Hearing may be adjourned from time to time without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

II.

OVERVIEW OF THE DEBTOR'S OPERATIONS

A. THE DEBTOR'S BUSINESS

The Debtor owns the real property and improvements located at 133 and 135 West 13th Street, New York, New York (collectively, the "Property"). The Property consists of two townhouses in Greenwich Village which contain twelve multi-family residential apartment units. The two properties contain a mix of rent stabilized and non-rent stabilized units.

The Debtor's chapter 11 case was precipitated by a foreclosure action commenced by its mortgagee Village Realty Holdings LLC. In connection with the foreclosure action, the Debtor and the Secured Creditor executed a forbearance agreement dated September 22, 2016 (the "Forbearance Agreement"). Under the terms of the Forbearance Agreement, the Debtor was entitled to a period of time to sell the Property and satisfy the obligations owing to the Secured Creditor. However, in the event the Debtor was unable to sell the Property during the forbearance period, it was expressly contemplated and agreed that the Property could be sold in a chapter 11 case pursuant to section 363 or under a plan of reorganization within certain post-forbearance time frame set forth in that agreement. This case has been commenced for the Debtor to avail itself of the bargained for "Post Forbearance Period Auction Sale Period" as defined in paragraph 11 of the Forbearance Agreement.

The Debtor has retained Besen & Associates, Inc. as its real estate advisor to market the Property to attempt to find a purchaser who will acquire the Property at a price which is higher or better than the current stalking horse bid made by Village Realty. Village Realty has agreed to credit bid the amount of its first mortgage of \$ \$13,226,429.20, acquire the Property subject to the outstanding real property taxes in the approximate amount of \$480,600 and pay the estate consideration of \$290,000 representing a portion of real property transfer tax savings under the Plan.

The Plan provides for the sale of Property to the highest and/or best bidder at an auction pursuant to the bidding procedures ("Bidding Procedures") attached as Exhibit B to this Disclosure Statement (the "Sale Transaction"). The proceeds from a sale of the Property will be distributed to creditors in accordance with the terms of the Plan.

B. PREPETITION CAPITAL STRUCTURE

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Debtor executed and delivered to Lender three separate mortgage notes each dated March 12, 2008 in the aggregate principal amount of \$9,000,000 (the “Notes”) in connection with a loan by Lender to Borrower (collectively, the “Loan”). The Loan is secured by, *inter alia*, three separate Mortgages each dated March 12, 2008 (the “Mortgages”, together with the Notes and other documents executed and delivered in connection with the Loan are collectively referred to hereinafter as the “Loan Documents”), affecting two (2) properties known as and located at: 133 West 13th Street, New York, New York (“133 13 St Property”) and 135 West 13th Street, New York, New York (“135 13 St Property”) as follows:

- (a) That certain Commercial Note executed by 135 West 13 LLC, payable to the order of the Bank of Smithtown, as payee, in the original principal amount of \$6,900,000 and assigned to Lender (the “First Note”);
- (b) That certain Mortgage and Security Agreement in the amount of \$6,900,000 made by 135 West 13, LLC to Bank of Smithtown dated March 12, 2008 and recorded March 24, 2008 as CRFN 2008000118423, assigned by People’s United Bank, successor by merger with the Bank of Smithtown, to Village Realty Holdings LLC by Assignment of Mortgage dated as of May 31, 2011 and recorded September 19, 2011 as CRFN 2011000331299 (the “First Mortgage”), covering the Property;
- (c) That certain Subordinate Project Loan Note executed by 135 West 13 LLC payable to the order of the Bank of Smithtown, as payee, in the original principal amount of \$1,815,000 and assigned to Lender (the “Second Note”);
- (d) That certain Subordinate Project Loan Mortgage and Security Agreement in the amount of \$1,815,000 made by 135 West 13, LLC to Bank of Smithtown dated 3/12/2008 and recorded 3/24/2008 as CRFN 2008000118425 assigned by People’s United Bank, successor by merger with the Bank of Smithtown, to Village Realty Holdings LLC by Assignment of Mortgage dated as of May 31, 2011 and recorded September 19, 2011 (the “Second Mortgage”) covering the Property;
- (e) That certain Building Loan Mortgage Note executed by 135 West 13 LLC, payable to the order of the Bank of Smithtown, as payee, in the original principal amount of \$635,000 and assigned to Lender (the “Third Note”); and
- (f) That certain Building Loan Mortgage and Security Agreement in the amount of \$635,000 made by 135 West 13, LLC to Bank of

Smithtown dated March 12, 2008 and recorded March 24, 2008 as CRFN 2008000118424, assigned by People's United Bank, successor by merger with the Bank of Smithtown, to Village Realty Holdings LLC by Assignment of Mortgage dated as of 5/31/2011 and recorded 9/19/2011 as CRFN 2011000331300 (the "Third Mortgage") covering the Property.

On September 22, 2016, the Debtor and the Lender executed the "So Ordered Stipulation and Forbearance Agreement" providing for, *inter alia*, certain agreements regarding the amount of the indebtedness to Lender and the validity of the debt, that there are no claims, defenses or setoffs with respect to the indebtedness and for a number of other covenants as are set forth in more detail in the agreement and fixing the amount of the Lender's claim for purposes of bankruptcy which has been computed to be in the total sum of \$13,226,429.20 as of May 16, 2017, including all principal, accrued interest, costs and fees.

III.

KEY EVENTS LEADING TO THE COMMENCEMENT OF THE CHAPTER 11 CASE

The Forbearance Agreement described above signaled the conclusion of a foreclosure action that had been pending since 2011 as well as the tenure of Roberta Ashkin, who served as the Property's receiver. As a result of the execution of the Forbearance Agreement, the receiver was discharged and the Debtor placed back in possession of its property and attempted to sell it in accordance with the terms of the Forbearance Agreement.

Unfortunately, the Debtor was unable to attract any offers sufficient to satisfy the terms of the Forbearance Agreement. Inasmuch as that agreement contemplated a potential sale under the auspices of a bankruptcy proceeding, on May 17, 2017, the Debtor commenced this case to avail itself of the relief permitted under the Forbearance Agreement.

IV.

THE CHAPTER 11 CASES

A. PLEADINGS

Shortly after the chapter 11 case was filed, the Debtor filed the following initial motions or pleadings:

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- (a) Application to Employ Robinson Brog Leinwand Greene Genovese & Gluck P.C. as Counsel to Debtor (ECF Doc. No. 3);
- (b) Application to Employ Cyruli Shanks Hart & Zizmor LLP as Special Litigation Counsel to the Debtor (ECF Doc. No. 7);
- (c) Application for Order Directing the Filing of Proofs of Claims Against and Interests in the Debtor and Approving Form and Manner of Notice Thereof (ECF Doc. No. 15);
- (d) Application for Order Authorizing the Retention of Real Estate Advisor (ECF Doc. No. 21);
- (e) Motion to Approve Use of Cash Collateral (ECF Doc. No. 23).

By filing these pleading, the Debtor retain the appropriate professionals to administer the case and stabilize its operations in the chapter 11 case in order to proceed with its proposed sale process.

V.

THE PLAN

A. INTRODUCTION

This section of the Disclosure Statement summarized the Plan, a copy of which is annexed as Exhibit A hereto. This summary is qualified in its entirety by reference to the provisions of the Plan, which provisions shall control in the event of any discrepancy with the descriptions contained in the Disclosure Statement.

In general, a chapter 11 plan divides claims and equity interests into separate classes, specifies the property that each class is to receive under the Plan, and contains other provisions necessary to implement the Plan.

Under the Bankruptcy Code, “claims” and “equity interests,” rather than “creditors” and “equity holders,” are classified because creditors and equity holders may hold claims and equity interests in more than one class.

Statements as to the rationale underlying the treatment of claims and equity interests under the Plan are not intended to, and will not, waive, compromise or limit any rights, claims or causes of action in the event the Plan is not confirmed.

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**THE DEBTOR URGES YOU TO READ THE PLAN IN ITS ENTIRETY
BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.**

One of the key concepts under the Bankruptcy Code is that only claims that are “allowed” may receive distributions under a chapter 11 plan. This term is used throughout the Plan and the descriptions below.

In general, an “allowed” claim or an “allowed” equity interest simply means that the debtor agrees, or in the event of a dispute, that the Bankruptcy Court determines, that the claim or equity interest, and the amount thereof, is in fact a valid obligation of the debtor. Section 502(a) of the Bankruptcy Code provides that a timely filed claim or equity interest is automatically “allowed” unless the debtor or other party in interest objects. However, section 502(b) of the Bankruptcy Code specifies certain claims that may not be “allowed” in bankruptcy even if a proof of claim is filed. These include, but are not limited to, claims that are unenforceable under the governing agreement between a debtor and the claimant or under applicable non-bankruptcy law, claims for unmatured interest, property tax claims in excess of the debtor’s equity in the property, claims for services that exceed their reasonable value, real property lease and employment contract rejection damages in excess of specified amounts, late-filed claims, and contingent claims for contribution and reimbursement. In addition, Bankruptcy Rule 3003(c)(2) prohibits the allowance of any claim or equity interest that either is not listed on the debtor’s schedules or is listed as disputed, contingent or unliquidated, if the holder has not filed a proof of claim or equity interest before the established deadline.

The Bankruptcy Code requires, for purposes of treatment and voting, that a chapter 11 plan divides the different claims against, and equity interests in, the debtor into separate classes based upon their legal nature. Claims of a substantially similar legal nature are not necessarily classified together, nor are equity interests of a substantially similar legal nature necessarily classified together. Because an entity may hold multiple claims and/or equity interests which give rise to different legal rights, the “claims” and “equity interests” themselves, rather than their holders, are classified.

Under a chapter 11 plan, the separate classes of claims and equity interests must be designated either as “impaired” (affected by the Plan) or “unimpaired” (unaffected by the Plan). If a class of claims is “impaired,” the Bankruptcy Code affords certain rights to the holders of such claims, such as the right to vote on the Plan, and the right to receive, under the chapter 11 plan, no less value than the holder would receive if the debtor were liquidated in a case under chapter 7 of the

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Bankruptcy Code.

Under section 1124 of the Bankruptcy Code, a class of claims or interests is “impaired” unless the Plan (i) does not alter the legal, equitable and contractual rights of the holders, or (ii) irrespective of the holders’ acceleration rights, cures all defaults (other than those arising from the debtor’s insolvency, the commencement of the case or nonperformance of a nonmonetary obligation), reinstates the maturity of the claims or interests in the class, compensates the holders for actual damages incurred as a result of their reasonable reliance upon any acceleration rights, and does not otherwise alter their legal, equitable, and contractual rights.

Pursuant to section 1126(f) of the Bankruptcy Code, holders of unimpaired claims or interests are “conclusively presumed” to have accepted the Plan. Accordingly, their votes are not solicited. Under the Plan, the following classes are unimpaired, and therefore, the holders of such Claims are “conclusively presumed” to have voted to accept the Plan: Class 1 (Other Priority Claims), Class 3 (Other Secured claims), and Class 5 (General Unsecured Claims).

Under certain circumstances, a class of claims or equity interests may be deemed to reject a plan. For example, a class is deemed to reject a plan under section 1126(g) of the Bankruptcy Code if the holders of claims or equity interests in such class do not receive or retain property under the Plan on account of their claims or equity interests. In this plan, no class is conclusively presumed to have rejected the Plan.

B. UNCLASSIFIED CLAIMS

1. Administrative Claims.

Administrative Claims are the actual and necessary costs and expenses of administration during the Chapter 11 Cases pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b) or 507(a)(2) of the Bankruptcy Code.

Except to the extent that a holder of an Allowed Administrative Expense Claim and the Debtor or the Plan Administrator agree to different treatment, the Debtor (or the Plan Administrator, as the case may be) shall pay to each holder of an Allowed Administrative Expense Claim, Cash in an amount equal to such Claim (plus statutory interest on such claim, if applicable), on or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date and (b) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; provided that Allowed Administrative Expense Claims representing liabilities

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incurred in the ordinary course of business by the Debtor shall be paid from Available Cash by the Debtor in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing or other documents relating to such transactions.

Except as otherwise provided by a Final Order previously entered by the Bankruptcy Court (including the Bar Date Order), requests for payment of Administrative Expense Claims, other than requests for payment of Fee Claims, must be filed and served on the Debtor no later than the Administrative Expense Claims Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order.

Holders of Administrative Expense Claims that are required to file and serve a request for payment of such Administrative Expense Claims and that do not file and serve such a request by the Administrative Expense Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtor or its property, and such Administrative Expense Claims shall be deemed compromised, settled, and released as of the Effective Date. The Plan Administrator must file and serve objections to Administrative Expense Claims on or before the Administrative Expense Claims Objection Bar Date.

2. Fee Claims.

All entities seeking an award by the Bankruptcy Court of Fee Claims shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is thirty (30) days after the Effective Date. No later than ten (10) days prior to the Effective Date, all entities holding claims for Fee Claims shall serve upon the Debtor a notice of the estimated amount of their unpaid Fee Claim and Debtor shall segregate, at Closing of the Sale Transaction, into a Estimated Professional Fee Escrow, the amounts which are necessary to pay the amount of such Fee Claim, in full subject to Allowance by the Bankruptcy Court (i) upon the later of (A) the Effective Date and (B) the date upon which the order relating to any such Allowed Fee Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim, the Debtor and the Plan Administrator. The Plan Administrator is authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

3. Priority Tax Claims.

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, each holder of an Allowed Priority Tax Claim shall receive Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of the Effective Date, the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and the date such Allowed Priority Tax Claim is due and payable in the ordinary course.

D. CLASSIFICATION OF CLAIMS AND INTERESTS

All of the potential classes of claims against the Debtor and equity interests in the Debtor are set forth in the Plan.

1. Class 1 – Other Priority Claims.

Class 1 is Unimpaired, and the holders of Other Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Priority Claims are not entitled to vote to accept or reject the Plan.

Except to the extent that a holder of an Allowed Other Priority Claim against the Debtor that has agreed to less favorable treatment of such Claim, each such holder shall receive, in full and final satisfaction of such Claim, Cash from the Plan Fund in an amount equal to such Claim, payable on the later of the Effective Date, the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, or when such claim becomes payable in the ordinary course or as soon as reasonably practical thereafter.

2. Class 2 – Real Property Tax Claims.

Class 2 is Impaired, and holders of the Allowed Class 2 Real Property Tax Claims are entitled to vote to accept or reject the Plan.

The holder of the Village Realty Secured Claim shall receive:

- i. if the Property is sold to a party other than Village Realty, Cash in an amount sufficient to satisfy the sum of (1) the Allowed Class 2 Claim, together with all applicable interest, costs and fees.

- ii. If the Property is sold to Village Realty pursuant to a bid made by Village Realty pursuant to section 363(k) of the Bankruptcy Code, then Village Realty will acquire the Property subject to the Allowed Class 2 Claims.

3. Class 3 – Village Realty Secured Claim.

Class 3 is Impaired, and holder of the Village Realty Secured Claim in Class 3 is entitled to vote to accept or reject the Plan.

The holder of the Village Realty Secured Claim shall receive

- (i) if the Property is sold (A) to a party other than Village Realty, or (B) in the event Village Realty shall make a bid in excess the amount it is entitled to credit bid under section 363(k)(without regarding to the payment of the sum of \$290,000 required under the Village Realty Stalking Horse Contract) then the Allowed Class 3 Claim shall receive Cash in an amount sufficient to satisfy the sum of the Allowed Class 3 Claim, together with all applicable interest, costs and fees thereon. In the event there is a surplus remaining after payment under this Section 4.3(b)(i), such surplus shall be paid to Allowed Class 5 Claims (General Unsecured Claims) until such claims are paid in full with the remaining funds paid to Allowed Class 6 Existing Equity Interests as set forth in Section 4.6(b) hereof. Pending the Closing of the Sale of the Property, the holder of the Class 3 claim shall retain its Lien on the Property.
- (ii) If the Property is sold to Village Realty pursuant to the Village Realty Stalking Horse Contract by a credit bid pursuant to section 363(k) of the Bankruptcy Code then Village Realty shall receive the Property and no further distribution under this Plan, *provided however*, that Village Realty shall pay the estate the sum of \$290,000 in cash in the event its bid is the successful bid for the Property and the Property is transferred to it pursuant to the terms of the Debtor's confirmed Plan.

4. Class 4 – Other Secured Claims.

Class 4 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan.

Except to the extent that a holder of an Allowed Other Secured Claim

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against the Debtor has agreed to less favorable treatment of such Claim, each holder of an Allowed Other Secured Claim shall receive, at the option of the Plan Administrator, (i) payment in full and final satisfaction of such Allowed Class 4 Claim, Cash from the Plan Fund in the amount of such Allowed Claim payable on the later of the Effective Date and the date on which such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practical thereafter, (ii) delivery of the collateral securing such Allowed Other Secured Claim and payment of any interest required under section 506(b) of the Bankruptcy Code, or (iii) such other treatment necessary to satisfy section 1129 of the Bankruptcy Code.

5. Class 5 – General Unsecured Claims.

Class 5 is Impaired and holders of General Unsecured Claims in Class 5 are entitled to vote to accept or reject the Plan.

On the Effective Date, or as soon thereafter as is reasonably practicable, except to the extent that a holder of an Allowed General Unsecured Claim agrees to less favorable treatment of such Allowed General Unsecured Claim or has been paid before the Effective Date, each holder of an Allowed General Unsecured Claim shall receive, in full and final satisfaction of such Claim, a pro-rata distribution of the Cash remaining in the Plan Fund up to the Allowed amount of such Claim plus accrued post-petition interest at the Federal Judgment Rate on the Effective Date.

6. Class 6 – Existing Equity Interests.

Class 6 is Impaired by the Plan, and the holders of the Allowed Existing Equity Interests are entitled to vote to accept or reject the Plan.

In the event that the Property is sold to a person or entity other than Village Realty, the holders of Allowed Existing Equity Interests, in exchange for such interests and for its services in supervising the management of the Property, shall receive the Sale proceeds, if any, remaining after (i) payment of the Allowed Claims in Classes 1, 2, 3, 4 and 5 and payment in full of Allowed Administrative Claims, Allowed Priority Tax Claims and Allowed Fee Claims in full in Cash on the Effective Date. In the event the Property is sold to Village Realty pursuant to section 363(k) of the Bankruptcy Code, then Allowed Existing Equity Interests shall be extinguished on the Effective Date.

E. MEANS FOR IMPLEMENTATION

1. The Sale.

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The Confirmation Order shall authorize the Sale of the Property under sections 363, 365, 1123(b)(4), 1129(b)(2)(A)(iii) and 1146(a) of the Bankruptcy Code. Upon the occurrence of the Effective Date, the Confirmation Order shall authorize the Plan Administrator to take any and all actions necessary consummate the Sale of the Property without further order of the Bankruptcy Court.

2. Plan Administrator.

(a) *Appointment.* Robinson Brog Leinwand Greene Genovese & Gluck P.C. shall serve as Plan Administrator.

(b) *Authority.* The Plan Administrator shall have the authority and right on behalf of the Debtor, without the need for Bankruptcy Court approval (unless otherwise indicated), to carry out and implement all provisions of the Plan, including, without limitation, to:

(i) except to the extent Claims have been previously Allowed, to control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims against the Debtor;

(ii) make Distributions to holders of Allowed Claims in accordance with the Plan;

(iii) to direct and control the Sale of the Property in accordance with the Sale and Bidding Procedures; including acting as attorney-in fact for the Debtor to execute a deed conveying the Property in accordance with the terms of the Plan and to execute transfer tax returns and associated sale documents required to complete the transfer of the Property;

(iv) prosecute all Causes of Action on behalf of the Debtor, elect not to pursue any Causes of Action, and determine whether and when to compromise, settle, abandon, dismiss, or otherwise dispose of any such Causes of Action, as the Plan Administrator may determine is in the best interests of the Debtor;

(v) make payments to existing professionals who will continue to perform in their current capacities;

(vi) retain professionals to assist in performing its duties under the Plan;

(vii) maintain the books and records and accounts of the Debtor;

(viii) invest Cash of the Debtor, including any Cash proceeds realized from the liquidation of any assets of the Debtor, including any Causes of Action, and

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any income earned thereon;

(ix) incur and pay reasonable and necessary expenses in connection with the performance of duties under the Plan, including the reasonable fees and expenses of professionals retained by the Plan Administrator;

(x) pay statutory fees in accordance with Section 14.1 of the Plan;
and

(xi) perform other duties and functions that are consistent with the implementation of the Plan.

3. Other Transactions.

In the discretion of the Debtor, after the Effective Date, the Debtor may engage in any other transaction in furtherance of the Plan. Any such transactions may be effective as of the Effective Date pursuant to the Confirmation Order without any further action by the members of the Debtor.

4. Withholding and Reporting Requirements.

(a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Person that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including, without limitation, income, withholding, and other taxes, on account of such distribution. Any party issuing any instrument or making any distribution pursuant to the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms.* Any party entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Person designated by the Plan Administrator (which entity shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Person) Form W-8, unless such Person is exempt under the tax Code and so notifies the Disbursing Agent. If such request is made by the Plan Administrator or such other Person designated by the Plan Administrator and the holder fails to comply before the date that is 180 days after the request is made, the amount of such distribution

shall irrevocably revert to the Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against any Debtor and its respective property.

5. Exemption From Certain Transfer Taxes.

To the maximum extent provided by 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 under this Plan as confirmed by the Court, (including an instrument of transfer executed in furtherance of the sale contemplated by the Plan), shall not be subject to tax under any law imposing a stamp tax, real estate transfer tax, mortgage recording tax or similar tax due on the sale of the Property in connection with or in furtherance of the Plan as confirmed by the Court and the funding requirements contained herein and shall not be subject to any state, local or federal law imposing such tax and the appropriate state or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

6. Effectuating Documents; Further Transactions.

On and after the Effective Date, the Plan Administrator is authorized to and may issue, execute, deliver, file or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtor, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

7. Preservation of Rights of Action.

(a) Other than Causes of Action against an Entity that are waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Debtor reserves any and all Causes of Action. On and after the Effective Date, the Plan Administrator may pursue such Causes of Action in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Plan Administrator will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation. Prior to the Effective Date, the Debtor, and on and after the Effective Date, the Plan Administrator, shall retain and shall have, including through its authorized agents

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or representatives, the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. Notwithstanding anything contained herein to the contrary, the settlement of any Claims and Causes of Action which are expressly to be settled by Confirmation of the Plan itself shall be resolved only by Confirmation of the Plan itself.

8. Closing of the Chapter 11 Case.

After the Chapter 11 Case of the Debtor has been fully administered, the Plan Administrator shall seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

F. GOVERNANCE

1. Limited Liability Company Form.

After the Effective Date, the Plan Administrator may decide to (a) maintain the Debtor as limited liability company in good standing until such time as all aspects of the Plan pertaining to the Debtor have been completed, or (b) at such time as the Plan Administrator considers appropriate and consistent with the implementation of the Plan pertaining to the Debtor, dissolve the Debtor and complete the winding up of such Debtor without the necessity for any other or further actions to be taken by or on behalf of the Debtor or its members or any payments to be made in connection therewith subject to the filing of a certificate of dissolution with the appropriate governmental authorities.

2. Wind Down.

After the Effective Date, pursuant to the Plan, the Plan Administrator shall wind-down, sell and otherwise liquidate assets of the Debtor in accordance with Section 5.3(b)(iii) of the Plan. The wind-down, sale and liquidation of the Debtor's assets (as determined for federal income tax purposes) shall occur over a period not to exceed three (3) months after the closing of the Sale of the Property.

3. Certificate of Organization and By-Laws.

As of the Effective Date, the certificate of organization and by-laws of the Debtor shall be amended to the extent necessary to carry out the provisions of the Plan.

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G. DISTRIBUTIONS

1. Distribution Record Date.

As of the close of business on the Distribution Record Date, the transfer register for each of the Classes of Claims or Interests as maintained by the Debtor shall be deemed closed, and there shall be no further changes in the record of holders of any of the Claims or Interests. The Debtor or the Plan Administrator shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date.

