

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
In re: : Chapter 11
WINDSOR PLAZA LLC, :
Debtor. : Case No. 17-12891 [JLG]
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**DISCLOSURE STATEMENT WITH RESPECT TO CHAPTER 11
PLAN OF REORGANIZATION OF WINDSOR PLAZA LLC**

Dated: December 11, 2017

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ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT, INCLUDING THE FOLLOWING SUMMARY, ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, ANY AND ALL SUPPLEMENTS TO THE PLAN AND THE OTHER EXHIBITS ANNEXED TO THE PLAN AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER SUCH DATE.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE LAW. THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "SEC") NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSES FOR WHICH THEY WERE PREPARED.

CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING FORWARD-LOOKING STATEMENTS, ARE BASED ON ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES.

THE INFORMATION IN THIS DISCLOSURE STATEMENT IS BEING PROVIDED SOLELY FOR PURPOSES OF VOTING TO ACCEPT OR REJECT THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED BY ANY PERSON OR ENTITY FOR ANY OTHER PURPOSE. THE FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE DESCRIPTION OF THE DEBTOR, ITS BUSINESS AND EVENTS LEADING TO THE COMMENCEMENT OF THE CHAPTER 11 CASE, HAS BEEN OBTAINED FROM VARIOUS DOCUMENTS, AGREEMENTS AND OTHER WRITINGS RELATING TO THE DEBTOR. NEITHER THE DEBTOR NOR ANY OTHER PARTY MAKES ANY REPRESENTATION OR WARRANTY REGARDING SUCH INFORMATION.

THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THE SUMMARIES IN THIS DISCLOSURE STATEMENT. ALL EXHIBITS TO THE DISCLOSURE STATEMENT ARE INCORPORATED INTO

AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN.

AS TO CONTESTED MATTERS, EXISTING LITIGATION INVOLVING THE DEBTOR, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE WITHOUT PREJUDICE SOLELY FOR SETTLEMENT PURPOSES, WITH FULL RESERVATION OF RIGHTS, AND IS NOT TO BE USED FOR ANY LITIGATION PURPOSE WHATSOEVER. AS SUCH, THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTOR, OR ANY OTHER PARTY IN INTEREST, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, FINANCIAL OR OTHER EFFECTS OF THE REORGANIZATION AS TO HOLDERS OF CLAIMS AGAINST OR EQUITY INTERESTS IN THE DEBTOR.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER IS HEREBY NOTIFIED THAT (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE TAX CODE; (B) SUCH DISCUSSION IS INCLUDED HEREBY BY THE DEBTOR IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTOR OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY TREATMENT OF CLAIMS AND INTERESTS.....	3
III.	OVERVIEW OF CHAPTER 11.....	5
IV.	DESCRIPTION OF THE DEBTOR’S BUSINESS	6
V.	THE CHAPTER 11 CASE	6
VI.	SUMMARY OF THE PLAN OF REORGANIZATION.....	7
VII.	CONFIRMATION PROCEDURE	24
VIII.	ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN	28
IX.	CERTAIN RISK FACTORS TO BE CONSIDERED	29
X.	SECURITIES LAWS MATTERS.....	32
XI.	CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN	32
XII.	RECOMMENDATION AND CONCLUSION.....	35

EXHIBIT A -- PLAN

EXHIBIT B -- LIQUIDATION ANALYSIS

EXHIBIT C -- SILVER POINT TERM SHEET

I. INTRODUCTION

On October 16, 2017 (the “Petition Date”), Windsor Plaza LLC (the “Debtor”) filed a petition for relief under Chapter 11 of the title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), commencing the above-captioned Chapter 11 case (the “Chapter 11 Case”). Contemporaneously herewith, the Debtor has filed its Chapter 11 plan, dated December 11, 2017 (as it may be further amended, modified or supplemented, the “Plan”), a copy of which is annexed as Exhibit “A”, which sets forth the manner in which Claims against and Equity Interests in the Debtor will be treated. This Disclosure Statement (the “Disclosure Statement”) describes certain aspects of the Plan (including the treatment of creditor Claims under the Plan), the Debtor’s business and related matters. Unless otherwise defined, all capitalized terms have the meanings ascribed to them in the Plan.

As discussed more fully below, after a careful review of its business and prospects, and after extensive negotiations, the Debtor, in consultation with its advisors, has concluded that recoveries to creditors will be maximized under the Plan, as contrasted with other possible alternatives.

This Disclosure Statement is submitted to holders of Claims against or interests in the Debtor in connection with the hearing to consider and confirmation of the Plan (the “Confirmation Hearing”) scheduled for January __, 2018 at 2:00 p.m.

Attached as Exhibits to this Disclosure Statement are copies of the following:

- The Plan (Exhibit A),
- Liquidation Analysis (Exhibit B),
- Silver Point Term Sheet (Exhibit C),

By order dated December __, 2017, the Court authorized the Debtor to file this Plan, without further need for re-solicitation of acceptances to the Plan. Accordingly, Ballots will not accompany this Disclosure Statement.

A. Holders of Claims and Equity Interests Entitled to Vote

Only impaired holders of Allowed Claims or Interests are entitled to vote to accept or reject a proposed Chapter 11 plan. Unimpaired Classes are deemed to have accepted the Plan and are not entitled to vote. Classes of Claims or Interests that will not receive any distribution under a reorganization plan are deemed to have rejected such plan and also are not entitled to vote.

Under the Plan, Class 1 (Other Priority Claims), Class 2 (Secured Claim, to wit, the holders of claims for real estate taxes), Class 3 (General Unsecured Claims) and Class 4 (Equity Interests) are unimpaired and conclusively deemed to have accepted the Plan. Further, all of the Class 4 Interest Holders are insiders and are not entitled to vote.

The Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims that vote for acceptance or rejection of the plan. For a more detailed description of the requirements for confirmation of the Plan, see Article VIII, “Confirmation Procedures.”

B. Voting Certification

No impaired Classes.

C. Confirmation Hearing

The Confirmation Hearing will be held on January __, 2018, at ____ p.m., before the Honorable James L. Garrity, Jr., United States Bankruptcy Judge, at the Bankruptcy Court, One Bowling Green, New York, New York. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the

adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

THE DEBTOR BELIEVES THAT THE PLAN WILL ENABLE THE DEBTOR TO MAXIMIZE RECOVERIES TO ITS CREDITORS AND EQUITY INTEREST HOLDERS AND ACCOMPLISH THE OBJECTIVES OF CHAPTER 11. THE DEBTOR BELIEVES THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTOR AND ITS CREDITORS AND EQUITY INTEREST HOLDERS.

II. SUMMARY TREATMENT OF CLAIMS AND INTERESTS

The following table briefly summarizes the specific classification and treatment of Claims and Equity Interests under the Plan:

<u>Class</u>	<u>Type of Claim or Equity Interest</u>	<u>Treatment</u>	<u>Estimated Claim Amount (By Class)</u>	<u>Estimated Recovery</u>
UNCLASSIFIED CLAIMS				
	Administrative Claims	Pursuant to the Plan, except to the extent the holder of an Allowed Administrative Claim agrees otherwise, each holder of an Allowed Administrative Claim shall be paid the full amount thereof in cash on the Effective Date.	\$5,000	100%
	Priority Tax Claims	Each holder of an Allowed Priority Tax Claim shall be paid in respect of such Allowed Claim the full amount thereof on the Effective Date. ¹	\$-0-	100%
	Professional Fee Claims	Each holder of an Allowed Professional Fee Claim shall receive 100% of the unpaid amount of such Allowed Professional Fee Claim in Cash after such Professional Fee Claim becomes an Allowed Professional Fee Claim.	\$250,000	100%

¹ The only such claims are real property taxes owing to the City of New York, which are treated as secured claims.

CLASSIFIED CLAIMS AND EQUITY INTERESTS

1	Other Priority Claims	Unimpaired. Each holder of an Allowed Other Priority Claim shall be paid in respect of such Allowed Other Priority Claim the full amount thereof in Cash, on the Effective Date. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan	\$0	100%
2	Secured Claim	NYC’s Claim for property taxes.	\$350,000 ²	100%
3	General Unsecured Claims	Unimpaired. Each holder of an Allowed General Unsecured Claim shall be paid in respect of such Allowed General Unsecured Claim (a) the full amount thereof, together with postpetition interest calculated at the Federal judgment rate, in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed General Unsecured Claim, or upon such other terms as may be agreed upon by the holder of such Allowed General Unsecured Claim and the Debtor, or (b) such lesser amount as the holder of such Allowed General Unsecured Claim and the Debtor might otherwise agree. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan.	\$100,000	100%
4	Equity Interests	Unimpaired. J. Maurice Herman and Rosemarie A. Herman each own one-half of the issued and outstanding Equity Interest in the Debtor pursuant to Order entered in the New York Supreme Court, New York County. On the Effective Date, the Debtor shall cancel the pre-petition Equity Interests of Rosemarie A. Herman, and remit to her \$30,000,000 ³ , and/or at her option an opportunity to exercise IRC 1031. This Class is unimpaired and, therefore, is deemed to have accepted the Plan.	\$60,000,000 ⁴	100%

² When taxes for January 2018 are billed the balance of said taxes will be \$600,000.00

³ The Debtor is relying upon representations of counsel for Rosemary Herman for this figure. The Debtor has ordered an independent appraisal and will file that appraisal by or before the hearing date if it has been prepared.

⁴ This figure is one-half the value of the Property as represented by counsel for Rosemary Herman for this figure. The Debtor has ordered an independent appraisal and will revise this figure as appropriate.

III. OVERVIEW OF CHAPTER 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of interested parties including its creditors and equity interest holders. In addition to permitting rehabilitation of a debtor, another goal of Chapter 11 is to promote equality of treatment for similarly situated creditors and equity interest holders with respect to the distribution of a debtor's assets.

The commencement of a Chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession." The consummation of a plan of reorganization is the principal objective of a Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying claims against and interests in the debtor. Confirmation of a plan by the bankruptcy court makes the plan binding upon a debtor, any issuer of securities under the plan, any person acquiring property under the plan and any creditor or equity interest holder of a debtor. Subject to certain limited exceptions, the confirmation order discharges a debtor from any debt that arose prior to the date of confirmation of the plan and substitutes therefor the obligations specified under the confirmed plan.

After a plan has been filed, the holders of claims against or interests in a debtor are generally permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, however, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. The Debtor is

submitting this Disclosure Statement to holders of Claims against the Debtor and to holders of the Debtor's Equity Interests to satisfy the requirements of section 1125 of the Bankruptcy Code.

**IV.
DESCRIPTION OF THE DEBTOR'S BUSINESS**

A. Background

The Debtor was formed in 1998 as a Delaware Limited Liability Company and owns a single purpose residential building located at 952 Fifth Avenue, New York, New York (the "Property"). The Supreme Court, State of New York has declared that the Property should be deeded equally to J. Maurice Herman ("Maurice") and Rosemarie A. Herman ("Rosemarie") pursuant to a Judgment of the Supreme Court, New York County dated September 26, 2017. Thus Rosemarie Herman is an inchoate equitable owner of 50% of the Property.

Prior to the Petition Date, the Debtor entered into a license agreement, terminable at will, with Rosemary Herman and Maurice Herman's mother, Solita Herman and Leon Nahan.

The Debtor leased Apartment 9B to Revenue Funding, LLC on March 1, 2012. The lease was transferred under an assumption and assignment agreement on May 2, 2014 to TPG Global Ventures, LLC. The Property has an estimated fair market value ("FMV") of \$60 million (an updated Appraisal has been ordered), and will be attached to this Disclosure Statement as an Exhibit.

**V.
THE CHAPTER 11 CASE**

Bar Date Order. A Bar Order has been submitted to the Court for entry. The Debtor awaits its entry.

VI.

SUMMARY OF THE PLAN OF REORGANIZATION

A. Introduction

The Debtor believes that confirmation of the Plan provides the best opportunity for maximizing recoveries for the Debtor's creditors and equity. The Plan provides that within ten (10) days after entry of the Confirmation Order Maurice shall obtain up to \$35 million in funding (the "Plan Funding") pursuant to the Silver Point Term Sheet (Exhibit "C", defined below), which funding will be used, *inter alia*, for the Claim, Allowed Administrative and Priority Claims, all Allowed General Unsecured, the estimated Allowed Professional Fee Claims, and the Administrative Claims Reserve. The Plan Funding will be obtained from pursuant to the terms of the Term Sheet annexed hereto as Exhibit C (the "Silver Point Term Sheet").

The Debtor believes, and will demonstrate to the Bankruptcy Court, that the Debtor's creditors and equity interest holders will receive less in a hypothetical liquidation under Chapter 7 of the Bankruptcy Code than they would under the Plan. The following is a summary of the Plan. The Plan is attached as Exhibit A to this Disclosure Statement. The terms of the Plan govern in the event of any discrepancies with the following discussion.

B. Classification and Treatment of Administrative Claims, Claims and Equity Interests Under the Plan

Only administrative expenses, claims and equity interests that are "allowed" may receive distributions under a Chapter 11 plan. An "allowed" administrative expense, claim or equity interest simply means that a debtor agrees, or in the event of a dispute, that the court determines, that the administrative expense, claim or equity interest, including the amount, is in fact a valid obligation of, or interest in, a debtor. Section 502(a) of the Bankruptcy Code provides that a

timely-filed administrative expense, claim or equity interest is automatically “allowed” unless a debtor or another party in interest objects.

The Bankruptcy Code also requires that, for purposes of treatment and voting, a Chapter 11 plan divide the different claims against, and equity interests in a debtor, into separate classes based upon the legal rights and obligations attached to the claim or interest. Substantially similar claims are usually but not necessarily, classified together, as are equity interests of a substantially similar legal nature.

