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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

COVINGTON ROUTE 300, LLC,

Chapter 11
Case No. 17-35780 (CGM)

Debtor.

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**FIRST AMENDED DISCLOSURE STATEMENT FOR
DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION**

I. INTRODUCTION

Covington Route 300, LLC (the "Debtor") submits this First Amended Disclosure Statement (the "Disclosure Statement") pursuant to Section 1125(b) of Title 11, United States Code, 11 U.S.C. §§ et seq. (the "Bankruptcy Code") and Rule 3017 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), in connection with its First Amended Chapter 11 Plan of Reorganization dated November 16, 2017 (the "Plan") to all known holders of Claims against or Interests in the Debtor in order to adequately disclose information deemed to be material, important and necessary to make a reasonably informed judgment about the Plan, including, who is entitled to vote to accept or reject the Plan. A full copy of the Plan is attached to this Disclosure Statement as Exhibit "A". *Your rights may be affected. You should read the*

Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

Under Section 1126(b) of the Bankruptcy Code, only Classes¹ of Allowed Claims that are “impaired” under the Plan, as defined by Section 1124 of the Bankruptcy Code, are entitled to vote on the Plan. Generally, a Class is impaired if its legal, contractual or equitable rights are altered or reduced under the Plan. Under the Plan, Classes 2 and 4 are Impaired and therefore entitled to vote to accept or reject the Plan. Class 5 Interests are Impaired and deemed to reject the Plan. To be accepted by a Class, the Plan must be accepted by more than one half in number and two-thirds in dollar amount of the Allowed Claims actually voting in such Class.

A. Purpose of This Document

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case,
- How the Plan proposes to treat claims of the type you hold (*i.e.*, what you will receive on your claim if the plan is confirmed and your claim is “allowed” within the meaning of the Plan),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan,
- Why the Debtor believes the Plan is feasible, and how the treatment of your claim under the Plan compares to what you would receive on your claim in liquidation, and
- The effect of confirmation of the Plan.

Be sure to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

¹ Capitalized terms not defined herein have the same meaning ascribed to them in the Plan.

B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. Time and Place of the Hearing to Confirm the Plan

The hearing at which the Court will determine whether to confirm the Plan will take place on **January 9, 2018 at 12:00 p.m.** before the Honorable Cecelia G. Morris, Chief U.S. Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, 355 Main Street, Poughkeepsie, New York 12601.

2. Deadline For Voting to Accept or Reject the Plan

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot to DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq. See Section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by **January 2, 2018 at 4:00 p.m. (Eastern Time)** or it will not be counted.

3. Deadline For Objecting to the Confirmation of the Plan

Objections to the confirmation of the Plan must be filed with the Court and served upon DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq by **January 2, 2018.**

4. *Identity of Person to Contact for More Information*

If you want additional information about the Plan, you should contact DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq. or Julie Cvek Curley, Esq. (914) 681-0200.

C. Disclaimer

The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.

II. BACKGROUND

A. Description of the Debtor and Events Leading to Bankruptcy

The Debtor owns a partially improved parcel of real property commonly known as Temple Hill Road and Route 300 which is located at Section 65, Block 2, Lot 1.12, New Windsor, Orange County, New York (the “Development”).

The Development was first acquired in or about 2008 and the acquisition was partially financed with a land acquisition loan from Wallkill Valley Federal Savings & Loan, Successor by Merger to Hometown Bank of the Hudson Valley (“Wallkill Valley”) in the amount of \$1,160,000.

The Development is approved for a 124-unit townhouse development. The construction of the Development was planned in three (3) phases. The first phase consists of construction of

five (5) buildings each consisting of four (4) units. Four of the buildings have been completed for a total of sixteen (16) units, with eight (8) of the units having already been sold, three (3) units being “models”, one (1) unit half completed, and the remaining four (4) units prepped for build out for a purchaser. The second and third phases contemplates the construction for the remaining one hundred four (104) units. The Debtor has expended significant funds in site development for those remaining units.

Phase 1	Building #200	4 units <ul style="list-style-type: none"> • 2 units sold • 2 “model” units
	Building #400	4 units <ul style="list-style-type: none"> • 4 units sold
	Building #500	4 units <ul style="list-style-type: none"> • 2 units sold • 1 “model” units • 1 half completed
	Building #600	4 units <ul style="list-style-type: none"> • Prepped for potential buyers
	Building #800	Not yet constructed
Phase 2	Empty lot, site improvement initiated	
Phase 3	Empty lot, site improvement initiated	

The initial construction of the Development was partially financed by Rhinebeck Bank (“Rhinebeck”) in on about December, 2013 consisting of two loans for \$1,500,000 and \$2,000,000, totaling in the aggregate \$3.5 million. In connection with obtaining the construction loan from Rhinebeck, Wallkill Valley k agreed to subordinate their mortgage so that Rhinebeck holds a first mortgage against the Development in the aggregate amount of \$1,660,732.64 as of May 9, 2017, and Wallkill Valley has a second mortgage in the amount of \$1,016,542.93 as of September 12, 2017. The market valuation of the Development is \$3.46 million based upon an appraisal obtained by Rhinebeck dated January 6, 2017, a copy of which is annexed hereto as

Exhibit “B”.