2. Date of Distributions.

Except as otherwise provided herein, the Debtor shall make the Initial Distribution to holders of Allowed Claims no later than the Initial Distribution Date and thereafter, the Debtor shall from time to time determine the subsequent Distribution Dates, if any. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

The Plan Administrator shall reserve an amount sufficient to pay holders of Disputed Claims the amount such holders would be entitled to receive under the Plan if such Claims were to become Allowed Claims. In the event the holders of Allowed Claims have not received payment in full on account of their Claims after the resolution of all Disputed Claims, then the Plan Administrator shall make a final distribution to all holders of Allowed Claims.

Notwithstanding anything to the contrary in the Plan, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a distribution in excess of the Allowed amount of such Claim plus any interest accruing on such Claim that is actually payable in accordance with the Plan.

3. Delivery of Distributions.

In the event that any distribution to any holder is returned as undeliverable, no distribution to such holder shall be made unless and until the Debtor or the Plan Administrator, as applicable, has determined the then current address of such holder, at which time such distribution shall be made to such holder without Interest; provided, however, such distributions shall be deemed unclaimed property

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under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the Initial Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Debtor automatically and without need for a further order by the Bankruptcy Court for distribution in accordance with the Plan and the Claim of any such holder to such property or interest in property shall be released, settled, compromised, and forever barred. The Plan Administrator shall have no obligation to locate the current address for a returned distribution.

4. Manner of Payment Under Plan.

At the option of the Debtor or the Plan Administrator, any Cash payment to be made hereunder may be made by a check or wire transfer.

5. Minimum Cash Distributions.

The Plan Administrator shall not be required to make any payment to any holder of an Allowed Claim on any Distribution Date of Cash less than \$100; provided, however, that if any distribution is not made pursuant to this Section 7.5, such distribution shall be added to any subsequent distribution to be made on behalf of the holder's Allowed Claim. The Plan Administrator shall not be required to make any final distributions of Cash less than \$50 to any holder of an Allowed Claim. If either (a) all Allowed Claims (other than those whose distributions are deemed undeliverable hereunder) have been paid in full or (b) the amount of any final distributions to holders of Allowed Claims would be \$50 or less and the aggregate amount of Cash available for distributions to holders of Allowed General Unsecured Claims is less than \$2,500, then no further distribution shall be made by the Plan Administrator and any surplus Cash shall be donated and distributed to an I.R.C. § 501(c)(3) tax-exempt organization selected by the Plan Administrator.

6. Setoffs.

The Debtor and the Plan Administrator may, but shall not be required to, set off against any Claim, any Claims of any nature whatsoever that the Debtor or the Plan Administrator may have against the holder of such Claim; provided that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Plan Administrator of any such Claim the Debtor or the Plan Administrator may have against the holder of such Claim.

7. Distributions After Effective Date.

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Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

8. Allocation of Distributions Between Principal and Interest.

Except as otherwise provided in this Plan, to the extent that any Allowed Claim entitled to a distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall be allocated to the principal amount (as determined for U.S. federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

9. Payment of Disputed Claims.

As Disputed Claims are resolved pursuant to Section 8 hereof, the Plan Administrator shall make distributions on account of such Disputed Claims as if such Disputed Claims were Allowed Claims as of the Effective Date. Such distributions shall be made on the first Distribution Date that is at least forty-five (45) days after the date on which a Disputed Claim becomes an Allowed Claim, or on an earlier date selected by the Plan Administrator in the Plan Administrator's sole discretion.

H. PROCEDURES FOR DISPUTED CLAIMS

1. Allowance of Claims.

After the Effective Date, the Plan Administrator shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim deemed Allowed under this Plan. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including, without limitation, the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

2. Objections to Claims.

As of the Effective Date, objections to and requests for estimation of, Claims against the Debtor may be interposed and prosecuted only by the Plan Administrator. Such objections and requests for estimation shall be served and filed

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(a) on or before the 60th day following the later of (i) the Effective Date and (ii) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (b) such later date as ordered by the Bankruptcy Court upon motion filed by the Plan Administrator.

3. Estimation of Claims.

The Plan Administrator may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor or Plan Administrator previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor or Plan Administrator, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

4. No Distributions Pending Allowance.

If an objection to a Claim is filed as set forth in Section 8, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

5. Resolution of Claims.

Except as otherwise provided herein, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with this Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Plan Administrator shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Claims, Disputed Claims, rights, Causes of Action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Debtor or their estates may hold against any Person, without the approval of the Bankruptcy Court, the Confirmation Order, and any contract, instrument, release, indenture, or other agreement entered into in connection

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herewith. The Plan Administrator or its successor may pursue such retained Claims, rights, Causes of Action, suits or proceedings, as appropriate, in accordance with the best interests of the Debtor.

6. Disallowed Claims.

All Claims held by persons or entities against whom or which any of the Debtor or the Plan Administrator has commenced a proceeding asserting a Cause of Action under sections 542, 543, 544, 545, 547, 548, 549 and/or 550 of the Bankruptcy Code shall be deemed “disallowed” Claims pursuant to section 502(d) of the Bankruptcy Code and holders of such Claims shall not be entitled to vote to accept or reject the Plan. Claims that are deemed disallowed pursuant to this section shall continue to be disallowed for all purposes until the Avoidance Action against such party has been settled or resolved by Final Order and any sums due to the Debtor or the Plan Administrator from such party have been paid.

I. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. Assumption and Assignment of Executory Contracts and Unexpired Leases.

On the Effective Date, except as otherwise provided in the Plan, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned shall be deemed automatically assumed pursuant to sections 365 and 1123 of the Bankruptcy Code, and assigned to Village Realty pursuant to the Village Realty Stalking Horse Contract or the Purchaser pursuant to the Purchase Agreement unless such Executory Contract or Unexpired Lease: (1) is specifically described in the Village Realty Stalking Horse Agreement or Purchase Agreement as being rejected in connection with Confirmation of the Plan or under the Village Realty Stalking Horse Contract or the Purchase Agreement; (2) as of the Effective Date is subject to a pending motion to reject such Unexpired Lease or Executory Contract; (3) was previously assumed or assumed and assigned to a third party during the pendency of the Chapter 11 Cases; or (4) is a contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan.

2. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.

Any Cure Obligation due under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment in Cash on the Effective Date, subject to the limitation described below, by the Debtor as an Administrative Claim or by

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Village Realty or the Purchaser, as applicable, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree.

In the event of a dispute regarding (1) the amount of the Cure Obligation, (2) the ability of the Debtor's Estate or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure Obligations required by section 365(b)(1) of the Bankruptcy Code shall be satisfied following the entry of a Final Order or orders resolving the dispute and approving the assumption; provided that, depending on whether the Plan Administrator or the Purchaser has the obligation to pay the Cure Obligation, such party may settle any dispute regarding the amount of any Cure Obligation without any further notice to any party or any action, order, or approval of the Bankruptcy Court.

At least fourteen (14) days before the Confirmation Hearing, the Debtor shall cause notice of proposed Cure Obligations to be sent to applicable counterparties to the Executory Contracts and Unexpired Leases. Any objection by such counterparty must be filed, served, and actually received by the Debtor not later than ten (10) days after service of notice of the Debtor's proposed assumption and associated Cure Obligation. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed cure amount will be deemed to have assented to such Cure Obligation.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the Effective Date of assumption and/or assignment. **Any prepetition default amount set forth in the Schedules and/or any Proofs of Claim filed with respect to an Executory Contract or Unexpired Lease that has been assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.**

3. Claims Based on Rejection of Executory Contracts and Unexpired Leases.

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtor's Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be filed with Bankruptcy Court and served on the Plan Administrator no later than fourteen (14) days after the earlier

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of the Effective Date or the effective date of rejection of such Executory Contract or Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court and served on the Debtor, no later than fourteen (14) days after service of the Debtor's proposed rejection of such Executory Contract or Unexpired Lease.

Any holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely filed as set forth in the paragraph above shall not (1) be treated as a creditor with respect to such Claim, (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (3) participate in any distribution in the Chapter 11 Case on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtor, the Plan Administrator, the Debtor's Estate, or the property for any of the foregoing without the need for any objection by the Plan Administrator or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtor's prepetition Executory Contracts or prepetition Unexpired Leases shall be classified as General Unsecured Claims, except as otherwise provided by order of the Bankruptcy Court.

4. Village Realty Stalking Horse Contract.

The Debtor's assumption or rejection of any Executory Contract or Unexpired Lease pursuant to the Plan shall be subject in all respects to Village Realty's rights and obligations, including any Cure Obligations assumed by the Village Realty in accordance with the Village Realty Stalking Horse Contract, or the Purchaser should pursuant to its Purchase Agreement, with respect to any such Executory Contracts or Unexpired Leases assigned to Village Realty or the Purchaser pursuant to the terms of the Village Realty Stalking Horse Contract or Purchase Agreement.

5. Modifications, Amendments, Supplements, Restatements, or Other Agreements.

Unless otherwise provided in the Plan, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases

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related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

6. Reservation of Rights.

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtor's Estate have any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtor or the Plan Administrator, as applicable, shall have 60 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

J. CONDITIONS PRECEDENT TO THE CONFIRMATION HEARING AND THE EFFECTIVE DATE

1. Conditions Precedent to the Effective Date.

The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

- (a) the Bankruptcy Court shall have entered the Confirmation Order, the Confirmation Date shall have occurred and the Confirmation Order shall not be subject to any stay;
- (b) all actions, documents and agreements necessary to implement and consummate the Plan, including, without limitation, entry into the documents contained in the Plan Supplement required to be executed prior to the Confirmation Date, shall have been effected or executed;

- (c) all actions, documents and agreements necessary to implement and consummate the Plan, including, without limitation, entry into the documents contained in the Plan Supplement required to be executed prior to the Confirmation Date, each in form and substance reasonably satisfactory to the Debtor and Village Realty and the transactions and other matters contemplated thereby, shall have been effected or executed; and
- (d) all documents and agreements necessary to implement the Plan shall have (i) been tendered for delivery and (ii) been effected or executed by all Entities party thereto, and all conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

2. Waiver of Conditions Precedent.

Each of the conditions precedent to the Effective Date in Section 11.1 other than the condition set forth in section 11.1(a) may be waived in writing by the Debtor.

3. Effect of Failure of Conditions to Effective Date.

If the Confirmation Order is vacated due to a failure of a condition to the Effective Date to occur, (i) no distributions under the Plan shall be made and (ii) the Debtor and all holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date ever occurred.

K. EFFECT OF CONFIRMATION

1. Vesting of Assets.

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's Estate shall vest in the Debtor free and clear of all Claims, liens, encumbrances, charges and other interests, except as provided pursuant to this Plan and the Confirmation Order.

2. Release of Liens.

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the

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Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all rights, titles, and interests of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtor, unless sold to the Purchaser pursuant to the Sale Transaction.

3. Subordinated Claims.

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor reserves the right for the Plan Administrator to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

4. Binding Effect.

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Effective Date, the provisions of the Plan shall bind any holder of a Claim against, or Interest in, the Debtor, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

5. Discharge of Claims and Termination of Interests.

Except as otherwise provided in the Plan, effective as of the Effective Date: (a) the rights afforded in the Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge and release of all Claims and Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtor or any of their assets, property or Estates; (b) all Claims and Interests shall be satisfied, discharged and released in full, and the Debtor's liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code; and (c) all Entities shall be precluded from asserting against the Debtor, the Debtor's Estate, the Plan Administrator, the Purchaser, their successors and assigns and their assets and properties any other

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Claims or Interests based upon any documents, instruments or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

6. Term of Injunctions or Stays.

Unless otherwise provided, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

7. Plan Injunction.

Except (i) as otherwise provided under Final Order entered by the Bankruptcy Court or (ii) with respect to the Debtor's obligations under the Plan, the entry of the Confirmation Order shall forever stay, restrain and permanently enjoin with respect to any Claim held against the Debtor 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 Debtor, from the Property, or from property of the Estate 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 Estate 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 Debtor, from the Property, or from property of the Estate, any claim, any obligation or debt that was held against the Debtor by any person or entity as of the Confirmation Date except pursuant to the terms of this 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.

8. Limitation of Liability.

To the extent permitted under Section 1125(e) of the Bankruptcy Code, neither the Exculpated Parties nor any of their respective officers, directors, or employees (acting in such capacity) nor any professional person employed by any of them, 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, the Plan Supplement or the any contract, instrument, release or other

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agreement or document created or entered into, or any other action taken or omitted to be taken in connection with the Plan, provided that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement, 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 in this Section 12.8 shall limit the liability of the Debtor's professionals pursuant to Rule 1.8 (h)(1) of the New York State Rules of Professional Conduct. Nothing in the Plan or the confirmation order shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including, without limitation, any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Debtor or any of its respective members, shareholders, officers, directors, employees, attorneys, advisors, agents, representatives and assigns, nor shall anything in the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Debtor or any of its respective members, officers, directors, employees, attorneys, advisors, agents, representatives and assigns for any liability whatever, including without limitation, any claim, suit or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority, nor shall anything in this Plan exculpate Debtor or any of its respective members, officers, directors, employees, attorneys, advisors, agents, representatives and assigns from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority.

9. 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 Debtor, 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 Debtor, its Creditors or Interest Holder ever had or now have through the Effective Date in connection with their Claim or Interest (including, without limitation, any claims the Debtor may assert on its 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

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may have asserted derivatively on behalf of the Debtor absent bankruptcy, any claims based on the conduct of the Debtor's business affairs prior or subsequent to the commencement of the Case or any claims based on the negotiation, submission and confirmation of the Plan).

10. Solicitation of the Plan.

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule or regulation governing the adequacy of disclosure in connection with such solicitation.

11. Plan Supplement.

The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court by no later than five (5) business days prior to the Confirmation Hearing. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours.

M. RETENTION OF JURISDICTION

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Case for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of Executory Contracts or Unexpired Leases and the allowance, classification, priority, compromise, estimation or payment of Claims resulting there from;

(b) to determine any motion, adversary proceeding, application, contested matter, or other litigated matter pending on or commenced after the Confirmation Date;

(c) to insure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim;

(e) to enter, implement or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

(f) to enter the Sale Order and adjudicate any dispute related to such order, the Sale and Bidding Procedures, the Sale Transaction or the Auction of the Property;

(g) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the Consummation, implementation or enforcement of the Plan, including the Confirmation Order, or any other order of the Bankruptcy Court;

(h) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(i) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred before the Confirmation Date;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Village Realty Stalking Horse Contract or Purchase Agreement, or the Confirmation Order or any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following Consummation;

(l) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations of the Debtor's tax liability under section 505(b) of the Bankruptcy Code);

(n) to adjudicate, decide or resolve any and all matters related to section 1141 of the Bankruptcy Code;

(o) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter a final decree closing the Chapter 11 Cases;

(r) to enforce all orders previously entered by the Bankruptcy Court;

(s) to recover all assets of the Debtor and property of the Debtor's Estate, wherever located; and

(t) to hear and determine any rights, Claims or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory.

N. MISCELLANEOUS PROVISIONS

1. Payment of Statutory Fees.

On the Effective Date and thereafter as may be required, the Debtor or the Plan Administrator shall pay all fees incurred pursuant to § 1930 of title 28 of the United States Code, together with interest, if any, pursuant to § 3717 of title 31 of the United States Code for the Debtor's case; provided, however, that after the Effective Date such fees shall only be payable with respect to the Debtor's Case until such time as a final decree is entered closing the Debtor's Case, a Final Order converting such case to a case under chapter 7 of the Bankruptcy Code is entered or a Final Order dismissing the Debtor's Case is entered.

2. Substantial Consummation.

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

3. Amendments.

(a) *Plan Modifications.* The Plan may be amended, modified or supplemented by the Debtor in the manner provided for by section 1127 of the

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Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code; provided that such amendments, modifications, or supplements shall be satisfactory in all respects to the Debtor. In addition, after the Confirmation Date, the Debtor may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

(b) *Other Amendments.* Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement without further order or approval of the Bankruptcy Court.

4. Revocation or Withdrawal of the Plan.

The Debtor reserves the right to revoke or withdraw the Plan, prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtor, the Debtor's Estates, or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor, the Debtor's Estates, or any other Entity.

5. Severability of Plan Provisions upon Confirmation.

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (1)

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valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtor or the Plan Administrator (as the case may be); and (3) nonseverable and mutually dependent.

6. *Governing Law.*

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto or a schedule in the Plan Supplement provides otherwise, the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

7. *Time.*

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

8. *Additional Documents.*

On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

9. *Immediate Binding Effect.*

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the Purchaser, the holders of Claims and Interests, the Released Parties, the Exculpated Parties, and each of their respective successors and assigns, including, without limitation, the Plan Administrator.

10. *Successor and Assigns.*

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor,

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administrator, successor or permitted assign, if any, of each Entity.

11. *Entire Agreement.*

On the Effective Date, the Plan, the Plan Supplement, the Purchase Agreement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

12. *Notices.*

All notices, requests and demands to or upon the Debtor to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(i) if to the Debtor:

c/o Eric Goodman Realty
307 E. 89th Street
Attn: Matt Goodman
New York, New York 10128

(ii) If to the Plan Administrator:

c/o **Robinson Brog Leinwand Greene
Genovese & Gluck P.C.**
875 Third Avenue, 9th Floor
New York, New York 10022
Attention: Fred B. Ringel

After the Effective Date, the Debtor shall have the authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, that they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

VI.

CERTAIN RISK FACTORS AFFECTING THE DEBTOR

A. CERTAIN BANKRUPTCY LAW CONSIDERATIONS

1. Risk of Non-Confirmation of the Plan.

Although the Debtor believes that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion or that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate resolicitation of votes.

2. Non-Consensual Confirmation.

In the event any impaired class of claims or interests entitled to vote on a plan of reorganization does not accept a plan of reorganization, a bankruptcy court may nevertheless confirm such plan at the proponent's request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes.

3. Risk Related to Auction.

Although the Debtor is hopeful that it will be able to obtain competitive bids for the Property at the Auction, the Debtor is not certain whether offers will be made, what the content of those offers will be, or whether any Purchaser will enter into an Asset Purchase Agreement. However, the fact that Village Realty has entered into the Village Realty Stalking Horse contract mitigates any risk related to the auction in the opinion of the Debtor.

B. ADDITIONAL FACTORS TO BE CONSIDERED

1. The Debtor Has No Duty to Update.

The statements contained in this Disclosure Statement are made by the Debtor as of the Commencement Date, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtor has no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

2. No Representation Outside This Disclosure Statement Are Authorized.

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No representations concerning or related to the Debtor, the Chapter 11 Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision.

3. No Legal or Tax Advice Is Provided to You by This Disclosure Statement.

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each holder of a Claim or Interests should consult his, her, or its own legal counsel and accountant as to legal, tax, and other matters his, her, or its Claim or Interest.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

4. No Admission Made.

Nothing contained in the Plan will constitute an admission of, or be deemed evidence of, the tax or other legal effects of the Plan on the Debtor or on holders of Claims or Interests.

5. Failure to Identify Litigation Claims or Projected Objections.

No reliance should be placed on the fact that particular litigation claim or projected objection to a particular Claim or Interest is, or is not, identified in this Disclosure Statement. The Debtor may seek to investigate, file, and prosecute Claims and Interests and may object to Claims or Interests after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or Interests or objections to such Claims or Interests.

6. No Waiver of Right to Object or Right to Recover Transfers and Assets.

The vote by a holder of a Claim or Interest for or against the Plan does not constitute a waiver or release of any claims, causes of action, or rights of the Debtor (or any entity, as the case may be) to object to that holder's Claim or Interest, or recover any preferential, fraudulent, or other voidable transfer of assets, regardless of whether any claims or causes of action of the Debtor or its Estate are specifically or generally identified in this Disclosure Statement.

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7. Information Was Provided by the Debtor and Was Relied Upon by the Debtor's Advisors.

The Debtor's advisors have relied upon information provided by the Debtor in connection with the preparation of this Disclosure Statement. Although the Debtor's advisors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement.

VII.

CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to the Debtor and to certain holders of Allowed Claims. This summary does not address the U.S. federal income tax consequences to holders of Claims whose Claims are entitled to payment in full in Cash, holders of Secured Claims or holders of Claims or Interests who are deemed to have rejected the Plan.

This summary is based on the U.S. Internal Revenue Code of 1986, as amended (the "Tax Code"), existing and proposed U.S. Treasury regulations (the "Treasury Regulations"), judicial decisions, and published rules and of the Internal Revenue Service (the "IRS") as in effect on the date hereof, all of which are subject to change, possibly on a retroactive basis. Any such change could significantly affect the U.S. federal income tax consequences described below.

The U.S. federal income tax consequences of the Plan are complex and subject to significant uncertainties. The Debtor has not requested an opinion of counsel or a ruling from the IRS with respect to any of the tax aspects of the Plan. This summary does not address state, local or foreign income or other tax consequences of the Plan, nor does it purport to address the U.S. federal income tax consequences of the Plan to special classes of taxpayers (such as non-U.S. persons, broker-dealers, banks, mutual funds, insurance companies, financial institutions, thrifts, small business investment companies, regulated investment companies, real estate investment trusts, tax-exempt organizations, retirement plans, individual retirement and other tax-deferred accounts, S corporations, partnerships or other pass-through entities for U.S. federal income tax purposes, any other Debtor entity, persons holding securities as part of a hedging, straddle, conversion or constructive sale transaction or other integrated investment, traders in securities that elect to use a mark-to-market method of accounting for their security holding, dealers in

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securities or foreign currencies, persons whose functional currency is not the U.S. dollar, certain expatriates or former long term residents of the United States, persons who received their Claim as compensation or who acquired their Claim in the secondary market, and persons subject to the alternative minimum tax or the “Medicare” tax on net investment income). Additionally, this discussion does not address the Foreign Account Tax Compliance Act.

The following discussion generally assumes that, the various debt and other arrangements to which the Debtor is a party will be respected for U.S. federal income tax purposes in accordance with their form, that the Plan will be treated as a plan of liquidation of the Debtor for U.S. federal income tax purposes, and that all distributions to holders of Claims and Interests will be taxed accordingly.

ACCORDINGLY, THE FOLLOWING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING OR FOR ADVICE BASED UPON THE PARTICULAR CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM. EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES APPLICABLE TO IT UNDER THE PLAN.

A. CONSEQUENCES TO THE DEBTOR

As indicated above, the Debtor intends to treat the Plan as a plan of liquidation for U.S. federal income tax purposes in that the Debtor will remain in existence following the Effective Date solely for the purpose of winding up their affairs including, but not limited to, resolving outstanding Claims, selling their assets and distributing the proceeds and any remaining property to or for the benefit of holders of Allowed Claims and Interests. The U.S. federal income tax impact of the Plan on the NOLs and other tax attributes of the Debtor is further discussed below.

1. Sale and Other Dispositions of Assets.

The Plan authorizes the Debtor to take any and all actions necessary to consummate the sale of the Property. The Tax Code as cancellation of debt income (“CODI”), upon the elimination or reduction of debt for insufficient consideration. The Tax Code provides an exception to such income recognition treatment for any CODI arising in bankruptcy, but generally requires the debtor to reduce certain of its tax attributes – such as current year NOLs, NOL carryforwards, tax credits, capital losses and tax basis in assets – by the amount of any such CODI that arises by reason of the discharge of the debtor’s indebtedness in the bankruptcy case.

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CODI is generally the amount by which the adjusted issue price of indebtedness discharged exceeds the sum of the amount of cash and the fair market value of any other property given in exchange therefore. Any reduction in tax attributes under the CODI rules does not occur until the end of the tax year after such attributes have been applied to determine the tax in the year of discharge or, in the case of asset basis reduction, the first day of the taxable year following the tax year in which the CODI occurs. Accordingly, consistent with the intended treatment of the Plan as a plan of liquidation for U.S. federal income tax purposes, the Debtor expects that no CODI should be incurred by a Debtor as a result of the implementation of the Plan prior to the disposition by such Debtor of all or substantially all of its assets. In such case, the reduction of tax attributes resulting from such CODI (which, as indicated above, only occurs as of the end of the tax year in which the CODI occurs) generally should not have a material impact on the Debtor.