Under a Chapter 11 plan, the separate classes of claims and equity interests must be designated either as “impaired” (altered by the plan in any way) or “unimpaired” (unaltered 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 (unless the plan provides for no distribution to the holder, in which case, the holder is deemed to reject the plan), and the right to receive an amount under the Chapter 11 plan that is not less than the value that the holder would receive if the debtor were liquidated under Chapter 7.

Consistent with these requirements, the Plan divides the Claims against, and Equity Interests in, the Debtor into the following Classes:

Class	Type	Impairment	Est. Amount
Unclassified	Administrative Claims	Paid in full, or as otherwise agreed to between the Debtor and the holder of such claim	\$5,000 plus professional fees
Unclassified	Priority Tax Claims	Paid in full	\$-0-
Unclassified	Professional Fee Claims	Paid in full, or as otherwise agreed to between the Debtor and the holder of such claim	\$100,000
Class 1	Other Priority Claims	Unimpaired.	\$0
Class 2	Secured Claim (Property Taxes)	Unimpaired	\$350,000 ⁵
Class 3	General Unsecured	Unimpaired	\$100,000 ⁶

⁵ When taxes for January 2018 are billed the balance of said taxes will be \$600,000.00

	Claims		
Class 4	Equity Interests	Unimpaired	\$30,000,000 paid to Rosemarie A. Herman

1. Unclassified—Administrative Claims

Administrative Claims are Claims constituting costs or expenses of administration of the Chapter 11 Case. Other than Professional Fees, the Debtor has paid Administrative Claims in the ordinary course. The Debtor estimates \$5,000 in Statutory Fees that will be paid as Administrative Claims. Pursuant to the Plan, except to the extent the holder of an Allowed Administrative Claim agrees otherwise, each holder of an Allowed Administrative Claim shall be paid the full amount thereof in cash on the Effective Date.

2. Unclassified—Priority Tax Claims.

Priority Tax Claims are Claims for taxes against the Debtor entitled to priority in payment pursuant to section 507(a)(8) of the Bankruptcy Code. The Debtor does not believe that it owes any Priority Tax Claims. Each holder of an Allowed Priority Tax Claim shall be paid in respect of such Allowed Claim the full amount thereof on the Effective Date.

3. Unclassified-- Professional Fee Claims

Professionals are Persons employed pursuant to an order of the Bankruptcy Court in accordance with sections 327, 328, or 1103 of the Bankruptcy Code or otherwise and to be compensated for services rendered prior to the Effective Date pursuant to sections 327, 328, 329, 330 and/or 331 of the Bankruptcy Code. Professionals in this Chapter 11 Case consist only of Rattet PLLC. Professional Fee Claims are Claims for fees and expenses claimed by a Professional Person pursuant to sections 330, 331 or 503 of the Bankruptcy Code, and unpaid as

⁶ The Debtor has not listed any General Unsecured Claims in its Schedules. Approximately three creditors have filed claims, equaling approximately \$50,000.00

of the Effective Date. The Debtor estimates Professional Fee Claims in the estimated total amount of \$250,000.

Pursuant to the Plan, each holder of an Allowed Professional Fee Claim shall receive 100% of the unpaid amount of such Allowed Professional Fee Claim in Cash after such Professional Fee Claim becomes an Allowed Professional Fee Claim. The payment of Allowed Professional Fee Claims shall reduce the amount otherwise distributed to holders of Equity Interest on account of such interest.

4. Class 1—Other Priority Claims (Unimpaired; therefore, deemed to have accepted the Plan and not entitled to vote)

Other Priority Claims consist of Claims against the Debtor entitled to priority in payment under section 507(a) of the Bankruptcy Code, other than an Administrative Claim, Professional Fee Claim or Priority Tax Claim. The Debtor does not believe there are any Other Priority Claims. To the extent a party asserts a Claim designated as Other Priority Claim, and such claim is Allowed, each holder of an Allowed Other Priority Claim shall be paid in respect of such Allowed Other Priority Claim the full amount thereof in Cash, on the Effective Date. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan.

5. Class 2—the Secured Claim (Unimpaired)

The City of New York has filed a Secured Tax Claim in the amount of \$350,000 in real estate taxes.⁷ The Claims of the City of New York will be paid in full on confirmation.

⁷ When taxes for January 2018 are billed the balance of said taxes will be \$600,000.00

6. Class 3—General Unsecured Claims (Unimpaired; therefore, deemed to have accepted the Plan and not entitled to vote)

General Unsecured Claims are unsecured, non-priority Claims that are not Administrative Claims, Priority Tax Claims, Other Priority Claims, Professional Fee Claims, or Secured Claims. The Debtor believes there will be approximately \$100,000 in Allowed General Unsecured Claims.

Under the Plan, each holder of an Allowed General Unsecured Claim shall be paid in respect of such Allowed General Unsecured Claim the full amount thereof, together with postpetition interest at the Federal judgment rate, in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed General Unsecured Claim. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan.

7. Class 4—Equity Interests (Unimpaired; therefore, entitled to vote to accept or reject the Plan)

The Supreme Court, State of New York has declared that the Property should be deeded equally to J. Maurice Herman (“Maurice”) and Rosemarie A. Herman (“Rosemarie”) pursuant to a Judgment of the Supreme Court, New York County dated September 26, 2017. Thus Rosemarie Herman is an inchoate equitable owner of 50% of the Property. The Debtor is treating that claim as a 50% equity interest since as of now, there has been no transfer of the Property. On the Effective Date, the Debtor shall cancel the pre-petition Equity Interests and reissue same as contemplated in the funding commitment issued by Silver Point Capital L.P. (Exhibit “C”) This Class is unimpaired and, therefore, is deemed to have accepted the Plan.

11 U.S.C. § 1129 (a)(7)(A)(ii) provides:

- (a) The court shall confirm a plan only if all of the following requirements are met:
- (7) With respect to each impaired class of claims or interests— (A) each

holder of a claim or interest of such class—(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date;

11 U.S.C. § 1129(a)(8) provides:

- (8)** With respect to each class of claims or interests--
- (A)** such class has accepted the plan; or
- (B)** such class is not impaired under the plan.

11 U.S.C. § 1129(b)(1) provides:

(b)(1) Notwithstanding section 510(a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

11 U.S.C. § 1129 (b)(2)(C) provides:

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

- (C)** With respect to a class of interests--
- (i)** the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the **value of such interest**; or
- (ii)** the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property. (emphasis supplied).

Because the equity holder Rosemary Herman is receiving the value of her claim she is unimpaired. Even if she is treated as holding an interest in real estate she is receiving payment of \$30,000,000.00 in full satisfaction of her claim.

C. Means for Implementation of the Plan

J. Maurice Herman implement the plan pursuant to the Silver Point Term Sheet, 14 days after entry of the Confirmation Order or when the Order of Confirmation becomes final and non-appealable, whichever is later.

D. Releases, Injunctions and Exculpations

1. Releases by the Debtor. Pursuant to section 1123(b) of the Bankruptcy Code, and except for such liabilities and obligations otherwise assumed or provided hereunder, for good and valuable consideration provided by Windsor Plaza, LLC, and effective as of the Confirmation Date, the Released Parties are deemed released and discharged by the Debtor and its Estate from any and all direct, indirect or derivative claims, obligations, rights, suits, judgments, indemnification, and all other claims, causes of action, controversies of every type, kind, nature, description or character whatsoever, including any derivative claims asserted on behalf of the Estate, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, currently existing or hereafter arising, in law, at equity, whether for tort, fraud, contract or otherwise, that the Debtor would have been legally entitled to assert, including, but not limited to, any claim or cause of action arising from or relating to the Debtor, the Chapter 11 Case, the Plan, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest of the Released Parties that is treated in the Plan, the business or contractual arrangements between the Debtor, on the one hand, and any Released Party, on the other hand, the negotiation, formulation, or preparation of the Plan and the Disclosure Statement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place, in each case to the extent incurred on or prior to the Confirmation Date; provided, however, that nothing in this section or in the Plan shall be deemed to

release any Released Party from liability for acts or omissions that are the result of breach of fiduciary duty, if any, actual fraud, gross negligence, willful misconduct, ultra vires acts, criminal conduct, disclosure of confidential information that causes damages, or willful violation of the securities laws or the Internal Revenue Code, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice. Nothing herein shall be deemed to prejudice the right of the Debtor and parties aligned in interest with the Debtor from appealing any judgment or order entered by Supreme Court, New York County in litigation related to this filing.

2. **Injunction.** On the Confirmation Date, the Debtor shall be permanently enjoined from commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind, including asserting any setoff, right or subrogating, contribution, indemnification or recoupment of any kind, directly or indirectly, or proceeding in any manner in any place inconsistent with the releases granted by the Debtor and its Estate to the Released Parties pursuant to the Plan. The releases and injunctions granted in favor of the Released Parties are integral parts of the Plan and are necessary to confirm the Plan. Nothing herein shall be deemed to prejudice the right of the Debtor and parties aligned in interest with the Debtor from appealing any judgment or order entered by Supreme Court, New York County in litigation related to this filing.

3. **Confirmation Injunction.** Other than such liabilities and obligations otherwise assumed or provided hereunder (a) the rights afforded herein and the treatment of all Claims and Equity Interests herein, shall be in exchange for and in complete satisfaction and release of, all Claims and Equity Interests of any nature whatsoever, including any interest accrued on Claims from and after the Petition Date, against the Debtor or any of its assets and properties, (b) on the

Effective Date, all such Claims against the Debtor shall satisfied and released in full, and (c) all Persons shall be precluded from asserting and shall be permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively, or otherwise) against the Debtor, its assets or properties, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Confirmation Date.

4. **Discharge.** On the Confirmation Date, except as otherwise expressly provided in this Plan or the Confirmation Order, the Confirmation of this Plan shall as of the Confirmation Date: (i) discharge the Debtor, the reorganized Debtor and any of their assets from all Claims, demands, liabilities and other debts that arose on or before the Confirmation Date, including, without limitation, all debts of the kind specified in section 502 of the Bankruptcy Code, whether or not (A) a proof of claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (B) a Claim based on such debt is Allowed pursuant to section 502 of the Bankruptcy Code, (C) a Claim based on such debt is or has been disallowed by order of the Bankruptcy Court, or (D) the holder of a Claim based on such debt has accepted this Plan; and (ii) preclude all Entities from asserting against the Debtor, the reorganized Debtor or any of their assets any other or further Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date, all pursuant to sections 524 and 1141 of the Bankruptcy Code. The discharge provided in this provision shall void any judgment obtained against the Debtor at any time, to the extent that such judgment relates to a discharged Claim. The Debtor is discharged from any Claims and agreements related to debts that arose on or before the Confirmation Date and such debts. Claims and agreements are deemed restructured and new as set forth in the Plan.

E. Distributions Under the Plan

1. Distributions for Claims Allowed as of the Effective Date. Except as otherwise provided herein or as ordered by the Bankruptcy Court, Distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Effective Date or as soon thereafter as is practicable. Any Distribution to be made on the Effective Date pursuant to this Plan shall be deemed as having been made on the Effective Date if such distribution is made on the Effective Date or as soon thereafter as is practicable, but not more than five (5) days after the Effective Date. Any payment or Distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day.

2. Reserves for Administrative, Priority Tax, and Statutory Fees. On the Effective Date, or as soon as practicable thereafter, the Debtor shall establish and maintain a reserve (to the extent necessary) in an amount equal to the sum of (i) all Disputed Administrative Claims, Disputed Cure Amounts, Disputed Priority Tax Claims and Disputed Other Priority Claims, if any, in an amount equal to what would be distributed to holders of Disputed Administrative Claims, Disputed Priority Tax Claims, Disputed Other Priority Claims, and Disputed Cure Amounts, if any, if their Disputed Claims had been deemed Allowed Claims on the Effective Date or on the Administrative Claims Bar Date or such other amount as may be approved by the Bankruptcy Court upon motion of the Debtor, (ii) an estimated amount for unpaid Professional Fee Claims and any other Administrative Claims that have not been filed as of the Effective Date, and (iii) an estimated amount for unpaid Statutory Fees and Statutory Fees that may become due until the entry of a final decree closing the Chapter 11 Case (together, the “Administrative Claim Reserve”). Any such funds shall be maintained by the Debtor in an account at an authorized bank depository in the Southern District of New York. With respect to such Disputed Claims, if, when, and to the extent any such Disputed Claim becomes an Allowed

Claim by Final Order, the relevant portion of the Cash held in reserve therefore shall be distributed by the Debtor to the Claimant in a manner consistent with distributions to similarly situated Allowed Claims. The balance of such Cash, if any, remaining after all Professional Fee Claims, Disputed Administrative Claims, Disputed Cure Amounts, Disputed Priority Tax Claims, and Disputed Other Priority Claims, have been resolved and distributions made in accordance with the Plan, shall be released and distributed promptly to the Debtor. No payments or distributions shall be made with respect to a Claim that is a Disputed Claim pending the resolution of the dispute by Final Order or agreement of the parties.

3. Unclaimed Property. If any Distribution remains unclaimed for a period of one hundred and twenty (120) days after it has been delivered (or attempted to be delivered) in accordance with the Plan to the holder of such Allowed Claim, such unclaimed property shall be forfeited by such holder, whereupon all right, title and interest in and to the unclaimed property shall be vested in the Debtor.

F. Conditions to Effective Date

1. Conditions to Confirmation of the Plan. The Plan shall not become effective unless the Confirmation Order is a Final Order and is not subject to any stay or injunction.

2. Notice of the Effective Date; Actions Taken on Effective Date. The Debtor shall file and serve upon all creditors a notice of the occurrence of the Effective Date within two (2) Business Days thereafter. Unless otherwise specifically provided in the Plan, any action required to be taken by the Debtor on the Effective Date may be taken by the Debtor on the Effective Date or as soon as reasonably practicable thereafter.

G. Retention of Jurisdiction

1. Jurisdiction. Following the Confirmation Date and until such time as all payments and distributions required to be made and all other obligations required to be

performed under this Plan have been made and performed by the Debtor, the Bankruptcy Court shall retain jurisdiction as is legally permissible, including, without limitation, for the following purposes:

(a) Claims. To determine the allowance, extent, classification, or priority of Claims against the Debtor upon objection by the Debtor.