The Debtor believes that once completed, the fully completed Development has a projected market value of \$33.28 million, based upon sales prices ranging between \$280,000 to \$320,000. The Debtor expects the costs to complete the remaining build out for Phase 1 and complete construction of the units in Phase 2 and 3 would total approximately \$22 million, such that there is a potential equity in the fully completed Development.

However, the Debtor’s efforts to complete the Development was delayed on account of its defaults to Rhinebeck and Walkill Valley, which resulted in the commencement of a foreclosure proceeding by Rhinebeck against the Debtor. The Debtor filed its Chapter 11 Case to utilize the chapter 11 process to restructure its affairs under the protections of the Bankruptcy Court.

B. Significant Events During the Bankruptcy Case

1. Commencement of the Case

On May 9, 2017 (the “Petition Date”), the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (Poughkeepsie Division) and continued in possession of its property and management of its affairs as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. The case was assigned to the Hon. Cecelia G. Morris, Chief United States Bankruptcy Judge, for administration under the Bankruptcy Code.

2. Employment of the Debtor’s Professionals

At the outset of this case the Debtor retained Lawrence M. Klein, Esq. as its Bankruptcy counsel to assist in the successful administration of the Debtor’s bankruptcy case. Thereafter, on November 3, 2017, the Debtor filed an Application seeking to retain DelBello Donnellan

Weingarten Wise & Weiderkehr, LLP (the “DelBello Firm”) as substitute counsel to the Debtor *nunc pro tunc* to October 3, 2017. The retention application of the DelBello Firm is currently *sub judice*.

3. Filing of Schedules of Assets and Liabilities and Statement of Financial Affairs

On May 9, 2017, the Debtor filed its Schedules of Assets and Liabilities, together with its Statement of Financial Affairs (collectively, the “Schedules”, ECF No. 1). The Debtor’s Schedules are available on the Bankruptcy Court’s website: www.nysb.uscourts.gov.

4. Claims Bar Dates

The Debtor has filed an application seeking to establish January 8, 2018 as the last date by which creditors may file proofs of claim in the Chapter 11 Case, which application is *sub judice*.

5. 341 Meeting and Case Status Conferences

On June 21, 2017, the Debtor attended its Initial Debtor Interview and Section 341(a) Meeting of Creditors. The Debtor also appeared at the initial case conference in this Bankruptcy proceeding before the Hon. Cecelia G. Morris at the United States Bankruptcy Courthouse on June 20, 2017 and has appeared at all hearings and continued case conferences as scheduled by the Bankruptcy Court.

6. Motions for Relief from the Automatic Stay

On August 9, 2017, Northeast Community Bank (“NECB”) filed a motion seeking relief from the automatic stay pursuant to Section 362(d) of the Bankruptcy Code with respect to two parcels owned by the Debtor, 202 and 204 Iron Forge Lane, New Windsor. Insofar as there was no equity in those parcels and those parcels were not necessary for the Debtor’s effective

reorganization, the Debtor did not object to the motion of NECB and after a hearing held on September 19, 2017, an order granting NECB's motion was entered (ECF No. 27).

On September 8, 2017, Rhinebeck filed a motion seeking relief from the automatic stay pursuant to Section 362(d) of the Bankruptcy Code with respect to the Development. At the hearing held on October 3, 2017, the Debtor orally objected to Rhinebeck's motion on the grounds that (1) there was sufficient equity in the Development to adequately protect Rhinebeck's claim, and (2) the Development was necessary for the Debtor's reorganization. The Court adjourned Rhinebeck's motion to November 14, 2017 to allow the Debtor the opportunity to file its Chapter 11 Plan of Reorganization.

On October 2, 2017, Wallkill Valley filed a motion seeking relief from the automatic stay pursuant to Section 362(d) of the Bankruptcy Code with respect to the Development. The hearing on Wallkill Valley's motion is scheduled for November 14, 2017.

At the November 14, 2017 hearing, the Debtor consented to entry of a Consent Order to both Rhinebeck and Wallkill Valley granting their respective motions which provided relief from the automatic stay in the event that the Debtor did not confirm and consummate its Plan on or before January 31, 2018.

7. U. S. Trustee's Motion to Convert or Dismiss

On October 16, 2018, the Office of the U.S. Trustee filed a motion to dismiss or convert the Chapter 11 Case pursuant to §1112(b) of the Bankruptcy Code [ECF No. 38]. A hearing was held on the U.S. Trustee's motion on November 14, 2017, and in light of the filing of the Debtor's Plan, the U.S. Trustee's motion was adjourned to January 9, 2018.