The Debtor's ability to utilize its NOL carryforwards and certain other tax attributes could be subject to limitation if the Debtor underwent or were to undergo an ownership change within the meaning of section 382 of the Tax Code by reason of the implementation of the Plan or otherwise. Nevertheless, there can be no assurance that all or a substantial amount of the CODI will not be incurred prior to the disposition of the Property, or that an ownership change will not occur upon consummation of the Plan due to, among other things, a lack of authoritative IRS guidance as to when CODI occurs in the context of a liquidating Chapter 11 plan. In such event, the Debtor could incur a material amount of U.S. federal income tax in respect of the sale of the Property depending, in part, on the amount realized upon the disposition of such assets and the then tax basis of the assets.

2. Alternative Minimum Tax.

In general, a U.S. federal alternative minimum tax ("AMT") is imposed on a corporation's alternative minimum taxable income at a 20% rate to the extent that such tax exceeds the corporation's regular U.S. federal income tax. For purposes of computing AMT taxable income, certain tax deductions and other beneficial allowances are modified or eliminated. In particular, even though a corporation otherwise might be able to offset all of its taxable income for regular tax purposes by available NOL carryforwards, only 90% of a corporation's taxable income for AMT purposes may be offset by available NOL carryforwards (as computed for AMT purposes).

B. CONSEQUENCES TO HOLDERS OF ALLOWED GENERAL UNSECURED CLAIMS

1. Recognition of Gain or Loss.

The U.S. federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, upon the origin of the holder's Claim, when the holder receives payment in respect of such Claim, whether the holder reports income using the accrual or cash method of tax accounting, whether the holder acquired its Claim at a discount, whether the holder has taken a bad debt deduction or worthless security deduction with respect to such Claim, and/or whether (as intended and herein assumed) the Plan is treated as a plan of liquidation for U.S. federal income tax purposes. A holder of a Claim should consult its tax advisor regarding the timing and amount of any potential bad debt deduction.

Generally, a holder of an Allowed Claim will recognize gain or loss with respect to its Allowed Claim) in an amount equal to the difference between (i) the sum of the amount of any Cash and the fair market value of any other property received by the holder and (ii) the adjusted tax basis of the Allowed Claim exchanged therefore (other than basis attributable to accrued but unpaid interest previously included in the holder's taxable income). As discussed below, the amount of Cash or other property received in respect of Claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under its method of accounting. See Section B.2.— "Allocation of Consideration to Interest."

Consistent with the treatment of the Plan as a plan of liquidation, any loss realized by a holder of a Claim may not be recognizable until all of the distributions to such holder are received.

When gain or loss is recognized, such gain or loss may be long-term capital gain or loss if the Claim disposed of is a capital asset in the hands of the holder and has been held for more than one year. Each holder of an Allowed Claim should consult its tax advisor to determine whether gain or loss recognized by such holder will be long-term capital gain or loss and the specific tax effect thereof on such holder.

2. Allocation of Consideration to Interest.

Pursuant to section 7.8 of the Plan, all distributions in respect of Allowed Claims will be allocated first to the principal amount of the Allowed Claim (as determined for U.S. federal income tax purposes), with any excess allocated to accrued but unpaid interest. However, there is no assurance that such allocation would be respected by the IRS for U.S. federal income tax purposes. In general, to

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the extent any amount received (whether stock, cash, or other property) by a holder of a debt instrument is received in satisfaction of accrued interest during its holding period, such amount will be taxable to the holder as ordinary interest income (if not previously included in the holder's gross income under the holder's normal method of accounting). Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed was previously included in its gross income and is not paid in full.

Each holder of an Allowed Claim is urged to consult its own tax advisors regarding the allocation of consideration and the taxation or deductibility of unpaid interest for tax purposes.

D. WITHHOLDING ON DISTRIBUTIONS AND INFORMATION REPORTING

All distributions to holders of Allowed Claims under the Plan are subject to any applicable tax withholding, including employment tax withholding. Under U.S. federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable withholding rate (currently 28%). Backup withholding generally applies if the holder (a) fails to furnish its social security number or other taxpayer identification number, (b) furnishes an incorrect taxpayer identification number, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the tax identification number provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions. Holders of Allowed Claims are urged to consult their tax advisors regarding the Treasury Regulations governing backup withholding and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations.

In addition, a holder of an Allowed Claim that is a not a U.S. person may be subject to up to 30% withholding, depending on, among other things, the particular type of income and whether the type of income is subject to a lower treaty rate. As to certain Claims, it is possible that withholding may be required with respect to Distributions by the Debtor even if no withholding would have been required if payment was made prior to the Chapter 11 Case. A non-U.S. holder may also be subject to other adverse consequences in connection with the implementation of the Plan. As discussed above, the foregoing discussion of the U.S. federal income tax consequences of the Plan does not generally address the consequences to non-U.S. holders. Non-U.S. holders are urged to consult their tax advisors regarding

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potential withholding on Distributions by the Debtor.

In addition, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors regarding these Treasury Regulations and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations and require disclosure on the holder's tax returns.

VIII.

CONFIRMATION OF THE PLAN

A. CONFIRMATION HEARING

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a chapter 11 plan. The Bankruptcy Court has scheduled the Confirmation Hearing to commence on _____, 2017 at 10:00 a.m. (Eastern Time). The Confirmation Hearing may be adjourned from time-to-time by the Debtor or the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

B. OBJECTIONS

Section 1128 of the Bankruptcy Code provides that any party in interest may object to the confirmation of a plan. Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014.

Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules and the Local Bankruptcy Rules for the Bankruptcy Court, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the Debtor's estate or property, the basis for the objection and the specific grounds therefore, and must be filed with the Bankruptcy Court, with a copy to the chambers of The Honorable Sean H. Lane, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York, together with proof of service thereof, and served upon the parties listed below so as to be received no later than the Plan Objection Deadline of _____, 2017 at 5:00 p.m. (Eastern Time):

<p>Counsel to the Debtor: Robinson Brog Leinwand Greene Genovese & Gluck P.C. 875 Third Avenue, 9th Floor New York, New York 10022 Telephone: (212) 603-6300 Attention: Fred B. Ringel Email: fbr@robinsonbrog.com</p>	<p>Counsel to Village Realty Goldberg Weprin Finkel Goldstein LLP 1501 Broadway, 22nd Floor New York, New York 10036 Telephone: (212) 221-5700 Attention: Kevin J. Nash Email: knash@gwfglaw.com</p>
<p>Office of the United States Trustee 201 Varick Street Suite 1006 New York, NY 10014 Attn: Richard Morrissey, Esq. Email: Richard.Morrissey@usdoj.gov</p>	

UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

C. REQUIREMENTS FOR CONFIRMATION OF THE PLAN

1. Requirements of Section 1129(a) of the Bankruptcy Code.

a. General Requirements

At the Confirmation Hearing, the Bankruptcy Court will determine whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code have been satisfied:

- (i) The Plan complies with the applicable provisions of the Bankruptcy Code.
- (ii) The Debtor has complied with the applicable provisions of the Bankruptcy Code.

(iii) The Plan has been proposed in good faith and not by any means proscribed by law.

(iv) Any payment made or promised by the Debtor or by a person issuing securities or acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been approved or is subject to the approval of the Bankruptcy Court as reasonable.

(v) The Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a plan with the Debtor, or a successor to the Debtor under the Plan, and the appointment to, or continuance in, such office of such individual is with the interests of creditors and equity holders and with public policy.

(vi) With respect to each Class of Claims or Interests, each holder of an Impaired Claim or Impaired Interest either has accepted the Plan or will receive or retain under the Plan on account of such holder's Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtor was liquidated on the Effective Date under chapter 7 of the Bankruptcy Code. See discussion of "Best Interests Test" below.

(vii) Except to the extent the Plan meets the requirements of section 1129(b) of the Bankruptcy Code (discussed below), each class of Claims or Interests has either accepted the Plan or is not impaired under the Plan.

(viii) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that administrative and priority claims will be paid in full on the Effective Date.

(ix) At least one class of impaired claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a claim in such class.

(x) Confirmation of the Plan is not likely to be followed by the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan. See "Feasibility Analysis" below.

(xi) All fees payable under section 1930 of title 28, as determined by the Bankruptcy Court at the hearing on confirmation of the Plan, have been paid or the

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Plan provides for the payment of all such fees on the Effective Date of the Plan.

b. Best Interests Test

As noted above, the Bankruptcy Code requires that each holder of an Claim or Interest either (i) accepts the Plan or (ii) receives or retains under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on the Effective Date. This requirement is referred to as the “best interests test.”

The best interests test requires the Bankruptcy Court to determine what the holders of allowed claims and allowed equity interests in each impaired class would receive from a liquidation of the debtor’s assets and properties in the context of a liquidation under chapter 7 of the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the value of the distributions from the proceeds of the liquidation of the debtor’s assets and properties (after subtracting the amounts attributable to the aforesaid claims) is then compared with the value offered to such classes of claims and equity interests under the plan.

The Debtor believes that under the Plan all holders of impaired Claims and Interests will receive property with a value not less than the value such holder would receive in a liquidation under chapter 7 of the Bankruptcy Code. The Debtor’s belief is based primarily on (i) consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to holders of impaired Claims and Interests and (ii) the Liquidation Analysis set forth herein.

The Liquidation Analysis is a comparison of (i) the estimated recoveries for creditors and equity holders of the Debtor that may result from the Plan and (ii) an estimate of the recoveries that may result from a hypothetical chapter 7 liquidation. The Liquidation Analysis is based upon a number of significant assumptions which are described therein. The Liquidation Analysis is solely for the purpose of disclosing to holders of Claims and Interests the effects of a hypothetical chapter 7 liquidation of the Debtor, subject to the assumptions set forth therein. There can be no assurance as to values that would actually be realized in a chapter 7 liquidation nor can there be any assurance that the Bankruptcy Court will accept the Debtor’s conclusions or concur with such assumptions in making its determinations under section 1129(a)(7) of the Bankruptcy Code.

c. Liquidation Analysis

The Debtor has concluded that the Plan provides to each Creditor and Interest Holder 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 sale of the Properties to the highest bidder at an auction. Unless the auction generates proceeds in excess of \$14 million, the Property to be distributed to Village Realty on account of its secured claim. The Plan will be funded by Village Realty's assumption of the real estate taxes in the approximate amount of \$480,000 plus the payment of \$290,000 of cash consideration and any remaining available cash held by the Debtor on the Effective Date which will be distributed to creditors in accordance with the priorities established by the Bankruptcy Code. Alternatively, if the auction generates sale proceeds in excess of \$14,050,000 (the minimum overbid), then the Plan provides for (i) paying Real Property Tax Claims in (ii) payment in cash of Village Realty's Allowed Claim, (iii) payment of Other Secured Claims in full or surrender of the collateral securing such claim, and (iv) payment to holders of Allowed Unsecured Claims of their pro rata share of the remaining sales proceeds. Holders of Allowed Interests shall receive the remaining balance of any sale proceeds, if any after payments to all other Claims are made.

The Debtors believe that in the event its assets were sold in chapter 7 liquidation, there would be insufficient proceeds to pay the full amount of the Allowed Secured Claims. The Debtors believe that in such event, the Holders of Unsecured Claims and Interests would not receive a distribution in a Chapter 7 case which is greater than the one they may be entitled to under the Plan. Additionally, under a liquidation, Village Realty would not be providing \$290,000 in cash towards payment of Administrative Expenses.

The Debtors further believes that the net effect of a conversion of this case to chapter 7 would be to (i) increase the administrative expenses of the estate (including transfer taxes of approximately \$400,000) and (ii) decrease the funds available for non-administrative creditors. In such event, no funds would be remaining for distribution to unsecured creditors. As such, the Debtor believes that no unsecured 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 liquidation values stated above assume that all assets of the Debtors would be liquidated in the context of a chapter 7 case and assumes the present values of such liquidation values as of August 2017. The assumptions considered the estimated liquidation value of the assets 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

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any trustee appointed for the Debtor. The actual liquidation value of the Debtor may vary from that considered herein and the variations may be material

The Debtor has assumed that the Properties would be sold within three months in a Chapter 7 liquidation. It is assumed that cash proceeds of liquidating the Property would total approximately \$13,226,000. The basis of this assumption is that after extensive marketing by the Debtor, the Debtor had a contract to sell the Properties for \$13,226,000 top Village Realty. Upon consultation with its advisors, the Debtor assumes for the purposes of this analysis that the cash would be distributed as follows:

Available for distribution	\$13,226,000
To the payment of:	
New York Transfer Tax	\$400,000
Chapter 7 Administrative Claims:	
Chapter 7 trustee commissions and expenses (approximately 3% of \$13,226,000)	\$396,780
Chapter 7 trustee broker commissions and expenses (approximately 4% of \$13,226,000)	\$529,000
Chapter 7 trustee's professionals (attorneys, appraisers, auctioneers accountants, etc.)	\$150,000
Village Realty Secured Claim	\$13,500,000
Chapter 11 Administrative Claims	\$100,000
Remaining Available Cash	\$0
General Unsecured Claims	\$0

In a chapter 7 liquidation, there would be insufficient funds to satisfy the Village Realty Secured Claim in full, Chapter 11 Administrative Claims in full and no funds available to pay claims of Allowed Unsecured Creditors.

d. Feasibility Analysis

The Bankruptcy Code requires that a debtor demonstrate that confirmation

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of a plan is not likely to be followed by liquidation or the need for further financial reorganization unless contemplated by the Plan. The Plan provides for the sale of substantially all of the Debtor's assets and the distribution of the proceeds of such sale. Thus, the Plan provides for the total liquidation of the Debtor's assets and therefore meets the feasibility tests of section 1129.

2. Requirements of Section 1129(b) of the Bankruptcy Code.

The Bankruptcy Court may confirm the Plan over the rejection or deemed rejection of the Plan by a class of Claims or Interests if the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such class.

e. No Unfair Discrimination

The "no unfair discrimination" test applies to classes of claims or equity interests that are of equal priority and are receiving different treatment under a plan. A chapter 11 plan of reorganization does not discriminate unfairly, within the meaning of the Bankruptcy Code, if the legal rights of a dissenting class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially similar to those of the dissenting class and if no class of claims or equity interests receives more than it legally is entitled to receive for its claims or equity interests. This test does not require that the treatment be the same or equivalent, but that such treatment is "fair."

The Debtor believes that, under the Plan, all impaired classes of Claims and Interests are treated in a manner that is fair and consistent with the treatment of other classes of Claims and Interests having the same priority. Accordingly, the Debtor believes the Plan does not discriminate unfairly as to any impaired class of Claims or Interests.

f. Fair and Equitable Test

The "fair and equitable" test applies to classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the allowed amount of the claims in such class. The test sets forth different standards for what is fair and equitable, depending on the type of claims or interests in such class. In order to demonstrate that a plan is "fair and equitable," the plan proponent must demonstrate the following:

(i) *Secured Creditors.* With respect to a class of impaired secured claims, a proposed plan must provide the following: (a) that the holders of secured claims retain their liens securing such claims, whether the property subject to such liens is

retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims, and receive 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 estates' interest in such property, or (b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) or (c) of this paragraph, or (c) that the holders of secured claims receive the "indubitable equivalent" of their allowed secured claim. There are two impaired classes of Secured Claims. Class 2 Real Property Tax Claims will either be paid in full or retain their liens in the same priority as before the Commencement Date. The other secured impaired class of claims is Class 3 containing the claim held by Village Realty. The Plan provides for the treatment of Village Realty in accordance with the Village Realty Stalking Horse Contract and subsection (b) of 1129(b)(2)(A)(ii)(sale subject to section 363(k)).

(ii) Unsecured Creditors. With respect to a class of impaired unsecured claims, a proposed plan must provide the following: either (i) each holder of an impaired unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the plan.

With respect to Unsecured Creditors, 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. As equity in the Debtor are only receiving a distribution if all claims senior are paid in full, there is no class of claims or interests junior to the unsecured creditor class that is to receive payment under the Plan or retain any interest in any property under the Plan.

(iii) Holders of Equity Interests. A plan is fair and equitable as to a class of equity interests if that class of equity interests receives its liquidation preference, its fixed redemption price or its value. The Plan is fair and equitable as to the Holders of Interests because they are receiving a distribution only after all other distributions are made pursuant to the Plan. Thus, the Holders Interests are receiving the value of their equity interest in the Debtor.

g. Application to the Plan

As to any Class that may reject the Plan, the Debtor believes the Plan will

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satisfy both the “no unfair discrimination” requirement and the “fair and equitable” requirements, because, as to any such dissenting Class, there is no Class of equal priority receiving more favorable treatment, and such Class will either be paid in full, or no Class that is junior to such a dissenting Class will receive or retain any property on account of the Claims or Interests in such Class.

3. Alternative to Confirmation and Consummation of the Plan.

The Debtor has evaluated several alternatives to the Plan. After studying these alternatives, the Debtor has concluded that the Plan is the best option for the Debtor and its estate and will maximize recoveries to parties-in-interest—assuming confirmation and consummation of the Plan. If the Plan is not confirmed and consummated, the alternatives to the Plan include a sale of the Property under section 363 of the Bankruptcy Code or a liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

a. Section 363 Sale

If the Plan is not confirmed, the Debtor could seek from the Bankruptcy Court, after notice and a hearing, authorization to sell the Property and other assets under section 363 of the Bankruptcy Code. **Indeed, the form of Asset Purchase Agreement will require any Purchaser to consummate a sale under section 363 in the event that the Plan is not confirmed.** Holders of Claims in Classes 2 and 3 would be entitled to credit bid on any property to which their security interests are attached, and to offset their Claims against the purchase price of the property. In addition, the security interests in the Debtor’s assets held by holders of Claims in Classes 2 (Real Property Tax Claims), 2 (Village Realty Secured Claim), and 3 (Other Secured Claims), would attach to the proceeds of any sale of the Debtor’s assets.

After these Claims are satisfied, any remaining funds could be used to pay holders of Claims in Class 5 (General Unsecured Claims). The Debtor would need to file a plan of liquidation or convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code in order to distribute any proceeds from a sale. Upon analysis and consideration of this alternative, the Debtor did not believe a sale of their assets under section 363 of the Bankruptcy Code would yield a higher recovery than treatment under the Plan for holders of Claims and Interests.

b. Liquidation Under Chapter 7

In a chapter 7 case, a trustee is appointed to liquidate a debtor’s assets and to make distributions to creditors in accordance with the priorities established in the

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Bankruptcy Code. Generally, secured creditors are paid first from the proceeds of sales of their collateral. If any assets remain in the bankruptcy estate after satisfaction of secured creditors' claims from their collateral, administrative expenses are next to be paid. Unsecured creditors are paid from any remaining sale proceeds, according to their respective priorities. Unsecured creditors with the same priority share in proportion to the amount of their allowed claims in relationship to the total amount of allowed claims held by all unsecured creditors with the same priority. Finally, interest holders receive the balance that remains, if any, after all creditors are paid.

Substantially all of the Debtor's assets are being sold through the proposed Sale Transaction under the Plan. The Debtor believes that the Plan provides a greater recovery to Holders of Allowed General Unsecured Claims than would a chapter 7 liquidation for several reasons. First, liquidation under chapter 7 of the Bankruptcy Code would both decrease the aggregate proceeds available to holders of Claims and Interests and increase the magnitude of claims to those proceeds. Specifically, the Plan contemplates that the Debtor will conduct a controlled auction process designed to optimally market and maximize the value of the Debtor's Property. A liquidation of the Property under chapter 7 would be less orderly and would yield only the liquidation value of the Property, not its fair market value.

Second, and most significantly, in a chapter 7 liquidation, Village Realty would have no incentive to enter into the Village Realty Stalking Horse Contract, which is providing a certain and timely availability of funds to pay a 100% distribution to allowed priority and administrative claims. Were this case to be liquidated in a chapter 7 case, no such fund would be available and the Village Realty Secured Claim would likely increase substantially due to the accrual of additional interest on its secured debt, making it unlikely that other creditors would receive a distribution under the Plan.

Third, liquidating the Debtor's Estate under the Plan likely provides Holders of Allowed General Unsecured Claims with a larger, more timely recovery because of the fees and expenses that would be incurred in a chapter 7 liquidation, including the potential added time and expense incurred by the chapter 7 trustee and any retained professionals in familiarizing themselves with the Debtor and the estate. The Debtor believes that in liquidation under chapter 7, before creditors received any distribution, additional administrative expenses involved in the appointment of a chapter 7 trustee and its retained professionals would cause a substantial diminution in the value of the Debtor's assets. The assets available for distribution to creditors would be reduced by such additional expenses and by the Claims, some of which would be entitled to priority, which would arise by reason of the liquidation and from the rejection of leases and other executory contracts.

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Based on the Debtor's analysis, it is probable that a liquidation of the Debtor's assets under a chapter 7 liquidation would result in smaller distributions being made to creditors than those provided for under the Plan because of (i) the likelihood that the assets of the Debtor would have to be sold or otherwise disposed of in a less orderly fashion over a short period of time, (ii) the increased interest on the Village Realty Secured Claim, and (iii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the chapter 7 liquidation process. Accordingly, the Debtor believes that the Plan is in the best interests of creditors.

c. Alternative Plans

The Debtor does not believe that there are any alternative plans for the reorganization or liquidation of the Debtor's Estate then would, or indeed could, yield a better result for its creditors than the current proposed plan. The Debtor believes that the Plan, as described herein, enables Holders of Claims and Interests to realize the greatest possible value under the circumstances and that, compared to any alternative plan, the Plan has the greatest chance to be confirmed and consummated.

4. Nonconsensual Confirmation.

In the unlikely circumstance that any impaired Class of Claims entitled to vote will not accept the Plan by the requisite statutory majority provided in section 1126(c) of the Bankruptcy Code, the Debtor reserves the right to amend the Plan or undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code or both. With respect to impaired Classes of Claims that are deemed to reject the Plan, the Debtor would request that the Bankruptcy Court confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code.

IX.

CONCLUSION

The Debtor believes that confirmation and implementation of the Plan is in the best interests of all creditors, and urges holders of impaired Claims to vote to accept the Plan and to evidence such acceptance by returning their ballots so that they will be received no later than the Voting Deadline, _____, 2017 at 5:00 p.m. (prevailing Eastern Time).

Dated: August 18, 2017
New York, New York

135 West 13 LLC, Debtor

By: /s/ Max Dolgicer
Max Dolgicer, Member

ROBINSON BROG LEINWAND GREENE
GENOVESE & GLUCK P.C.
Attorneys for the Debtor
875 Third Avenue, 9th Floor
New York, New York 10022
Tel. No.: (212) 603-6300

By: /s/ Fred B. Ringel
Fred B. Ringel

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

135 West 13 LLC,

Case No: 17-11371 (SHL)

Debtor.

-----X

Plan of Reorganization of 135 West 13 LLC

**ROBINSON BROG LEINWAND
GREENE GENOVESE & GLUCK P.C.
Attorneys for the Debtor
875 Third Avenue
New York, New York 10022
Tel. No.: 212-603-6300**

Fred B. Ringel, Esq.
Clement Yee, Esq.

New York, New York
August 15, 2017

135 West 13 LLC, the Debtor herein proposes the following first amended chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Section 1.A.

SECTION 1. DEFINITIONS AND INTERPRETATION.

A. Definitions.

1.1 ***Administrative Expense Claim*** means any Claim for costs and expenses of Administration during the Chapter 11 Case pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b) or 507(a)(2) of the Bankruptcy Code, including, (a) the actual and necessary costs and expenses incurred after the Commencement Date and through the Effective Date of preserving the Estate and operating the business of the Debtor (such as wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) Fee Claims and (c) all fees and charges assessed against the Estates pursuant to section 1911 through 1930 of chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1-1401.