(b) Injunction, etc. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be necessary for the implementation, executions, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Bankruptcy Court in the Chapter 11 Case on or before the Effective Date with respect to any Person or Entity.

(c) Professional Fees. To determine any and all applications for allowance of compensation and expense reimbursement of Professional for periods before the Effective Date, and objections thereto, as provided for the in the Plan.

(d) Certain Priority Claims. To determine the allowance, extent and classification of any Priority Tax Claims, Other Priority Claims, Administrative Claims or any request for payment of an Administrative Claim.

(e) Dispute Resolution. To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan and/or Confirmation Order and the making of Distributions under the Plan and/or the Confirmation Order.

(f) Actions. To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted (either before or after the Effective Date) in the Chapter 11 Case by or on behalf of the Debtor.

(g) General Matters. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or as may be authorized under provisions of the Bankruptcy Code or other applicable law.

(h) Plan Modification. To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out its intent and purposes.

(i) Aid Consummation. To issue such orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person or Entity, to the full extent authorized by the Bankruptcy Code.

(j) Implementation of Confirmation Order. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated.

(k) Final Order. To enter a final order closing the Chapter 11 Case.

H. Miscellaneous Provisions

1. Pre-Confirmation Modification. On notice to and opportunity to be heard by the United States Trustee, the Plan may be altered, amended or modified by the Debtor before the Confirmation Date as provided in section 1127 of the Bankruptcy Code.

2. Post-Confirmation Immaterial Modification. The Debtor, insofar as it does not materially and adversely affect the interests of holders of Claims, may correct any defect, omission or inconsistency in the Plan in such manner and to such extent as may be necessary to expedite consummation of this Plan.

3. **Post-Confirmation Material Modification.** The Debtor may alter or amend the Plan after the Confirmation Date in a manner that materially and adversely affects holders of Claims, provided that such alteration or modification is made after notice and a hearing and otherwise meets the requirements of section 1127 of the Bankruptcy Code.

4. **Withdrawal or Revocation of the Plan.** If the Debtor revokes or withdraws the Plan, or if confirmation or consummation of the Plan does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the allowance, fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests) and any assumption or rejection of executory contracts or leases affected by the Plan shall terminate and be of no further force or effect, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan shall constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Person, or prejudice in any manner the rights of any other Person.

5. **Payment of Statutory Fees.** The Debtor shall pay from Cash in the Estate all fees payable due as of the Effective Date pursuant to section 1930 of title 28 of the United States Code. Thereafter, the Debtor shall pay from Cash in the Estate all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due under 31 U.S.C. § 3717, on all disbursements, including plan payments and disbursements in and outside of the ordinary course of business, until the earliest of the entry of a final decree closing the Chapter 11 Case, dismissal of the Chapter 11 Case, or conversion of the Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code.

6. **Successors and Assigns.** The rights, benefits and obligations of any Person or Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such Person or Entities.

7. **Comprehensive Settlement of Claims and Controversies.** Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Equity Interest may have with respect to any Allowed Claim or Allowed Equity Interest or any Distribution to be made pursuant to the Plan on account of any Allowed Claim or Allowed Equity Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or causes of action for (a) the Debtor and its Estate, including, without limitation any Person or Entity seeking to exercise a right in a derivative capacity on behalf of the Estate, and (b) the Released Parties, and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtor, its Estates, its properties and Claim holders and Equity Interest holders, and is fair, equitable and reasonable. For the avoidance of doubt, the compromise and settlement of all claims and causes of action of the Debtor and its Estates as set forth herein shall include any potential avoidance actions accruing to the Debtor or its Estates, which shall not be pursued.

8. **Preservation of Insurance.** This Plan shall not diminish or impair the enforceability of any insurance policy, right or claim that may cover Claims against the Debtor (including, without limitation, its members, managers or officers) or any other persons or entity. Likewise, the Plan and Confirmation Order shall not impair any insurance carrier's rights,

claims, defenses or disputes under any policy and shall not act to increase or extend any rights of the Debtor or the carries.

9. Cramdown. The Debtor reserves the right to request confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Class of Claims or Equity Interests that rejects, or is deemed to have rejected, the Plan.

10. Filing of Additional Documents. Except as otherwise provided in the Plan, 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, and the Debtor shall be responsible for the preparation and filing of any reports necessary until entry of a final decree.

11. Governing Law. Except to the extent that the Bankruptcy Code is applicable, the rights 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.

12. Notices. Any notice required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight courier service, freight prepaid, to be addressed as follows:

If to the Debtor: Windsor Plaza LLC
c/o J. Maurice Herman
3300 S. Dixie Hwy
Suite 1-270
West Palm Beach, Florida 33405

With a copy: Robert L. Rattet, Esq.
Rattet PLLC
202 Mamaroneck Avenue
Suite 300
White Plains, New York 10601
Email: rrattet@rattettlaw.com

13. **Saturday, Sunday or Legal Holiday.** If 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 the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

14. **Severability.** If any term or provision of the Plan is held by the Bankruptcy Court prior to or at the time of Confirmation to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. In the event of any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan may, at the option of the Debtor, remain in full force and effect and not be deemed affected. However, the Debtor reserves the right not to proceed to Confirmation or consummation of the Plan if any such ruling occurs. 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 valid and enforceable pursuant to its terms.

15. **Extinguishment of Causes of Action Under the Avoiding Power Provisions.** On the Effective Date, all rights, claims, causes of action, avoiding powers, suits and proceedings arising under sections 506(c), 544, 545, 547, 548, 549 and 553 of the Bankruptcy Code shall be extinguished unless then pending; provided however, such rights and claims are preserved by the Debtor if asserted defensively or for purposes of offset. The Debtor has conducted an investigation of claims under sections 506(c), 544, 545, 547, 548, 549 and 553 of the Bankruptcy Code that could be asserted against parties, including such potential claims

against the Released Parties, and has determined that there is no basis to support such claims, or that there are meritorious defenses to such claims. The Debtor has also conducted an investigation of other claims of the Debtor or third parties against the Released Parties that are being released under the Plan, and has not identified any claims that could be asserted against them.

VII. CONFIRMATION PROCEDURE

Under the Bankruptcy Code, the following steps must be taken to confirm the Plan:

A. Solicitation of Votes

In accordance with Sections 1126 and 1129 of the Bankruptcy Code, the Claims in Class 2 of the Plan are impaired and are entitled to vote to accept or reject the Plan. Claims and Equity Interests in Classes 1, 2, 3 and 4 are unimpaired. The holders of Allowed Claims and Equity Interests in such Classes are conclusively presumed to have accepted the Plan and the solicitation of acceptances with respect to such Classes therefore is not required under section 1126(f) of the Bankruptcy Code. Chapter 11 of the Bankruptcy Code provides that, in order for the Bankruptcy Court to confirm the Plan as a consensual plan, the holders of Impaired Claims against, and Impaired Interests in, the Debtor that are entitled to vote must accept the Plan.

An Impaired Class of Claims will have accepted the Plan if (i) the holders of at least two-thirds in amount of the Allowed Claims actually voting in the Class have voted to accept the Plan and (ii) the holders of more than one-half in number of the Allowed Claims actually voting in the Class have voted to accept the Plan, not counting the vote of any holder designated under section 1126(e) of the Bankruptcy Code or any insider.

A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

Any creditor in an impaired Class (i) whose Claim has been listed by the Debtor in the Debtor's Schedules filed with the Bankruptcy Court (provided that such Claim has not been scheduled as Disputed, contingent or unliquidated) or (ii) who filed a proof of Claim on or before the Bar Date (or, if not filed by such date, any proof of Claim filed within any other applicable period of limitations or with leave of the Bankruptcy Court), which Claim is not the subject of an objection or request for estimation, is entitled to vote. As described above, the Debtor received votes as set forth in the Voting Report filed with the Court.

B. The Confirmation Hearing

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing. The Confirmation Hearing in respect of the Plan has been adjourned to January __, 2018 at _____ Eastern Standard Time, before the Honorable James L. Garrity, Jr., United States Bankruptcy Judge, at the Bankruptcy Court, One Bowling Green, New York, New York. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing.

C. Confirmation

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of the Plan are that the Plan is (i) accepted by all impaired Classes of Claims and Equity Interests or, if rejected by an impaired Class, that the Plan "does not discriminate

unfairly” and is “fair and equitable” as to such Class, (ii) feasible and (iii) in the “best interests” of creditors and stockholders that are impaired under the Plan.

1. Acceptance

Classes 1, 2, 3 and 4 are unimpaired and are conclusively presumed to have voted to accept the Plan.

2. Feasibility

The Bankruptcy Code requires a plan proponent to demonstrate that confirmation of a plan of reorganization is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor unless so provided by the plan of reorganization. The Silver Point Term Sheet evidences the availability of funds to make Effective Date payments under the Plan, and, as demonstrated by the Debtor’s projections, the Debtor will be able to make all post-Effective date Plan distributions for which there will be an interest reserve. Furthermore, the Debtor and/or J. Maurice Herman will re-finance the Silver Point debt on or before the term of the loan, with any options to extend that the Debtor may exercise.

3. Best Interests Test

With respect to each impaired Class of Claims and Equity Interests, confirmation of the Plan requires that each holder of an Allowed Claim or Equity Interest either (i) accept the Plan or (ii) receive or retain 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 were liquidated under Chapter 7 of the Bankruptcy Code. To determine what holders of Claims and Equity Interests of each impaired Class would receive if the Debtor were liquidated under Chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtor’s assets and properties in the context of a Chapter 7 liquidation case. The cash amount that would be available for satisfaction of Claims and Equity Interests would consist of the

proceeds resulting from the disposition of the unencumbered assets and properties of the Debtor, augmented by the unencumbered cash held by the Debtor at the time of the commencement of the liquidation case. Such cash amount would be reduced by the amount of the costs and expenses of the liquidation and by such additional administrative expense and priority claims that might result from the termination of the Debtor's businesses and the use of Chapter 7 for the purposes of liquidation.

The Debtor's costs of liquidation under Chapter 7 would include the fees payable to a Chapter 7 trustee, as well as those fees that might be payable to attorneys and other professionals that such a trustee might engage. The foregoing types of claims and other claims that might arise in a liquidation case or result from the pending Chapter 11 Case, including any unpaid expenses incurred by the Debtor during the Chapter 11 Case such as compensation for attorneys, would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay pre-petition Claims.

To determine if the Plan is in the best interests of each impaired Class, the present value of the distributions from the proceeds of a liquidation of the Debtor's unencumbered assets and properties, after subtracting the amounts attributable to the foregoing Claims, are then compared with the value of the property offered to such Classes of Claims and Equity Interests under the Plan.

After considering the effects that a Chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Chapter 11 Case, including (i) the increased costs and expenses of a liquidation under Chapter 7 arising from fees payable to a trustee in bankruptcy and professional advisors to such trustee, (ii) the erosion in value of assets in a Chapter 7 case in the context of the expeditious liquidation required under Chapter 7 and the

“forced sale” atmosphere that would prevail and (iii) the substantial increases in Claims which would be satisfied on a priority basis or on parity with creditors in the Chapter 11 Case, the Debtor has determined that confirmation of the Plan will provide each holder of an Allowed Claim or Equity Interest with a recovery that is not less than such holder would receive pursuant to liquidation of the Debtor under Chapter 7. The Debtor also believes that the value of any Distributions to each Class of Allowed Claims would be less than under the Plan because such distributions in a Chapter 7 case would not occur for a substantial period of time.

A Liquidation Analysis of the Debtor, prepared by the Debtor and its advisors, is attached hereto as Exhibit B. The information set forth in Exhibit B provides a summary of the liquidation values of the Debtor’s assets, assuming a Chapter 7 liquidation in which a trustee appointed by the Bankruptcy Court would liquidate the assets of the Debtor’s Estates.

Underlying the Liquidation Analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtor, are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtor. The Liquidation Analysis is also based on assumptions with regard to liquidation decisions that are subject to change. Accordingly, the values reflected might not be realized if the Debtor were, in fact, to undergo such a liquidation. The assumptions underlying the Liquidation Analysis are set forth in Exhibit B.

VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not confirmed and consummated, the alternatives to the Plan include (i) liquidation of the Debtor under Chapter 7 of the Bankruptcy Code; (ii) an alternative plan of reorganization; and (iii) dismissal of the Debtor’s Chapter 11 case.

A. Liquidation Under Chapter 7

If no plan is confirmed, the Chapter 11 Case may be converted to a case under Chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be selected to liquidate the Debtor's assets for distribution in accordance with the priorities established by Chapter 7. As discussed above and set forth in the Liquidation Analysis annexed as Exhibit B, the Debtor believes that liquidation under Chapter 7 would result in smaller Distributions being made to creditors and equity interest holders than those provided for in the Plan.

B. Alternative Plan of Reorganization

If the Plan is not confirmed, the Debtor or any other party in interest could attempt to formulate a different plan. Such a plan might involve either a reorganization and continuation of the Debtor's businesses or an orderly liquidation of its assets. The Debtor is within its exclusive period for filing a Plan under 11 U.S.C. §1121(c)(2).

C. Dismissal

If the Debtor's case is dismissed, the more than seven year litigation of this matter will resume. The Class 4 equity holders would suffer serious tax consequences as a result of pass-through capital gains taxes.

**IX.
CERTAIN RISK FACTORS TO BE CONSIDERED**

HOLDERS OF CLAIMS AGAINST THE DEBTOR AND INTERESTS IN THE DEBTOR SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT (AND THE DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED BY REFERENCE), PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN. THESE RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS

CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

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. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes.

2. Risk of Non-Occurrence of the Effective Date

Although the Debtor believes that all of the conditions to the Effective Date will occur after the entry of the Confirmation Order, there can be no assurance as to the timing of the Effective Date or that such conditions will ever occur.