III. THE PLAN OF REORGANIZATION

The following is a brief summary of the Plan. The Plan represents a proposed legally binding agreement and creditors are urged to consult with their counsel in order to fully understand the Plan and to make an intelligent judgment concerning it. The Plan governs over any discrepancy in this summary.

As required by the Bankruptcy Code, the Plan places claims in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

A. Treatment of Unclassified Claims Under the Plan

Certain types of claims are automatically entitled to specific treatment under the Bankruptcy Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Bankruptcy Code. As such, the Debtor has *not* placed the following claims in any class:

1. Allowed Administrative Claims other than Claims of Professionals

Administrative expenses are costs or expenses of administration in connection with the Chapter 11 Case, including, without limitation, any actual, necessary costs and expenses of preserving the Debtor's estate, and all fees and charges assessed against the Debtor's estate pursuant to 28 U.S.C. section 1930. The term Administrative Claim does not include Fee Claims and quarterly fees owed to the Office of the U.S. Trustee, which are treated separately in this Plan. These Allowed Claims shall be paid in Cash on the Effective Date from the Plan

Distribution Fund. The Debtor estimates that the Allowed Administrative Claims other than Claims of Professionals outstanding on the Effective Date are \$0.

2. Allowed Administrative Claims of Professionals

These are Claims by any Professionals for compensation for legal and other services and reimbursement of expenses allowed or awarded under Bankruptcy Code sections 327, 328, 330(a), 331, 503(b) and/or 1103. The Debtor has three Professionals whose employment has been approved by the Bankruptcy Court; (i) the Debtor's proposed substitute bankruptcy counsel, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP ("DDWWW"), and (ii) Lawrence M. Klein. The Allowed Administrative Claims of the Professionals shall be paid in full, in Cash, upon the later of (i) allowance by the Court pursuant to 11 U.S.C. § 330, or (ii) the Effective Date. The Debtor estimates that the total net unpaid fee claims on the Effective Date total approximately \$25,000.

3. Statutory Fees

These are claims for fees for which the Debtor is obligated pursuant to Section 1930(a)(6) of title 28 of the United States Code, together with interest, if any, pursuant to Section 3717 of title 31 of the United States Code. The Debtor shall pay outstanding Statutory Fees in full, in Cash, on the Effective Date. Thereafter, the Debtor shall continue to pay Statutory Fees due and payable until the earlier of conversion of the Chapter 11 Case to a case under Chapter 7 of the Code, dismissal or the entry of a final decree closing the Chapter 11 Case. The Debtor is current and these fees total \$0.

4. Allowed Priority Tax Claims

Priority tax claims are unsecured income, employment, sales, and other taxes described

by §507(a)(8) of the Bankruptcy Code. The Debtor shall pay all Allowed Priority Tax claims in full, in Cash from the Plan Distribution Fund on the Effective Date. The Debtor estimates these Claims to not exceed approximately \$0.

B. Classes of Claims

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

1. Class 1: Secured Mortgage Claims

Class 1 Claims consist of Claims held by creditors secured by mortgages on real owned by the Debtor in accordance with section 506(a) of the Bankruptcy Code. The Holders of Class 1 Claims are Rhinebeck Bank and Wallkill Valley. Holders of Class 1 Secured Mortgage Claims shall each receive 100% of its Allowed Class 1 Claim in full from the Plan Distribution Fund on the Effective Date, and shall issue an Assignment of Mortgage to the Plan Funder. Assignment of the Mortgages by Class 1 Claims to the Plan Funder will not be assigned until the closing with the Plan Funder and the payment of the balances due the Class 1 Claimants. The Debtor believes Class 1 Claims will total approximately \$2,677,275. Class 1 Claims are Unimpaired and are deemed to accept the Plan.

2. Class 2: Allowed Secured Mechanics' Lien Claims

Class 2 Claims consist of Claims held by creditors secured by mechanics' liens pursuant to Article III of the New York Lien Law on real owned by the Debtor in accordance with section 506(a) of the Bankruptcy Code. Holders of Class 2 Secured Mechanics' Lien Claims shall each receive the secured portion of their Allowed Claim, estimated at 45%, from the Plan Distribution Fund on the Effective Date, with the remainder of their Claim being treated as a Class 4

Unsecured Claim. The Debtor believes Class 2 Claims will total approximately \$1,845,000. Class 2 Claims are Impaired under the Plan and are allowed to vote on the Plan.

3. *Class 3: Allowed non-tax Priority Claims*

Class 3 Claims consist of Claims entitled to priority under Section 507(4)(2)-(7) of the Bankruptcy Code. Holders of Class 3 non-Tax Priority Claims shall each receive 100% of its Allowed Class 3 Claims in full from the Plan Distribution Fund on the Effective Date. The Debtor estimates these Claims will total approximately \$0. Class 3 Claims are Unimpaired and deemed to accept the Plan.