1.2 ***Administrative Expense Claims Bar Date*** means the first Business Day that is 30 days following the Effective Date, except as otherwise specifically set forth in the Plan.

1.3 ***Administrative Expense Claims Objection Bar Date*** means the first Business Day that is 120 days following the Effective Date, except as otherwise specifically set forth in the Plan; provided that the Administrative Claims Objection Bar Date may be extended pursuant to an order of the Bankruptcy Court upon a motion filed by the Plan Administrator after notice and a hearing.

1.4 ***Allowed*** means, (i) with reference to any Claim (a) any Claim against the Debtor that has been listed by the Debtor in its Schedules, as such Schedules may be amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of Claim has been filed, (b) any Claim listed on the Schedules or included in a timely filed proof of Claim, as to which no objection to allowance has been, or subsequently is, interposed in accordance with 7.9 hereof or prior to the expiration of such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or as to which any objection has been determined by a Final Order to the extent such Final Order is in favor of the respective holder, or (c) any Claim expressly allowed by a Final Order.

1.5 ***Auction*** means the auction for the sale of the Debtor's Property to be held in accordance with the Sale and Bid Procedures.

1.6 **Available Cash** means all Cash of the Debtor realized from its business operations, the sale or other disposition (other than the Sale Transaction) of its assets, the interest earned on its invested funds, recoveries from Causes of Action or from any other source or otherwise.

1.7 **Avoidance Action** means any action commenced, or that may be commenced, before or after the Effective Date pursuant to section 544, 545, 547, 548, 549, 550, or 551 of the Bankruptcy Code.

1.8 **Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. §§ 101, et seq., as amended from time to time, as applicable to the Chapter 11 Case.

1.9 **Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Case and, to the extent of any reference made under section 157 of title 28 of the United States Code, the unit of such District Court having jurisdiction over the Chapter 11 Case under section 151 of title 28 of the United States Code.

1.10 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Chapter 11 Case, and any Local Rules of the Bankruptcy Court.

1.11 **Bar Date Order** means that certain *Order Establishing Deadline for Filing Proofs of Claim against or Interests in the Debtor and Approving the Form and Manner of Notice Thereof* entered on June 14, 2016 at ECF No. 59 which established July 22, 2016 as the last day for creditors to file claims against the Debtor's estate and established September 21, 2016 as the last date for creditors that are governmental units to file claims against the Debtor's estate.

1.12 **Business Day** means any day other than a Saturday, a Sunday or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.13 **Cash** means legal tender of the United States of America.

1.14 **Causes of Action** means any action, Claim, cause of action, controversy, demand, right, lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Commencement Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. Cause of Action also

includes: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Interests; (c) any Avoidance Action; (d) any claim or defense including fraud, mistake, duress and usury and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim.

1.15 **Chapter 11 Case** means the case under chapter 11 of the Bankruptcy Code commenced by the Debtor on May 17, 2017, and styled In re 135 West 13 LLC, Case No. 17-11371 (SHL).

1.16 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code.

1.17 **Claims Objection Bar Date** means the first Business Day that is 120 after the Effective Date; provided that the Claims Objection Bar Date may be extended pursuant to an order of the Bankruptcy Court upon a motion filed by the Plan Administrator.

1.18 **Class** means any group of Claims or Interests classified pursuant to Section 3.1 of the Plan.

1.19 **Commencement Date** means May 17, 2017.

1.20 **Confirmation** means the entry on the docket of the Chapter 11 Case of the Confirmation Order.

1.21 **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

1.22 **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court regarding Confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

1.23 **Confirmation Order** means an order of the Bankruptcy Court in form and substance reasonably acceptable to the Debtor confirming the Plan and approving the Sale Transaction.

1.24 **Consummation** means the occurrence of the Effective Date of the Plan.

1.25 **Cure Obligation** means all (a) amounts (or such other amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults; and (b) other obligations required to cure any non-monetary defaults under any Executory Contract or Unexpired Lease that

is to be assumed by the Debtor pursuant to sections 365 or 1123 of the Bankruptcy Code.

1.26 ***Debtor*** means 135 West 13 LLC.

1.27 ***Disclosure Statement*** means the Disclosure Statement for the Plan which is prepared and distributed in accordance with sections 1125, 1126(b) and/or 1145 of the Bankruptcy Code, Bankruptcy Rule 3018 and/or other applicable law.

1.28 ***Disputed Claim*** means with respect to a Claim or Interest, any such Claim or Interest (a) to the extent neither Allowed nor disallowed under the Plan or a Final Order nor deemed Allowed under section 502, 503 or 1111 of the Bankruptcy Code, or (b) for which a Proof of Claim or Interest has been filed, to the extent the Debtor or any party in interest has interposed a timely objection or request for estimation before the Confirmation Date in accordance with the Plan, which objection or request for estimation has not been withdrawn or determined by a Final Order.

1.29 ***Distribution Date*** means a date or dates, including the Initial Distribution Date, as determined by the Disbursing Agent in accordance with the terms of the Plan, on which the Disbursing Agent makes a distribution to holders of Allowed Claims.

1.30 ***Distribution Record Date*** means the Effective Date of the Plan.

1.31 ***Effective Date*** means the date on which all conditions to the effectiveness of the Plan set forth in Section 11 hereof have been satisfied or waived in accordance with the terms of the Plan.

1.32 ***Entity*** has the meaning set forth in section 101(15) of the Bankruptcy Code.

1.33 ***Estate*** means the estate of the Debtor created under section 541 of the Bankruptcy Code.

1.34 ***Estimated Professional Fee Escrow*** means the escrow account established under the Plan ten (10) days prior to the Effective Date holding sufficient Cash to pay the Fee Claims in full, subject to their Allowance by the Bankruptcy Court upon the later of (i) the Effective Date of (ii) the date upon which the order relating to any such Allowed Fee Claim is entered or (iii) upon such other terms and conditions as may be agreed to between the holder of such an Allowed Fee Claim and the Plan Administrator.

1.35 ***Exculpated Parties*** means collectively: (a) the Debtor; (b) the Purchaser; (c) Max Dolgicer, (d) Darren Herzberg (e) Byron Business Ventures LLC and (f) with respect to each of the foregoing entities in clauses (a) through (e), such entities' successors and assigns, subsidiaries, affiliates, current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, and other professionals, and such persons' respective heirs, executors, Estates, servants and nominees, in each case in their capacity as such.

1.36 ***Executory Contract*** means a contract or lease to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

1.37 ***Existing Equity Interests*** means all Interests in the Debtor, including membership interests or the rights to acquire any such Interests.

1.38 ***Fee Claim*** means a Claim for professional services rendered or costs incurred on or after the Commencement Date through the Effective Date by professional persons retained by the Debtor pursuant to sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code in the Chapter 11 Case.

1.39 ***Final Order*** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument or rehearing shall have expired; provided, however, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code or under Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 has been or may be filed with respect to such order or judgment.

1.40 ***General Unsecured Claim*** means any unsecured Claim that is not entitled to priority under the Bankruptcy Code or any order of the Bankruptcy Court.

1.41 **Governmental Unit** has the meaning set forth in section 101(27) of the Bankruptcy Code.

1.42 **Impaired** means, with respect to a Claim, Interest or Class of Claims or Interests, “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.43 **Initial Distribution** means the first distribution that either the Debtor or the Plan Administrator, as applicable, makes to holders of Allowed Claims.

1.44 **Initial Distribution Date** means the date selected by the Debtor on or as soon as reasonably practicable after the Effective Date.

1.45 **Interests** means any equity security in a Debtor as defined in section 101(16) of the Bankruptcy Code, including all instruments evidencing an ownership interest in the Debtor, whether or not transferable, and any option, warrant or right, contractual or otherwise, to acquire any such interests in the Debtor that existed immediately before the Effective Date.

1.46 **Lien** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.47 **Other Priority Claim** means any Claim against the Debtor entitled to priority in payment as specified in section 507(a)(3), (4), (5), (6), (7) or (9) of the Bankruptcy Code, other than an Administrative Expense Claim or a Priority Tax Claim.

1.48 **Other Secured Claim** means a Secured Claim, other than the Village Realty Secured Claim.

1.49 **Person** means an individual, corporation, partnership, joint venture, association, Joint Stock Company, Limited Liability Company, limited liability partnership, trust, estate, unincorporated organization, Governmental Unit or other entity.

1.50 **Plan** means this chapter 11 plan of reorganization, including the exhibits hereto and the Plan Supplement, as the same may be amended or modified from time to time in accordance with Section 14.4 herein.

1.51 **Plan Administrator** has the meaning set forth in Section 5.3 of this Plan.

1.52 **Plan Fund** means the amount of Cash to be provided by available to the Plan Administrator on the Effective Date from the sale of the Property, if any,

which, when added to the Available Cash held by the Debtor on the Effective Date, will be utilized fund the payment of Allowed Claims in Classes 1, 4, 5 and Allowed Administrative Claims, Priority Tax Claims and Fee Claims (including the Estimated Professional Fee Escrow, if any) in their order of priority as provided for in this Plan and to fund Disputed Claim Reserves with respect to such claims.

1.53 ***Plan Supplement*** means the compilation of documents containing, among other things, the Schedule of Cure Costs, if any, the Purchase Agreement, and information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code; provided that, through the Effective Date, the Debtor shall have the right to amend any schedules, exhibits, and the other documents contained in, and exhibits to, the Plan Supplement.

1.54 ***Plan Supplement Filing Date*** means the date on which all documents to be included in the Plan Supplement must be filed with the Court.

1.55 ***Plan Supplement Filing Deadline*** that is seven (7) days prior to the commencement of the Confirmation Hearing.

1.56 ***Priority Tax Claim*** means any unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.57 ***Pro Rata*** means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims and Disputed Claims within such Class.

1.58 ***Proof of Claim*** means a proof of Claim filed against the Debtor in its Chapter 11 Case.

1.59 ***Property*** means the real property and improvements thereon located at 1233 West 13th Street and 135 West 13th Street, New York, New York and owned by the Debtor.

1.60 ***Purchase Agreement*** means an Asset Purchase Agreement, in form attached to the Plan Supplement, which provides for the sale of the Property, submitted at or prior to the Auction to the Plan Administrator and determined by the Plan Administrator pursuant to the Sale and Bid Procedures to reflect the highest or otherwise best offer for the Property.

1.61 ***Purchaser*** means one or more purchasers under the Purchase Agreement.

1.62 ***Sale Order*** means an order of the Bankruptcy Court in form and substance reasonably acceptable to the Debtor, Village Realty and the Purchaser (a) approving the Sale Transaction; (b) determining that Purchaser is a good faith purchaser; (c) providing that the closing of the Sale Transaction will occur in accordance with the terms and conditions of the Purchase Agreement; and (d) providing that the delivery of the deed in accordance with the terms of the Confirmation Order and Purchase Agreement approved under this Plan, if confirmed by the Court, shall constitute the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title and may not be taxed under any law imposing a stamp tax or similar tax.

1.63 ***Sale and Bid Procedures*** means the sale, bid and auction procedures approved by the Court in the order approving the Debtor's Disclosure Statement that, among other things establishes procedures for the Auction and the terms and conditions related to the sale of the Property under this Plan.

1.64 ***Sale Proceeds*** means the proceeds from the Sale Transaction net of closing costs including but not limited to Debtor's brokerage fees, title costs and other ordinary and necessary costs of, or credits related to, the transfer of title to the Property.

1.65 ***Sale Transaction*** means the sale of the Property pursuant to the Plan.

1.66 ***Schedule of Cure Costs*** means the schedule of cure costs, if any, required to be paid by the Debtor in accordance with section 365 of the Bankruptcy Code in connection with the assumption and assignment of Executory Contracts and Unexpired Leases to be assumed by the Debtor under the Plan and to be filed with the Plan Supplement.

1.67 ***Schedules*** means the schedules of assets and liabilities and the statement of financial affairs filed by the Debtor under section 521 of the Bankruptcy Code, Bankruptcy Rule 1007, and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been or may be supplemented or amended from time to time.

1.68 ***Secured Claim*** means a Claim to the extent (i) secured by property of the Estate, the amount of which is equal to or less than the value of such property (A) as set forth in the Plan, (B) as agreed to by the holder of such Claim and the Debtor or (C) as determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (ii) secured by the amount of any rights of setoff of the holder thereof under section 553 of the Bankruptcy Code.

1.69 ***Unimpaired*** means, with respect to a Claim, Interest or Class of Claims or Interests, that such Claim or Interest is not “impaired” within the meaning of section 1123(a)(4) and 1124 of the Bankruptcy Code.

1.70 ***Village Realty*** means Village Realty Holdings LLC in its capacity as the pre-petition lender to the Debtor. If Village Realty credit bids to acquire the Property under section 363(k) of the Bankruptcy Code, then, in that context, the term “Village Realty” includes any nominee, designee or assignee of Village Realty to whom Village Realty has assigned or transferred its claim, in whole or in part, for purpose of making such credit bid.

1.71 ***Village Realty Mortgage*** means the first priority mortgage on the Property granted to Village Realty by the Debtor to secure the Village Realty First Priority Mortgage, the Village Realty Second Mortgage and the Village Realty Third Mortgage.

1.72 ***Village Realty First Mortgage*** means Mortgage and Security Agreement in the amount of \$6,900,000 made by the Debtor to Bank of Smithtown dated March 12, 2008 and recorded March 24, 2008 as CRFN 2008000118423, assigned by People’s United Bank, successor by merger with the Bank of Smithtown, to Village Realty by Assignment of Mortgage dated as of May 31, 2011 and recorded September 19, 2011 as CRFN 2011000331299 covering the Property.

1.73 ***Village Realty Second Mortgage*** means that Subordinate Project Loan Mortgage and Security Agreement in the amount of \$1,815,000 made by the Debtor to Bank of Smithtown dated 3/12/2008 and recorded 3/24/2008 as CRFN 2008000118425 assigned by People’s United Bank, successor by merger with the Bank of Smithtown, to Village Realty by Assignment of Mortgage dated as of May 31, 2011 and recorded September 19, 2011 covering the Property.

1.74 ***Village Realty Stalking Horse Contract*** means the Real Estate Purchase Agreement dated as of July__, 2017 pursuant to which Village Realty Associates LLC contracted to purchase the Property pursuant to a credit bid in accordance with section 363(k) of the Bankruptcy Code plus \$290,000 cash paid to the Debtor’s estate, free and clear of all liens claims and encumbrances and subject to higher or better offers as set forth therein.

1.75 ***Village Realty Third Mortgage*** means that certain Building Loan Mortgage and Security Agreement in the amount of \$635,000 made by the Debtor to Bank of Smithtown dated March 12, 2008 and recorded March 24, 2008 as CRFN

2008000118424, assigned by People's United Bank, successor by merger with the Bank of Smithtown, to Village Realty by Assignment of Mortgage dated as of 5/31/2011 and recorded 9/19/2011 as CRFN 2011000331300 covering the Propert

B. Interpretation; Application of Definitions and Rules of Construction.

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived or modified from time to time. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) unless otherwise specified, all references herein to "Sections" are references to Sections hereof or hereto; (4) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (5) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

C. Controlling Document

In the event of an inconsistency between the Plan and the Plan Supplement, the terms of the Plan shall control (unless stated otherwise in the Plan). The provisions of the Plan and of the Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided that, if there is determined to be any inconsistency between any Plan provision and any provision of the Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern and any such provision of the Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

SECTION 2. ADMINISTRATIVE EXPENSE AND PRIORITY CLAIMS.

2.1. Administrative Expense Claims.

Except to the extent that a holder of an Allowed Administrative Expense Claim and the Debtor or the Plan Administrator agree to different treatment, the Debtor (or the Plan Administrator, as the case may be) shall pay to each holder of an Allowed Administrative Expense Claim, Cash in an amount equal to such Claim (plus statutory interest on such claim, if applicable), on or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date and (b) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; provided that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtor shall be paid from Available Cash by the Debtor in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing or other documents relating to such transactions.

Except as otherwise provided by a Final Order previously entered by the Bankruptcy Court (including the Bar Date Order), requests for payment of Administrative Expense Claims, other than requests for payment of Fee Claims must be filed and served on the Debtor no later than the Administrative Expense Claims Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order.

Holders of Administrative Expense Claims that are required to file and serve a request for payment of such Administrative Expense Claims and that do not file and serve such a request by the Administrative Expense Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtor or its property, and Administrative Expense Claims shall be deemed compromised, settled, and released as of the Effective Date. The Plan Administrator must file and serve objections to Administrative Expense Claims on or before the Administrative Expense Claims Objection Bar Date.

2.2. *Fee Claims.*

All entities seeking an award by the Bankruptcy Court of Fee Claims shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is thirty (30) days after the Effective Date. No later than ten (10) days prior to the Effective Date, all entities holding claims for Fee Claims shall serve upon the Debtor a notice of the estimated amount of their unpaid Fee Claim and Debtor shall segregate, at Closing of the Sale Transaction, into a Estimated Professional Fee Escrow, the amounts which are necessary to pay the amount of such Fee Claim, in full subject to Allowance by the Bankruptcy Court (i) upon the later of (A) the Effective Date and (B) the date upon which the order relating to any such Allowed Fee Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the holder of

such an Allowed Fee Claim, the Debtor and the Plan Administrator. The Plan Administrator is authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

2.3. *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, each holder of an Allowed Priority Tax Claim shall receive Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of the Effective Date, the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and the date such Allowed Priority Tax Claim is due and payable in the ordinary course.

2.4. [intentionally omitted].

SECTION 3. CLASSIFICATION OF CLAIMS AND INTERESTS.

3.1. *Classification in General.*

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; provided that a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

3.2 [Intentionally Omitted]

3.3 *Summary of Classification.*

The following table designates the Classes of Claims against and Interests in the Debtor and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code and (c) deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified and, thus, are excluded from the classes of Claims and Interests set forth in this Section 3. All of the potential Classes for the Debtor are set forth herein. The Debtor may not have holders of

Claims or Interests in a particular Class or Classes, and such Classes shall be treated as set forth in Section 4.

Class	Designation	Treatment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (presumed to accept)
2	Real Property Tax Claims	Impaired	Yes
3	Village Realty Secured Claim	Impaired	Yes
4	Other Secured Claims	Unimpaired	No (presumed to accept)
5	General Unsecured Claims	Impaired	Yes
6	Existing Equity Interests	Impaired	Yes

3.4. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtor or the Plan Administrator, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

3.5. *Elimination of Vacant Classes.*

Any Class of Claims or Interests that, as of the commencement of the Confirmation Hearing, does not have at least one holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class.

3.6. *Voting Classes; Presumed Acceptance by Non-Voting Classes*

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Debtor shall request the Bankruptcy Court at the Confirmation Hearing to deem the Plan accepted by the holders of such Claims or Interests in such Class.

3.7. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code*

The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The

Debtor reserves the right to modify the Plan, in accordance with Article XI hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

SECTION 4. TREATMENT OF CLAIMS AND INTERESTS.

4.1. *Other Priority Claims (Class 1).*

(a) *Classification:* Class 1 consists of Allowed Other Priority Claims against the Debtor.

(b) *Treatment:* Except to the extent that a holder of an Allowed Other Priority Claim against the Debtor that has agreed to less favorable treatment of such Claim, each such holder shall receive, in full and final satisfaction of such Claim, Cash from the Plan Fund in an amount equal to such Claim, payable on the later of the Effective Date, the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, or when such claim becomes payable in the ordinary course or as soon as reasonably practical thereafter.

(c) *Voting:* Class 1 is Unimpaired, and the holders of Other Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Priority Claims are not entitled to vote to accept or reject the Plan.

4.2. *Real Property Tax Claims (Class 2)*

(a) *Classification:* Class 2 consists of claims for real property taxes against the Property. To the extent that Real Property Tax Claims are secured by different collateral or different interests in the same collateral, such Claims shall be treated as separate subclasses of Class 2.

(b) *Treatment:* Each Holder of an Allowed Class 2 Claim shall receive

(i) if the Property is sold to a party other than Village Realty, Cash in an amount sufficient to satisfy the sum of (1) the Allowed Class 2 Claim, together with all applicable interest, costs and fees.

(ii) If the Property is sold to Village Realty pursuant to a bid made by Village Realty pursuant to section 363(k) of the Bankruptcy Code, then Village Realty will acquire the Property subject to the Allowed Class 2 Claims.

(c) *Voting:* *Voting:* Class 2 is Impaired, and holders of the Allowed Class 2 Real Property Tax Claims are entitled to vote to accept or reject the Plan.

4.3 *Village Realty Secured Claim (Class 3).*

(a) *Classification:* Class 3 consists of the Village Realty Secured Claim. The Village Realty Secured Claim is a secured claim pursuant to the Village Realty First Mortgage, the Village Realty Second Mortgage and the Village Realty Third Mortgage each of which are secured by the Property and constitute a first priority security interest on the Property. On the Effective Date, the Village Realty Secured Claim shall be deemed Allowed.

(b) *Treatment:* The holder of the Village Realty Secured Claim shall receive

- (i) if the Property is sold (A) to a party other than Village Realty, or (B) in the event Village Realty shall make a bid in excess the amount it is entitled to credit bid under section 363(k)(without regarding to the payment of the sum of \$290,000 required under the Village Realty Stalking Horse Contract) then the Allowed Class 3 Claim shall receive Cash in an amount sufficient to satisfy the sum of the Allowed Class 3 Claim, together with all applicable interest, costs and fees thereon. In the event there is a surplus remaining after payment under this Section 4.3(b)(i), such surplus shall be paid to Allowed Class 5 Claims (General Unsecured Claims) until such claims are paid in full with the remaining funds paid to Allowed Class 6 Existing Equity Interests as set forth in Section 4.6(b) hereof. Pending the Closing of the Sale of the Property, the holder of the Class 3 claim shall retain its Lien on the Property.
- (ii) If the Property is sold to Village Realty pursuant to the Village Realty Stalking Horse Contract by a credit bid pursuant to section 363(k) of the Bankruptcy Code then Village Realty shall receive the Property and no further distribution under this Plan, *provided however*, that Village Realty shall pay the estate the sum of \$290,000 in cash in the event its bid is the successful bid for the Property and the Property is transferred to it pursuant to the terms of the Debtor's confirmed Plan.

(c) *Voting:* Class 3 is Impaired, and holder of the Village Realty Secured Claim in Class 3 is entitled to vote to accept or reject the Plan.

4.4 *Other Secured Claims (Class 4).*

(a) *Classification*: Class 4 consists of the Other Secured Claims. To the extent that Other Secured Claims are secured by different collateral or different interests in the same collateral, such Claims shall be treated as separate subclasses of Class 4.

(b) *Treatment*: Except to the extent that a holder of an Allowed Other Secured Claim against the Debtor has agreed to less favorable treatment of such Claim, each holder of an Allowed Other Secured Claim shall receive, at the option of the Plan Administrator, (i) payment in full and final satisfaction of such Allowed Class 4 Claim, Cash from the Plan Fund in the amount of such Allowed Claim payable on the later of the Effective Date and the date on which such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practical thereafter, (ii) delivery of the collateral securing such Allowed Other Secured Claim and payment of any interest required under section 506(b) of the Bankruptcy Code, or (iii) such other treatment necessary to satisfy section 1129 of the Bankruptcy Code.

(c) *Voting*: Class 4 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan.

4.5. *General Unsecured Claims (Class 5).*

(a) *Classification*: Class 5 consists of General Unsecured Claims against the Debtor.

(b) *Treatment*: On the Effective Date, or as soon thereafter as is reasonably practicable, except to the extent that a holder of an Allowed General Unsecured Claim agrees to less favorable treatment of such Allowed General Unsecured Claim or has been paid before the Effective Date, each holder of an Allowed General Unsecured Claim shall receive, in full and final satisfaction of such Claim, a pro-rata distribution of the Cash remaining in the Plan Fund up to the Allowed amount of such Claim plus accrued post-petition interest at the Federal Judgment Rate on the Effective Date.