B. Certain Tax Matters

For a summary of certain federal income tax consequences of the Plan to holders of Claims and to the Debtor, see Article XI, "Certain Federal Income Tax Consequences Of The Plan." Rosemarie A. Herman has right to close transaction pursuant to IRC § 1031, and Debtor agrees to cooperate with said decision.

C. 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 date hereof, unless otherwise specified in the Plan, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth in the Plan since that date. The Debtor has no duty to update this Disclosure Statement unless

otherwise ordered to do so by the Bankruptcy Court, although it will continue to comply with the disclosure obligations under the Bankruptcy Rules.

**2. No Representations Outside This Disclosure Statement
Are Authorized**

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 other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision.

3. Claims Could Be More Than Projected

The Debtor has submitted a bar order for signature. The Plan is based on Debtor's good faith estimates contained in the Plan as to the total amount of Allowed Claims are reasonable, the Allowed amount of Claims in each class could be significantly more than projected, which in turn, could cause the value of Distributions to be reduced substantially or could exceed the amount of funds available from the Debtor's estate to pay such claims in full.

**4. 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 Equity Interest should consult his, her, or its own legal counsel and accountant as to legal, tax and other matters concerning his, her, or its Claim or Equity 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.

5. No Admission Made

Prior to the approval of this Disclosure Statement, nothing contained herein shall 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 Equity Interests; provided, however, that upon approval of the this Disclosure Statement, nothing contained herein shall constitute an admission in any proceeding other than the Chapter 11 Case.

**X.
SECURITIES LAWS MATTERS**

The Plan provides that Rosemary Herman will receive 50% of the appraised value of the Property..

**XI.
CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to the Debtor and holders of certain claims against the Debtor. This discussion does not address the U.S. federal income tax consequences of the implementation of the Plan to holders of claims that are entitled to reinstatement, unimpaired or otherwise entitled to payment in full in cash under the Plan.

The discussion of U.S. federal income tax consequences set forth below is based on the Internal Revenue Code of 1986, as amended (the "Tax Code"), U.S. Department of Treasury regulations promulgated or proposed thereunder, judicial authorities, published positions of the Internal Revenue Service ("IRS") and other applicable authorities, all as in effect on the date of this document and all of which are subject to change or differing interpretations (possibly with retroactive effect). The U.S. federal income tax consequences of the contemplated transactions are complex and are subject to significant uncertainties. The Debtor has not requested a ruling from the IRS or any other tax authority, or an opinion of counsel, with respect to any of the tax

aspects of the contemplated transactions, and the discussion below is not binding upon the IRS or such other authorities. Thus, no assurance can be given that the IRS or such other authorities would not assert, or that a court would not sustain, a different position from any discussed herein.

Except as specifically stated otherwise, this summary assumes that a holder holds a claim or an existing Equity Interest as a capital asset for U.S. federal income tax purposes. This summary does not address foreign, state or local tax consequences of the contemplated transactions, nor does it purport to address the U.S. federal income tax consequences of the transactions to special classes of taxpayers (*e.g.*, foreign persons or entities, small business investment companies, regulated investment companies, real estate investment trusts, banks and certain other financial institutions, insurance companies, tax-exempt organizations, holders that are, or hold claims or existing Equity Interests through, pass-through entities, persons whose functional currency is not the U.S. dollar, dealers in securities or foreign currency, and persons holding claims or existing Equity Interests as a hedge against, or that is hedged against, currency risk or as part of a straddle, constructive sale or conversion transaction).

The discussion does not address U.S. federal taxes other than income taxes, nor does it apply to any person that acquires any of the consideration issued pursuant to the Plan through means other than directly participating in the exchange. If a partnership (or another entity that is treated as a partnership for U.S. federal income tax purposes) holds claims or existing Equity Interests, the tax treatment of a partner (or other equity owner) generally will depend upon the status of such partner (or other owner) and upon the activities of the partnership (or other entity). This discussion is based on currently available information regarding the Plan terms and may not reflect the actual terms of the Plan upon its implementation. The following summary of certain

U.S. federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a holder of claims or existing Equity Interests.

IRS Circular 230 Notice: To ensure compliance with IRS Circular 230, holders of Claims and existing Equity Interests are hereby notified that: (A) any discussion of U.S. federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by such holders for the purpose of avoiding penalties that may be imposed on them under the Tax Code; (B) such discussion is written in connection with the promotion or marketing by the Debtor of the transactions or matters addressed herein; and (C) such holders should seek advice based on their particular circumstances from independent tax advisors.

A Claim holder that receives money or other property in discharge of a Claim for interest accrued during the period the holder owned such Claim and not previously included in such holder's income will be required to recognize ordinary income equal to the amount of such money and the fair market value of such property received in respect of such Claim. A holder generally may claim an ordinary deduction (or, possibly, a write-off against a reserve for bad debts) to the extent of any Claim for accrued interest that was previously included in such holder's taxable income and which will not be paid in full by the Debtor under the Plan (after allocating any payment to be made by the Debtor between principal and accrued interest), even if the underlying Claim is held as a capital asset. The tax basis of any property received in exchange for a Claim for accrued interest under the Plan will equal the fair market value of such property on the Effective Date, and the holding period for such property will begin on the day following the Effective Date.

The extent to which consideration distributable under the Plan is allocable to interest is unknown. Holders of Claims are advised to consult their own tax advisers to determine the amount, if any, of consideration received under the Plan that is allocable to interest. Rosemarie A. Herman has right to close transaction pursuant to IRC § 1031, and Debtor agrees to cooperate with said decision.

THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. ALL HOLDERS OF CLAIMS OR EXISTING EQUITY INTERESTS PARTICIPATING IN THE EXCHANGE UNDER THE PLAN ARE URGED TO CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES APPLICABLE TO THEM.

XII.

RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in the Disclosure Statement, the Debtor believes that confirmation and consummation of the Plan is preferable to all other alternatives.

Dated: December 11, 2017

DEBTOR

WINDSOR PLAZA LLC

/s/ J. Maurice Herman

By: _____

Name: J. Maurice Herman

Title: Managing Member

EXHIBIT A

(PLAN)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
In re: : Chapter 11
WINDSOR PLAZA LLC, :
Debtor. : Case No. 17-12891 [JLG]
----- X

CHAPTER 11 PLAN OF REORGANIZATION

Dated: December 11, 2017

RATTET PLLC
Robert L. Rattet
202 Mamaroneck Avenue
Suite 300
White Plains, New York 10601
(914) 381-7400
Attorneys for the Debtor

TABLE OF CONTENTS

INTRODUCTION1

ARTICLE I. DEFINITIONS1

ARTICLE II. CLASSIFICATION OF CLAIMS AND INTERESTS.....6

ARTICLE III. TREATMENT OF UNCLASSIFIED CLAIMS.....8

ARTICLE IV. CLASSIFICATION AND TREATMENT OF
CLASSIFIED CLAIMS AND EQUITY INTERESTS.....8

ARTICLE V. MEANS FOR IMPLEMENTATION OF THE PLAN.....10

ARTICLE VI. RELEASES.....11

ARTICLE VII. DISTRIBUTIONS UNDER THE PLAN.....14

ARTICLE VIII. UNEXPIRED LEASES AND EXECUTORY CONTRACTS.....16

ARTICLE IX. CONDITIONS TO EFFECTIVE DATE.....16

ARTICLE X. RETENTION OF JURISDICTION17

ARTICLE XI. MISCELLANEOUS PROVISIONS.....18

CONFIRMATION REQUEST.....22

INTRODUCTION

Windsor Plaza LLC (the “**Debtor**”) hereby proposes this Chapter 11 Plan (the “**Plan**”) pursuant to Section 1121 of the Bankruptcy Code. Reference is made to the Disclosure Statement for risk factors and a summary and analysis of the Plan and certain related matters.

Subject to the restrictions on modifications set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in Article XI of this Plan, the Debtor expressly reserves the right to alter, amend, supplement or modify this Plan, one or more times, before its substantial consummation.

ARTICLE I

DEFINITIONS

1.1 **Scope of Definitions.** As used in this Plan, the following terms shall have the respective meanings specified below. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine and the feminine gender shall include the masculine.

1.2 **“Administrative Claim”** shall mean a Claim under Section 503(b) (including, without limitation, all administrative claims under Sections 503(b)(9) and 1114(e)(2) of the Bankruptcy Code) or determined to be an Allowed Administrative Claim by a Final Order that is entitled to priority under Sections 507(a)(1) or 507(b) of the Bankruptcy Code, for costs or expense of administration of the Chapter 11 Case including, without limitation, any actual and necessary expenses of operating the business of the Debtor or preserving the estate incurred after the Petition Date, and any and all fees and expenses of Professionals filed under Sections 330, 331 or 503 of the Bankruptcy Code.

1.3 **“Administrative Claims Bar Date”** shall have the meaning ascribed to such term in Section 2.3 of this Plan.

1.4 **“Administrative Claims Reserve”** shall have the meaning ascribed to such term in Section 7.3 of this Plan.

1.5 **“Allowed Claim”** or **“Allowed Administrative Claim”** shall mean: (a) any Claim, proof of which is/was filed with the Bankruptcy Court on or before the date designated by the Bankruptcy Court as the last date(s) for filing proofs of claim with respect to such Claim, or which has been or hereafter is scheduled by the Debtor as liquidated in amount and not disputed or contingent and which, in either case, is a Claim as to which no objection to the allowance thereof has been Filed within the applicable period of limitation (if any) for objection to Claims fixed by the Bankruptcy Court, or as to which any objection has been determined by a Final Order of the Bankruptcy Court (allowing such Claim in whole or in part); (b) a Claim that is allowed (i) in any contract, instrument, or other agreement entered into in connection with the Plan, (ii) in a Final Order or (iii) pursuant to the terms of the Plan; or (c) a request for payment of an Administrative Claim, which is made before the Administrative Claims Bar Date, or otherwise has been deemed timely asserted under applicable law, and is an Administrative Claim as to which no objection to allowance thereof has been Filed within the applicable deadline

pursuant to Section 2.3 of the Plan. Except as otherwise specified in this Plan or a Final Order, the amount of an Allowed Claim shall not include interest on such Claim after the filing of the Chapter 11 Case.

1.6 “**Ballot**” shall mean the form or forms that will be distributed along with the Disclosure Statement to holders of Allowed Claims in classes that are Impaired under the Plan and entitled to vote, which the holders of Impaired Claims may use to vote to accept or reject the Plan.

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

1.8 “**Bankruptcy Court**” shall mean the United States Bankruptcy Court for the Southern District of New York or such other court as may hereafter be granted jurisdiction over the Chapter 11 Case.

1.9 “**Bankruptcy Rules**” shall mean the Federal Rules of Bankruptcy Procedure, as amended from time to time.

1.10 “**Bar Date**” shall mean December __, 2017, the date set by the Bankruptcy Court as the last day to file proofs of Claim.

1.11 “**Business Day**” shall mean any day other than a Saturday, Sunday or legal holiday as such term is defined in Bankruptcy Rule 9006.

1.12 “**Cash**” shall mean cash and cash equivalents, including, but not limited to, wire transfers, checks and other readily marketable direct obligations of the United States of America and certificates of deposit issued by banks.

1.13 “**Chapter 11 Case**” shall mean the above-captioned Chapter 11 case pending for the Debtor.

1.14 “**Claim**” shall have the meaning ascribed to such term in Section 101(5) of the Bankruptcy Code.

1.15 “**Class**” shall mean a category of holders of Claims or Equity Interests, as classified pursuant to Article II of this Plan.

1.16 “**Confirmation**” shall mean the entry of the Confirmation Order on the docket of the Bankruptcy Court.

1.17 “**Confirmation Date**” shall mean the date of entry of an order of the Bankruptcy Court confirming the Plan in accordance with the provisions of the Bankruptcy Code.

1.18 “**Confirmation Hearing**” shall mean the hearing to confirm the Plan.

1.19 “**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

1.20 “**Creditor**” shall have the meaning ascribed to such term in Section 101(10) of the Bankruptcy Code.

1.21 “**Debtor**” shall mean Windsor Plaza LLC.

1.22 “**Disclosure Statement**” shall mean the third amended disclosure statement respecting the Plan, all exhibits and annexes thereto, and any amendments or modifications thereof.

1.23 “**Disputed Claim**” shall mean any Claim: (a) listed on the Schedules as unliquidated, disputed or contingent; or (b) as to which the Debtor or any party in interest have interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules or is otherwise disputed by the Debtor, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

1.24 “**Distribution(s)**” shall mean a payment of Cash and/or any other distributions of property made to holders of Allowed Claims or Equity Investments pursuant to this Plan and the Cash Collateral Order.

1.25 “**Effective Date**” shall mean the first Business Day following the date on which each of the conditions set forth in Section 9.1 of the Plan have been satisfied; provided that if a stay of the Confirmation Order is in effect, then the Effective Date shall mean the first Business Day after such stay is no longer in effect.

1.26 “**Entity**” shall have the meaning ascribed to such term in Section 101(15) of the Bankruptcy Code.

1.27 “**Equity Interest**” shall mean the legal, equitable, contractual or other rights of any Person with respect to any capital stock, membership interest or other ownership interest in the Debtor, whether or not transferable, and any option, warrant or right to purchase, sell, subscribe for, or otherwise acquire or receive an ownership interest or other equity security in the Debtor. J. Maurice Herman holds 100% of the limited liability company membership interests. By virtue of the judgment of the Supreme Court, New York County entered September 26, 2017 the Debtor has been directed to deed the Property 50% to Maurice Herman and 50% to Rosemarie A. Herman. Maurice Herman and Rosemary Herman are treated as each holding a one-half Equity Interest in the Debtor.

1.28 “**Estate**” shall mean the estate of the Debtor created pursuant to Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

1.29 “**File**”, “**Filed**”, or “**Filing**” shall mean file, filed or filing with the United States Bankruptcy Court for the Southern District of New York, or with respect to proofs of claim, proofs timely and property transmitted to the Clerk of the Bankruptcy Court.