4. *Class 4: Allowed General Unsecured Claims*

Class 4 consists of the holders of Allowed General Unsecured Claims. General Unsecured Claims are claims which are not either an Administrative Claim, Secured Claim, Priority Claim, or Interest that arose prior to the Petition Date and includes, without limitation, Claims based upon pre-petition trade accounts payable or Claims based upon the rejection of an executory contract during the pendency of the Chapter 11 Case.

Holders of Class 4 Claims shall each receive a distribution of 20% of its Allowed Class 4 Claims from the Plan Distribution Fund on the Effective Date. The Debtor estimates Class 4 Claims to total approximately \$665,000. Class 4 Claims are Impaired under the Plan and are allowed to vote on the Plan.

5. *Class 5: Interests*

Interests are holder of an equity security of or membership interest in the Debtor, within the meaning of Bankruptcy Code sections 101(16) and (17), represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present

ownership or membership interest in the Debtor, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest, including a partnership, limited liability company or similar interest.

The holder of the Allowed Interest shall retain its Interest in the Reorganized Debtor, strictly subject to confirmation of this Plan. The holder of the Class 5 Interest is therefore unimpaired under this Plan and thus is not entitled to vote.

C. Resolution of Disputed Claims & Reserves

1. Objections.

An objection to either the allowance of a Claim or an amendment to the Debtor's Schedules shall be in writing and may either be filed with the Bankruptcy Court or pursued and resolved by other means by the Debtor at any time on or before thirty (30) days after the Effective Date, subject to an extension of such deadline by the Bankruptcy Court, for cause.

2. Amendment of Claims.

A Claim may be amended after the Confirmation Date only as agreed upon by the Debtor and the holder of such Claim and as approved by the Bankruptcy Court or as otherwise permitted by the Bankruptcy Code and Bankruptcy Rules.

3. Reserve for Disputed Claims.

The Debtor shall reserve for account of each holder of a Disputed Claim that property which would otherwise be distributable to such holder on such date were such Disputed Claim an Allowed Claim on the Effective Date, or such other property as the holder of such Disputed Claim and the Debtor may agree upon. The property so reserved for the holder, to the extent such Disputed Claim is allowed, and only after such Disputed Claim becomes a subsequently

Allowed Claim, shall thereafter be distributed to such holder.

4. Distributions to Holders of Subsequently Allowed Claims.

Unless another date is agreed on by the Debtor and the holder of a particular subsequently Allowed Claim, the Debtor shall, on the first Business Day to occur after the fourteenth (14th) day after the Allowed amount of such theretofore Disputed Claim is determined, distribute to such holder with respect to such subsequently Allowed Claim the amount of distribution required under the Plan at that time, in Cash. The holder of a subsequently Allowed Claim shall not be entitled to any interest on the Allowed amount of its Claim, regardless of when distribution thereon is made to or received by such holder.

D. Plan Funding and Means of Implementing the Plan

1. Plan Funding.

The Plan shall be funded by a loan from the Plan Funder in the amount of \$3,650,000. A copy of the Commitment Letter from the Plan Funder is annexed hereto as **Exhibit "C"**. Upon the occurrence of the Effective Date and satisfaction of the conditions precedent set forth in Article XV hereof, and provided no Event of Default (as defined in Article XVI hereof) then exists, the Distribution Fund shall be released to the Debtor for the purpose of making distributions pursuant to the Plan.

E. Executory Contracts and Leases

1. Rejection of Contracts and Leases.

As of the Effective Date, and except as otherwise set forth in this Plan, any written lease or contract that is executory, in whole or in part, to which any of the Debtor is a party and which has not been assumed on or prior to the Confirmation Date pursuant to Sections 365 and 1123 of

the Bankruptcy Code during the pendency of the Chapter 11 Case, or assumed pursuant to this Plan, shall be deemed rejected. Any person or entity whose Claim arises from rejection of an executory contract shall, to the extent such Claim becomes an Allowed Claim, have the rights of a holder of an Unsecured Claim in Class 4 with respect thereto. **Any person or entity who has a Claim against the Debtor by virtue of rejection of an executory contract may file a Claim with the Clerk of the Court, and serve such claim upon counsel for the Debtor no later than twenty-five (25) days after notice of the occurrence of the Confirmation Date. If such Claim is not filed within such specified time, it shall forever be barred from assertion against the Debtor and its estate.**

F. Provisions Regarding Corporate Governance and Management of the Debtor Post-Confirmation

1. *Post-confirmation Management of the Debtor.* Following the Effective Date, Georgina Tufano, the sole shareholder of 121 Main Street Inc., the Debtor's sole member, shall continue the day to day management of the Debtor.

2. 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 shareholders and/or members, or the Debtor's boards of directors, managers, and/or managing members.

G. Tax Consequence of the Plan

Creditors Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, and/or Advisors.