(c) *Voting*: Class 5 is Impaired and holders of General Unsecured Claims in Class 5 are entitled to vote to accept or reject the Plan.

4.6. *Existing Equity Interests (Class 6).*

(a) *Classification*: Class 6 consists of Existing Equity Interests in the Debtor.

(b) *Treatment*: In the event that the Property is sold to a person or entity other than Village Realty, the holders of Allowed Existing Equity Interests, in exchange for such interests and for its services in supervising the management of the Property, shall receive the Sale proceeds, if any,

remaining after (i) payment of the Allowed Claims in Classes 1, 2, 3, 4 and 5 and payment in full of Allowed Administrative Claims, Allowed Priority Tax Claims and Allowed Fee Claims in full in Cash on the Effective Date. In the event the Property is sold to Village Realty pursuant to section 363(k) of the Bankruptcy Code, then Allowed Existing Equity Interests shall be extinguished on the Effective Date.

(c) *Voting*: Class 6 is Impaired by the Plan, and the holders of the Allowed Existing Equity Interests are entitled to vote to accept or reject the Plan.

SECTION 5. MEANS FOR IMPLEMENTATION.

5.1. The Sale

The Confirmation Order shall authorize the Sale of the Property under sections 363, 365, 1123(b)(4), 1129(b)(2)(A)(iii) and 1146(a) of the Bankruptcy Code. Upon the occurrence of the Effective Date, the Confirmation Order shall authorize the Plan Administrator to take any and all actions necessary consummate the Sale of the Property without further order of the Bankruptcy Court.

5.2. Plan Administrator

(a) *Appointment*. Robinson Brog Leinwand Greene Genovese & Gluck P.C. shall serve as Plan Administrator for the Debtor.

(b) *Authority*. The Plan Administrator shall have the authority and right on behalf of the Debtor, without the need for Bankruptcy Court approval (unless otherwise indicated), to carry out and implement all provisions of the Plan, including, without limitation, to:

(i) except to the extent Claims have been previously Allowed, to control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims against the Debtor;

(ii) make Distributions to holders of Allowed Claims in accordance with the Plan;

(iii) exercise its reasonable business judgment to direct and control the Sale of the Property in accordance with the Sale and Bidding Procedures; including the execution of a deed conveying the Property in accordance with the terms of the Plan and related sale documentation as attorney-in-fact for the Debtor;

(iv) prosecute all Causes of Action on behalf of the Debtor, elect not to pursue any Causes of Action, and determine whether and when to compromise, settle, abandon, dismiss, or otherwise dispose of any such Causes of Action, as the Plan Administrator may determine is in the best interests of the Debtor;

(v) make payments to existing professionals who will continue to perform in their current capacities;

(vi) retain professionals to assist in performing its duties under the Plan;

- (vii) maintain the books and records and accounts of the Debtor;
- (viii) invest Cash of the Debtor, including any Cash proceeds realized from the liquidation of any assets of the Debtor, including any Causes of Action, and any income earned thereon;
- (ix) incur and pay reasonable and necessary expenses in connection with the performance of duties under the Plan, including the reasonable fees and expenses of professionals retained by the Plan Administrator;
- (x) pay statutory fees in accordance with Section 14.1 of the Plan; and
- (xi) perform other duties and functions that are consistent with the implementation of the Plan.

5.3. Withholding and Reporting Requirements.

(a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Person that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including, without limitation, income, withholding, and other taxes, on account of such distribution. Any party issuing any instrument or making any distribution pursuant to the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms.* Any party entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Person designated by the Plan Administrator (which entity shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Person) Form W-8, unless such Person is exempt under the tax Code and so notifies the Disbursing Agent. If such request is made by the Plan Administrator or such other Person designated by the Plan Administrator and the holder fails to comply before the date that is 180 days after the request is made, the amount of such distribution shall irrevocably revert to the Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against any Debtor and its respective property.

5.4. Exemption From Certain Transfer Taxes.

To the maximum extent provided by 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 under this Plan as confirmed by the Court, (including an instrument of transfer executed in furtherance of the sale contemplated by the Plan), shall not be subject to tax under any law imposing a stamp tax, real estate transfer tax, mortgage recording tax or similar tax due on the sale of the Property in connection with or in furtherance of the Plan as confirmed by the Court and the funding requirements contained herein and shall not be subject to any state, local or federal law imposing such tax and the appropriate state or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

5.5. Effectuating Documents; Further Transactions.

On and after the Effective Date, the Plan Administrator is authorized to and may issue, execute, deliver, file or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtor, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

5.6. Preservation of Rights of Action.

(a) Other than Causes of Action against an Entity that are waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Debtor reserves any and all Causes of Action. On and after the Effective Date, the Plan Administrator may pursue such Causes of Action in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Plan Administrator will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation. Prior to the Effective Date, the Debtor, and on and after the Effective Date, the Plan Administrator, shall retain and shall have, including through its authorized agents or representatives, the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. Notwithstanding anything contained herein to the contrary, the settlement of any Claims and Causes of Action which are expressly to be settled by Confirmation of the Plan itself shall be resolved only by Confirmation of the Plan itself.

5.7. Closing of the Chapter 11 Case.

After the Chapter 11 Case of the Debtor has been fully administered, the Plan Administrator shall seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

SECTION 6. GOVERNANCE

6.1. *Limited Liability Company Existence.*

After the Effective Date, the Plan Administrator may decide to (a) maintain the Debtor as limited liability company in good standing until such time as all aspects of the Plan pertaining to the Debtor have been completed, or (b) at such time as the Plan Administrator considers appropriate and consistent with the implementation of the Plan pertaining to the Debtor, dissolve the Debtor and complete the winding up of such Debtor without the necessity for any other or further actions to be taken by or on behalf of the Debtor or its members or any payments to be made in connection therewith subject to the filing of a certificate of dissolution with the appropriate governmental authorities.

6.2. *Wind Down*

After the Effective Date, pursuant to the Plan, the Plan Administrator shall wind-down, sell and otherwise liquidate assets of the Debtor in accordance with Section 5.3(b)(iii) of the Plan. The wind-down, sale and liquidation of the Debtor's assets (as determined for federal income tax purposes) shall occur over a period not to exceed three (3) months after the closing of the Sale of the Property.

6.3. *Certificate of Organization and By-Laws.*

As of the Effective Date, the certificate of organization and by-laws of the Debtor shall be amended to the extent necessary to carry out the provisions of the Plan.

SECTION 7. DISTRIBUTIONS.

7.1. *Distribution Record Date.*

As of the close of business on the Distribution Record Date, the transfer register for each of the Classes of Claims or Interests as maintained by the Debtor shall be deemed closed, and there shall be no further changes in the record of

holders of any of the Claims or Interests. The Debtor or the Plan Administrator shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date.

7.2. *Date of Distributions*

Except as otherwise provided herein, the Debtor shall make the Initial Distribution to holders of Allowed Claims no later than the Initial Distribution Date and thereafter, the Debtor shall from time to time determine the subsequent Distribution Dates, if any. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

The Plan Administrator shall reserve an amount sufficient to pay holders of Disputed Claims the amount such holders would be entitled to receive under the Plan if such Claims were to become Allowed Claims. In the event the holders of Allowed Claims have not received payment in full on account of their Claims after the resolution of all Disputed Claims, then the Plan Administrator shall make a final distribution to all holders of Allowed Claims.

Notwithstanding anything to the contrary in the Plan, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a distribution in excess of the Allowed amount of such Claim plus any interest accruing on such Claim that is actually payable in accordance with the Plan.

7.3. *Delivery of Distributions.*

In the event that any distribution to any holder is returned as undeliverable, no distribution to such holder shall be made unless and until the Debtor or the Plan Administrator, as applicable, has determined the then current address of such holder, at which time such distribution shall be made to such holder without Interest; provided, however, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the Initial Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Debtor automatically and without need for a further order by the Bankruptcy Court for distribution in accordance with the Plan and the Claim of any such holder to such property or interest in property shall be released, settled, compromised, and forever barred. The Plan Administrator shall have no obligation to locate the current address for a returned distribution.

7.4. Manner of Payment Under Plan.

At the option of the Debtor or the Plan Administrator, any Cash payment to be made hereunder may be made by a check or wire transfer.

7.5. Minimum Cash Distributions.

The Plan Administrator shall not be required to make any payment to any holder of an Allowed Claim on any Distribution Date of Cash less than \$100; provided, however, that if any distribution is not made pursuant to this Section 7.5, such distribution shall be added to any subsequent distribution to be made on behalf of the holder's Allowed Claim. The Plan Administrator shall not be required to make any final distributions of Cash less than \$50 to any holder of an Allowed Claim. If either (a) all Allowed Claims (other than those whose distributions are deemed undeliverable hereunder) have been paid in full or (b) the amount of any final distributions to holders of Allowed Claims would be \$50 or less and the aggregate amount of Cash available for distributions to holders of Allowed General Unsecured Claims is less than \$2,500, then no further distribution shall be made by the Plan Administrator and any surplus Cash shall be donated and distributed to an I.R.C. § 501(c)(3) tax-exempt organization selected by the Plan Administrator.

7.6. Setoffs.

The Debtor and the Plan Administrator may, but shall not be required to, set off against any Claim, any Claims of any nature whatsoever that the Debtor or the Plan Administrator may have against the holder of such Claim; provided that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Plan Administrator of any such Claim the Debtor or the Plan Administrator may have against the holder of such Claim.

7.7. Distributions After Effective Date.

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

7.8. Allocation of Distributions Between Principal and Interest.

Except as otherwise provided in this Plan, to the extent that any Allowed Claim entitled to a distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall be allocated to the principal amount (as determined for U.S. federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

7.9. Payment of Disputed Claims

As Disputed Claims are resolved pursuant to Section 8 hereof, the Plan Administrator shall make distributions on account of such Disputed Claims as if such Disputed Claims were Allowed Claims as of the Effective Date. Such distributions shall be made on the first Distribution Date that is at least forty-five (45) days after the date on which a Disputed Claim becomes an Allowed Claim, or on an earlier date selected by the Plan Administrator in the Plan Administrator's sole discretion.

SECTION 8. PROCEDURES FOR DISPUTED CLAIMS.

8.1. Allowance of Claims.

After the Effective Date, the Plan Administrator shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim deemed Allowed under this Plan. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including, without limitation, the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

8.2. Objections to Claims.

As of the Effective Date, objections to and requests for estimation of, Claims against the Debtor may be interposed and prosecuted only by the Plan Administrator. Such objections and requests for estimation shall be served and filed (a) on or before the 60th day following the later of (i) the Effective Date and (ii) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (b) such later date as ordered by the Bankruptcy Court upon motion filed by the Plan Administrator.

8.3. Estimation of Claims.

The Plan Administrator may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor or Plan Administrator previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate

any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor or Plan Administrator, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

8.4. No Distributions Pending Allowance.

If an objection to a Claim is filed as set forth in Section 8, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

8.5. Resolution of Claims.

Except as otherwise provided herein, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with this Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Plan Administrator shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Claims, Disputed Claims, rights, Causes of Action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Debtor or their estates may hold against any Person, without the approval of the Bankruptcy Court, the Confirmation Order, and any contract, instrument, release, indenture, or other agreement entered into in connection herewith. The Plan Administrator or its successor may pursue such retained Claims, rights, Causes of Action, suits or proceedings, as appropriate, in accordance with the best interests of the Debtor.

8.6. Disallowed Claims.

All Claims held by persons or entities against whom or which any of the Debtor or the Plan Administrator has commenced a proceeding asserting a Cause of Action under sections 542, 543, 544, 545, 547, 548, 549 and/or 550 of the Bankruptcy Code shall be deemed "disallowed" Claims pursuant to section 502(d) of the Bankruptcy Code and holders of such Claims shall not be entitled to vote to accept or reject the Plan. Claims that are deemed disallowed pursuant to this section shall continue to be disallowed for all purposes until the Avoidance Action

against such party has been settled or resolved by Final Order and any sums due to the Debtor or the Plan Administrator from such party have been paid.

SECTION 9. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

9.1. Assumption and Assignment of Executory Contracts and Unexpired Leases

On the Effective Date, except as otherwise provided in the Plan, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned shall be deemed automatically assumed pursuant to sections 365 and 1123 of the Bankruptcy Code, and assigned to the Purchaser of the Property unless such Executory Contract or Unexpired Lease: (1) is specifically described in the Purchase Agreement as being rejected in connection with Confirmation of the Plan or under the Purchase Agreement; (2) as of the Effective Date is subject to a pending motion to reject such Unexpired Lease or Executory Contract; (3) was previously assumed or assumed and assigned to a third party during the pendency of the Chapter 11 Cases; or (4) is a contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan.

9.2. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases

Any Cure Obligation due under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment in Cash on the Effective Date, subject to the limitation described below, by the Debtor as an Administrative Claim or by the Purchaser, as applicable, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree.

In the event of a dispute regarding (1) the amount of the Cure Obligation, (2) the ability of the Debtor's Estate or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure Obligations required by section 365(b)(1) of the Bankruptcy Code shall be satisfied following the entry of a Final Order or orders resolving the dispute and approving the assumption; provided that, depending on whether the Plan Administrator or the Purchaser has the obligation to pay the Cure Obligation, such party may settle any dispute regarding the amount of any Cure Obligation without any further notice to any party or any action, order, or approval of the Bankruptcy Court.

At least fourteen (14) days before the Confirmation Hearing, the Debtor shall cause notice of proposed Cure Obligations to be sent to applicable counterparties to

the Executory Contracts and Unexpired Leases. Any objection by such counterparty must be filed, served, and actually received by the Debtor not later than ten (10) days after service of notice of the Debtor's proposed assumption and associated Cure Obligation. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed cure amount will be deemed to have assented to such Cure Obligation.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the Effective Date of assumption and/or assignment. **Any prepetition default amount set forth in the Schedules and/or any Proofs of Claim filed with respect to an Executory Contract or Unexpired Lease that has been assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.**

9.3. Claims Based on Rejection of Executory Contracts and Unexpired Leases

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtor's Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be filed with Bankruptcy Court and served on the Plan Administrator no later than fourteen (14) days after the earlier of the Effective Date or the effective date of rejection of such Executory Contract or Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court and served on the Debtor, no later than fourteen (14) days after service of the Debtor's proposed rejection of such Executory Contract or Unexpired Lease.

Any holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely filed as set forth in the paragraph above shall not (1) be treated as a creditor with respect to such Claim, (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (3) participate in any distribution in the Chapter 11 Case on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtor, the Plan Administrator, the Debtor's Estate, or the property for any of the foregoing without the need for any objection by the Plan Administrator or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the

Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtor's prepetition Executory Contracts or prepetition Unexpired Leases shall be classified as General Unsecured Claims, except as otherwise provided by order of the Bankruptcy Court.

9.4. Purchase Agreement

The Debtor's assumption or rejection of any Executory Contract or Unexpired Lease pursuant to the Plan shall be subject in all respects to the Purchaser's rights and obligations, including any Cure Obligations assumed by the Purchaser in accordance with the Purchase Agreement, with respect to any such Executory Contracts or Unexpired Leases assigned to the Purchaser pursuant to the terms of the Purchase Agreement.

9.5. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in the Plan, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

9.6. [Intentionally Omitted]

9.7. Reservation of Rights

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtor's Estate have any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtor or the Plan

Administrator, as applicable, shall have 60 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

SECTION 10. [Intentionally Omitted]

SECTION 11. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE.

11.1. *Conditions Precedent to the Effective Date.*

The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

- (a) the Bankruptcy Court shall have entered the Confirmation Order, the Confirmation Date shall have occurred and the Confirmation Order shall not be subject to any stay;
- (b) all actions, documents and agreements necessary to implement and consummate the Plan, including, without limitation, entry into the documents contained in the Plan Supplement required to be executed prior to the Confirmation Date, shall have been effected or executed;
- (c) all governmental and third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan, if any, shall be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose materially adverse conditions on such transactions; and
- (d) all documents and agreements necessary to implement the Plan shall have (i) been tendered for delivery and (ii) been effected or executed by all Entities party thereto, and all conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

11.2. *Waiver of Conditions Precedent.*

Each of the conditions precedent to the Effective Date in Section 11.1 other than the condition set forth in section 11.1(a) may be waived in writing by the Debtor.

11.3. *Effect of Failure of Conditions to Effective Date.*

If the Confirmation Order is vacated due to a failure of a condition to the Effective Date to occur, (i) no distributions under the Plan shall be made and (ii) the Debtor

and all holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date ever occurred.

SECTION 12. EFFECT OF CONFIRMATION.

12.1. *Vesting of Assets.*

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's Estate shall vest in the Debtor free and clear of all Claims, liens, encumbrances, charges and other interests, except as provided pursuant to this Plan and the Confirmation Order.

12.2. *Release of Liens.*

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all rights, titles, and interests of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtor, unless sold to the Purchaser pursuant to the Sale Transaction.

12.3. *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor reserves the right for the Plan Administrator to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

12.4. *Binding Effect.*

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Effective Date, the provisions of the Plan shall bind any holder of a Claim against, or Interest in, the Debtor, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

12.5 [intentionally omitted]

12.6. *Term of Injunctions or Stays.*

Unless otherwise provided, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

12.7. *Plan Injunction.*

Except (i) as otherwise provided under Final Order entered by the Bankruptcy Court or (ii) with respect to the Debtor's obligations under the Plan, the entry of the Confirmation Order shall forever stay, restrain and permanently enjoin with respect to any Claim held against the Debtor 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 Debtor, from the Property, or from property of the Estate 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 Estate 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 Debtor, from the Property, or from property of the Estate, any claim, any obligation or debt that was held against the Debtor by any person or entity as of the Confirmation Date except pursuant to the terms of this 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.

12.8. *Limitation of Liability*

To the extent permitted under Section 1125(e) of the Bankruptcy Code, neither the Exculpated Parties nor any of their respective officers, directors, or employees (acting in such capacity) nor any professional person employed by any of them, 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, the Plan Supplement or the 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 the Plan, provided that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its

duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement, 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 in this Section 12.8 shall limit the liability of the Debtor's professionals pursuant to Rule 1.8 (h)(1) of the New York State Rules of Professional Conduct. Nothing in the Plan or the confirmation order shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including, without limitation, any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Debtor or any of its respective members, shareholders, officers, directors, employees, attorneys, advisors, agents, representatives and assigns, nor shall anything in the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Debtor or any of its respective members, officers, directors, employees, attorneys, advisors, agents, representatives and assigns for any liability whatever, including without limitation, any claim, suit or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority, nor shall anything in this Plan exculpate Debtor or any of its respective members, officers, directors, employees, attorneys, advisors, agents, representatives and assigns from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority.

12.9 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 Debtor, 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 Debtor, its Creditors or Interest Holder ever had or now have through the Effective Date in connection with their Claim or Interest (including, without limitation, any claims the Debtor may assert on its 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 Debtor absent bankruptcy, any claims based on the conduct of the Debtor's business affairs prior or subsequent to the commencement of the Case or any claims based on the negotiation, submission and confirmation of the Plan).

12.10. *Solicitation of the Plan.*

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule or regulation governing the adequacy of disclosure in connection with such solicitation.

12.11. *Plan Supplement.*

The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court by no later than five (5) business days prior to the Confirmation Hearing. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours.

SECTION 13. RETENTION OF JURISDICTION.

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Case for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of Executory Contracts or Unexpired Leases and the allowance, classification, priority, compromise, estimation or payment of Claims resulting there from;

(b) to determine any motion, adversary proceeding, application, contested matter, or other litigated matter pending on or commenced after the Confirmation Date;

(c) to insure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) to consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim;

(e) to enter, implement or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

(f) to enter the Sale Order and adjudicate any dispute related to such order, the Sale and Bidding Procedures, the Sale Transaction or the Auction of the Property;

(g) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any

Person with the Consummation, implementation or enforcement of the Plan, including the Confirmation Order, or any other order of the Bankruptcy Court;

(h) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(i) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred before the Confirmation Date;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Purchase Agreement, or the Confirmation Order or any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following Consummation;

(l) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations of the Debtor's tax liability under section 505(b) of the Bankruptcy Code);

(n) to adjudicate, decide or resolve any and all matters related to section 1141 of the Bankruptcy Code;

(o) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter a final decree closing the Chapter 11 Cases;

(r) to enforce all orders previously entered by the Bankruptcy Court;

(s) to recover all assets of the Debtor and property of the Debtor's Estate, wherever located; and

(t) to hear and determine any rights, Claims or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory.

SECTION 14. MISCELLANEOUS PROVISIONS.

14.1. *Payment of Statutory Fees.*

On the Effective Date and thereafter as may be required, the Debtor or the Plan Administrator shall pay all fees incurred pursuant to § 1930 of title 28 of the United States Code, together with interest, if any, pursuant to § 3717 of title 31 of

the United States Code for the Debtor's case; provided, however, that after the Effective Date such fees shall only be payable with respect to the Debtor's Case until such time as a final decree is entered closing the Debtor's Case, a Final Order converting such case to a case under chapter 7 of the Bankruptcy Code is entered or a Final Order dismissing the Debtor's Case is entered.

14.2. *Substantial Consummation.*

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

14.3. *[intentionally omitted]*

14.4. *Amendments.*

(a) *Plan Modifications.* The Plan may be amended, modified or supplemented by the Debtor in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code; provided that such amendments, modifications, or supplements shall be satisfactory in all respects to the Debtor. In addition, after the Confirmation Date, the Debtor may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

(b) *Other Amendments.* Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement without further order or approval of the Bankruptcy Court.

14.5. *Revocation or Withdrawal of the Plan.*

The Debtor reserves the right to revoke or withdraw the Plan, prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtor, the Debtor's Estates, or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor, the Debtor's Estates, or any other Entity.

14.6. *Severability of Plan Provisions upon Confirmation.*

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtor or the Plan Administrator (as the case may be); and (3) nonseverable and mutually dependent.

14.7. *Governing Law.*

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto or a schedule in the Plan Supplement provides otherwise, the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

14.8. *Time.*

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

14.9. *Additional Documents*

On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

14.10. *Immediate Binding Effect.*

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the Purchaser, the holders of Claims and Interests, the Released Parties, the Exculpated Parties, and each of their respective successors and assigns, including, without limitation, the Plan Administrator.

14.11. *Successor and Assigns.*

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or permitted assign, if any, of each Entity.

14.12. *Entire Agreement.*

On the Effective Date, the Plan, the Plan Supplement, the Purchase Agreement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

14.13. *Notices.*

All notices, requests and demands to or upon the Debtor to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

- (i) if to the Debtor:
c/o Eric Goodman Realty
307 E. 89th Street
Attn: Matt Goodman
New York, New York 10128

- (ii) If to the Plan Administrator:
c/o **Robinson Brog Leinwand Greene
Genovese & Gluck P.C.**
875 Third Avenue, 9th Floor

New York, New York 10022
Attention: Fred B. Ringel

After the Effective Date, the Debtor shall have the authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, that they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

Dated: August 4, 2017
New York, New York

135 West 13, LLC

By: /s/ Max Dolgicer
Max Dolgicer, Member

Exhibit B

135 West 13 LLC – Proposed Bid Procedures

The following Bid Procedures shall govern the auction process for the sale of the land, buildings and improvements located at 133 and 135 West 13th Street, New York, New York (the “Real Property”) pursuant to the Plan of Reorganization (as the same may be amended or modified, the “Plan”) filed by 135 West 13 LLC, the Debtor and plan proponent, in its chapter 11 case pending before the United States Bankruptcy Court, Southern District of New York (the “Bankruptcy Court”), and the Bankruptcy Court’s Order Approving Disclosure Statement for Plan **dated _____, 2017** authorizing the Auction of the Real Property, pursuant to higher or better Qualified Bids received by the Debtor, in furtherance of the Plan and its provisions regarding the sale of the Real Property or the Plan.¹

On August 4, 2017, the Debtor entered into a Real Estate Purchase Agreement (the “Purchase Agreement”)² to sell its real property located at 133 and 135 West 13th Street, New York, New York to Village Realty Holdings LLC (“Village Realty”) under its Plan of Reorganization free and clear of all liens, claims and encumbrances in exchange for a credit bid pursuant to section 363(k) of the Bankruptcy Code of its mortgages totaling not less than \$13,226,429 plus cash in the amount of \$290,000 and acquire the building subject to the outstanding real property taxes and water and sewer liens that the Debtor estimates total approximately \$483,600 plus any applicable interest thereon. The Debtor has valued Village Realty’s bid at \$14,000,029.³ Pursuant to the Bidding Procedures set forth below, the initial Qualified Bid for the Property must be no less than \$13,854,000 provided the acquirer purchases the Property on substantially the same terms and condition as Village Realty pursuant to the Purchase Agreement attached to the Disclosure Statement as Exhibit “C”.