1.30 “**Final Order**” shall mean an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Case, or the docket of any such other court, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the

time to appeal or seek review or rehearing or leave to appeal has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, no appeal or petition for review or rehearing remains pending; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order or judgment shall not cause such order or judgment not to be a Final Order.

1.31 “**General Unsecured Claim**” shall mean any unsecured, non-priority Claim that is not an Administrative Claim, Priority Tax Claim, Other Priority Claim, Professional Fee Claim, or Secured Claim.

1.32 “**Impaired**” shall have the meaning ascribed to such term in Section 1124 of the Bankruptcy Code.

1.33 “**Liens**” shall mean valid and enforceable liens, mortgages, security interests, pledges, charges, encumbrances, or other legally cognizable security devices of any kind.

1.34 “**Silver Point Term Sheet**” shall mean the Term Sheet between Silver Point and Debtor, annexed hereto as Exhibit C.

1.35 “**Other Priority Claim**” shall mean any Claim against the Debtor entitled to priority in payment under Section 507(a) of the Bankruptcy Code other than an Administrative Claim, Professional Fee Claim or Priority Tax Claim.

1.36 “**Person**” shall have the meaning ascribed to such term in Section 101(41) of the Bankruptcy Code.

1.37 “**Petition Date**” shall mean October 16, 2017.

1.38 “**Plan**” shall mean this Chapter 11 Plan of Reorganization, all exhibits hereto and any further amendments or modifications hereof made in accordance with the terms hereof, the Bankruptcy Code and the Bankruptcy Rules.

1.39 “**Plan Funding**” shall mean the funding obtained by J. Maurice Herman pursuant to the Silver Point Term Sheet, which funding will be used, *inter alia*, for the assignment of the SCB Loan Documents and to provide for payment of Rosemary Herman’s inchoate equity interest in the Debtor Allowed Administrative and Priority Claims, all Allowed General Unsecured, the estimated Allowed Professional Fee Claims, and the Administrative Claims Reserve. The Plan Funding shall occur the later of 14] days after entry of the Confirmation Order or when the Confirmation Order becomes final and non-appealable.

1.40 “**Priority Tax Claim**” shall mean any Claim for taxes against the Debtor entitled to priority in payment pursuant to Section 507(a)(8) of the Bankruptcy Code.

1.41 “**Professional(s)**” shall mean a Person employed pursuant to an order of the Bankruptcy Court in accordance with Sections 327, 328, or 1103 of the Bankruptcy Code or otherwise and to be compensated for services rendered prior to the Effective Date pursuant to Sections 327, 328, 329, 330 and/or 331 of the Bankruptcy Code.

1.42 “**Professional Fee Claim**” shall mean those fees and expenses claimed by a Professional Person pursuant to Sections 330, 331 or 503 of the Bankruptcy Code, and unpaid as of the Effective Date, but not including any subrogation or contribution Claim arising from any Person’s payment of any fees and expenses to a Professional Person.

1.43 “**Professional Fee Claims Bar Date**” shall have the meaning ascribed to such term in Section 2.4 herein.

1.44 “**Property**” shall mean the premises located at 66/82 Elizabeth Street, Commercial Unit, New York, New York 10013.

1.45 “**Pro Rata**” or “**Pro Rata Share**” shall mean the proportion that the amount of an Allowed Claim in a particular Class bears to the aggregate amount of all Claims in such Class, including Disputed Claims, but not including Disallowed Claims, as calculated by the Debtor prior to the Effective Date.

1.46 “Released Parties” shall mean professionals engaged by the Debtor and/or retained by Order of the bankruptcy court.

1.47 “**Schedules**” shall mean the Debtor’s Schedules of Assets and Liabilities Filed pursuant to Bankruptcy Rule 1007, as they may be amended from time to time.

1.48 “**Secured Tax Claim**” shall mean any Claim for taxes against the Debtor for real property taxes.

1.49 “**Statutory Fees**” shall mean all fees payable with respect to the Chapter 11 Case pursuant to Section 1930 of title 28 of the United States Code and interest thereon pursuant to Section 3717 of title 31 of the United States Code.

1.50 “**Unimpaired**” shall mean, with respect to a Class of Claims, a Claim that is unimpaired within the meaning of Section 1124 of the Bankruptcy Code.

All terms not expressly defined herein shall have the respective meaning given to such terms in Section 101 of the Bankruptcy Code or as otherwise defined in applicable provisions of the Bankruptcy Code.

Unless otherwise specified herein, any reference to an Entity as a holder of a Claim or Equity Interest includes, with respect to such Claim or Equity Interest, that Entity’s successors, assigns and affiliates. The rules of construction set forth in Section 102 of the Bankruptcy Code shall apply.

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

All Exhibits to the Plan and supplements to the Plan are incorporated into and are a part of this Plan as if set forth in full herein, and, to the extent not annexed hereto, such Exhibits shall be timely filed in accordance with this Plan prior to the Confirmation Hearing. Holders of Claims and Equity Interests may obtain a copy of the filed Exhibits upon written request to the

Debtor. Upon their filing, the Exhibits may be inspected in the office of the Clerk of the Bankruptcy Court or its designee during normal business hours. The documents contained in the Exhibits shall be approved by the Bankruptcy Court pursuant to the Confirmation Order.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTERESTS

2.1 **General Rules of Classification.** Generally, a Claim is classified in a particular Class for voting and distribution purposes only to the extent the Claim qualifies within the description of that Class, and is classified in another Class or Classes to the extent any remainder of the Claim qualifies within the description of such other Class or Classes. Unless otherwise provided, to the extent a Claim qualifies for inclusion in a more specifically defined Class and a more generally-defined Class, it shall be included in the more specifically defined Class.

2.2 **Administrative Claims, Priority Tax Claims and Professional Fee Claims.** Administrative Claims, Priority Tax Claims, and Professional Fee Claims have not been classified and are excluded from the Classes set forth in Article III of the Plan in accordance with Section 1123(a)(1) of the Bankruptcy Code.

2.3 **Bar Date for Administrative Claims.** Unless otherwise ordered by the Bankruptcy Court, requests for payment of Administrative Claims (except for Professional Fee Claims) must be filed and served on counsel for the Debtor no later than the Confirmation Hearing (the "**Administrative Claims Bar Date**"). Any Person that is required to file and serve a request for payment of an Administrative Claim and fails to timely file and serve such request, shall be forever barred, estopped and enjoined from asserting such Claim or participating in distributions under the Plan on account thereof. Objections to requests for payment of Administrative Claims (except for Professional Fee Claims and Administrative Claims incurred in the ordinary course of the Debtor's business) must be filed and served on counsel for the Debtor and the party requesting payment of an Administrative Claim within thirty (30) days after the filing of such request for payment.

2.4 **Bar Date for Professional Fee Claims.** Unless otherwise ordered by the Bankruptcy Court, and subject to notice and a hearing under Section 330 of the Bankruptcy Code, requests for payment of Professional Fee Claims incurred through the Effective Date must be filed and served on (i) counsel to the Debtor, (ii) all creditors, and (iii) the United States Trustee, no later than thirty (30) days after the Confirmation Date (the "**Professional Fee Claims Bar Date**"). The day prior to the Confirmation Date, each Professional shall provide counsel for the Debtor with a written estimate of the total amount of compensation and expenses for which such Professional expects to seek final compensation and reimbursement pursuant to Section 330 of the Bankruptcy Code. Such estimates shall include estimated sums for the preparation and prosecution of any application for final compensation.

2.5 **Classification of Claims and Equity Interests.** The following is the designation of the Classes of Claims and Equity Interests under the Plan for the Debtor:

- (a) Class 1 Claims consists of all Other Priority Claims.

- (b) Class 2 Claims secured claim of the City of New York for real property taxes.
- (c) Class 3 Claims consists of all General Unsecured Claims.
- (d) Class 4 consists of all Equity Interests.

ARTICLE III

TREATMENT OF UNCLASSIFIED CLAIMS

3.1 **Administrative Claims.** Except to the extent the holder of an Allowed Administrative Claim agrees otherwise, each holder of an Allowed Administrative Claim shall be paid in respect of such Allowed Administrative Claim (a) the full amount thereof in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes and Allowed Administrative Claim, or upon such other terms as may be agreed upon by the holder of such Allowed Administrative Claim, or (b) such lesser amount as the holder of such Allowed Administrative Claim and the Debtor might otherwise agree; provided, however, that all Administrative Claims incurred in the ordinary course of the Debtor's business during the Chapter 11 Case shall be paid in the ordinary course of the Debtor's business. Notwithstanding the foregoing, the Statutory Fees shall be paid in Cash as soon as practicable after the Effective Date.

3.2 **Professional Fee Claims.** Each holder of an Allowed Professional Fee Claim shall receive 100% of the unpaid amount of such Allowed Professional Fee Claim in Cash after such Professional Fee Claim becomes an Allowed Professional Fee Claim. The payment of Allowed Professional Fee Claims shall reduce the amount otherwise distributed to holders of Equity Interest on account of such interest.

ARTICLE IV

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

The categories of Claims and Equity Interests listed below classify Claims against and Equity Interests in the Debtor for all purposes, including voting, confirmation and distribution pursuant hereto and pursuant to Sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise satisfied prior to the Effective Date.

4.1 **Class 1 - Other Priority Claims.** Each holder of an Allowed Other Priority Claim shall be paid in respect of such Allowed Other Priority Claim (a) the full amount thereof in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed Other Priority Claim, or upon such other terms as may be

agreed upon by the holder of such Allowed Other Priority Claim and the Debtor, or (b) such lesser amount as the holder of such Allowed Other Priority Claim and the Debtor might otherwise agree. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan.

4.2 **Secured Tax Claims.** Except as provided herein, each holder of an Allowed Secured Tax Claim shall be paid in respect of such Allowed Claim (a) the full amount thereof, without post-petition Date interest or penalty, in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed Priority Tax Claim; or (b) upon such other terms as may be agreed upon by the holder of such Allowed Claim and the Debtor.

4.3 **Class 3 - General Unsecured Claims.** Each holder of an Allowed General Unsecured Claim shall be paid in respect of such Allowed General Unsecured Claim (a) the full amount thereof, together with postpetition interest calculated at the Federal judgment rate, in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed General Unsecured Claim, or upon such other terms as may be agreed upon by the holder of such Allowed General Unsecured Claim and the Debtor, or (b) such lesser amount as the holder of such Allowed General Unsecured Claim and the Debtor might otherwise agree. This Class is not impaired and, therefore, the holders of Claims in this Class are not entitled to vote and are conclusively presumed to accept this Plan. The Debtor has not listed any General Unsecured Claims in its Schedules. The only parties that have timely filed proofs of claim asserting General Unsecured Claims are the Receiver and his attorneys, in the total amount of \$176,360.41. Pursuant to the order approving the 9019 settlement between the Debtor and the Receiver, the General Unsecured Claims of the Receiver and his attorneys are deemed withdrawn.

4.4 **Class 4 Equity Interests.** J. Maurice Herman owns all the issued and outstanding Equity Interests in the Debtor. By virtue of the judgment of Supreme Court, New York County entered on September 26, 2017 the Debtor was directed to convey the Property to Maurice Herman and Rosemary Herman in equal shares as joint tenants in commos. Thus the Plan treats Maurice Herman and Rosemary Herman as owners of 50% each of the equity of the Debtor. Rosemary Herman is receiving the indubitable equivalent of the value of her interest, \$30,000,000¹. This Class is unimpaired and is deemed to have accepted the Plan.

4.5 **Reservation of Rights.** Nothing contained herein shall be deemed to limit the right of the Debtor, creditors, or the United States Trustee to object to any Administrative Claims, Priority Claims, Other Priority Claims, General Unsecured Claims and Secured Claims.

¹ This figure is one-half the value of the Property as represented by counsel for Rosemary Herman for this figure. The Debtor has ordered an independent appraisal and will revise this figure as appropriate.

ARTICLE V

MEANS FOR IMPLEMENTATION OF THE PLAN

5.1 **Plan Funding.** J. Maurice Herman shall obtain the Plan Funding pursuant to the Madison Term Sheet, the later of 14 days after entry of the Confirmation Order or when the confirmation order becomes final and non-appealable. In addition, the Debtor shall seek approval of the Settlement from the Bankruptcy Court and implement the terms therein.

5.2 **Execution of Documents.** On the Effective Date, the Debtor, and any necessary party thereto, shall execute, release, and deliver all documents reasonably necessary to consummate the transactions contemplated by the terms and conditions of the Plan.

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

5.4 **Corporate Action.** Upon the entry of the Confirmation Order, all matters provided under the Plan involving the corporate structure of the Debtor shall be deemed authorized and approved without any requirement of further action by the Debtor, the Debtor's members, or the Debtor's boards of directors, managers, and/or managing members.

5.5 **Manner of Payment.** Any payment of Cash made under the Plan may be made either by check drawn on a domestic bank, by wire transfer, or by automated clearing house transfer from a domestic bank, at the option of the reorganized Debtor.

ARTICLE VI

RELEASES

6.1 **Releases by the Debtor.** Pursuant to Section 1123(b) of the Bankruptcy Code, and except for such liabilities and obligations otherwise assumed or provided hereunder, for good and valuable consideration provided by J. Maurice Herman (the "Released Parties"), and effective as of the Confirmation Date, the Released Parties are deemed released and discharged by the Debtor and its Estate from any and all direct, indirect or derivative claims, obligations, rights, suits, judgments, indemnification, and all other claims, causes of action, controversies of every type, kind, nature, description or character whatsoever, including any derivative claims asserted on behalf of the Estate, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, currently existing or hereafter arising, in law, at equity, whether for tort, fraud, contract or otherwise, that the Debtor would have been legally entitled to assert, including, but not limited to, any claim or cause of action arising from or relating to the Debtor, the Chapter 11 Case, the Plan, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest of the Released Parties that is treated in the Plan, the

business or contractual arrangements between the Debtor, on the one hand, and any Released Party, on the other hand, the negotiation, formulation, or preparation of the Plan and the Disclosure Statement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place, in each case to the extent incurred on or prior to the Confirmation Date; provided, however, that nothing in this Section or in the Plan shall be deemed to release any Released Party from liability for acts or omissions that are the result of breach of fiduciary duty, if any, actual fraud, gross negligence, willful misconduct, ultra vires acts, criminal conduct, disclosure of confidential information that causes damages, or willful violation of the securities laws or the Internal Revenue Code, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice.