Confirmation may have federal income tax consequences for the Debtor and Creditors. The Debtor has not obtained, and does not intend to request, a ruling from the Internal Revenue

Service (the "IRS"), nor has the Debtor obtained an opinion of counsel with respect to any tax matters. Any federal income tax matters raised by confirmation of the Plan are governed by the Internal Revenue Code and the regulations promulgated thereunder. Creditors are urged to consult their own counsel and tax advisors as to the consequences to them, under federal and applicable state, local and foreign tax laws, of the Plan. The following is intended to be a summary only and not a substitute for careful tax planning with a tax professional. The federal, state and local tax consequences of the Plan may be complex in some circumstances and, in some cases, uncertain. Accordingly, each holder of a Claim is strongly urged to consult with his or her own tax advisor regarding the federal, state and local tax consequences of the Plan, including but not limited to the receipt of cash and/or stock under this Plan.

1. Tax Consequences to the Debtor

The Debtor may not recognize income as a result of the discharge of debt pursuant to the Plan because Section 108 of the Internal Revenue Code provides that taxpayers in bankruptcy proceedings do not recognize income from discharge of indebtedness. However, a taxpayer is required to reduce its "tax attributes" by the amount of the debt discharged. Tax attributes are reduced in the following order: (i) net operating losses; (ii) general business credits; (iii) capital loss carryovers; (iv) basis in assets; (v) passive activity loss and credit carryovers; and (vi) foreign tax credit carryovers.

2. Tax Consequences to Unsecured Creditors

An unsecured creditor that receives cash in satisfaction of its Claim may recognize gain or loss, with respect to the principal amount of its Claim, equal to the difference between (i) the creditor's basis in the Claim (other than the portion of the Claim, if any, attributable to accrued

interest), and (ii) the balance of the cash received after any allocation to accrued interest. The character of the gain or loss as capital gain or loss, or ordinary income or loss, will generally be determined by whether the Claim is a capital asset in the creditor's hands. A creditor may also recognize income or loss in respect of consideration received for accrued interest on the Claim. The income or loss will generally be ordinary, regardless of whether the creditor's Claim is a capital asset in its hands.

G. Avoidance and Recovery Actions

The Debtor will pursue all Causes of Action that should be pursued. Notwithstanding the foregoing, any potential avoidance actions that could be commenced by the Debtor as against holders of Class 1 Claims shall be released as against Class 1 claimants upon the Assignment of Mortgages to the Plan Funder. The Debtor shall commence such actions no later than one hundred twenty (120) days after the Effective Date. The proceeds from any recoveries from Avoidance Actions shall be used to first pay any outstanding professional fees and expenses incurred in connection with the prosecution of Avoidance Actions, with the balance to be deposited into the Plan Distribution Fund for further distribution in accordance with this Plan.

IV. CONFIRMATION REQUIREMENTS AND PROCEDURES

To be confirmable, the Plan must meet the requirements listed in §§ 1129(a) or (b) of the Bankruptcy Code. These include the requirements that: the Plan must be proposed in good faith; at least one impaired class of claims must accept the plan, without counting votes of insiders; the Plan must distribute to each creditor at least as much as the creditor would receive in a chapter 7 liquidation case, unless the creditor votes to accept the Plan; and the Plan must be feasible. These

requirements are not the only requirements listed in §1129, and they are not the only requirements for confirmation.

A. Who May Vote or Object

Any party in interest may object to the confirmation of the Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Plan. A creditor has a right to vote for or against the Plan only if that creditor has a claim that is both (1) allowed or allowed for voting purposes and (2) impaired.

In this case, the Debtor believes that there are classes impaired under the Plan and that the holder of the claims in these classes are entitled to vote to accept or reject the Plan. The Debtor believes that classes are unimpaired and that holders of claims in each of these classes, therefore, do not have the right to vote to accept or reject the Plan.

1. What Is an Allowed Claim?

Only a creditor with an allowed claim has the right to vote on the Plan. Generally, a claim is allowed if either (1) the Debtor has scheduled the claim on the Debtor's schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated, or (2) the creditor has filed a proof of claim, unless an objection has been filed to such proof of claim. When a claim is not allowed, the creditor holding the claim cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

The deadline for filing a proof of claim in this case is January 8, 2018.

2. *What Is an Impaired Claim?*

As noted above, the holder of an allowed claim has the right to vote only if it is in a class that is *impaired* under the Plan. As provided in §1124 of the Bankruptcy Code, a class is considered impaired if the Plan alters the legal, equitable, or contractual rights of the members of that class.

Class 2 and 4 Claims are impaired under the Plan and entitled to vote.

Each Holder of a Claim in Classes 2 and 4 have been sent a ballot together with this Disclosure Statement. The ballot is to be used for voting to accept or reject the Plan.

The Bankruptcy Court has directed that, to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be mailed or delivered by hand or courier so that they are ACTUALLY RECEIVED no later than 4:00 p.m. (Eastern Standard Time) on **January 2, 2018** at the following address:

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
One North Lexington Avenue
White Plains, New York 10601
Attn: Jonathan S. Pasternak, Esq.
Julie Cvek Curley, Esq.