1. **Determination of “Qualified Bidder” Status.** Any potential bidder who wishes to participate in the Auction (as hereinafter defined) and to bid to acquire the Real Property must be a “Qualified Bidder.” A Qualified Bidder is a potential bidder who, on or before **[the date set by the broker in the notice]** (the “Qualified Bidder Deadline”), delivers so as to be actually received by (a) counsel to the Debtor, Robinson Brog Leinwand Greene Genovese & Gluck P.C., 875 Third Avenue, 9th Floor, New York New York 10022, Attention: Fred B. Ringel and (b) Besen & Associates, Inc., 381 Park Avenue South, New York, New York 10016, Attention: Greg Corbin (the “Real Estate Broker”), a written and signed irrevocable and binding offer that fully discloses the identity of the person or entity that will be

¹ All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Plan

² The Real Estate Purchase Agreement is attached to the Disclosure Statement as Exhibit “C”.

³ The foregoing is a summary of the contract between Village Realty and the Debtor. Parties in interest are referred to the full contract, on file with the Court, for the complete terms and conditions.

bidding for the Real Property (the "Potential Bidder") or otherwise participating in connection with such bid on behalf of the Potential Bidder, and the terms of any such participation. The Potential Bidder must fully disclose the identity of each person or entity that will be bidding for the Property or otherwise participating in connection with such bid (including any equity holder or other financial backer if the Potential Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by the bid).

The Qualifying Packet must also include:

- (i) the Potential Bidder's address, telephone number and email address where the bidder may be contacted and
- (ii) a signed acknowledgement that:
 - (a) the Potential Bidder is not a partner, officer, director, stockholder, agent, employee or insider of the Debtor, the Debtor's principals, Robinson Brog, the Real Estate Broker, Village Realty or its counsel or any relative of any of the foregoing; and
 - (b) the Potential Bidder relied solely on its own independent investigation, analysis, appraisal and evaluation of the Real Property and did not receive and/or rely upon any written or oral statements, representations, warranties, promises or guarantees whatsoever, whether express or implied or by operation of law or otherwise, with respect to the Real Property;
- (iii) a verification that the Potential Bidder is financially able and interested in acquiring the Real Property for a cash price of not less than \$13,854,000 under the terms of the Purchase Agreement, without contingencies as to financing and/or additional due diligence (it being understood, however, that the Potential Bidder, while bound to its bid until one day after the Closing Date (as defined herein) or until its bid is affirmatively rejected, shall not be deemed to have made an offer to acquire the Real Property binding upon the Debtor prior to the time that the Auction, as hereinafter defined, is conducted and the Sale approved by the Bankruptcy Court;
- (iv) financial information acceptable to the Debtor in its reasonable discretion which fairly and reasonably demonstrates the Potential Bidder's ability (and the bases or sources of the Potential Bidder's ability) to close on its purchase of the Real Property if the Potential Bidder should be the Successful Bidder (as hereinafter defined), in

an amount at least as much as its bid;

- (v) evidence acceptable to the Debtor in its reasonable discretion that a good faith deposit in the amount of 10% of the Potential Bidder's Bid, or at least ten (10%) percent of the amount of its bid (the "Deposit") in immediately available funds has been made (or is concurrently being made) by wire transfer to the Debtor's counsel, pursuant to wire instructions to be provided by the Debtor;
- (vi) a written verification of the Potential Bidders understanding and consent that the Deposit shall be held by the Debtor in a non-interest bearing, segregated, account in accordance with the terms hereof;
- (vii) a written verification that, if the Potential Bidder is the Successful Bidder (as hereinafter defined), it shall, within two (2) Business Days after the Auction, increase the Deposit as necessary to an amount equal to ten (10%) percent of its final bid at the Auction, with **TIME BEING OF THE ESSENCE AS TO THE SUCCESSFUL BIDDER'S OBLIGATION TO INCREASE THE DEPOSIT;**
- (viii) a written verification of the Potential Bidder's intent and ability to close on the purchase of the Real Property if the Qualified Bidder's bid at the Auction is selected as the Successful Bid (as hereinafter defined), in accordance with the terms of the Purchase Agreement, with **TIME BEING OF THE ESSENCE AS TO THE SUCCESSFUL BIDDER'S OBLIGATION TO CLOSE ON THE CLOSING DATE AND TO PAY THE BALANCE OF THE PURCHASE PRICE AT THE CLOSING;**
- (ix) a written verification that if such Potential Bidder is determined by the Debtor to have submitted the second highest or best bid at the Auction (the "Back-up Bid") and, therefore, to be designated the back-up bidder (the "Back-up Bidder"), and is notified in writing that the Debtor has determined to proceed with the Back-up Bid after default by the Successful Bidder, to close on the purchase of the Real Property on the Back-up Closing Date (as hereinafter defined), with **TIME BEING OF THE ESSENCE AS TO THE BACK-UP BIDDER'S OBLIGATION TO CLOSE ON THE BACK-UP CLOSING DATE AND TO PAY THE BALANCE OF THE PURCHASE PRICE AT THE CLOSING;**
- (x) a written verification that, if such Potential Bidder (a) is the Successful Bidder, that the Deposit shall become non-refundable if

the Potential Bidder's bid at the Auction is selected as the Successful Bid and shall be forfeited by such Successful Bidder as liquidated damages if the Successful Bidder shall fail to close the purchase on a date which is not later than 30 days from the date of the Auction (the "Closing Date") other than for those circumstances expressly permitted under the Purchase Agreement; and (b) is the Back-up Bidder and the Debtor determines to proceed with the Back-up Bid after default by the Successful Bidder, that the Deposit shall become non-refundable and shall be forfeited by such Back-up Bidder as liquidated damages if the Back-up Bidder shall fail to close the purchase on the Back-up Closing Date other than for those circumstances expressly permitted under the Purchase Agreement;

- (xi) a verification that the Potential Bidder consents to these Bid Procedures by signing and delivering an executed original of this document to the Debtor at or prior to the Qualified Bidder Deadline, with copies to the Debtor's counsel and counsel for Village Realty;
- (xii) attaches an executed copy of the Real Estate Purchase Agreement, marked to show proposed changes from the form executed by Village Realty Holdings LLC (the "Modified Agreement").

2. **The Opening Bid.** Village Realty (the "Stalking Horse Bidder"), pursuant to the Village Realty Stalking Horse Contract is deemed a Qualified Bidder and shall be deemed to have submitted the opening bid of \$14,000,029 (the "Stalking Horse Bid"), with the right to submit additional Bids pursuant to section 363(k) of the Bankruptcy Code. Notwithstanding anything to the contrary contained herein, the Stalking Horse Bidder is a Qualified Bidder, but shall not be obligated to submit the information or documents included in section 1 hereof, including, but not limited to, any Deposit.

3. **Auction.** If the Debtor determines that there are no submissions by Qualified Bidders other than the Stalking Horse Bidder by the Qualified Bidder Deadline, then the Stalking Horse Bidder shall be determined to be the Successful Bidder pursuant to its Stalking Horse Bid. In the event that the Debtor receives by the Qualified Bidder Deadline one or more submissions that the Debtor determines to be from Qualified Bidders, then the Debtor, shall conduct an auction with respect to the Real Property (the "Auction") on **September __, 2017** at 11:00 a.m. (Eastern Time) at the offices of Robinson Brog Leinwand Greene Genovese & Gluck P.C. 875 Third Avenue, 9th Floor, New York, New York 10022, or such other location determined by the Debtor. The Auction shall be live and in person. The Auction shall be governed by the following procedures:

(a) Only the Debtor and Qualified Bidders may participate at the Auction, and only the Debtor, Qualified Bidders, their respective counsel representatives, the Real Estate Broker and a stenographer may be present throughout the Auction;

(b) Only Qualified Bidders shall be entitled to make any subsequent and additional bids at the Auction;

(c) Each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale;

(d) Other than the Stalking Horse Bidder, Qualified Bidders shall participate in person or through a duly authorized representative at the Auction; the Stalking Horse Bidder may participate in the Auction in person, by telephone or through counsel present at the Auction;

(e) The first bid over the Stalking Horse Bid shall be no less than \$14,050,029.00 (the "Opening Bid"). Qualified Bidders may thereafter make successive bids in increments of at least \$50,000 (the "Bid Increments") higher than the previous bid (or such other amount as may be agreed to by the Debtor after consultation with the Real Estate Broker);

(f) The Auction shall continue until such time as it appears to the Debtor, in its reasonable discretion, that none of the Qualified Bidders is prepared to advance the Auction and there is only one offer that the Debtor, determines is the highest or best offer submitted at the Auction from among the Qualified Bidders, including the Stalking Horse Bidder (the "Successful Bid"). The Debtor shall give fair warning of the closing of the bidding.

(g) If more than one Qualified Bidder submits a bid in excess of the Opening Bid, after selection of the Successful Bidder, then the Debtor, in its reasonable discretion, shall determine which Qualified Bid constitutes the Back-up Bid;

(h) In considering bids submitted by Qualified Bidders at the Auction, the Debtor, in its reasonable discretion, may request that Qualified Bidders provide financial information which fairly and reasonably demonstrates the Qualified Bidder's ability to close on its purchase of the Real Property should the Qualified Bidder be the Successful Bidder, and Qualified Bidders shall have such information available at the Auction so as not to cause unnecessary delay. Requests for any delay or deferral of the Auction, and/or the selection of the Successful Bid, shall not be permitted in order to submit such financial information except in the sole discretion of the Debtor;

(i) Deposits submitted by Qualified Bidders who are not the Successful

Bidder or Back-up Bidder shall be returned by the Debtor to such Qualified Bidders within three (3) Business Days after the Auction, except as otherwise provided herein;

(j) Bids at the Auction must be all cash, without financing or other contingencies;

(k) Bids at the Auction must be able to close on the sale strictly in accordance with the terms of the Purchase Agreement with **TIME BEING OF THE ESSENCE** with respect to the purchaser's obligation to close; and

(l) Village Realty shall be deemed a Qualified Bidder.

4. **Obligation to Close and Default.**

(a) The Successful Bidder (or, upon written consent granted by the Plan Administrator, an assignee of the Successful Bidder) shall close on the purchase of the Real Property and pay the amount of the Successful Bid, less any Deposit, on the Closing Date, with **TIME BEING OF THE ESSENCE AS TO THE SUCCESSFUL BIDDER'S OBLIGATION TO CLOSE ON THE CLOSING DATE AND TO PAY THE BALANCE OF THE PURCHASE PRICE AT THE CLOSING.** The Successful Bidder shall be obligated to close title to the Real Property and there is no contingency of any kind or nature that will permit the Successful Bidder not to proceed at the Closing other than the inability of the Debtor to deliver title to the Real Property consistent with its obligations under the Purchase Agreement or the Modified Agreement, as applicable. In the event the Successful Bidder shall fail to timely close the purchase of the Real Property in accordance with all of the provisions of the Agreement, the Successful Bidder shall be in default and the Successful Bidder shall forfeit its Deposit.

(b) If for any reason the Successful Bidder shall fail to timely close the sale of the Real Property and the Debtor, in accordance with the provisions of the Purchase Agreement, exercises its option to proceed with the Back-up Bid, the Back-up Bidder (or, upon written consent granted by the Debtor, an assignee of the Back-up Bidder) shall close on the purchase of the Real Property and pay the amount of the Back-up Bid, less its Deposit, on the later of the Closing Date or twenty (20) Business Days after written notice of the Successful Bidder's default in closing (the "Back-up Closing Date"), with **TIME BEING OF THE ESSENCE AS TO THE BACK-UP BIDDER'S OBLIGATION TO CLOSE ON THE BACK-UP CLOSING DATE AND TO PAY THE BALANCE OF THE PURCHASE PRICE AT THE CLOSING.** If the Debtor proceeds with the Back-up Bid then the Back-up Bidder shall be obligated to close title to the Real Property and there shall be no contingency of any kind or nature that will permit the Back-up Bidder not to proceed on the Back-up Closing Date other than the inability of the Debtor to

deliver title to the Real Property or the failure of any other part of the conditions set forth in the Purchase Agreement. In the event the Back-up Bidder shall be obliged, but shall fail, to timely close the purchase of the Real Property in accordance with the provisions of the Agreement, the Back-up Bidder shall be in default and the Back-up Bidder shall forfeit its Deposit.

5. **Deposits of Successful Bidder and Back-up Bidder.**

(a) The Deposit submitted by the Successful Bidder shall be held by the Debtor pending the closing of the sale. The Successful Bidder's Deposit shall be applied to the sale price upon the closing of the sale, unless the Successful Bidder shall default and fail to close in accordance with the provisions of the Agreement and forfeit its Deposit.

(b) The Deposit submitted by the Back-up Bidder shall be held by the Debtor in a non-interest bearing, segregated account of the primary account the Debtor maintains for the Debtor's estate until the earlier of (i) the Closing, or (ii) forty-five (45) Calendar Days after the Auction; provided, however, if the Successful Bidder fails to close and the Debtor decides to proceed with the Back-up Bid, then the Back-up Bidder's Deposit shall continue to be held by the Debtor and shall be applied to the sale price upon the closing of the sale on the Back-up Closing Date, unless the Back-up Bidder shall default and fail to close and forfeit its Deposit, which shall be remitted to the Debtor's estate and retained by the Debtor as liquidated damages.

6. **Due Diligence.** Each Bidder is solely responsible for conducting its own due diligence and must complete its due diligence prior to the submission of its bid.

7. **Reservation of Rights.** In the interest of maximizing the results realized through the Auction, the Debtor reserves the right to: (a) modify any of the deadlines set forth in these Bid Procedures; (b) modify or waive, at or prior to the close of the Auction, the procedures and terms and conditions regarding the sale of the Real Property; and/or (c) adjourn the Auction. Anything to the contrary contained in these Bid Procedures notwithstanding, the Debtor, upon the written consent of Village Realty, shall have the right, to adjourn the Closing Date or the Back-up Closing Date to remedy any defect to title of the Real Property, but such adjournment shall be limited in accordance with the terms of the Purchase Agreement.

8. **Additional Terms, Conditions and Procedures.**

(a) If the Debtor is unable to deliver title to the Real Property in accordance with these Bid Procedures or the Plan for any reason whatsoever, the prospective purchaser will have no recourse against the Debtor, the Plan Administrator, Village

Realty, their respective counsel or any broker retained by Order of the Bankruptcy Court; provided, however, that a Qualified Bidder in this circumstance shall be entitled to a return of its Deposit.

(b) By participating in the Auction, all Bidders consent to the jurisdiction of the Bankruptcy Court to determine any concerning the sale of the Real Property. The Bankruptcy Court shall retain sole and exclusive jurisdiction over all matters relating to the Real Property, the Plan and the sale contemplated by these Bid Procedures.

10. **Approval Order: Sale to Stalking Horse Bidder.**

(a) The Sale to any entity other than the Stalking Horse Bidder is subject to entry of an order by the Bankruptcy Court at a hearing to be held on a date to be fixed by the Court at the request of the Debtor as soon as practicable after the Auction is concluded. Such hearing will be held before the Honorable Sean H. Lane, United States Bankruptcy Judge for the Southern District of New York, One Bowling Green, New York, New York 10004.

(b) In the event that there are no offers for the Property by the expiration of the Qualified Bidder Deadline other than the bid by the Stalking Horse Bidder, then the Debtor may sell the Property to the Stalking Horse Bidder in accordance with the authority provided in the Confirmation Order without any further authority from the Bankruptcy Court.

Date: _____

Bidder: _____

Signature: _____

Title: _____

Address _____

E-Mail: _____

Phone _____

Number:

Attorney Info: _____

Exhibit C

Execution Version

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (this "Agreement"), made and entered into as of ~~July~~^{August 4} __, 2017, by and between 135 West 13, LLC (the "Debtor"), or a trustee or other bankruptcy estate representative for Debtor, having an address at 7 West 96th Street, New York, New York 10025 (hereinafter referred to as "Seller"), and Village Realty Holdings, LLC, a New York limited liability company, having an address at 117 Waverly Place, New York, New York 10013, or its designee which may include family members individually or as members of a limited liability company (hereinafter referred to as "Buyer" or "Purchaser").

WHEREAS, Seller is a debtor in possession in a chapter 11 bankruptcy case before the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), under Docket No. 17-11371 (SHL) (the "Bankruptcy Case") filed on May 17, 2017 (the "Petition Date"), and subject to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code");

WHEREAS, Seller desires to liquidate all, or substantially all, of its assets to fund its plan of reorganization under the Bankruptcy Code (the "Plan");

WHEREAS, Purchaser holds a duly acknowledged first mortgage pre-petition lien against the Property in the total amount of not less than \$13,226,429 as of May 16, 2017 subject to potential additional claims for pre-petition and post-petition interest, default interest, fees and other charges.

WHEREAS, Purchaser desires to exercise its credit bid rights under the Bankruptcy Code to purchase the Property (as defined below) of Seller, free and clear of liens, claims and interests of third parties pursuant to Sections 363(b) and (f) of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and other local rules of bankruptcy practice applicable in the Bankruptcy Court (the "Local Rules"), or as otherwise provided in this Agreement; and

WHEREAS, Purchaser acknowledges that the Seller will incorporate this Agreement into its Plan as a "Stalking Horse Contract" pursuant to bid procedures to be approved by the

Bankruptcy Court in form mutually acceptable to Seller and Buyer and that accordingly, this Agreement shall be subject to “higher or better” bids as may be made pursuant to bidding procedures approved by the Bankruptcy Court;

NOW, THEREFORE, the parties hereto, in consideration of the premises and of the mutual representations, warranties and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

DEFINED TERMS.

The following terms, as used in this Agreement and all exhibits and riders hereto, shall have the following meanings:

“Affiliate” means, with respect to any Person, an entity which controls or is controlled by such Person or is under common control with such Person. For the purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person in question, whether by the ownership of voting securities, Agreement or otherwise.

“Buyer” includes the entity identified on the first page of this Agreement, together with any permitted assignee or designee.

“Confirmation Order” means an order of the Bankruptcy Court confirming the Debtor’s plan of reorganization or liquidation, which order shall contain provisions approving the sale of the Property by the Seller to the Buyer, free and clear of liens claims and interests of third parties, except as otherwise set forth in this Agreement, and the assumption and assignment of the Leases, pursuant to Sections 105, 363(b) and 363(f) and 365 of the Bankruptcy Code, and containing a finding that Buyer has acted in “good faith” within the meaning of section 363(m) of the Bankruptcy Code.

“Cut-off Time” shall mean 11:59 p.m. on the date preceding the Closing Date.

“Governmental Body” means any government, quasi-governmental entity, or other governmental or regulatory body, agency or political subdivision thereof of any nature or any self-regulatory agency, whether foreign, federal, state or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrary (public or private).

“Hazardous Substance” means any substance, gas, material, chemical, biological/microbial matter, or waste: (a) whose presence or nature, either by itself or in combination with other materials is potentially injurious to human health or safety, the indoor or outdoor environment or natural resources, or (b) is designated or regulated as “toxic,” “hazardous,” a “pollutant” or a “contaminant” (or words of similar import) pursuant to any Environmental Law including, without limitation, any petroleum product or by-product, solvent, flammable or explosive material, radioactive material, asbestos-containing material, lead-containing material, urea-formaldehyde-containing material, hazardous building material, polychlorinated biphenyls (or “PCBs”), pesticides, radon, mold, fungus, or other toxic biological agent or growth.

“Parties” means Seller and Buyer (each individually is a “Party”).

“Person” or “Persons” means any individual, corporation, limited liability company, limited partnership, general partnership, association, joint stock company, joint venture, estate, trust (including any beneficiary thereof), unincorporated organization, government or any political subdivision thereof, governmental unit or authority or any other entity.

“Real Property” means the land commonly known as 133 West 13th Street, New York, New York and 135 West 13th Street, New York, New York, which are more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with any and all fixtures and improvements erected

thereon, rights, privileges, rights of way and easements appurtenant thereto or used in connection with the ownership thereof and all development and air rights, and intangibles associated therewith.

“Leases” means the leases, subleases, licenses or other agreement granting occupancy rights with respect to any portion of the Real Property as set forth on Exhibit B attached hereto and made a part hereof together with all existing security deposits.

“Tenants” means the occupants under the Leases.

“Title Company” means Madison Title.

1. REAL AND PERSONAL PROPERTY SALE AND PURCHASE

A. Real Property. Subject to Bankruptcy Court approval as provided for in section 7 hereof, Seller agrees on behalf of the Debtor's estate to sell to Buyer, and Buyer agrees to purchase from the Debtor's estate, all right, title and interest in and to the Real Property, subject to the remaining terms hereof, in “as-is, where-is” condition as of the date hereof and “with all physical faults, defects, latent or otherwise, known or unknown,” free and clear of all adverse interests, and claims pursuant to all applicable provisions of the Bankruptcy Code. Seller shall deliver insurable and marketable fee simple title to the Real Property to the Buyer in accordance with this Agreement, subject only to outstanding Real Estate Taxes as described in Section 5A hereof and the matters set forth in Exhibit C attached hereto (collectively, “Permitted Exceptions”). The sale shall be free and clear of any tenant rent overcharge claims existing before the filing of the Bankruptcy Case. All tenants have been given notice of the sale of the Property as potential creditors.

B. Personal Property. In addition to the Real Property, and subject to the terms and on the conditions set forth in this Agreement, Seller agrees to sell and convey on behalf of the Debtor's estate and Buyer agrees to purchase, in “as-is, where-is” condition and “with all physical faults, and defects, latent or otherwise, known or unknown” as of the date hereof, all of the tangible personal property upon the Real Property or within the improvements, including, to

the extent same presently exist, appliances, furniture, carpeting draperies and curtains, tools and supplies, and other items of personal property (excluding cash) owned or leased by Debtor and used exclusively in connection with the ownership or operation of the Real Property and the improvements (the "Personal Property" and together with the Real Property collectively, the "Property").

2. PURCHASE PRICE

Based upon the Purchaser's credit bid rights, the purchase price of the Property shall be Thirteen Million Two Hundred Twenty Six Thousand Four Hundred Twenty Nine and 20/100 Dollars (\$13,226,429.20) to be paid in the manner and on the terms and conditions as hereinafter set forth in Section 3 plus the amount of \$290,000 as set forth in section 6B hereof.

3. PAYMENT OF PURCHASE PRICE

The Purchase Price shall be paid by Buyer at the Closing through a dollar for dollar credit and reduction in the amount of the Allowed Claim, as that term is defined in the Confirmation Order, up to the maximum amount allowed thereunder (the "Credit Bid") plus the payment of \$290,000 in cash as set forth in section 6B hereof; provided, however, that if there is overbidding, Purchaser shall be entitled to increase its credit bid based upon the accrual of post-petition interest, ^{and other allowed fees} dollar for dollar, until such time as Buyer exhausts its entitlement to post-petition interest.

4. CLOSING DELIVERABLES. The following documents will be executed and delivered by Buyer and Seller, as applicable, at or prior to the Closing:

A. A statutory form of bargain and sale deed with covenants against grantor's acts, containing the covenant required by Section 13 of the Lien Law, and properly executed in proper form for recording so as to convey the title required by this Agreement (the "Deed"), in the form annexed as Exhibit D.