6.2 **Injunction.** On the Confirmation Date, the Debtor shall be permanently enjoined from commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind, including asserting any setoff, right or subrogating, contribution, indemnification or recoupment of any kind, directly or indirectly, or proceeding in any manner in any place inconsistent with the releases granted by the Debtor and its Estate to the Released Parties pursuant to the Plan. The releases and injunctions granted in favor of the Released Parties are integral parts of the Plan and are necessary to confirm the Plan.

6.3 **Third Party Releases.** On the Confirmation Date, other than such liabilities and obligations otherwise assumed or provided hereunder, including (a) the Debtor, and (b) the Released Parties, shall be deemed to release each of the other in such capacities, and except as provided for in the Plan, the Released Parties shall be deemed released by all consenting holders of Claims and Equity Interests of and from any claims, obligations, rights, causes of action and liabilities for any act or omission occurring through the date immediately preceding the Confirmation Date, including, without limitation, any act or omission occurring during or relating to the Chapter 11 Case, commencement of the Chapter 11 Case, the solicitation of acceptances of this Plan, the Disclosure Statement, the pursuit of approval of the Disclosure Statement, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which constitute breach of fiduciary duty, if any, fraud, willful misconduct, gross negligence, ultra vires acts, criminal conduct, disclosure of confidential information that causes damages, or willful violation of the securities laws or the Internal Revenue Code, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice, and all such Persons, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and under the Bankruptcy Code.

6.4 **Confirmation Injunction.** Other than such liabilities and obligations otherwise assumed or provided hereunder (a) the rights afforded herein and the treatment of all Claims and Equity Interests herein, shall be in exchange for and in complete satisfaction and release of, all Claims and Equity Interests of any nature whatsoever, including any interest accrued on Claims

from and after the Petition Date, against the Debtor or any of its assets and properties, (b) on the Effective Date, all such Claims against the Debtor shall be satisfied and released in full, and (c) all Persons shall be precluded from asserting and shall be permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively, or otherwise) against the Debtor, its assets or properties, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Confirmation Date.

6.5 **Discharge.** On the Confirmation Date, except as otherwise expressly provided in this Plan or the Confirmation Order, the Confirmation of this Plan shall as of the Confirmation Date: (i) discharge the Debtor, the reorganized Debtor and any of their assets from all Claims, demands, liabilities and other debts that arose on or before the Confirmation Date, including, without limitation, all debts of the kind specified in Section 502 of the Bankruptcy Code, whether or not (A) a proof of claim based on such debt is Filed or deemed Filed pursuant to Section 501 of the Bankruptcy Code, (B) a Claim based on such debt is Allowed pursuant to Section 502 of the Bankruptcy Code, (C) a Claim based on such debt is or has been disallowed by order of the Bankruptcy Court, or (D) the holder of a Claim based on such debt has accepted this Plan; and (ii) preclude all Entities from asserting against the Debtor, the reorganized Debtor or any of their assets any other or further Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date, all pursuant to Sections 524 and 1141 of the Bankruptcy Code. The discharge provided in this provision shall void any judgment obtained against the Debtor at any time, to the extent that such judgment relates to a discharged Claim. The Debtor is discharged from any Claims and agreements related to debts that arose on or before the Confirmation Date and such debts, Claims and agreements are deemed restructured and new as set forth in the Plan.

ARTICLE VII

DISTRIBUTIONS UNDER THE PLAN

7.1 **Distributions for Claims Allowed as of the Effective Date.** Except as otherwise provided herein or as ordered by the Bankruptcy Court, Distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Effective Date or as soon thereafter as is practicable. Any Distribution to be made on the Effective Date pursuant to this Plan shall be deemed as having been made on the Effective Date if such distribution is made on the Effective Date or as soon thereafter as is practicable, but not more than five (5) days after the Effective Date. Any payment or Distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day.

7.2 **Delivery of Distributions.** Subject to Bankruptcy Rule 9010, all Distributions to any holder of an Allowed Claim shall be made at the address set forth on the Schedules filed with the Bankruptcy Court or on the books and records of the Debtor or its agents, unless the Debtor has been notified in writing of a change of address, including by the filing of a proof of claim or Administrative Claim request that contains an address for a holder of a Claim different from the address for such holder reflected on any Schedule.

7.3 **Reserves for Administrative, Priority Tax, and Statutory Fees.** On the Effective Date, or as soon as practicable thereafter, the Debtor shall establish and maintain a

reserve (to the extent necessary) in an amount equal to the sum of (i) all Disputed Administrative Claims, Disputed Cure Amounts, Disputed Priority Tax Claims and Disputed Other Priority Claims, if any, in an amount equal to what would be distributed to holders of Disputed Administrative Claims, Disputed Priority Tax Claims, Disputed Other Priority Claims, and Disputed Cure Amounts if their Disputed Claims had been deemed Allowed Claims on the Effective Date or on the Administrative Claims Bar Date or such other amount as may be approved by the Bankruptcy Court upon motion of the Debtor, (ii) an estimated amount for unpaid Professional Fee Claims and any other Administrative Claims that have not been filed as of the Effective Date, and (iii) an estimated amount for unpaid Statutory Fees and Statutory Fees that may become due until the entry of a final decree closing the Chapter 11 Case (together, the “**Administrative Claim Reserve**”). Any such funds shall be maintained by the Debtor in an account at an authorized bank depository in the Southern District of New York. With respect to such Disputed Claims, if, when, and to the extent any such Disputed Claim becomes an Allowed Claim by Final Order, the relevant portion of the Cash held in reserve therefore shall be distributed by the Debtor to the Claimant in a manner consistent with distributions to similarly situated Allowed Claims. The balance of such Cash, if any, remaining after all Professional Fee Claims, Disputed Administrative Claims, Disputed Cure Amounts, Disputed Priority Tax Claims, and Disputed Other Priority Claims, have been resolved and distributions made in accordance with the Plan, shall be released and distributed promptly to the Debtor. No payments or distributions shall be made with respect to a Claim that is a Disputed Claim pending the resolution of the dispute by Final Order or agreement of the parties.

7.4 **Unclaimed Property.** If any Distribution remains unclaimed for a period of one hundred and twenty (120) days after it has been delivered (or attempted to be delivered) in accordance with the Plan to the holder of such Allowed Claim, such unclaimed property shall be forfeited by such holder, whereupon all right, title and interest in and to the unclaimed property shall be vested in the Debtor.

7.5 **Fractional Cents.** Any other provisions of this Plan to the contrary notwithstanding, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

7.6 **Payments of Less than Twenty-Five Dollars.** If a cash payment otherwise provided for by this Plan with respect to an Allowed Claim would be less than twenty-five (\$25.00) dollars (whether in the aggregate or on any payment date provided in this Plan), notwithstanding any contrary provision of this Plan, the Debtor shall not be required to make such payment.

ARTICLE VIII

UNEXPIRED LEASES AND EXECUTORY CONTRACTS

8.1 **Assumption and Rejection of Agreements.**

(a) Any and all pre-petition leases or executory contracts (i) not previously rejected or the subject of a motion to assume pending on the Confirmation Date, or (ii) not

designated prior to the Confirmation Date as pre-petition leases or executory contracts to be assumed by the Debtor, shall be deemed assumed by the Debtor.

(b) All counterparties to Exhibit A Agreements shall file with the Bankruptcy Court, and serve on the Debtor, objections, if any, to the Debtor's assumption of their respective leases or executory contracts, and include herein such objections any dispute as to the amount asserted by the Debtor in Exhibit A to the Plan as the Cure Amount. Such objection shall be filed not later than seven (7) days subsequent to the Confirmation Date. Any undisputed Cure Amounts ("**Undisputed Cure Amounts**") shall be paid as soon as practicable following the Effective Date of the Plan, and any disputed Cure Amounts ("**Disputed Cure Amounts**") shall be paid upon the agreement of the parties or further order of the Bankruptcy Court.

8.2 **Claims for Damages.** All proofs of claim with respect to Claims arising from the rejection of executory contracts or leases, if any, must, unless another order of the Bankruptcy Court provides for a different date, be filed with the Bankruptcy Court within thirty (30) days after the mailing of notice of Effective Date. Any and all proofs of claim with respect to Claims arising from the rejection of executory contracts by the Debtor shall be treated as General Unsecured Claims, for purposes of distribution pursuant to the Plan. Unless otherwise permitted by Final Order, any proof of claim that is not filed before the Bar Date (other than those Claims arising from the rejection of executory contracts or leases under the Plan) shall automatically be disallowed as a late filed Claim, without any action by the Debtor, and the holder of such Claim shall be forever barred from asserting such Claim against the Debtor, its Estate, or property of its Estate.

ARTICLE IX

CONDITIONS TO EFFECTIVE DATE

9.1 **Conditions to Effectiveness of the Plan.** The Plan shall not become effective unless the Confirmation Order is a Final Order and is not subject to any stay or injunction.

9.2 **Notice of the Effective Date; Actions Taken on Effective Date.** The Debtor shall file and serve upon all creditors a notice of the occurrence of the Effective Date within two (2) Business Days thereafter. Unless otherwise specifically provided in the Plan, any action required to be taken by the Debtor on the Effective Date may be taken by the Debtor on the Effective Date or as soon as reasonably practicable thereafter.

ARTICLE X

RETENTION OF JURISDICTION

10.1 **Jurisdiction.** Following the Confirmation Date and until such time as all payments and distributions required to be made and all other obligations required to be performed under this Plan have been made and performed by the Debtor, the Bankruptcy Court shall retain jurisdiction as is legally permissible, including, without limitation, for the following purposes:

(a) Claims. To determine the allowance, extent, classification, or priority of Claims against the Debtor upon objection by the Debtor.

(b) Injunction, etc. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be necessary for the implementation, executions, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Bankruptcy Court in the Chapter 11 Case on or before the Effective Date with respect to any Person or Entity.

(c) Professional Fees. To determine any and all applications for allowance of compensation and expense reimbursement of Professional for periods before the Effective Date, and objections thereto, as provided for the in the Plan.

(d) Certain Priority Claims. To determine the allowance, extent and classification of any Priority Tax Claims, Other Priority Claims, Administrative Claims or any request for payment of an Administrative Claim.

(e) Dispute Resolution. To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan and/or Confirmation Order and the making of Distributions under the Plan and/or the Confirmation Order.

(f) Actions. To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted (either before or after the Effective Date) in the Chapter 11 Case by or on behalf of the Debtor.

(g) General Matters. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or as may be authorized under provisions of the Bankruptcy Code or other applicable law.

(h) Plan Modification. To modify the Plan under Section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out its intent and purposes.

(i) Aid Consummation. To issue such orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person or Entity, to the full extent authorized by the Bankruptcy Code.

(j) Implementation of Confirmation Order. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated.

(k) Final Order. To enter a final order closing the Chapter 11 Case.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 **Pre-Confirmation Modification.** On notice to and opportunity to be heard by the United States Trustee, the Plan may be altered, amended or modified by the Debtor before the Confirmation Date as provided in Section 1127 of the Bankruptcy Code.

11.2 **Post-Confirmation Immaterial Modification.** The Debtor, insofar as it does not materially and adversely affect the interests of holders of Claims, may correct any defect, omission or inconsistency in the Plan in such manner and to such extent as may be necessary to expedite consummation of this Plan.

11.3 **Post-Confirmation Material Modification.** The Debtor may alter or amend the Plan after the Confirmation Date in a manner that materially and adversely affects holders of Claims, provided that such alteration or modification is made after notice and a hearing and otherwise meets the requirements of Section 1127 of the Bankruptcy Code.

11.4 **Withdrawal or Revocation of the Plan.** If the Debtor revokes or withdraws the Plan, or if confirmation or consummation of the Plan does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the allowance, fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests) and any assumption or rejection of executory contracts or leases affected by the Plan shall terminate and be of no further force or effect, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan shall constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Person, or prejudice in any manner the rights of any other Person.

11.5 **Payment of Statutory Fees.** The Debtor shall pay from Cash in the Estate all fees payable due as of the Effective Date pursuant to Section 1930 of title 28 of the United States Code. Thereafter, the Debtor shall pay from Cash in the Estate all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due under 31 U.S.C. § 3717, on all disbursements, including plan payments and disbursements in and outside of the ordinary course of business, until the earliest of the entry of a final decree closing the Chapter 11 Case, dismissal of the Chapter 11 Case, or conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code.

11.6 **Successors and Assigns.** The rights, benefits and obligations of any Person or Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such Person or Entities.

11.7 **Comprehensive Settlement of Claims and Controversies.** Pursuant to Section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Equity Interest may have with respect to any Allowed Claim or

Allowed Equity Interest or any Distribution to be made pursuant to the Plan on account of any Allowed Claim or Allowed Equity Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or causes of action for (a) the Debtor and its Estate, including, without limitation any Person or Entity seeking to exercise a right in a derivative capacity on behalf of the Estate, and (b) the Released Parties, and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtor, its Estate, its properties and Claim holders and Equity Interest holders, and is fair, equitable and reasonable. For the avoidance of doubt, the compromise and settlement of all claims and causes of action of the Debtor and its Estate as set forth herein shall include any potential avoidance actions accruing to the Debtor or its Estates, which shall not be pursued. Nothing herein shall be deemed to prejudice the Debtor's right to appeal from any judgment or order previously entered by the State Court.