Each Holder of an Allowed Claims in Classes 2 and 4 shall be entitled to vote to accept or reject the Plan as provided for in the order approving the Disclosure Statement. A vote may be disregarded if the Bankruptcy Court determines that such vote was not solicited or procured in good faith and in accordance with the Bankruptcy Code.

3. *Who is Not Entitled to Vote*

The holders of the following five types of claims are *not* entitled to vote:

- holders of claims that have been disallowed by an order of the Court;

- holders of other claims that are not “allowed claims” (as discussed above), unless they have been “allowed” for voting purposes;
- holders of claims in unimpaired classes;
- holders of claims entitled to priority pursuant to §§ 507(a)(2), (a)(3), and (a)(8) of the Bankruptcy Code; and
- administrative expenses.

Even If You Are Not Entitled to Vote on the Plan, You Have a Right to Object to the Confirmation of the Plan and to the Adequacy of the Disclosure Statement.

4. Who Can Vote in More Than One Class

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise hold claims in multiple classes, is entitled to accept or reject a Plan in each capacity, and should cast one ballot for each claim.

B. Votes Necessary to Confirm the Plan

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class of creditors has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by “cram down” on non-accepting classes, as discussed later in Section B.2.

1. Votes Necessary for a Class to Accept the Plan

A class of claims accepts the Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Plan.

2. Treatment of Nonaccepting Classes

Even if one or more impaired classes reject the Plan, the Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner prescribed by § 1129(b) of the

Bankruptcy Code. A plan that binds nonaccepting classes is commonly referred to as a “cram down” plan. The Bankruptcy Code allows the Plan to bind nonaccepting classes of claims if it meets all the requirements for consensual confirmation except the voting requirements of § 1129(a)(8) of the Bankruptcy Code, does not “discriminate unfairly,” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan.

You should consult your own attorney if a “cramdown” confirmation will affect your claim as the variations on this general rule are numerous and complex.

C. Feasibility and Best Interests Test

The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court must find that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor (the “Feasibility Test”).

For a plan to meet the Feasibility Test, the Bankruptcy Court must find that the Debtor will possess the resources to meet its obligations under the Plan. Based upon the Unconditional Commitment Letter of the Plan Funder, the Debtor anticipates having sufficient funds on hand at Confirmation to satisfy all cash obligations under the Plan and as such, the Feasibility Test would be satisfied. Moreover, the Debtor does not anticipate the need for further financial reorganization based upon (i) the lack of creditors, and (ii) the cash infusion of the Plan Funder.

The Debtor believe that the Plan satisfies all of the statutory requirements of chapter 11 of the Code, including the Feasibility Test, that it is “fair and equitable,” “does not discriminate unfairly,” and has been proposed in good faith

The Plan Distribution Schedule outlining all payments to be made under the Plan is attached to this Disclosure Statement as **Exhibit “D.”** *You Should Consult with Your*

Accountant or other Financial Advisor If You Have Any Questions Pertaining to These Projections.

In addition, the Bankruptcy Court must determine that the values of the distributions to be made under the Plan to each Class will equal or exceed the values which would be allocated to such Class in a liquidation under Chapter 7 of the Bankruptcy Code (the “Best Interest Test”).

The Best Interest Test with respect to each impaired Class requires that each holder of a Claim or Interest in such Class 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 was liquidated under Chapter 7 of the Bankruptcy Code. Because the Class 1 Secured Claims exceed the market value of the Development by approximately \$1 million, no scenario exists, including but not limited to Chapter 7 liquidation, under which the unsecured creditors would be entitled to receive a distribution greater than that which the Debtor has proposed in its Plan. In fact, were the Debtor’s assets liquidated in a Chapter 7 case, the value of the Development sold in a liquidation scenario would yield significantly less proceeds (estimated at \$1,535,000 based upon the Appraisal annexed as **Exhibit “B”**), secured creditors of the estate would stand to receive far less, and it is likely that Rhinebeck would be the only secured creditor to receive payment on its Claim.

The Debtor believes that the Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code, including the “best interest” and feasibility requirements. The Plan is “fair and equitable” and “does not discriminate unfairly”. The Plan complies with all other requirements of Chapter 11 of the Bankruptcy Code and the Plan has been proposed in good faith.

D. Notices

All notices and correspondence should be forwarded in writing to:

If to the Debtor or Reorganized Debtor:
COVINGTON ROUTE 300, LLC
117 Main Street, Suite 6
New Paltz, New York 12561
Attn: Georgina Tufano

If to Plan Funder:
First Wall Street Capital Housing, LLC
399 Park Avenue, 8th Floor
New York, New York 10022
Attn: Glenn Myers, Managing Partner

with a copy to:

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
One N. Lexington Avenue

White Plains, New York 10601
Attn: Jonathan S. Pasternak, Esq.
Julie Cvek Curley, Esq.

with a copy to:

RHODIUM CAPITAL ADVISORS
One World Trade Center, Suite 8500
New York, New York 10007

Attn: Fred Schulman, Esq.