B. A duly executed bill of sale (the "Bill of Sale") in the form annexed as Exhibit E.

C. A duly executed assignment and assumption of the Leases and all security deposits held under the Leases (the "Assignment of Leases") in the form annexed as Exhibit F.

D. In lieu of a certificate of Seller, the Confirmation Order shall contain language to the effect that the representations and warranties of Seller contained herein shall be deemed updated as of to the Closing Date without any material changes.

E. A duly executed original certificate of Buyer updating the representations and warranties of Buyer contained herein to the Closing Date and noting any changes thereto.

F. A FIRPTA certification.

G. A certified copy of the Confirmation Order which shall not be subject to any stay and shall be enforceable in accordance with its terms.

H. A title affidavit reasonably acceptable to Seller and the Title Company.

I. Seller shall execute and deliver all such other documents as local custom may require to effect the change of ownership on the City's ownership records or otherwise reasonably requested by the Title Company in connection with the conveyance of the Property.

J. Original or copies of leases and any amendments, guaranties or other documents related thereto, rent records, registration forms and rent histories for all Tenants, which are in Seller's possession.

K. An updated rent roll for the Property certified by the Seller, to the best of Seller's knowledge, as true and correct as of the Closing, and setting forth with respect to each and every lease and every occupant, the name of the current tenant, the monthly rent, the lease expiration date and a monthly breakdown of arrears. The apartments, which are vacant, shall remain vacant pending the Closing.

L. A schedule of security deposits paid by Tenants and interest earned and paid thereon and a check or credit to Buyer in the amount of \$8,139.83, representing the cash security deposits, including any interest thereon, on the Closing Date.

M. Executed notices to all of the Tenants and other occupants of the Property advising them of the sale of the Property to the Buyer and directing them to send all payments, rent and additional charges as Buyer directs as of the Closing Date.

N. To the extent in Seller's possession, copies of all Agreements, paid bills and cancelled checks for any improvements made to the Property by the Seller for which rents have been increased.

O. If the Property is charged for water and sewer on a frontage basis, a Department of Environmental Protection frontage reconciliation.

P. Intentionally omitted.

5. **PRORATIONS**

The following provisions shall govern the adjustments and prorations that shall be made at Closing and the allocation of income and expenses from the Property between Seller and Buyer. All items of operating revenue and operating expense of the Property, with respect to the period prior to the Cut-Off Time, shall be for the account of and paid by Seller and all items of operating revenue and operating expense of the Property with respect to the period after the Cut-Off Time, shall be for the account of and paid by Buyer.

The following provisions shall govern the adjustments and prorations that shall be made at Closing between Seller and Buyer:

A. Real Estate Taxes. Buyer assumes liability for all outstanding real property taxes and assessments with respect to the Real Property, if any, none of which shall be subject to adjustment at Closing.

B. Water/Sewer. Water charges and sewer rents, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Real Property, apportionment at the Closing shall be based on the last available reading to be obtained by Seller

within thirty (30) days prior to the Closing, subject to adjustment after the Closing when the next reading is available and paid by Seller.

C. Rents. Rents and revenues, if any, from other income-producing property to the extent collected;

D. Heating Fuel. Value of fuel stored on the Real Property, at the price then charged by Debtor' supplier, including any taxes, as shown on the invoices of Debtor's supplier based upon an actual reading to be obtained by Seller's supplier within 24 hours prior to the Closing.

E. Tax Refunds, Abatements and Credits. Real estate tax refunds, abatements and credits received after the Closing Date which are attributable to the fiscal tax year during which the Closing Date occurs shall belong to the Buyer, which obligation shall survive the Closing.

F. Errors and Omissions. Any errors or omissions in the calculation of such prorations as set forth in this Section 5 shall be corrected or adjusted, and paid, as soon as practicable (but not more often than monthly) after the Closing Date. If it is impracticable to apportion certain items hereunder by the Closing, such items shall be apportioned, and paid, as soon as practicable after the Closing. The parties agree to "true up" the prorations provided for at Closing as soon as is practicable after Closing.

6. EXPENSES

To the extent not otherwise provided for in other provisions of this Agreement, the expenses incurred in connection with this Agreement and the Closing contemplated herein shall be paid as follows:

A. Each Party shall pay its own legal and other costs and expenses of negotiating and preparing this Agreement.

B. The parties expect that this transaction shall be exempt from any transfer tax in accordance with Section 1146 of the Bankruptcy Code. If this transaction is so exempt from

transfer tax, Buyer shall pay to Seller at Closing cash equal to \$290,000 with respect to a portion of the transfer taxes which would have otherwise been due from Seller had this transaction not been exempt from transfer tax.

C. Buyer shall pay for the filing fees in connection with its recording of the Deed.

D. Buyer shall pay for all costs incurred for title searches, municipal searches and preparation of the title commitment and title report from the Title Company, and all related costs (including extended coverage and any endorsements which Buyer elects to obtain, and issuance of the title policy, and any mortgage recording taxes or fees associated with any financing Buyer may seek to obtain in connection with the Closing.

E. Except as provided in Section 7, to the extent not otherwise addressed above or elsewhere herein, expenses incurred in connection with the transaction that is the subject of this Agreement shall be borne by the party that incurred same.

7. BANKRUPTCY MATTERS AND CLOSING

A. Buyer acknowledges that the Property is owned by the Seller, which is a debtor in possession in the Bankruptcy Case pending under the Bankruptcy Code and that consummation of the transactions contemplated herein is subject to Seller's receipt of requisite authority under the Bankruptcy Code pursuant to, among other things, the entry of the Confirmation Order. Likewise the Seller acknowledges that the Buyer retains credit bid rights under Section §363(k) of the Bankruptcy Code.

B. Notwithstanding anything to the contrary contained in this Agreement, the obligations of the parties under this Agreement are subject in all events to the entry by the Bankruptcy Court of the Confirmation Order approving the sale contemplated by this Agreement pursuant to the Bankruptcy Code and providing, among other things, that the conveyance to Buyer at Closing, shall be free and clear of all liens, claims, and encumbrances otherwise payable by Seller or Buyer at the Closing, other than Real Estate Taxes, as described in Section 5A hereof and the Permitted Exceptions and free of all transfer taxes.

C. In the event the Buyer participates in the auction sale for the Property and agrees to increase the Purchaser Price, the Buyer shall be subject to all of the terms and conditions of the Bidding Procedures approved by the Court except (i) Buyer shall not be required to pay a cash deposit to participate in the auction and (ii) Buyer's rights to credit bid shall otherwise be consistent with the terms of the final cash collateral order between the Debtor and Buyer entered by the Court.

D. The closing of the transactions contemplated hereby ("Closing Date") shall take place no later than the fifteenth (15th) day after the Confirmation Order which becomes final and non-appealable, provided that Buyer shall be deemed, without further order of the Court, to have extended the Post Forbearance Period Auction Sale Period (as defined in paragraph 11 that certain So-Ordered Stipulation and Forbearance Agreement dated as of September 22, 2016 between Buyer and Seller) to be three (3) business days subsequent to the Closing Date, which closing shall take place at the offices of Robinson Brog Leinwand Greene Genovese & Gluck, P.C., 875 Third Avenue, 9th Floor, New York, New York 10022, or such other location as the parties may mutually agree.

E. In the event the Buyer qualifies as a good faith purchaser for value within the meaning of the Bankruptcy Code section 363(m), the Buyer may request that the Closing Date take place prior to the Confirmation Order becoming final and non-appealable. Buyer shall give at least two (2) business day's written notice of its election to fix a Closing Date pursuant to this paragraph. The Seller shall take all commercially reasonable steps to accommodate Buyer's request.

8. RENT AREARS

If rents or any portion thereof received by Seller or Buyer after the Closing are payable to the other party by reason of the proration of rents set forth in Section 5(C), allocation, the appropriate sum, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof, shall be promptly paid to the other party, which obligation shall survive the Closing.

9. **OBJECTIONS TO TITLE.**

A. After entry of the bidding procedures, Seller shall promptly order an examination of title and shall cause a copy of the title report to be forwarded to Buyer's attorney upon receipt. Seller shall be entitled to a reasonable adjournment or adjournments of the Closing for up to 45 days, to remove any defects in or objections to title (other than Permitted Exceptions) noted in such title report and any other defects or objections (other than Permitted Exceptions) which may be disclosed on or prior to the Closing Date.

B. If Seller shall be unable to convey title to the Real Property at the Closing in accordance with the provisions of this Agreement, Buyer, nevertheless, may elect to accept such title as Seller may be able to convey without any credit against the monies payable at the Closing or liability on the part of Seller. If Buyer shall not so elect, Buyer may terminate this Agreement, which termination shall be subject to the provisions of Section 15.

C. Any unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two days following the Closing Date, and any other liens and encumbrances which Seller is obligated to pay and discharge or which are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, shall be paid in accordance with the terms of the Confirmation Order and creditors shall have no recourse against Buyer or the Property.

10. **REPRESENTATIONS OF SELLER**

- A. Seller represents to Buyer on the date hereof and on the Closing Date as follows:
- i. Authority. Subject to Seller's receipt of such authority as is required under the Bankruptcy Code and applicable orders of the Bankruptcy Court to consummate the transactions contemplated herein, Seller has, or at the time of Closing shall have full power and authority to enter into and perform under this Agreement.

- ii. Binding Obligations. Subject to Seller's receipt of such authority as is required under the Bankruptcy Code and applicable orders of the Bankruptcy Court to consummate the transactions contemplated herein, at Closing, the transactions contemplated herein shall be within the power of Seller and will have been duly authorized by all necessary action, and this Agreement shall constitute the valid and binding obligation of Seller enforceable in accordance with its terms.
- iii. Validity of Contemplated Transaction. Subject to entry of the Sales Procedures Order (hereinafter defined) and the Confirmation Order, neither the execution and delivery of this Agreement, nor the consummation of the transactions provided for herein, will constitute a breach of Seller's organizational documents or a violation of applicable law or will result in the creation or imposition of any lien on any of Seller's assets or property which would materially and adversely affect the ability of Seller to carry out the terms of this Agreement. Seller has obtained any consent, approval, authorization or order of any court or governmental agency or body required for the execution, delivery or performance by Seller of this Agreement.
- iv. FIRPTA. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended (the "IRC") (i.e., Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the IRC and regulations promulgated thereunder).
- v. Leases. To the best of Seller's knowledge, Seller has no knowledge of any leases, subleases or other occupancy agreements affecting all or any portion of the Real Property other than the Leases set forth on Exhibit B. Exhibit B also sets forth the rent roll as of the date hereof, which to Seller's knowledge is true and complete in all material respects.

- vi. Adverse Actions or Proceedings. Other than the Bankruptcy Case and a case before the Supreme Court, New York County captioned "Village Realty Holdings, LLC v. 135 West 13, LLC, Daren Herzberg, City of New York Environmental Control Board, et. Al"; Index No. 810207/2011, to Seller's actual knowledge, there exists no material action or proceeding or litigation pending or, to Seller's knowledge, threatened, against the Real Property, or against the Seller with respect to the Property, which, if adversely determined, would affect Seller's ability to perform its obligations hereunder or adversely impact the Property after the Closing. Seller shall pay all monetary fines and judgments associated with all Building and Housing Code violations relating to the Property, if any, that arose on or before the Closing Date. Notwithstanding the foregoing, and for the avoidance of doubt, subsequent to Closing, Seller shall have no obligation to make any repairs or perform any work to cure any violations or conditions that could give rise to violations.
- vii. Condemnation Actions; Special Assessments. To Seller's knowledge, there are no pending or threatened condemnation actions with respect to the Real Property.
- viii. Employees. To Seller's knowledge, there are no employees employed in connection with the operation of the Property other than its property manager and superintendant.
- ix. Options. To Seller's knowledge, there do not exist any unrecorded rights of first refusal, rights of first offer, purchase options or similar options to acquire any part of the Property or any occupancy rights with respect thereto.
- x. Notice. Reasonable and adequate notice of the sale and transfer of the Property to Buyer has been provided to all parties required to be given

notice under the Federal Rules of Bankruptcy Procedure and the Local Rules for the Southern District of New York.

- xi. Rent Registration. Seller shall provide Buyer or Buyer's attorney with written authorization allowing the DHCR to release rent registration records to Buyer or its attorneys for Buyer to investigate whether the apartments at the Real Property have been registered with the Division of Housing and Community Renewal (DHCR) pursuant to the Omnibus Housing Act of 1983, for the past four (4) years, and all requisite fees in connection therewith have been paid to the DHCR and the City of New York, but Seller makes no representation or warranty as to whether Seller has complied with all applicable DHCR regulations, although Seller represents that it has not received any notices of DHCR violations or overcharge claims. Additionally, to the extent in Seller's possession, Seller shall provide Buyer with (i) all documents relating to individual apartment improvements and major capital improvements; and (ii) all plans and sign-offs with respect to any apartment in which work was performed prior to bankruptcy.
- xii. Assumed Executory Contracts. The schedule of Assumed Executory Contracts attached hereto as Exhibit G lists all such contracts affecting the Real Property which are being assumed and assigned to Buyer pursuant to this Agreement, and the information set forth therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof. To the extent an executory contract or agreement is not included on Exhibit G, Buyer shall have no rights or obligations thereunder.
- xiii. Certificate of Occupancy. Seller makes no representation as to compliance with any certificate of occupancy with respect to the Real Property.

- xiv. No Certiori Proceedings. There currently [is] [is not] a pending proceeding to correct or reduce the assessed valuation of the Real Property.
- xv. Personal Property. The Personal Property, as of the Closing Date, will be transferred by Seller to Buyer in their "as is" condition.
- xvi. Boilers. To Seller's knowledge, based solely in reliance upon information provided to Seller by the property manager, no incinerator, compactor, boiler or other burning equipment at the Real Property is being operated in violation of applicable law. If copies of a certificate or certificates of operation therefor have been exhibited to and initialed by Buyer or its representative, such copies are true copies of the originals.
- xvii. Anti-Terrorism Laws. Seller is not a, and is not acting directly or indirectly for or on behalf of any, person, group, entity or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specifically Designated National and Blocked Persons," or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control and Seller is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation.
- xviii. No Buy-Out Agreements. Seller knows of no existing tenant buy-out agreements with respect to the Property.

B. The representations and warranties of Seller set forth in this Section 10A (iv), (vi), (vii), (viii), (ix), (x) (xi), (xii), (xiv), (xvi) and (xvii) are made as of the date of this Agreement and are restated as of the Closing and shall survive the Closing for a period of one year. None of the other representation in Section 10A shall survive the Closing.

11. REPRESENTATIONS OF BUYER

- A. Buyer represents to Seller as follows:
- i. Organization and Good Standing. Buyer is duly organized, validly existing, and in good standing in the State of New York and has full limited liability company power and authority to own its property and assets and to enter into and perform under this Agreement.
 - ii. Corporate Authority. The execution and delivery of this Agreement and the consummation of the transactions contemplated herein are within the power of the Buyer and have been duly authorized by all necessary company action and other action, and this Agreement constitutes the valid and binding obligation of the Buyer enforceable in accordance with its terms.
 - iii. Validity of Contemplated Transaction. Neither the execution and delivery of this Agreement, nor the consummation of the transactions provided for herein, will constitute a breach of Buyer's organizational documents or a violation of applicable law or will result in the creation or imposition of any lien on any of Buyer's assets or property which would materially and adversely affect the ability of Buyer to carry out the terms of this Agreement. Buyer has obtained any consent, approval, authorization or order of any court or governmental agency or body required for the execution, delivery or performance by Buyer of this Agreement.
 - iv. No actions. To Buyer's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Buyer which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transaction contemplated by this Agreement.
 - v. Anti-Terrorism Laws. Neither Buyer nor any of its Affiliates are in violation of any laws relating to terrorism or money laundering, including,

without limitation, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56).

B. The representations and warranties of Buyer set forth in this Section 11 are made as of the date of this Agreement and are restated as of the Closing and shall survive the Closing for a period of one year, except that the representation in 11A (i) shall not survive the Closing.

12. REPRESENTATIONS WITH RESPECT TO BROKER

Buyer has not dealt with any broker in connection with this Agreement other than Besen & Associates, having an address at 381 Park Avenue, New York, New York 10016, and shall indemnify and defend Seller against any costs, claims or expenses, including reasonable attorneys' fees, arising out of the breach of the representation contained in this paragraph. The representation and obligation under this Section shall survive the Closing or, if the Closing does not occur, the termination of this Agreement.

13. CONDITIONS TO SELLER'S OBLIGATIONS.

Seller's obligation to consummate the transfers as contemplated by this Agreement and to deliver the documents and instruments required under Section 4 hereof is subject to satisfaction of the following conditions:

i. Buyer shall have delivered the balance of the Purchase Price in accordance with Section 3(D);

ii. Buyer shall have completed all of the other deliveries required of Buyer under Section 4 hereof; and

iii. Buyer shall have paid to Seller the sum of \$290,000 from the transfer tax savings which would have been due from Seller had this transaction not been exempt from transfer tax in accordance with Section 6(B).

iv. All of the representations, covenants and agreements of Buyer contained herein shall be true and correct and/or shall have been paid and performed, as the case may be, in all material respects.

If each of the conditions to Buyer's obligation to consummate the Closing as set forth in Section 14 below have been fulfilled and the Closing contemplated by this Agreement shall not occur as a result of the failure of Buyer to fulfill the conditions described in paragraphs (i) through (iv) above as of the Closing Date, then Buyer shall be deemed to be in default under this Agreement, and Seller shall have the right to Liquidated Damages as set forth in Section 16 hereof after issuance of a notice of default and five (5) days right to cure.

14. CONDITIONS TO BUYER'S OBLIGATIONS.

Buyer's obligation to consummate the transfers contemplated by this Agreement and to deliver the balance of the Purchase Price and the other documents and instruments required under Section 4 hereof is subject to satisfaction of the following conditions:

i. Seller shall have delivered the Deed;

ii. Seller shall have completed all of the other deliveries required of Seller under Section 4 hereof.

iii. All of the representations, covenants and agreements of Seller contained herein shall be true and correct and/or shall have been paid and performed, as the case may be, in all material respects;

iv. The Bankruptcy Court shall have entered the Confirmation Order and the order is final and not the subject of any stay.

v. The Title Company (or other reputable title insurance company) shall be willing to insure title to the Property pursuant to an ALTA Owner's Policy of Title Insurance in the amount of the Purchase Price at regular rates and without additional premium, subject only to the Permitted Exceptions and as otherwise provided in this Agreement.

vi. The sale of the Real Property and Personal Property including assumption and assignment of the leases to Buyer shall be approved by the Bankruptcy Court pursuant to the Confirmation Order.

vii. The Closing shall occur no later than fifteen (15) days after the entry of the Confirmation Order, unless the parties hereto agree in writing to extend the Forbearance Period and the Closing Date pursuant to the Bankruptcy Court's confirmation hearing.

If each of the conditions to Seller's obligation to consummate the Closing as set forth in Section 13 above have been fulfilled and the Closing contemplated by this Agreement shall not occur as a result of the failure of Seller to fulfill all of the conditions described in paragraphs (i) through (vii) above as of the Closing Date, then Seller shall be deemed to be in default under this Agreement, and Buyer shall have the right to terminate this Agreement and seek damages arising from Seller's breach.

15. TERMINATION

This Agreement may be terminated as follows:

A. By the mutual written consent of Seller and Buyer at any time prior to the Closing; or

B. By Buyer or Seller, if there shall be any law that makes consummation of the transaction contemplated hereby illegal or otherwise prohibited, or there shall be in effect a final non-appealable order of a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby, it being agreed that the parties hereto shall promptly appeal any adverse determination which is appealable (and pursue such appeal with reasonable diligence); or

C. As expressly set forth in the Sales Procedures Order.

16. DEFAULT BY BUYER OR SELLER

A. Default by Buyer. If this Agreement fails to close because of Buyer's material default in failing to close following completion of all conditions after ten (10) days' notice with an opportunity to cure ("Buyer Default"), Buyer and Seller agree that damages will be difficult or impossible to ascertain. Accordingly, Buyer and Seller agree that, in the event this Agreement fails to close as a result of a Buyer Default, Seller may, as its sole and exclusive remedy, terminate this Agreement by written notice to Buyer in which event Seller shall be entitled to the sum of \$290,000 as liquidated damages (the "Liquidated Damages") which funds shall be utilized and/or distributed by Seller in accordance with the priorities established by the Bankruptcy Code. Buyer and Seller agree that the Liquidated Damages are not punitive or a penalty but that the amount of such Liquidated Damages has been determined by Buyer and Seller to be just, fair and reasonable.

B. Default by Seller. If this Agreement fails to close because (a) Seller is in material default under any provision of this Agreement after ten (10) days' notice with an opportunity to cure prior to Closing or (b) at Closing Seller has not satisfied any of the "Conditions to Buyer's Obligations" set forth in Section 14 after ten (10) days' notice with an opportunity to cure, Buyer shall have the right to either: (i) seek damages from Seller in an amount not to exceed the Liquidated Damages, which damages are not punitive or a penalty but the amount that has been determined by Buyer and Seller to be just, fair and reasonable, or (ii) seek specific performances to proceed to consummate the closing of the transactions contemplated by this Agreement in accordance with the terms hereof, in which case Buyer shall not have any further right to make a claim under this Agreement with respect to such default.

C. Survival. This Section 16 shall survive the Closing or termination of this Agreement.

17. AS IS

A. This Agreement contains all the terms of the agreement entered into between the parties, and Buyer acknowledges that neither Seller nor any of Seller's Affiliates, nor any of their agents or representatives has made any representations or held out any inducements to Buyer, and Seller hereby specifically disclaims any representation, oral or written, past, present or future, other than those specifically set forth in Section 8. The transactions set forth in this Agreement are subject to the Confirmation Order and the Conditions listed above. Without limiting the generality of the foregoing, Buyer has not relied on any representations or warranties except as expressly stated herein, and neither Seller nor any of Seller's Affiliates, nor any of their agents or representatives has or is willing to make any representations or warranties, express or implied, other than as may be expressly set forth herein, as to (i) any representation, statements or warranties as to the physical condition of the Property (ii) the current or future real estate tax liability, assessment or valuation of the Real Property; (iii) the potential qualification of the Real Property for any and all benefits conferred by any Laws whether for subsidies, special real estate tax treatment, insurance, mortgages or any other benefits, whether similar or dissimilar to those enumerated; (iv) the compliance of the Real Property in its current or any future state with applicable laws or any violations thereof; (v) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (vi) the current or future use of the Real Property; or (v) the presence of any Hazardous Substances on, at or under the Real Property, whether currently or in the past.

B. The provisions of this Section 17 shall survive Closing.

18. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or electronic transmission by any of the parties hereto shall be effective as delivery of a manually executed counterpart hereof.

19. SURVIVAL/NON-MERGER PROVISIONS

None of the representations of Seller nor any other provisions hereof shall survive the Closing, unless otherwise expressly provided herein. All terms, conditions, provisions, covenants, and representations and warranties contained in this Agreement shall be merged into the Deed.

20. GOVERNING LAW AND JURISDICTION

The terms and provisions of this Agreement shall be governed in accordance with the laws of the State of New York, without application of the conflict of laws principles thereof. Each of Seller and Buyer hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court, in any action or proceeding arising out of or relating to or connected with this Agreement, or for recognition or enforcement of any judgment. Each of Seller and Buyer hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined in such court. Each of Seller and Buyer agrees that a final judgment in any such action or proceeding will be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. This Agreement shall be construed without regard to or aid of canons requiring construction against the party drawing this Agreement.

21. ASSIGNMENT

Buyer may assign this Agreement to family members or a new limited liability company to be formed (the "Newco Assignee") prior to the Closing for purposes of preventing the merger of its mortgage into the fee interest acquired hereby, without the prior written consent of Seller. The Newco Assignee shall assume Buyer's obligations hereunder and notwithstanding such assignment, Buyer shall remain jointly and severally liable hereunder. Buyer may not otherwise assign this Agreement without Seller's prior written consent, which may be granted or withheld in Seller's sole discretion.