11.8 **Preservation of Insurance.** This Plan shall not diminish or impair the enforceability of any insurance policy, right or claim that may cover Claims against the Debtor (including, without limitation, its members, managers or officers) or any other persons or entity. Likewise, the Plan and Confirmation Order shall not impair any insurance carrier's rights, claims, defenses or disputes under any policy and shall not act to increase or extend any rights of the Debtor or the carries.

11.9 **Cramdown.** The Debtor reserves the right to request confirmation of the Plan under Section 1129(b) of the Bankruptcy Code with respect to any Class of Claims or Equity Interests that rejects, or is deemed to have rejected, the Plan.

11.10 **Filing of Additional Documents.** Except as otherwise provided in the Plan, 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, and the Debtor shall be responsible for the preparation and filing of any reports necessary until entry of a final decree.

11.11 **Governing Law.** Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under this Plan shall be governed by and construed and enforced in accordance with the laws of the State of New York.

11.12 **Notices.** Any notice required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight courier service, freight prepaid, to be addressed as follows:

If to the Debtor: Windsor Plaza LLC
952 Fifth Avenue
New York, New York 10075

With a copy to: Robert L. Rattet, Esq.
Rattet PLLC
202 Mamaroneck Avenue
Suite 300
White Plains, NY 10601
Email: rrattet@rattettlaw.com

Mr. J. Maurice Herman
3300 S. Dixie Hwy
Suite 1-270
West Palm Beach, FL 33405

11.13 **Saturday, Sunday or Legal Holiday.** If 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 the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

11.14 **Severability.** If any term or provision of the Plan is held by the Bankruptcy Court prior to or at the time of Confirmation to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. In the event of any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan may, at the option of the Debtor, remain in full force and effect and not be deemed affected. However, the Debtor reserves the right not to proceed to Confirmation or consummation of the Plan if any such ruling occurs. 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 valid and enforceable pursuant to its terms.

11.15 **Headings.** The headings used in this Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the provisions of the Plan.

11.16 **Extinguishment of Causes of Action Under the Avoiding Power Provisions.** On the Effective Date, all rights, claims, causes of action, avoiding powers, suits and proceedings arising under Sections 506(c), 544, 545, 547, 548, 549 and 553 of the Bankruptcy Code shall be extinguished unless then pending; provided however, such rights and claims are preserved by the Debtor if asserted defensively or for purposes of offset. The Debtor has conducted an investigation of claims under Sections 506(c), 544, 545, 547, 548, 549 and 553 of the Bankruptcy Code that could be asserted against parties, including such potential claims against the Released Parties, and has determined that there is no basis to support such claims, or that there are meritorious defenses to such claims. The Debtor has also conducted an

investigation of other claims of the Debtor or third parties against the Released Parties that are being released under the Plan, and has not identified any claims that could be asserted against them.

CONFIRMATION REQUEST

The Debtor hereby requests confirmation of the Plan pursuant to Sections 1129(a) and (b) of the Bankruptcy Code.

Dated: December 11, 2017

DEBTOR

WINDSOR PLAZA LLC

By: /s/ J. Maurice Herman

Name: J. Maurice Herman

Title: Managing Member

EXHIBIT B
(LIQUIDATION ANALYSIS)

WINDSOR PLAZA LLP
Liquidation Analysis

952 Fifth Avenue	\$ 60,000,000 ¹
Less: Expense of Sales	(3,000,000)
Less: Trustee Commissions & Attorney	<u>(3,000,000)</u>
NYC Taxes on Gain (3.6%)	<u>(1,976,400)</u>
Net Amount Realized from Sale	52,023,600
Less: Admin Debt	(100,000)
Less: Priority Debt	(350,000)
Less: Unsecured Debt	<u>(100,000)</u>
Amount Available for Distribution	<u><u>\$ 51,473,600</u></u>

Note: Federal & State taxes need to be paid
by members of LLC, Federal (33.81%) 17,403,224

¹ The Debtor is relying upon representations of counsel for Rosemary Herman for this figure. The Debtor has ordered an independent appraisal and will file that appraisal by or before the hearing date if it has been prepared.

EXHIBIT C
(SILVER POINT TERM SHEET)

Silver Point Capital, L.P.
Two Greenwich Plaza, 1st Floor
Greenwich, Connecticut 06830

November 27, 2017

Via Electronic Mail

Julian Maurice Herman
c/o Robert Rattet
Rattet PLLC
202 Mamaroneck Avenue - Suite 300
White Plains, New York 10601
Phone: 914.381.7400

RE: Proposed \$30,000,000 loan (estimated) to recapitalize certain real property located at 952 Fifth Avenue, New York, NY 10075 (the "**Property**")

Dear Mr. Herman:

The purpose of this letter is to set forth the terms and conditions to be submitted to the investment committee of Silver Point Capital, L.P. (together with its affiliates, "**Silver Point**") in connection with a proposed first-priority mortgage loan (the "**Loan**") which Julian Maurice Herman ("**Sponsor**") has requested to be provided by Silver Point. The terms and conditions of the Loan to be considered shall be those set forth in this cover letter and the annexed term sheet (collectively, this "**Term Sheet**").

This Term Sheet supersedes any and all prior discussions regarding the Loan, whether oral or written, and nothing herein shall be deemed to constitute a commitment or offer by Silver Point to make the Loan, and does not impose any obligation on the part of Silver Point to continue with any discussions regarding the Loan or the matters described herein, whether either express or implied. Silver Point may terminate discussions regarding the Loan at any time. However, upon execution of this Term Sheet by Sponsor and Borrower (as defined herein) shall be bound by the terms herein.

Contemporaneously with execution of this Term Sheet, Sponsor will deliver to Silver Point a non-refundable, good faith deposit in the amount of \$7,500 (the "**Initial Deposit**") pursuant to the wiring instructions attached as Exhibit A. At such time, but in no event later than 60 days from the date of this Term Sheet, if Sponsor provides written notice to Silver Point requesting that Silver Point commence legal and other documentation regarding the Loan, Sponsor expressly agrees to deliver to Silver Point an additional deposit of \$50,000 within one (1) business day after such written notice pursuant to the wiring instructions attached as Exhibit A (the "**Additional Deposit**" and together with the Initial Deposit, the "**Deposit**"). The Deposit shall be applied by Silver Point to cover and/or reimburse Silver Point for previously incurred and future fees, costs and expenses (including reasonable legal fees and costs) in connection with the matters described herein (collectively, the "**Expenses**"). If at any time the Expenses exceed the Deposit, Sponsor shall remit to Silver Point such additional amounts necessary to pay for such Expenses. Any unapplied portion of the Deposit, if any, will be credited to the Borrower (as defined herein) at Closing (as defined herein). Subject to such other provisions herein, if the Loan does not close, the unapplied portion of the Deposit shall be returned to Sponsor upon a release from Sponsor, less any Expenses actually incurred or paid by Silver Point.

Sponsor agrees to cooperate with Silver Point and its counsel, agents, employees, and representatives, and shall provide all reasonably requested information to Silver Point in a timely manner to facilitate its due diligence investigations regarding the matters described herein. Sponsor agrees to the proposed terms of the Loan as follows.

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PROPOSED LOAN TERMS

1. **Use of Proceeds:** To recapitalize the Property and fund the settlement and resolution of that certain Chapter 11 bankruptcy petition under Case No. 17-12891-jlg (the “**Bankruptcy Case**”) filed by Windsor Plaza, LLC, as debtor, in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) and certain existing litigation involving Sponsor, Borrower and other persons and/or entities involving the Property, including, without limitation, any adversary proceedings in connection with the Bankruptcy Case involving Sponsor, Borrower and the Property and the unequivocal discharge, satisfaction and unconditional release of any judgments entered against Sponsor and Borrower regarding the Property, all as determined by Silver Point and as may be permitted by the Bankruptcy Court (collectively, the “**Existing Litigation**”¹), and to pay certain closing fees and costs, all in amounts to be determined (including sources and uses of proceeds from the Loan) as may be determined by Silver Point.
2. **Borrower:** The borrower under the Loan will be the fee simple owner of the Property which Sponsor advises is currently Windsor Plaza, LLC, a _____ limited liability company (“**Borrower**”). At all relevant times, Borrower will be a single-purpose, limited liability company and bankruptcy-remote entity whose sole asset shall be the Property and whose manager and corporate structure and organizational documents shall be acceptable to Silver Point. The Borrower together with each and every one of its constituent entities, are not involved in owning, holding or trading securities (whether stocks, bonds, bank debt or otherwise), and the Borrower together with each of its respective subsidiaries, affiliates or parent entities thereof, are designed to hold solely real estate interests. Borrower is currently a debtor-in-possession of the Property and agrees this Term Sheet is subject to approval of the Bankruptcy Court.
3. **Guarantor:** Sponsor, together with such other parties as may be determined by Silver Point based on its due diligence, will the limited guarantor of the Loan (individually and collectively, “**Guarantor**”) pursuant to a limited guaranty containing the following terms and conditions (the “**Guaranty**”): (i) so long as no standard, market, carve-out events have occurred and are continuing beyond any applicable notice, grace and/or cure period (including, without limitation, any bankruptcy involving Borrower or the Property), Silver Point will first look to the Property for any recovery under the Loan and Guarantor shall be liable for any deficiency pursuant to New York law; and (ii) Guarantor shall be personally liable for all amounts due and owing under the Loan upon the occurrence and continuation of any standard, market, carve-outs beyond any applicable notice, grace and/or cure period (including, without limitation, any bankruptcy involving Borrower or the Property).
3. **Loan Amount:** The lesser of (i) Thirty million and 00/100 Dollars (\$30,000,000) or (ii) such amount that equates to 50% of the “as-is” value of the Property, as determined by Silver Point in its sole discretion the “**Loan Amount**”).

¹ The Existing Litigation includes, without limitation, that certain case captioned, *Rosemarie A. Herman, et al., v. Julian Maurice Herman, et al.* under Index No. 650205/2011 in the Supreme Court of the State of New York, New York County, and any order and judgment entered in connection therewith against Sponsor and Borrower which is or may be related to the Property.

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4. **Collateral:** Collateral (“**Collateral**”) shall consist of the Property and any and all other real and personal property of Borrower, all as may be required by Silver Point in its sole discretion, including, without limitation, funds in the Reserves (as defined herein). The Collateral will include an assignment and subordination of any and all leases and/or licenses related to the Property, except certain lease(s) which have been transferred to unaffiliated, third party owners as acceptable to Silver Point, together with any necessary estoppels as may be required by Silver Point. It is understood by Silver Point that the 9th and 10th floors, collectively referred to as unit #9B, have been leased under a long term lease that has been assigned to a third party – such lease will not be collateral of the proposed Loan.
5. **Closing:** On or prior to 30 days after Silver Point’s receipt of the Additional Deposit (the “**Closing Date**”).
6. **Term:** Eighteen (18) months from the Closing Date (the “**Initial Term**”) subject to the Extension Option (as defined herein) (the last day of the Term subject to the Extension Option, as applicable, the “**Term**”).
7. **Maturity Date:** Eighteen (18) month anniversary from the Closing Date (the “**Initial Maturity Date**”) subject to the Extension Option (as defined herein) (the last day of the Term, the “**Maturity Date**”).
8. **Extension Option(s):** Borrower may extend the Initial Maturity Date for one term of six months (the “**Extension Option**”) subject to satisfaction of the following:
- (i) Payment of a fee (“**Extension Fee**”) equal to 1.5% of the then unpaid Loan Amount;
 - (ii) The loan-to-value percentage is no greater than 50% based on the then unpaid amounts due and owing under the Loan Documents (as defined herein) and value of the Property, all as determined by Silver Point;
 - (iii) No event of default exists under the Loan Documents;
 - (iv) All accrued and unpaid interest is current;
 - (v) The Interest Reserve (as defined herein) is replenished to a level acceptable to Silver Point which is currently estimated at \$1,250,000; and
 - (vi) Borrower and Guarantor shall execute any and all documents as may be reasonably required by Silver Point as a condition precedent to granting the Extension Option, including, without limitation, a general release.
- On the Maturity Date, the unpaid Loan Amount, all accrued and unpaid interest, fees, charges and other costs as may be then due and owing under the Loan Documents shall be paid in full.
9. **Interest Rate:** 1 Month LIBOR plus 8.00% per annum (the “**Applicable Interest Rate**”) on the entire Loan Amount, provided that, during the Term, 1 Month LIBOR shall never be below the 1 Month LIBOR rate on the Closing Date, computed on the basis of a 360-day year for the actual number of days elapsed in the period during which it accrues and is due and payable.
10. **Default Interest:** The lesser of 24.00% per annum or the maximum allowable rate under New York law.
11. **Late Fee:** Ten (10%) percent of any amounts not paid when due.

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**12. Amortization;
Debt Service:**

Borrower shall make interest-only debt service payments during the Term at the Applicable Interest Rate. On the Closing Date, interest shall pre-paid interest through the following month. Thereafter, on the first day of each month and continuing on the first day of each month during the Term, Borrower shall make interest-only debt service payments in arrears. Any unpaid interest shall be added to the then unpaid Loan Amount on the first day of the following month.

13. Reserves:

On the Closing Date, Borrower shall establish the following reserves (together with any other reserves required by Silver Point, collectively, "**Reserves**") with Silver Point or its servicer of the Loan:

- (i) An interest reserve ("**Interest Reserve**") in the approximate amount of \$3,500,000 or such amount estimated to cover all Debt Service for the Initial Term, to be determined by Silver Point prior to the Closing Date, it being expressly understood and agreed that proceeds from the Loan may be utilized to fund the Interest Reserve on the Closing Date. Funds in the Interest Reserve may be used to make debt service payments if no event of default exists; and
- (ii) A tax and insurance reserve ("**T&I Reserve**") in the amount equal to the annual taxes and the annual insurance premiums for the Property shall be payable by Borrower on the first day of each month in an amount equal to 1/12th of the annual taxes and insurance expenses for the Property.