V. EFFECT OF CONFIRMATION OF PLAN

A. Entry of Confirmation Order.

Entry of a Confirmation Order shall mean that any modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

B. Binding Effect.

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

C. Vesting of Assets.

The Debtor, as the Reorganized Debtor, shall continue to exist on and after the Effective Date as separate legal entities with all of the powers available to such legal entities under applicable law, without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) in accordance with such applicable law. Except as otherwise provided in the Plan, on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's estate shall vest in the Reorganized Debtor or its assigns free and clear of all Claims, Liens, encumbrances, and charges, and other interests. On and after the Effective Date, the Reorganized Debtor and/or its assigns may operate its business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code. To the extent necessary, the Debtor, any counterparty to an executory contract or unexpired lease, or any party asserting a lien or claim against the property of the Debtor shall execute such documents as are necessary to effectuate the sale, assignment, or transfer of an executory contract, unexpired lease, or other asset of Debtor to the Reorganized Debtor or its assigns.

D. Discharge of Debtor.

Except to the extent otherwise provided in the Plan, the treatment of all Claims against or Interests in the Debtor under the Plan shall be in exchange for and in complete satisfaction, discharge and release of, all Claims against and Interests in the Debtor of any nature whatsoever, known or unknown, including any interest accrued or expenses incurred thereon from and after the Petition Date, or against the estates or properties or interests in property. Except as otherwise

provided in the Plan, upon the Effective Date, all Claims against and Interests in the Debtor shall be deemed satisfied, discharged and released in full in exchange for the consideration provided under the Plan. Except as otherwise provided in the Plan, all entities shall be precluded from asserting against the Debtor, the Plan Funder, or Reorganized Debtor, or their respective properties or interests in property, any other Claims or Interests based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date.

E. Exculpation.

To the extent permitted under Section 1125(e) of the Bankruptcy Code, except as otherwise specifically provided in this Plan, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any Exculpated Claim, or obligation, cause of action or liability for any Exculpated Claim, and shall be entitled to reasonably rely on the advice of counsel with respect to their duties and responsibilities pursuant to this Plan. Each Exculpated Party and their respective affiliates, agents, directors, members, officers, officials, employees, advisors and attorneys have, and upon the Effective Date shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code and applicable non-bankruptcy law and shall not be liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of this Plan or distributions made pursuant to this Plan. From and after the Effective Date and upon the distributions contemplated in the Plan, a copy of the Confirmation Order and the Plan shall constitute and may be submitted as a complete defense to any claim or liability satisfied, enjoined or subject to exculpation pursuant to Article XI of the Plan; provided, however, that nothing in the Plan shall, or shall be deemed

to, release the Debtor and its current and former officers, directors, members, managers, employees, or exculpate the Debtor and its current and former officers, directors, members, managers, employees of the Debtor with respect to, their obligations or covenants arising from bad faith, willful misconduct, gross negligence, breach of fiduciary duty, malpractice, fraud, criminal conduct, unauthorized use of confidential information that causes damages, and/or ultra vires acts. Upon confirmation of the Plan, Creditors will be unable to pursue any claims that are satisfied, enjoined or subject to exculpation under the Plan, but creditors may pursue claims against the Debtor and its current and former officers, directors, members, managers, or employees that may arise in the future, or pursuant to the Plan. Any such liability against the Debtor's professionals will not be limited to their respective clients contrary to the requirement of DR 6-102 of the Code of Professional Responsibility.

F. Release.

To the extent permitted under Section 1125(e) of the Bankruptcy Code, as of the Effective Date and upon the distributions contemplated in the Plan and except as set forth in this Plan, each holder of a Claim or Interest shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released and discharged the Exculpated Parties from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative Claims assertable on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Person would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring after the Petition Date, the Chapter 11 Case,

the purchase, sale or rescission of the purchase or sale of any security of the Debtor that occurred after the Petition Date, the restructuring of Claims and Interests during the Chapter 11 Case, the negotiation, formulation or preparation of this Plan, the Disclosure Statement, or related agreements, instruments or other documents (collectively, "Released Claims"), other than Released Claims against the Debtor or an Exculpated Party arising out of or relating to any act or omission of that party constituting willful misconduct or gross negligence, bad faith, breach of fiduciary duty, malpractice, fraud, criminal conduct, unauthorized use of confidential information that causes damages, and/or ultra vires acts. For the avoidance of doubt, no provision of this Plan, including without limitation, any release or exculpation provision, shall modify, release, or otherwise limit the liability of any Person in their capacity as a co-obligor, guarantor, or surety of the Debtor or an Exculpated Party or that otherwise is liable under theories of vicarious or other derivative liability. Any such liability against the Debtor's professionals will not be limited to their respective clients contrary to the requirement of DR 6-102 of the Code of Professional Responsibility.