22. NO RECORDATION

No party shall record this Agreement or any memorandum, notice or affidavit hereof, or any other similar document.

23. EXCULPATION

Notwithstanding anything to the contrary contained in this Agreement, no director, officer, employee, shareholder, member, manager, Affiliate, partner or agent of Seller nor any of the directors, officers, employees, shareholders, members, managers, partners, joint venturers or agents of any of the directors, officers, employees, shareholders, direct or indirect owners, members, affiliates, managers, partners, joint venturers or agents of Seller nor any other Person, partnership, limited liability company, corporation, joint venture or trust, as principal of Seller, whether disclosed or undisclosed (collectively, the "Seller Exculpated Parties") shall have any personal obligation or liability hereunder, and Buyer shall not seek to assert any claim or enforce any of Buyer's rights hereunder against any Seller Exculpated Party.

24. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties. Any modification of this Agreement must be in writing signed by both Parties.

25. NOTICES

Whenever the terms of this Agreement provide for notice from one party to the other, such notice shall be in writing and shall be given by at least one of the following methods: personal delivery (deemed received upon delivery); overnight delivery by an overnight courier service (e.g., Fedex, UPS, etc.) (deemed received one (1) business day after deposit if marked for delivery on the next business day); facsimile transmission with the original being sent by regular mail (deemed received upon completion of the facsimile transmission); or by certified mail, return receipt requested (deemed received three (3) business days after deposit). Such notice shall be given to the parties at the address listed on the first page hereof and their respective attorneys. The notices shall be addressed as follows:

To Buyer: Village Realty Holdings, LLC
c/o Ken Rosenblum
25 Thompson Street,
New York, NY 10013
Attention:
Email:
Fax:

with a copy to: Goldberg Weprin Finkel Goldstein LLP
1501 Broadway, 22nd Floor
New York, New York 10036
Attention: Kevin J. Nash
Email: knash@gwfglaw.com

To Seller: 135 West 13 LLC
c/o Eric Goodman Realty Corp.
307 East 89th Street
New York, NY 10128
Attn: Matt Goodman
Email:

With a copy to: Robinson Brog Leinwand Greene Genovese & Gluck P.C.
875 Third Avenue, 9th Floor
New York, New York 10022
Attn: Fred B. Ringel, Esq.
Fax: (212) 956-2164
Email: fbr@robinsonbrog.com

26. DESTRUCTION, DAMAGE OR CONDEMNATION

A. Damage by Casualty.

- i. Damage Not in Excess of Five (5%) Percent of the Purchase Price. If, prior to the Closing, there shall occur damage to the Property caused by fire or other casualty which would cost less than an amount equal to five (5%) percent of the Purchase Price (the "Casualty Threshold") to repair, as reasonably determined by an engineer selected by Seller and reasonably satisfactory to Buyer, and such fire or other casualty does not adversely

affect the lobby, building-wide systems, or common areas and the continued operation of the balance of the Property not damaged and does not give rise to rent abatement or termination rights of lessees under leases covering more than 10% (the "Percentage") of the rentable square feet of the Real Property, then Buyer shall not have the right to terminate this Agreement by reason thereof, but Seller shall assign to Buyer at the Closing, by written instrument in form and substance reasonably satisfactory to Buyer, all of the insurance proceeds payable on account of any such fire or casualty, shall deliver to Buyer any such proceeds actually paid to Seller, and shall afford to Buyer at Closing a credit against the balance of the Purchase Price in an amount equal to any deductible. If the limit of Seller's insurance policy with respect to a casualty at the Property is less than the cost of restoration, then Buyer shall be entitled to a further reduction in the Purchase Price in an amount equal to the difference between the cost of restoration and the limit of such insurance policy (less the deductible). The proceeds of rent interruption insurance, if any, shall on the Closing Date be appropriately apportioned between Buyer and Seller.

- ii. Damage in Excess of Five (5%) Percent of the Purchase Price. If prior to the Closing there shall occur damage to the Property caused by fire or other casualty which would cost an amount equal to the Casualty Threshold or more to repair, as reasonably determined by an engineer selected by Seller and reasonably satisfactory to Buyer, or the damage affects the lobby, building-wide systems, or common areas or the continued operation of the balance of the Real Property not damaged or gives rise to rent abatement or termination rights of lessees under leases covering more than the Percentage of the rentable square feet of the Real Property, then Buyer may elect to terminate this Agreement by notice given to Seller within ten (10) days after Seller has given Buyer notice that such damage occurred, or at the Closing, whichever is earlier, upon which

termination, this Agreement shall thereupon be null and void and neither party hereto shall thereupon have any further obligation to the other, except for those obligations and liabilities that are expressly stated to survive termination of this Agreement. If Buyer does not elect to terminate this Agreement, then the Closing shall take place as herein provided, without abatement of the Purchase Price, and Seller shall assign to Buyer at the Closing, by written instrument in form reasonably satisfactory to Buyer, all of the insurance proceeds payable on account of any such fire or casualty, shall deliver to Buyer any such proceeds or awards actually paid to Seller, and shall afford to Buyer at Closing a credit against the balance of the Purchase Price in an amount equal to any deductible. The proceeds of rent interruption insurance, if any, shall on the Closing Date be appropriately apportioned between Buyer and Seller.

- iii. Seller agrees not to repair any damage to the Property (other than emergency repairs) without Buyer's prior written consent and not to incur Reimbursable Amounts totaling in the aggregate in excess of **\$75,000.00** without Buyer's prior written consent. Buyer shall have the right to participate in any discussions, claims adjustments or settlements with insurance companies regarding any damage to the Property.
- iv. The term "Reimbursable Amounts" shall mean costs and expenses actually and reasonably incurred by or for the account of Seller in connection with fire or other casualty for (x) compliance with governmental ordinances, orders or requirements of any governmental department, agency or bureau having jurisdiction over the Property, (y) safeguarding the Property or any part thereof, including any protective restoration or (z) emergency repairs made by or on behalf of Seller (to the extent Seller has not theretofore been reimbursed by its insurance carrier).

B. Condemnation. If after the execution and delivery of this Agreement and prior to Closing, any proceedings are instituted by any governmental authority which shall relate to the proposed taking of all or any portion of the Property by eminent domain, or if any such proceedings are pending on the date of execution and delivery of this Agreement, or if all or any portion of the Property is taken by eminent domain after the date of this Agreement and prior to the Closing, Seller shall promptly notify Buyer in writing no later than two business days after Seller's receipt of any notification or the date of Closing, whichever occurs earlier. Buyer shall thereafter have the right and option to terminate this Agreement by giving written notice to Seller within thirty (30) days after receipt by Buyer of the notice from Seller or on the Closing Date, whichever is earlier. If the Closing Date was scheduled to occur after the institution of such proceeding, the Closing Date shall be deemed adjourned in order that Buyer shall have its full thirty-day period within which to determine whether or not to proceed with Closing. If Buyer timely terminates this Agreement, this Agreement shall thereupon be terminated and become void and of no further effect, and neither party hereto shall have any obligations of any nature to the other hereunder or by reason hereof, except for those obligations and liabilities that are expressly stated to survive termination of this Agreement. If Buyer does not elect to terminate this Agreement, the parties hereto shall proceed to the Closing and at the Closing, Seller shall assign to Buyer all of its right, title and interest in all awards in connection with such taking and shall pay to Buyer any award paid to Seller with respect to such taking. Buyer shall have the right to participate in discussions or proceedings with any governmental authority relating to the proposed taking of any portion of the Property.

C. The provisions of this Section 26 shall survive the Closing.

27. MORTGAGE ASSIGNMENT.

In connection with the payoff and satisfaction of any mortgage encumbering the Premises and clearing title of the same, Seller agrees to request its lender to assign such mortgage to any party designated by a Buyer other than Village Realty Holdings, LLC, in lieu of issuing a Satisfaction of the same, provided that such Buyer shall pay all costs and reasonable

compensation of the mortgagee and the mortgagee's counsel in connection with such Assignment of Mortgage.

28. FURTHER ASSURANCES.

Each party agrees at any time or from time to time after Closing to execute, acknowledge as appropriate and/or deliver such further instruments and other documents (and to bear its own costs and expenses incidental thereto) and to take such other actions as the other party may reasonably request in order to carry out the intent and purpose of this Agreement; provided, however, that neither party shall be obligated to incur any expense of a material nature and/or to incur any material obligations in addition to those set forth in this Agreement and/or the respective closing documents.

29. ACCESS.

Upon reasonable notice from Buyer to Seller, Seller shall undertake good faith efforts to provide Buyer, and its agents or assigns, with access to inspect the Property at reasonable times and accompanied by a representative of Seller, after the execution of this Agreement. Such right of inspection and the exercise of such right shall not constitute a waiver by the Buyer of the breach of any representation or warranty of the Seller which might have been disclosed by such inspection. The Seller shall make available to the Buyer at the office of Seller or its representative, prior to and/or after the Closing of title at any time upon demand, all records of the Seller, or the Seller's agents, in connection with the management and operation of the Property, and to loan to the Buyer all paid bills, vouchers, cancelled checks, and other documentation as may be requested by Buyer, to the extent same are within Seller's possession and control.

30. LIMITATIONS ON SURVIVAL OF REPRESENTATIONS

A. Except as otherwise provided in this Agreement, no representations, warranties, covenants or other obligations of Seller set forth in this Agreement shall survive the Closing, and no action based thereon shall be commenced after the Closing.

B. The delivery of the deed by Seller, and the acceptance thereof by Buyer, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this Agreement to survive the Closing.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day,
month and year first set forth above.

Seller:

135 West 13 LLC, a New York limited liability
company

By: _____

Name: Max Dolgicer

Title: Member

Buyer:

Village Realty Holdings, LLC, a New York limited
liability company

By: _____

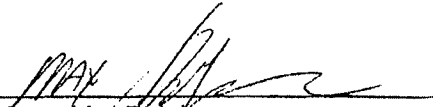
Name: Kenneth Rosenblum

Title: MGR

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day,
month and year first set forth above.

Seller:

135 West 13 LLC, a New York limited liability
company

By: 
Name: Max Dolgicer
Title: Member

Buyer:

Village Realty Holdings, LLC, a New York limited
liability company

By: _____
Name:
Title:

EXHIBIT A

Legal Descriptions

133 West 13th Street, New York, New York

Block 609 Lot 62:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly side of West 13th Street distant 368 feet 6 inches northwesterly from the corner formed by the intersection of the northeasterly side of West 13th Street with the northwesterly side of Sixth Avenue;

RUNNING THENCE northeasterly at right angles to the northeasterly side of West 13th Street and through the center of a party wall a distance of 103 feet 3 inches to a point on the center line of the block between West 13th Street and West 14th Street;

THENCE northwesterly along the center line of the block between West 13th Street and West 14th Street a distance of 20 feet 6 inches to a point;

THENCE southwesterly at right angles to the last mentioned line and through the center of party wall a distance of 103 feet 3 inches to a point on the northerly side of West 13th Street;

THENCE southwesterly along the northeasterly side of West 13th Street a distance of 20 feet 6 inches to a point, the point or place of BEGINNING.

Premises being known as 133 West 13th Street, New York, New York and designated as Block 609 Lot 63 as shown on Tax Map of the City of New York, County of New York.

135 West 13th Street, New York, New York

Block 609 Lot 63:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly side of West 13th Street distant 389 feet northwesterly from the corner formed by the intersection of the northeasterly side of West 13th Street with the northwesterly side of Sixth Avenue;

RUNNING THENCE northeasterly at right angles to the northeasterly side of West 13th Street and through the center of a party wall a distance of 103 feet 3 inches to a point on the center line of the block between West 13th Street and West 14th Street;

THENCE northwesterly along the center line of the block between West 13th Street and West 14th Street a distance of 20 feet 6 inches to a point;

THENCE southwesterly at right angles to the last mentioned line and through the center of party wall a distance of 103 feet 3 inches to a point on the northerly side of West 13th Street;

THENCE southwesterly along the northeasterly side of West 13th Street a distance of 20 feet 6 inches to a point, the point or place of BEGINNING.

Premises being known as 135 West 13th Street, New York, New York and designated as Block 609 Lot 63 as shown on Tax Map of the City of New York, County of New York.

EXHIBIT B – Leases (Corrected by Debtor on 8/18/2017)

#1 JESSE HOCHMUTH	RS	05/31/2019	\$1,743.96
#2	EX		
#3 JUDITH STOLLERMAN and DANIELLE SANDOW	RS	08/31/2018	\$666.74
#4 DANIELLE SANDOW SR. and JUDITH STOLLERMAN	RS	07/31/2019	\$635.80
#5 RYAN BROWN	EX	08/31/2017	\$2,795.00
#6 ALEXANDER BASTIN	EX	09/30/2016	\$2,664.00
#7-8	EX		
#9 PHILIP IOSCA	RS	11/30/2017	\$2,076.66
#10 BERNARD DEMIRDAG	RS	09/30/2017	\$1,943.10
#11 ELIZABETH DOLGICIER	RS	03/31/2019	\$2,426.09
#12 ANGELA REMIGIO	EX	09/30/2017	\$2,737.90

TOTAL:

EXHIBIT B

Leases *

<u>APT:</u>	<u>TENANT NAME:</u>	<u>TYPE:</u>	<u>LEASE DATE:</u>	<u>RENT AMOUNT</u>
1	JESSE HOCHMUTH	S	11/30/2016	1709.76
2	VACANT APARTMENT			MARKET RENT
3	JUDITH STOLLERMAN			
	DANIELLE SANDOW	S	08/31/2018	666.74
4	DANIELLE SANDOW SR.			
	JUDITH STOLLERMAN	S	07/31/2017	623.33
5	RYAN BROWN	EX	08/31/2017	2795.00
6	ALEXANDER BASTIN	EX	09/30/2016	2664.00
7-8	VACANT APARTMENT			MARKET RENT
9	PHILIP IOSCA	S	11/30/2017	2076.66
10	BERNARD DEMIRDAG	EX	09/30/2017	1943.10
11	ELIZABETH DOLGICIER	S	03/31/2019	2426.09
12	ANGELA REMIGIO	EX	09/30/2017	2737.90
<u>TOTAL + VACANCY:</u>				17642.58

*Debtor shall not renew any exempt leases
and tenants. Buyer reserves the
right to challenge the legitimacy
of all rent stabilized tenants.*

8/07/17 *Rent Roll is subject to correction by the Debtor/Seller

Exhibit C

Permitted Encumbrances

1. Zoning and subdivision laws, regulations and ordinances and landmark, historic or wetlands designations, which are not violated by the existing structures or present use thereof.
2. Consents by the Seller or any former owner of the Real Property for the erection of any structure or structures on, under or above any street or streets on which the Real Property may abut.
3. Leases and Tenancies specified in Exhibit B and any new leases, tenancies, occupancy agreements and licenses not prohibited by this contract.
4. Unpaid installments of assessments not due and payable on or before the Closing Date, and real estate taxes that are a lien but are not yet due and payable.
5. Rights of utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Real Property, provided that none of such rights imposes any monetary obligation on the owner of the Real Property or interferes with the existing use of the Real Property.
6. Exceptions of stoops, areas, cellar steps, trim cornices, lintels, window sills, awnings, canopies, ledges, fences, hedges, coping and retaining walls projecting from the Real Property over any street or highway or over any adjoining property and exceptions of similar elements projecting from adjoining property over the Real Property.
7. Revocability or lack of right to maintain vaults, coal chutes, excavations or sub-surface equipment beyond the line of the Real Property.
8. Any state of facts that an accurate survey would disclose, provided that such facts do not render title uninsurable or is a Permitted Encumbrance.

EXHIBIT D

Form of Deed

Bargain and Sale Deed without Covenant against Grantor's Acts--Individual or Corporation (single sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

This INDENTURE, made the _____ day of _____, 2017

BETWEEN

_____, a _____

party of the first part, and

_____, a _____

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings, improvements and fixtures thereon, situate, lying and being in the City, County and State of New York, more commonly known as _____, New York, New York, and more particularly described on Exhibit A attached hereto and hereby made part hereof.

BEING and intended to be the same premises described in the deed to the party of the first part herein by deed dated [_____] recorded [_____] in [_____] page [_____].

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described Real Property to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said Real Property, buildings, improvements, and fixtures; **TO HAVE AND TO HOLD** the Real Property, buildings, improvements, and fixtures herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law,

covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

_____, a _____

By: _____

Name:

Title:

IN PRESENCE OF:

TAX MAP
DESIGNATION

Dist.:

Sec. :

Blk.: 1050

Lot(s): 49

STATE OF NEW YORK, COUNTY OF

On the day of in the year 201__,
before me, the undersigned, personally
appeared personally to me known
to me or proved to me on the basis of
satisfactory evidence to be the person whose
name is subscribed to the within instrument
and acknowledged to me that he/she
executed the same in his/her capacity, and
that by his/her signature on the instrument,
the person, or the entity upon behalf of
which the person acted, executed the
instrument.

STATE OF NEW YORK, COUNTY OF

On the day of in the year 201__,
before me, the undersigned, personally
appeared personally to me known to
me or proved to me on the basis of satisfactory
evidence to be the person whose name is
subscribed to the within instrument and
acknowledged to me that he/she executed the
same in his/her capacity, and that by his/her
signature on the instrument, the person, or the
entity upon behalf of which the person acted,
executed the instrument.

BARGAIN AND SALE DEED

WITH COVENANT AGAINST
GRANTOR'S ACT

TITLE

NO. _____

_____, a

TO

_____, a

SECTION:
BLOCK:
LOT:
COUNTY OR TOWN:
TAX BILLING ADDRESS:

RECORD AND RETURN BY MAIL TO:

Attention:
With a copy to:

Attention

EXHIBIT E

BILL OF SALE

This **BILL OF SALE** (this "Bill of Sale") is executed as of _____, 201_ by [_____], a [_____] ("Seller") in favor of [_____], a [_____] ("Buyer").

RECITALS:

WHEREAS, pursuant to that certain Real Estate Purchase Agreement, dated as of _____, 201_ (as same may have been or may hereafter be assigned, amended, modified or otherwise supplemented, the "Purchase Agreement"; all capitalized terms used but not defined herein shall have the meaning ascribed to them in the Purchase Agreement), among Seller and Buyer, Seller has agreed to sell and Buyer has agreed to purchase the Property; and

WHEREAS, pursuant to the Purchase Agreement, the Closing for the Property is occurring on the date hereof, and Seller is required to convey, assign and otherwise transfer the Personal Property to Buyer at Closing.

NOW, THEREFORE, in consideration of the foregoing premises, and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Seller and Buyer agree as follows:

1. TRANSFER OF PROPERTY. SELLER HEREBY SELLS, CONVEYS, TRANSFERS, ASSIGNS AND DELIVERS UNTO BUYER, ALL OF ITS RESPECTIVE LEGAL AND BENEFICIAL RIGHT, TITLE AND INTEREST IN AND TO ALL OF THE PERSONAL PROPERTY.

2. ASSUMPTION AND INDEMNITY. BUYER ASSUMES AND AGREES TO PERFORM ALL DUTIES AND OBLIGATIONS RELATED TO THE PERSONAL PROPERTY ARISING FROM OR ATTRIBUTABLE TO THE PERIOD FROM AND AFTER THE CLOSING DATE.

3. PURCHASE AGREEMENT GOVERNS. THIS BILL OF SALE IS DELIVERED PURSUANT TO, AND IS SUBJECT TO THE EXPRESS REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS SET FORTH IN THE PURCHASE AGREEMENT. THIS BILL OF SALE IS ONLY INTENDED TO EFFECTUATE THE SALE, TRANSFER AND CONVEYANCE TO BUYER OF THE PERSONAL PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THE PURCHASE AGREEMENT, AND NOTHING HEREIN SHALL EXPAND THE RIGHTS, COVENANTS, OBLIGATIONS, REPRESENTATIONS OR WARRANTIES OF SELLER OR BUYER (EXPRESS OR IMPLIED) BEYOND WHAT IS PROVIDED FOR IN THE PURCHASE AGREEMENT, AND THE TERMS OF THIS BILL OF SALE SHALL BE UNDERSTOOD AND CONSTRUED ACCORDINGLY. TO THE EXTENT THAT ANY

PROVISION OF THIS BILL OF SALE IS INCONSISTENT WITH THE PROVISIONS OF THE PURCHASE AGREEMENT, THE PROVISIONS OF THE PURCHASE AGREEMENT SHALL GOVERN.

4. THIS BILL OF SALE IS MADE ON AN "AS-IS, WHERE-IS, WITH ALL FAULTS" BASIS, WITHOUT RECOURSE AND WITHOUT ANY REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED) WHATSOEVER EXCEPT AS MAY EXPRESSLY BE SET FORTH IN THE PURCHASE AGREEMENT.

5. TERMS DEFINED. INITIALLY CAPITALIZED TERMS USED BUT NOT DEFINED HEREIN HAVE THE RESPECTIVE MEANINGS GIVEN TO THEM IN THE PURCHASE AGREEMENT.

6. ADDITIONAL ASSURANCES. BUYER AND SELLER SHALL, AS MAY BE REASONABLY REQUESTED BY THE OTHER PARTY FROM TIME TO TIME, PROVIDE SUCH ADDITIONAL ASSURANCES, EXECUTE AND DELIVER SUCH INSTRUMENTS, ASSIGNMENTS, CERTIFICATES, OR OTHER DOCUMENTS, AND TAKE SUCH ACTIONS AS REASONABLY SHALL BE NECESSARY OR DESIRABLE TO EVIDENCE AND TO GIVE FULL EFFECT TO THE PROVISIONS OF THIS BILL OF SALE.

7. BINDING EFFECT AND ASSIGNMENT. THIS BILL OF SALE SHALL BE BINDING UPON SELLER, OPERATING TENANT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, AND SHALL INURE TO THE BENEFIT OF BUYER AND ITS SUCCESSORS AND ASSIGN.

8. GOVERNING LAW. THIS BILL OF SALE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO CONFLICTS OF LAWS PRINCIPLES).

9. COUNTERPARTS. THIS BILL OF SALE MAY BE EXECUTED IN COUNTERPARTS, EACH OF WHICH SHALL CONSTITUTE AN ORIGINAL, BUT ALL OF WHICH SHALL COLLECTIVELY CONSTITUTE ONE INSTRUMENT.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale under seal as of the date first above written.

Seller:

[_____], a [_____]

By: _____

Name:

Title:

Buyer:

[_____], a [_____]

By: _____

Name:

Title:

EXHIBIT F

ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS

THIS ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS (this "Assignment") is made effective as of the ____ day of _____, 201__, by _____ ("Assignor") and _____ ("Assignee").

WHEREAS, Assignor is the owner of the land and improvements located at _____ (the "Premises").

WHEREAS, effective as of the date hereof, Assignor has transferred all of Assignor's right, title and interest in and to the Premises to Assignee.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars lawful money of the United States of America and other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns, transfers and conveys to Assignee, all of Assignor's right, title and interest, as landlord, in and to all leases for the Premises (the "Leases"), and the security held under the Leases (the "Security Deposits"); such Leases and Security Deposits being more particularly described on Schedule A annexed hereto and made a part hereof..

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, forever.

ASSIGNEE HEREBY accepts the foregoing assignment and assumes and agrees to perform all of the obligations of landlord under the Leases first arising or accruing from and after the date hereof.

ASSIGNEE HEREBY agrees to indemnify and hold harmless Assignor from and against any and all claims, liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees) first arising or accruing under the Lease from and after the date hereof.

ASSIGNEE HEREBY acknowledges receipt of the Security Deposits.

This Assignment may be executed in several counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument. Facsimile or electronically delivered "pdf" signatures shall be binding with the same force and effect as original signatures.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be duly executed as of the day and year first above written.

ASSIGNOR:

By: _____

ASSIGNEE:

By: _____

EXHIBIT G

Service Contracts