14. Prepayments:

At any time prior to the twelve (12) month anniversary of the Closing Date (the "**Make-Whole Period**") upon not less than thirty (30) days written notice to Silver Point, Borrower may prepay the unpaid Loan Amount in full (but not in part), provided that, such prepayment in full is accompanied by an additional payment equal to the present value of all interest at the Applicable Interest Rate which would have been earned by and paid to Silver Point on the principal amount being repaid from the date of such repayment through the day which is the twelve (12) month anniversary of the Closing Date (the "**Make-Whole Amount**"), where such present value calculation utilizes a discount rate based upon the then prevailing U.S. Treasury Rate plus 100 basis points. Any unpaid Make-Whole Amount shall be added to unpaid principal. Notwithstanding anything to the contrary, the Make-Whole Amount shall not be due and payable after expiration of the Make-Whole Period.

The Make-Whole Amount shall not be construed as a penalty, is deemed fully earned and payable to Silver Point at the time of delivery of the thirty (30) day written notice by Borrower, is due and payable in connection with any voluntary or involuntary prepayment of the Loan during the Make-Whole Period, including, without limitation, as a result of an event of default. After the occurrence of an event of default, any unpaid principal may not be prepaid without Silver Point's written consent.

15. Origination Fee:

Two percent (2.0%) of the Loan Amount (the "**Origination Fee**") deemed fully earned by Silver Point on the Closing Date and paid as follows: (a) one and one-quarter percent (1.25%) of the Loan Amount paid on the Closing Date; and (b) three-quarters percent (0.75%) of the Loan Amount deferred (with no interest accruing thereon) and paid upon the earlier of the applicable Maturity Date or other payment in full of the Loan or upon acceleration of the Loan as a result of an event of default. During the Term, interest shall

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not accrue on the deferred portion of the Origination Fee. If not paid when due, the deferred portion of the Origination Fee shall be added to the then unpaid Loan Amount.

16. Misc. Fees: A consent fee and usage fee, each equal to 0.0240% of the Loan Amount per annum (based on the original Loan Amount) payable on the first of each month during the Term computed on the basis of a 360-day year for the actual number of days elapsed in the period during which it accrues and be due and payable. Any unpaid consent and usage fees shall be added to the unpaid Loan Amount.

17. Loan Documents: The Loan shall be evidenced on Silver Point's standard form loan documents and satisfactory to Silver Point in all respects, including, without limitation, a loan agreement, promissory note, non-recourse guaranty, mortgage or similar security instrument, assignment of leases and rents, collateral pledge agreement covering 100% of all members' interests in Borrower, the Guaranty, environmental indemnity executed by Windsor Plaza, LLC, security agreement, assignment and subordination of property management agreement, SNDAs for any commercial and/or professional leases with a lease term greater than one year (collectively, the "**Loan Documents**"). With the exception of the mortgage and assignment of leases and rents, all Loan Documents shall be governed by the internal laws of the State of New York.

18. Brokers. Sponsor, Borrower and Guarantor represent that no party is due a commission or brokerage fee in connection with the Loan and any commissions or fees due to such broker or any person or entity will be paid at closing by Borrower. Borrower shall indemnify, defend and hold harmless Silver Point from and against all costs and expenses incurred by Silver Point as a result of a breach of this Section or otherwise in connection with any claim for brokerage commissions or fees with respect to the Property and the Loan.

19. Conditions Precedent: In addition to such other conditions as may be required by Silver Point prior to closing, the following shall be delivered to Silver Point and considered conditions precedent to closing the Loan, all of which shall be subject to Silver Point's satisfactory review and approval in its sole discretion:

- (i) Silver Point shall select the title company and agent to insure the Loan and transactions contemplated in this Term Sheet;
- (ii) Execution and delivery of the Loan Documents;
- (iii) No material adverse change in market conditions as determined by Silver Point have occurred prior to the Closing Date;
- (iv) Background checks on Sponsor and any Guarantor;
- (v) All financial information, reports, tax returns and statements regarding the Property, Borrower, Sponsor and any Guarantor;
- (vi) Zoning reports regarding the Property;
- (vii) Insurance regarding the Property;
- (viii) Borrower's organizational documents and corporate structure;
- (ix) Copies of any leases and rent rolls;
- (x) Assignment and subordination of all leases, licenses, or other contracts as applicable to the Property and the obtaining of any estoppels related thereto;
- (xi) Environmental and appraisal reports for the Property; and
- (xii) Settlement of the Existing Litigation and any and all satisfactory documentation related thereto as may be determined by Silver Point, including, without

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limitation, the following: (i) mutual releases and discharge of claims (with prejudice) by and among all parties to the Existing Litigation as related to the Property and the Borrower; (ii) an unconditional discharge of any *lis pendens* filed against the Property; (iii) approval of the Bankruptcy Court with respect to the Loan and resolution and settlement of the Bankruptcy Case and Existing Litigation and expiration of any applicable appeal periods.

20. Reporting:

Borrower shall provide to Silver Point true and accurate copies of any and all current financial statements (including rent rolls, as well as a statement of operating revenues and expenses) and reports within fifteen (15) business days after written request by Silver Point. Borrower agrees to provide such other documents and reports to Silver Point as may be reasonably requested by Silver Point, from time to time, within thirty (30) days after Silver Point's written request. Silver Point shall at all times treat all financial and other information of Borrower and Guarantor as confidential and proprietary information, and shall protect such information with at least the same level of care that Silver Point protects its own confidential and proprietary information, and in all instances at least reasonable care. Silver Point shall not use or disclose to any person or entity any Borrower or Guarantor financial or other information without their prior written consent. Notwithstanding the immediately preceding sentence, Silver Point may disclose such financial and other information to Silver Point's consultants, attorneys and other third-party professionals handling the matters described in this letter, all as may be determined by Silver Point.

**21. Exclusivity;
Break-Up Fee:**

The parties hereby expressly agrees and acknowledges that after execution of this Term Sheet by all parties and the Initial Deposit has been received by Silver Point, (a) Silver Point is devoting its personnel and financial resources to the consideration of the matters described herein; (b) in Silver Point's industry, business opportunities are limited and extremely competitive; (c) compensation to Silver Point, in the event that Sponsor, or any person or entity affiliated with Sponsor, Borrower or any other person who may become obligated under the Loan (whether directly or indirectly, whether a member, manager, employee, director, parent, subsidiary, attorney, accountant, broker working on behalf of Sponsor, Borrower or Guarantor, individually and collectively, a "**Sponsor Affiliate**") obtains financing (whether such financing is in the form of cash, cash equivalents, debt or equity) from any source whatsoever other than Silver Point, would be extremely difficult to calculate; (d) Silver Point cannot, as a result of its due diligence and analysis, commit its resources to other potential transactions and may be deprived of business opportunities thereby; and (e) Silver Point may suffer negative impact in the industry, in the event Sponsor or any Sponsor Affiliate obtains financing from a competitor of Silver Point or any source other than Silver Point. Accordingly, Sponsor hereby expressly acknowledges, consents and agrees that commencing upon the execution of this Term Sheet, Sponsor and each Sponsor Affiliate will work solely and exclusively with Silver Point regarding the Loan and the matters contained herein and agree not to, and will cause each Sponsor Affiliate not to, obtain or attempt to arrange any financing, or monetize all or any portion of the Loan by any means whatsoever, from any source whatsoever (including, without limitation, from or by Sponsor or any Sponsor Affiliate, or from any assets owned by or pledged to Sponsor or any Sponsor Affiliate) with any party other than Silver Point. In the event Sponsor, Guarantor or any Sponsor Affiliate is in breach of the terms and provisions of this Section, Sponsor and Guarantor expressly acknowledge, confirm and agree that Silver Point shall be entitled to a break-up fee in the amount of \$150,000 plus the Deposit (the "**Break-up Fee**"). The Break-up Fee will serve as the exclusive remedy to Silver

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Point under this Term Sheet in the event of a breach by Sponsor, Guarantor or any Sponsor Affiliate of this Section. Sponsor has advised Silver Point that it intends to utilize and disclose this Term Sheet to certain persons and/or entities who are parties to the Existing Litigation for purposes of causing a settlement of the Existing Litigation. Sponsor (on its behalf and on behalf of each Sponsor Affiliate) hereby expressly acknowledges, consents and agrees that if the Existing Litigation is settled with funds for any reason and in any amount from any other person, entity or source other than Silver Point, then Sponsor shall have breached the provisions of this Section and shall unconditionally be obligated to pay the Break-Up Fee to Silver Point within five (5) days written demand therefor. Sponsor expressly consents and agrees that agreeing to the terms and conditions in this Section is a material inducement for Silver Point to execute and deliver this Term Sheet. Further, Sponsor (on its behalf on behalf of each Sponsor Affiliate (including the owner of the Property)), expressly acknowledges, consents and agrees that it shall not divulge, disclose, transmit or discuss all or any portion of this Term Sheet and the matters herein with any person or entity (including, without limitation, any parties to the Existing Litigation) until this Term Sheet is signed by Sponsor and returned to Silver Point along with the Initial Deposit. Sponsor agrees that if Sponsor breaches the provisions of this Section 21, that Silver Point may suffer irreparable harm and may be negatively impacted in the industry sector in which Silver Point practices. Accordingly, Silver Point shall be entitled to seek any and all damages against Sponsor as a result of its breach of this Section 21, including reasonable attorneys' fees and costs. The parties to this Term Sheet acknowledge that the sole purpose of the Loan is to assist in funding and promulgating a settlement plan in the Bankruptcy Case. Therefore, if the Loan is not approved by the Bankruptcy Court or if the Bankruptcy Case is dismissed by the Bankruptcy Court (and not voluntarily dismissed by Borrower), the parties agree that this Term Sheet shall be null and void and no further amounts in excess of the Deposit shall be due from Borrower, including, without limitation, the Break-Up Fee.

22. **Governing Law:** This Term Sheet is executed and delivered in the State of New York (the "**Governing Law Jurisdiction**") and it is the desire and intention of the parties that it be in all respects interpreted according to the laws of the Governing Law Jurisdiction without reference to the conflicts of law principles of the Governing Law Jurisdiction. The parties hereto consent to the state and federal courts situated in New York County, New York regarding any dispute under this letter.
23. **Termination:** This Term Sheet shall expire if not countersigned by Sponsor and the Initial Deposit received by Silver Point on or before 5 PM (EST) on November 30, 2017.
24. **Confidentiality:** This proposal is confidential and, except as expressly required by applicable law or as expressly permitted pursuant to the terms of Section 21 for purposes of resolving and settling the Bankruptcy Case and Existing Litigation utilizing proceeds from the Loan, Sponsor shall not and shall not permit Sponsor, Borrower, Guarantor and/or any Sponsor Affiliate (as defined herein) or their representatives to, directly or indirectly, disclose, reveal, divulge, publish or otherwise make known the existence or any of the terms of this proposal to any person or entity without the express written consent of Silver Point.
25. **Authority; Advice of Counsel:** Sponsor represents and warrants to Silver Point that it has the express authority to enter into this Term Sheet and that any and all approvals and consents as may be required pursuant to applicable law, rule or regulation, or from any person, entity, court or any

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governmental authority, has been received. Sponsor further represents and warrants to Silver Point that he has the express authority to bind the owner of the Property to the terms of this Term Sheet. Finally, Sponsor has entered into this Term Sheet upon the advice and consent of its counsel and as permitted by the Bankruptcy Court.

Sponsor acknowledges that Silver Point will be relying on information supplied by them and others on their behalf in connection with Silver Point's due diligence and the matters described herein. Sponsor expressly agrees that any and all information previously provided to Silver Point and which, in the future, may be provided to Silver Point, and is true and correct, agree to update any information previously provided to Silver Point and to disclose any and all material information concerning Sponsor, Borrower, any Guarantor (or any of their respective affiliates) and the Collateral which may affect Silver Point's decision to proceed with the matters described herein.

This Term Sheet is only an expression of Silver Point's interest in the transactions described herein and does not constitute and is not intended to be a binding agreement of Silver Point or give rise to any legal obligation on the part of Silver Point. This letter should not be construed by Sponsor, Borrower or any Guarantor as giving rise to any legal or other obligation on the part of Silver Point to make the Loan and Sponsor of the undersigned expressly acknowledge and confirm that Silver Point is under no obligation to make the Loan. Without limiting the foregoing, by their signature below, Sponsor, Borrower and Guarantor agree to be bound by the terms hereof. A binding agreement with respect to the proposed transactions described herein will result only from the execution of mutually, satisfactory, definitive, fully-executed agreements, all as more specifically described herein (including the Loan Documents and such other agreements as may be required by Silver Point in its sole and absolute discretion) with respect thereto and will be entirely subject to the terms and conditions contained therein. Notwithstanding anything to the contrary herein, any and all matters described in this Term Sheet shall at all relevant times remain subject to Silver Point's final investment committee approval.

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Very truly yours,

Silver Point Capital, L.P.

By: 
Name: Michael Gatto
Title: Authorized Signatory

Accepted this 28 day of
NOV, 2017:

Julian Maurice Herman*

By: _____
*Individually and on behalf of each Sponsor Affiliate

Windsor Plaza, LLC,
A _____ limited liability company

By: _____
Name: Julian Maurice Herman
Title: Managing Member

Silver Point Capital, L.P.

AS

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Very truly yours,

Silver Point Capital, L.P.

By: _____
Name:
Title: Authorized Signatory

Accepted this 27TH day of
NOVEMBER, 2017:

Julian Maurice Herman*

By: 

*Individually and on behalf of each Sponsor Affiliate

Windsor Plaza, L.L.C.

DELAWARE limited liability company

By: 

Name: Julian Maurice Herman

Title: Managing Member

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Exhibit A
Wire Instructions

Silver Point Finance, LLC

Bank: Citibank, N.A
ABA: 021-000-089
A/C Name: Silver Point Finance, LLC
A/C #: 9977664469
Ref: 952 Fifth Avenue