G. Confirmation Injunction.

Effective on the Confirmation Date, all persons who have held, hold or may hold Claims, with regard to all Classes of Claims are enjoined from taking any of the following actions against or affecting the Debtor or assets of the Debtor with respect to such Claims, except as otherwise set forth in the Plan, and other than actions brought to enforce any rights or obligations under the Plan or appeals, if any, from the Confirmation Order:

(i) Commencing, conducting or continuing in any manner, directly or indirectly, any suit, action, arbitration, or other proceeding of any kind against the Debtor;

(ii) Enforcing, levying, attaching, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Debtor;

(iii) Creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor or the Purchaser, the assets of the Debtor; and

(iv) Proceeding in any manner and any place whatsoever that does not conform to or comply with the provisions of the Plan

H. Amendment, Modification, Withdrawal or Revocation of the Plan.

The Debtor reserves the right, in accordance with section 1127(a) of the Bankruptcy Code, to amend or modify the Plan prior to the Confirmation Date. After the Confirmation Date, the Debtor may, upon order of the Bankruptcy Court, in accordance with section 1127(b) of the Bankruptcy Code, remedy any defect or omission or reconcile and inconsistencies in the Plan in such manner as may be necessary to carry out the purposes and intent of the Plan.

I. Unclaimed Property

Distributions to holders of Allowed Claims shall be sent to their last known address set forth on a proof of claim filed with the Bankruptcy Court or if no proof of claim is filed, on the Schedules, or to such other address as may be designated by such Creditor in writing to the Debtor. A payment is to be deemed unclaimed if the payment on the distribution is not negotiated by the particular claimholder within 120 days of it being sent by the Debtor. If after thirty (30) days additional attempted notice to the claimholder such distribution remains unclaimed or unnegotiated, then and in that event such holder's Claim shall thereupon be deemed canceled and

any such holder shall not be entitled to any payments under the Plan, and such unclaimed distributions shall be returned to the Plan Distribution Fund and redistributed in accordance with the Plan.

J. Retention of Jurisdiction

The Bankruptcy Court shall retain jurisdiction of the chapter 11 case:

- (a) To determine all controversies relating to or concerning the allowance of Claims upon objection to such Claims by the Debtor;
- (b) To determine requests for payment of Claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including any and all applications for compensation for professional and similar fees;
- (c) To determine any and all applications pursuant to section 365 of the Bankruptcy Code for the rejection, or assumption and/or assignment, as the case may be, of executory contracts and unexpired leases to which the Debtor is a party or with respect to which the Debtor may be liable, and to determine and, if necessary, to liquidate, any and all Claims arising therefrom;
- (d) To determine any and all applications, adversary proceedings, and contested or litigated matters over which the Bankruptcy Court has subject matter jurisdiction pursuant to 28 U.S.C. sections 157 and 1334;
- (e) To determine all Disputed Claims and amendments to the Debtor's Schedules;
- (f) To adjudicate controversies or interpretations pursuant to any order or stipulation entered by the Bankruptcy Court prior to the Confirmation Date;
- (g) To modify this Plan pursuant to section 1127 of the Bankruptcy Code or to

remedy any defect or omission or reconcile any inconsistencies in this Plan or Confirmation Order to the extent authorized by the Bankruptcy Code;

(h) To make such orders as are necessary or appropriate to carry out the provisions of this Plan;

(i) To resolve controversies and disputes regarding the interpretation or enforcement of the terms of this Plan;

(j) to commence or prosecute the Causes of Action; and

(k) To enter a final decree closing the Chapter 11 Case.

K. Post-Confirmation Fees, Reserves and Final Decree

The reasonable compensation and out-of-pocket expenses incurred post-Confirmation Date by the Debtor's professionals retained in the Chapter 11 case shall be paid by the Debtor within ten (10) days upon presentation of invoices for such professional services. All disputes concerning post-confirmation fees and expenses shall be subject to Bankruptcy Court jurisdiction.

The Debtor shall reserve \$10,000 from the Plan Distribution Fund for the payment of post-Confirmation professional fees incurred by Debtor's counsel and the Disbursing Agent in the continued prosecution of estate causes of action, adjudication of Claims, and in connection with the carrying out of duties and responsibilities as the Disbursing Agent as well as payment of United States Trustee fees. The balance of such reserve, if any, shall be distributed in accordance with Article III of the Plan.

A final decree shall be entered as soon as practicable after initial distributions have commenced under the Plan.

VI. RECOMMENDATION

The Debtor believes that Confirmation of the Plan is preferable to any of the alternatives described above. The Plan will provide greater recoveries than those available in liquidation to all holders of Claims. Any other alternative would cause significant delay and uncertainty, as well as substantial additional administrative costs.

Dated: White Plains, New York
November 17, 2017

COVINGTON ROUTE 300, LLC

By: /s/ Georgina Tufano
Georgina Tufano, Sole Shareholder of
121 Main Street Inc., the Debtor's sole member

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
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One North Lexington Avenue
White Plains, New York 10528
(914) 681-0200

By: /s/ Julie Cvek Curley
Jonathan S. Pasternak
Julie Cvek Curley